
Bensley Development Pty Ltd

Campbelltown City Council

Planning Agreement

Section 7.4 of the Environmental Planning
and Assessment Act 1979 (NSW)

7 August 2019

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Agreement made at

on

7 August 2019

Parties

Bensley Development Pty Ltd ACN 604 415 278 of Suite 101, 25 Angas Street, Meadowbank NSW 2114 (**Developer**)

Campbelltown City Council ABN 31 459 914 087 of Civic Centre, 91 Queen Street, Campbelltown, New South Wales (**Council**)

Background

- A The Developer intends to submit a Development Application to the Council to facilitate the Development on the Land, being the proposed:
- a. subdivision of the Land and creation of approximately 90 Urban Lots; and
 - b. development of associated roads, shared pedestrian and cycleways, parks and stormwater drainage facilities.
- B The Development forms part of the Caledonia Precinct within the Campbelltown Local Government Area. Approximately two thirds of the Caledonia Precinct is controlled by the Developer and only that land is the subject of this Agreement.
- C A Planning Proposal to rezone land (including the Land) and facilitate the Development within the Caledonia Precinct received Gateway approval from the Minister for Planning on 8 December 2016 pursuant to section 3.34 of the Act.
- D The Developer has made an offer to enter into this Agreement, if the Land is rezoned in accordance with the Planning Proposal to make the Development Contributions for a Public Purpose in accordance with the provisions of this Agreement in conjunction with the development of the Land.

Operative provisions

1 Definitions and interpretation

1.1 Definitions

In this Agreement the following definitions apply:

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

Agreement means this voluntary planning agreement including any schedules and annexures.

Alternate Security means a Bank Guarantee, indexed annually in accordance with the annual movements in the Consumer Price Index (All Groups Sydney) published by the Australian Bureau of Statistics.

Approved Deferred Contributions means those Development Contributions that Council approves, in its discretion, to defer under **clause 6.11**.

Authority means, in respect of a particular context or circumstance, each Federal, State or Local Government, semi-Government, quasi-Government or other body or authority, statutory or otherwise, including but not limited to any court or tribunal, having jurisdiction and responsibility in respect of that context or circumstance.

Bank Guarantee means an irrevocable and unconditional undertaking without any expiry or end date in favour of the Council, issued by:

- (a) one of the following trading banks:
 - (i) Australia and New Zealand Banking Group Limited,
 - (ii) Commonwealth Bank of Australia,
 - (iii) Macquarie Bank Limited,
 - (iv) National Australia Bank Limited,
 - (v) St George Bank Limited,
 - (vi) Westpac Banking Corporation, or
- (b) any other financial institution approved by the Council, acting reasonably.

Business Day means a day which is not a Saturday, Sunday or bank or public holiday in Sydney.

Caledonia Precinct means the land generally described in the Planning Proposal and bounded by Mercedes Road, Bensley Road and Oxford Road, Ingleburn.

Contribution Location Plan means the plan at **annexure A** which shows the general location of the Development Contributions identified as Item 1 in **Schedule 2**.

Contribution Value means the value of a Development Contribution for the purpose of this Agreement as identified in **column 4** of **schedule 2** as indexed at the time the Development Contribution is required to be provided in accordance with the Producer Price Index Number 3101 – Road and bridge construction New South Wales published by the Australian Bureau of Statistics

Dedication Lands means that part of the Land specified as Item 1 in **Schedule 2** and as generally shown on the Contribution Location Plan.

Defects Liability Period means the period of 12 months which commences on the date of Practical Completion of each of the Works.

Deferred Works has the meaning in **clause 6.11**.

Development means the development of the Land so as to create 90 Urban Lots, and for associated purposes including the development of associated roads, shared pedestrian and cycleways, open space, recreation facilities, stormwater drainage works (both on-site and off-site), and water sensitive urban design facilities.

Development Application means a development application made by the Developer under the Act for the Development.

Development Consent means the determination by approval of a Development Application, as modified from time to time.

Development Contribution means those development contributions identified in **Schedule 2** and which are to be provided by the Developer in accordance with this Agreement and as generally shown on the Contributions Location Plan.

Encumbrance means an interest or power:

- (a) reserved in or over an interest in any asset;
- (b) created or otherwise arising in or over any interest in any asset under any mortgage, charge (whether fixed or floating), pledge, lien, hypothecation, title retention, conditional sale agreement, hire or hire purchase agreement, option, restriction as to transfer, use or possession, easement, covenant, lease, subordination to any right of any other person and any other encumbrance or security interest, trust or bill of sale; or

- (c) by way of security for the payment of a debt or other monetary obligation or the performance of any obligation,

GST Law has the meaning given to that term in *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and any other Act or regulation relating to the imposition or administration of the GST.

Land means the land contained in Lots 2 and 3 in DP597774, Lot 47 in DP595243 and Lot 4 in DP261609.

Law means any statute, regulation, proclamation, policies and rulings enforceable by statute, ordinance, by-law, local law, code or listing rule.

LEP means the *Campbelltown Local Environmental Plan 2015*

Lot means a lot in a registered deposited plan that forms part of the Land.

LRS means the NSW Land Registry Services or any other department or entity replacing it.

Monetary Contributions means the payment of the monies as specified in **Schedule 2**.

Novation Deed means a form of the Novation Deed attached at **Annexure B**.

Party means a party to this Agreement, including their successors and assigns.

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

Planning Proposal means Planning Proposal PP_2016_CAMPB_003_00 which as at the date of this Agreement, has received Gateway approval from the Minister for Planning under section 3.34 of the Act.

Public Purpose means any purpose that benefits the public or a section of the public, specified in section 7.4(2) of the Act.

Rectification Notice means a notice in writing that identifies a Defect in Work and requires rectification of the Defect within a specified period of time.

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

Residential Accommodation has the same meaning as residential accommodation under the Standard Instrument.

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

- (a) to be dedicated or otherwise transferred to an Authority (including to the Council);
- (b) for any public utility undertaking within the meaning of the Standard Instrument;
- (c) to be association property within the meaning of the *Community Land Development Act 1989* (NSW);
- (d) for open space, recreation, environmental conservation, drainage or riparian land management; or
- (e) a road,

but does not include a Super Lot.

Standard Instrument means *Standard Instrument (Local Environmental Plans) Order 2006* as at the date of this Agreement.

Subdivision has the same meaning as in section 6.2 of the Act.

Subdivision Certificate has the same meaning as in section 6.4(d) of the Act.

Super Lot means a Lot which, following the registration of a Plan of Subdivision, is intended for further Subdivision (including by way of strata and community title subdivision) for Residential Accommodation but does not include a Service Lot.

Transfer Dealings means any agreement or arrangement:

- (a) transferring or selling any part of the Land for which the Developer is the registered proprietor to an unrelated Party; or
- (b) assigning, novating or otherwise dealing with any right, obligation or interest under this Agreement,

but excludes any mortgage, charge or other type of security dealing.

Urban Lot means a Lot that forms part of the Land to be created by the registration of a:

- (a) Plan of Subdivision and is intended to be developed for Residential Accommodation; or
- (b) Strata plan and has been or is being developed for Residential Accommodation,

but excluding any Service Lots and Super Lots.

Works means each of the Works-in-Kind to be carried out by the Developer as specified in **schedule 2**.

1.2 Interpretation

In the interpretation of this Agreement, the following provisions apply unless the context otherwise requires:

- (a) Headings are inserted for convenience only and do not affect the interpretation of this Agreement.
- (b) If the day on which any act, matter or thing is to be done under this Agreement is not a Business Day, the act, matter or thing must be done on the next Business Day.
- (c) A reference in this Agreement to dollars or \$ means Australian dollars and all amounts payable under this Agreement are payable in Australian dollars.
- (d) A reference in this Agreement to any law, legislation or legislative provision includes any statutory modification, amendment, replacement or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (e) A reference in this Agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (f) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this Agreement.
- (g) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (h) Where a word or phrase is given a defined meaning, another part of speech or other grammatical form in respect of that word or phrase has a corresponding meaning.

- (i) A word which denotes the singular denotes the plural, a word which denotes the plural denotes the singular, and a reference to any gender denotes the other genders.
- (j) References to the word 'include' or 'including' are to be construed without limitation.
- (k) A reference to this Agreement includes the agreement recorded in this Agreement.
- (l) A reference to a Party to this Agreement includes a reference to the servants, agents and contractors of the Party, and the Party's successors and assigns.
- (m) Any schedules, annexures and attachments form part of this Agreement.

2 Status of this Agreement

This Agreement is intended by the Parties to be a planning agreement within the meaning of s7.4(1) of the Act.

3 Application of this Agreement

This Agreement applies to the:

- (a) Planning Proposal;
- (b) Land; and
- (c) Development.

4 Operation of this Agreement

This Agreement operates on and from the date that the Agreement is entered into as required by Clause 25C(1) of the Regulation.

5 Development Contributions to be made under this Agreement

Subject to this Agreement, the Developer is to make Development Contributions comprising:

- (a) the carrying out and delivery of the Works
- (b) the dedication of the Dedication Land; and
- (c) the payment of the Monetary Contributions.

6 Carrying out and Delivery of Works and the payment of Monetary Contributions

6.1 Commencement of Works

The Developer must obtain all necessary approvals, consents, certifications and authorisations required to carry out the Works.

6.2 Delivery of Works

The Developer must carry out each of the Works in accordance with the timing specified in **Schedule 2**.

6.3 Design and specification of Works

- (a) Before carrying out a Work, the Developer must submit to Council for its approval, the detailed design and specification for the Work.
- (b) If, within sixty (60) days of the date of submission referred to in **clause 6.3(a)**:
 - (i) Council notifies the Developer in writing of its approval of the design and specification, the Developer is to carry out and complete the Work in accordance with that design and specification;
 - (ii) Council fails to notify the Developer in writing that it approves or does not approve of the design and specification, Council is taken to have approved the design and specification of the Work and the Developer may carry out and complete the Work in accordance with that design and specification; or
 - (iii) Council notifies the Developer in writing that it does not approve of the design and specification, the Developer may:
 - (A) elect to amend the design and specification and submit to Council the amended design and specification in which case the approval process set out in this **clause 6.3** applies to that amendment; or
 - (B) if the Developer does not agree with the modifications requested by Council, refer the matter for dispute resolution under **clause 11**.

- (c) For the purposes of **clause 6.3(b)(iii)(B)** except with the agreement of the Developer, Council cannot require the Developer to:
 - (i) modify the design and specification submitted under **clause 6.3(a)** in a way that is inconsistent with the relevant Development Consent;
 - (ii) make modifications to the design and specification of a Work that results in a change that would result in an exceedance of the Contribution Value for that item of Work.

6.4 Standard and cost of construction of the Works

Any Work that the Developer is required to carry out under this Agreement is to be carried out in accordance with:

- (a) this Agreement;
- (b) the requirements of any approval, consent, permission or licence issued by a relevant Authority;
- (c) any Australian standards and other laws applicable to the Work; and
- (d) in a proper and workmanlike manner, complying with current industry practice and standards relating to the Work.

6.5 Completion of the Works

- (a) The Developer must provide a Completion Notice to the Council within ten (10) Business Days of believing it has completed any item of the Works.
- (b) The Council must inspect the Works set out in a Completion Notice within ten (10) Business Days of the receipt of the notice given under **clause 6.5(a)**.
- (c) Within the earlier of:
 - (i) ten (10) Business Days of inspecting the item of the Works set out in a Completion Notice; and
 - (ii) twenty (20) Business Days from the receipt of the relevant Completion Notice,

the Council must provide notice in writing to the Developer that the Works set out in the Completion Notice:

- (iii) have been Completed; or
- (iv) have not been Completed, in which case the notice must also detail:
 - (A) those aspects of the relevant item which have not been Completed; and
 - (B) the work the Council requires the Developer to carry out in order to rectify those deficiencies.
- (d) If the Council does not provide the Developer with notice in accordance with **clause 6.5(c)** the Works set out in the Completion Notice will be deemed to have been Completed on the date nominated in the Completion Notice.
- (e) Where the Council serves notice on the Developer pursuant to **clause 6.5(c)(iv)** the Developer must:
 - (i) rectify the deficiencies in that item in accordance with that notice within three (3) months from the date it is issued by the Council, or within such further period of time that may be agreed by Council; or
 - (ii) serve a notice on the Council that it disputes the matters set out in the notice. If the Developer serves notice on the Council in accordance with this paragraph the dispute resolution provisions of this Agreement will apply.
- (f) Where the Developer rectifies the Works in accordance with **clause 6.5(e)(i)** it must serve upon the Council a new Completion Notice for the item of the Works it has rectified (**New Completion Notice**).
- (g) The provisions of this **clause 6.5** apply to any New Completion Notice issued by the Developer.

6.6 Failure to carry out Works

- (a) If Council considers that the Developer is in breach of any obligation under this Agreement relating to the carrying out of any Work, including Work the subject of a Rectification Notice, Council may give the Developer a notice under this **clause 6.6**.
- (b) The notice may require the Developer to:
 - (i) rectify the breach to Council's satisfaction; and

- (ii) immediately cease carrying out further work relating to the Work except to rectify the breach.
- (c) A notice given under **clause 6.6(a)** must allow the Developer not less than twenty eight (28) days (or such further period as Council considers reasonable in the circumstances) to rectify the breach.
- (d) The Developer must comply with any notice issued by Council under **clause 6.6(a)**.
- (e) Without limiting any other rights Council has to enforce this Agreement, if the Developer does not comply with a notice given under **clause 6.6(a)** then Council may:
 - (i) call upon any security provided for the Work under this Agreement;
 - (ii) carry out and Complete the Work the subject of the Developer's breach; and
 - (iii) in the event the costs reasonably incurred by Council in carrying out the Works cannot be met by the Security, the Developer must pay the difference to Council within twenty eight (28) days of receiving a written demand for such payment by Council.
- (f) For the purposes of **clause 6.6(e)**, the costs which Council can recover include fees and charges incurred by Council, Council's employees, agents and contractors, and legal costs and expenses.

6.7 Defects Liability Period

- (a) During the Defects Liability Period, Council may give to the Developer a Rectification Notice.
- (b) The Developer must comply with a Rectification Notice at its own cost according to its terms and to the satisfaction of Council acting reasonably.
- (c) Council may enter upon the Land for the purpose of satisfying the Rectification Notice where the Developer has failed to comply with a Rectification Notice but only after giving the Developer not less than ten (10) Business Days written notice of its intention to do so.
- (d) If the Council elects to exercise the step-in rights granted to it under **clause 6.7(c)** then:

- (i) the Council may:
 - (A) enter upon any part of the Land that it requires access to in order to satisfy the obligations of the Developer in accordance with the Rectification Notice; and
 - (B) rectify the relevant Defects in accordance with the Rectification Notice; and
 - (ii) the Developer must not impede or interfere with the Council in undertaking that work.
- (e) Where Council exercises its step-in rights, all costs incurred by Council in rectifying the relevant Defects may be claimed by Council as a liquidated debt owed by the Developer.
- (f) By no later than ten (10) business days prior to the end of the Defects Liability Period:
- (i) Council will undertake a final inspection of the Work; and
 - (ii) Council may either:
 - (A) by way of written notice to the Developer, confirm that the Work is acceptable to Council acting reasonably; or
 - (B) issue a Rectification Notice to the Developer if it identifies any part of the Work which is not acceptable to Council (acting reasonably).
- (g) If Council issues a Rectification Notice under **clause 6.7(f)(ii)(B)**, the Developer must comply with the Rectification Notice at its own cost according to its terms and to the satisfaction of the Council acting reasonably.

6.8 Access to Land

- (a) The Developer is to permit or facilitate the Council, its officers, employees, agents and contractors to enter the Land at any time, upon giving reasonable prior written notice, in order to inspect any Works or remedy any breach by the Developer in carrying out a Work.
- (b) Council must ensure when entering onto the Land pursuant to **clause 6.8(a)** that the Council and any of its officers, employees, agents and contractors comply with:

- (i) if relevant, all reasonable directions of the Developer or its principal contractor; and
- (ii) all Laws including those relating to work, health and safety.

6.9 Delivery of Monetary Contributions

- (a) The Monetary Contributions are made for the purposes of this Agreement when cleared funds are deposited and credited by means of electronic funds transfer into a bank account nominated by the Council.
- (b) The Developer is to give the Council not less than 10 Business Days written notice of its intention to pay the Monetary Contributions.
- (c) If a tax invoice is by law required to be provided to the Developer by the Council the Developer is not required to pay the contributions identified in **clause 6.9(a)** until the Council, after having received the Developer's notice under clause **6.9(b)**, has given to the Developer a tax invoice for the amount of the relevant monetary contribution.

6.10 Dedication of Dedication Land

- (a) Council may refuse to accept the dedication of any part of the Land required to be dedicated by the Developer in accordance with this Agreement if any Works required to be carried out on that part of the Land under this Agreement have not been Completed at the time of dedication.
- (b) The Developer must dedicate the Dedication Land to Council free of any trusts, estates, interests, covenants and Encumbrances (other than drainage and services easements and other Encumbrances that may be agreed by Council, acting reasonably) by the time specified in **column 5 of Schedule 2**.
- (c) The Developer must meet all costs associated with the dedication of the Dedication Land in accordance with **clause 6.10(b)** including any costs incurred by Council in relation to that dedication.
- (d) For the purpose of this Agreement, the Dedication Land is dedicated to Council:
 - (i) if the relevant land is dedicated in a plan registered at the LRS, when that plan is so registered; or

- (ii) otherwise when the Developer delivers to Council:
 - (A) a transfer of the relevant land in registrable form;
 - (B) the original Certificate of Title for the relevant land; and
 - (C) any document in registrable which, when registered, will remove any Encumbrances registered on the title of that land.

6.11 Deferral of Development Contributions

- (a) Notwithstanding any other provision of this Agreement, if the Developer forms the view at any time, that it is unable to make all or part of a Development Contribution (**Deferred Contributions**) by the time specified in **schedule 2**, then the Developer must seek Council's approval to defer the relevant Development Contributions by providing written notice to the Council:
 - (i) identifying the relevant Development Contribution that the Developer proposes to defer and the reason for the deferral; and
 - (ii) identifying the anticipated time for delivery of the relevant Work.
- (b) The Council must give the Developer a written notice stating whether or not it consents to the deferral of the Deferred Contributions and the revised date for delivery within 10 Business Days of the Developer providing the notice under **clause 6.11(a)**.
- (c) If Council approves the deferral request under **clause 6.11(b)**, Council may impose any reasonable conditions Council requires with respect to the deferral (including any requirement for additional Security on account of that deferral acting reasonably).
- (d) If the Council consents to the deferral of the Deferred Contributions (**Approved Deferred Contributions**), then the time for completion of the Approved Deferred Contributions under this Agreement will be taken to be the revised date for delivery approved by the Council.
- (e) If the Council approves the Deferred Contributions under **clause 6.6(c)** then:

- (i) provided the Developer has complied with any conditions imposed by Council under **clause 6.11(c)**, the Developer will not be considered to be in breach of this Agreement as a result of a failure to achieve delivery of the Approved Deferred Works by the time for completion of those Development Contributions as specified in **schedule 2**; and
- (ii) if applicable, any relevant Subdivision Certificate may be issued if the time for compliance for delivery of the Approved Deferred Works is required prior to the issue of a Subdivision Certificate in **schedule 2**.

7 Application of sections 7.11, 7.12 and 7.24 of the Act to the Development

This Agreement:

- (a) wholly excludes the application of sections 7.11 and 7.12 of the Act to the Development; and.
- (b) does not exclude the application of section 7.24 of the Act to the Development.

For the avoidance of doubt:

- (c) Sections 7.11 and 7.12 are only excluded in relation to the original subdivision of the Land into 90 Urban Lots, and the construction of up to one dwelling on each of those 90 Urban Lots;
- (d) If any additional dwellings are constructed on those Urban Lots, or if an Urban Lot is further subdivided in the future, section 7.11 and 7.12 will not be excluded for such additional dwellings or further subdivision.

8 Security and Enforcement

8.1 Security

To secure the Developer's obligations, this Agreement provides for the following in relation to each type of Development Contribution:

- (a) Land Dedication:
 - (i) Registration of this Agreement on the title of the Land (clause 9.1);

- (ii) Dedication being a restriction on the issue of a Subdivision Certificate under section 6.15(1)(d) of the Act (column 5 of Schedule 2);
 - (iii) The ability for Council to require additional Security in the event of a Deferred Contribution being approved by Council (clause 6.11(c)); and
 - (iv) An agreement that Council may compulsorily acquire the land for \$1 in the event of the Developer failing to dedicate the Dedication Land in accordance with this Agreement (clause 9.4).
- (b) Works:
- (i) Registration of this Agreement on the title of the Land (clause 9.1);
 - (ii) Completion of the Works, to Council's satisfaction, being a restriction on the issue of a Subdivision Certificate under section 6.15(1)(d) of the Act (column 5 of Schedule 2); and
 - (iii) The ability for Council to require additional Security in the event of a Deferred Contribution being approved by Council (clause 6.11(c)).
- (c) Monetary Contributions:
- (i) Registration of this Agreement on the title of the Land (clause 9.1);
 - (ii) Completion of the Works, to Council's satisfaction, being a restriction on the issue of a Subdivision Certificate under section 6.15(1)(d) of the Act (column 5 of Schedule 2); and
 - (iii) The ability for Council to require additional Security in the event of a Deferred Contribution being approved by Council (clause 6.11(c)).

8.2 Enforcement in a court of competent jurisdiction

- (a) Without limiting any other provision of this Agreement, the Parties may enforce this Agreement in any court of competent jurisdiction.
- (b) For the avoidance of doubt, nothing in this Agreement prevents:
 - (i) a Party from bringing proceedings in the Land and Environment Court to enforce any aspect of this

- Agreement or any matter to which this Agreement relates,
or
- (ii) the Council from exercising any function under the Act or any other Act or law relating to the enforcement of any aspect of this Agreement or any matter to which this Agreement relates.

9 Registration and Release

9.1 Registration of the VPA on title

- (a) The Council and the Developer agree that as soon as reasonably practicable after execution of the Agreement, the Developer must facilitate the registration of the Agreement on the title to the Land at the Developer's expense and the Developer must provide Council with:
 - (i) evidence of that lodgement; and
 - (ii) a written undertaking that it will not take steps to uplift the request form from the LRS (other than as may be necessary to comply with any requisition raised by the LRS).

9.2 Release by Council

- (a) The Council agrees to provide the Developer with a release and discharge of this Agreement with respect to a Lot or Lots forming part of the relevant Land or any lot, including a strata lot, created or to be created on subdivision of the Land (or part of the Land) (**Release Land**) on the earliest of:
 - (i) the date that Council consents to the deferral of the Approved Deferred Contributions under **clause 6.11** and where the Developer provides Alternate Security for the delivery of the relevant Approved Deferred Contributions;
 - (ii) the date of satisfaction by the Developer of the obligation to provide the Development Contributions for that Release Land; or
 - (iii) if requested by the Developer in writing, before the delivery of all of or part of the Development Contributions and where the Developer provides Alternate Security for the remaining Development Contributions. Council must act reasonably and to the extent possible, facilitate the release of the VPA from an Urban Lot, including

immediately before the creation of the relevant Urban Lot, if requested by the Developer.

- (b) For the purposes of **clauses 9.2(a)(i) and 9.2(a)(iii)**, in determining the quantum of the Alternate Security, the Parties must act reasonably and have regard to the Development Contributions remaining to be completed and the other forms of security provided under this Agreement, including the compulsory acquisition rights for the Dedication Land under **clause 9.4**
- (c) Within 7 Business Days of the occurrence of a release and discharge event in **clause 9.2(a)**, Council must do all things reasonably necessary, including the execution of any documents, to enable the Developer to remove the notation of this Agreement on the relevant folios of the register, held by the LRS pertaining to the Release Land.

9.3 Alternate Security

If the Developer provides the Alternate Security under **clauses 9.2(a)(i) and 9.2(a)(iii)** to facilitate the release of the VPA from the Release Land:

- (a) the Developer is to provide the agreed Alternate Security to the Council at or around the same time as Council takes action under **clause 9.2(c)**;
- (b) the Council must release the Alternate Security or the relevant part of the Alternate Security to the Developer within 14 days of the Developer delivering the relevant Development Contribution;
- (c) the Council must only exercise its rights under the Alternate Security in accordance with **clauses 9.3(d) and 9.3(e)**;
- (d) the Council must not request a payment (**Security Payment**) under the Alternate Security from the provider of it, unless:
 - (i) the Council has first given 40 Business Days written notice (**Claim Notice**) to the Developer of its intention to do so within which period the Developer may rectify the breach identified in the Claim Notice;
 - (ii) the Claim Notice specifies the costs (**Rectification Costs**) to which that Security Payment relates and the amount and calculation of the Security Payment; and

- (iii) there is no dispute between the Developer and the Council in relation to the:
 - (A) Rectification Costs; or
 - (B) satisfaction of the relevant Development Contribution obligation,
 for which the Security Payment is requested; and
- (e) the Council must take reasonable steps to mitigate any loss.

9.4 Compulsory Acquisition for Dedication Land

- (a) If the Developer does not dedicate the Dedication Land in accordance with the timing in **clause 6.10(a)**, the Developer consents to the Council compulsorily acquiring the relevant part of the Dedication Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW) for the amount of \$1.00.
- (b) Council acknowledges that the compulsory acquisition right provided by the Developer to Council in **clause 9.4(a)** for the Dedication Land is adequate security for the purposes of this Agreement and section 7.3(3)(g) of the Act with respect to the obligation to provide the Dedication Land.
- (c) The Council is to only acquire the relevant part of the Dedication Land pursuant to **clause 9.4(a)** if it considers it reasonable to do so having regard to the circumstances surrounding the failure by the Developer to dedicate the land required to be dedicated under this Agreement.
- (d) The Developer and the Council agree that:
 - (i) **clause 9.4(a)** is an agreement between the Developer and the Council for the purpose of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in **clause 9.4(a)**, the Developer and the Council have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.

10 Review of this Agreement

- (a) This Agreement may be reviewed or modified and any review or modification of this Agreement will be conducted in the

circumstances and in the manner determined by the Parties and subject to the Act.

- (b) No modification or review of this Agreement will be of any force or effect unless it is in writing and signed by the Parties to this Agreement.

11 Dispute Resolution

11.1 Reference to Dispute

If a dispute arises between the Parties in relation to this Agreement, then the Parties must resolve that dispute in accordance with this clause.

11.2 Notice of Dispute

The Party wishing to commence the dispute resolution processes must notify the other Parties in writing of:

- (a) the intent to invoke this clause;
- (b) the nature or subject matter of the dispute, including a summary of any efforts made to resolve the dispute other than by way of this clause; and
- (c) the outcomes which the notifying Party wishes to achieve (if practicable).

11.3 Representatives of Parties to Meet

The representatives of the Parties must promptly (and in any event within 14 Business Days of the written notice provided in accordance with **clause 11.2**) meet in good faith to attempt to resolve the notified dispute (**Dispute Meeting**).

11.4 Mediation

- (a) If the dispute is not resolved after the Dispute Meeting, the Parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales published from time to time, and must request the President of the Law Society, or the President's nominee, to select a mediator.
- (b) If the dispute is not resolved by mediation within twenty eight (28) days of the Dispute Meeting, or any longer period that may be needed to complete any mediation process which has been started, then the Parties may exercise their legal rights in

relation to the dispute, including by taking legal proceedings in a court of competent jurisdiction in New South Wales.

12 Determination of this Agreement

- (a) This Agreement will determine upon the Developer satisfying all of the obligations imposed on it under this Agreement in full.
- (b) Upon the determination of this Agreement, Council will do all things necessary to allow the Developer to remove this Agreement from the title of the whole or any part of the Land as quickly as possible.

13 Warranties

The Parties warrant to one another that:

- (a) they are able to fully comply with their obligations under this Agreement; and
- (b) there is no legal impediment to them entering into this Agreement, or performing the obligations imposed under it.

14 Notices

14.1 Delivery

Any notice, consent, information, application or request that must or may be given or made to a Party under this Agreement is only given or made if it is in writing and sent in one of the following ways:

- (a) Delivered or posted to that Party at its address set out below.
- (b) Faxed to that Party at its fax number set out below.
- (c) Emailed to that Party at its email address set out below.

Campbelltown City Council

Attention: General Manager, Campbelltown City Council

Address: Civic Centre, 91 Queen Street, Campbelltown
NSW 2560

Fax Number: (02) 4645 4111

Email: Council@Campbelltown.nsw.gov.au

Bensley Development Pty Ltd

Attention: Bill McGarry

Address: Suite 101, 25 Angas Street, Meadowbank
NSW 2114

Fax Number: [insert]

Email: bill.mcgarry@billbergia.com.au

14.2 Change of Details

If a Party gives the other Parties 10 Business Days' notice of a change of its address, email address or fax number, any notice, consent, information, application or request is only given or made by that other Party if it is delivered, electronically sent, posted or faxed to the latest address, email address or fax number.

14.3 Giving of Notice

Subject to **clause 14.4**, any notice, consent, invoice, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered by process server, when it is served at the relevant address;
- (b) if it is sent by registered post, two Business Days after it is posted; and
- (c) if it is sent by email, within 24 hours, unless the sender receives a delivery failure notification, indicating that the electronic mail has not been delivered.

14.4 Delivery outside of business hours

If any notice, consent, information, application or request is delivered on a day that is not a Business Day, or if on a Business Day, after 5.00 pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

15 Approvals and consent

Except as otherwise set out in this Agreement, and subject to any statutory obligations, a Party may give or withhold an approval or consent to be given under this Agreement in that Party's absolute discretion and subject to any conditions determined by the Party. A

Party is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

16 Assignment and Novation

16.1 Assignment and novation

The Developer may not assign, novate or otherwise deal with its rights, obligations or interest under this Agreement other than in accordance with this **clause 16**.

16.2 Transfer Dealings and novation

- (a) Subject to **clause 16.3**, the Developer must not enter into any Transfer Dealings with the Land unless the Developer:
 - (i) first informs the proposed purchaser (the **Incoming Party**) of this Agreement;
 - (ii) provides the Incoming Party with a copy of this Agreement;
 - (iii) enters into a Novation Deed with the Incoming Party and the Council, whereby the Incoming Party agrees to perform the obligations of the Developer under this Agreement unless the Developer proposes to retain the liability to perform all or part of the obligations; and
 - (iv) pays the Council's reasonable costs in relation to the assignment and novation.
- (b) The Council will promptly execute the Novation Deed and do all things reasonably required to give effect to that deed.

16.3 Transfer of certain parts of the Land

The provisions of **clauses 16.1** do not apply

- (a) to the sale and transfer of:
 - (i) an Urban Lot; and
 - (ii) a Super Lot where the Developer has completed its obligations under this Agreement in respect of that Super Lot.

17 Costs

The Developer agrees to pay Council up to \$6,000 plus GST and disbursements for its reasonable costs of preparing, negotiating, executing and stamping this Agreement and any document related to this Agreement.

18 Entire Agreement

- (a) This Agreement contains everything to which the Parties have agreed in relation to the matters those documents deal with. No Party can rely on an earlier document, or anything said or done by another Party, or by a director, officer, agent or employee of that Party, before this Agreement was executed, except as permitted by Law.
- (b) Pursuant to clause 25E(7) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Agreement.

19 Capacity of Parties

19.1 General

Each Party warrants to each other Party that:

- (a) this Agreement 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 Agreement in the capacity of trustee of any trust.

20 Further acts

Each Party must promptly execute all documents and do all things that another Party from time to time reasonably requests to affect, perfect or complete this Agreement and all transactions incidental to it.

21 Governing law and jurisdiction

This Agreement is governed by the law of New South Wales. The Parties submit to the non-exclusive jurisdiction of its Courts and Courts of appeal from them. The Parties will not object to the exercise of jurisdiction by those Courts on any basis.

22 No fetter

Nothing in this Agreement shall be construed as requiring an Authority to do anything that would cause it to be in breach of any of its obligations at law, and without limitation, nothing shall be construed as limiting or fettering in any way the exercise of any statutory discretion or duty.

23 Severability

If a clause or part of a clause of this Agreement can be read in a way that makes it illegal, unenforceable or invalid, but can also be read in a way that makes it legal, enforceable and valid, it must be read in the latter way. If any clause or part of a clause is illegal, unenforceable or invalid, that clause or part is to be treated as removed from this Agreement, but the rest of this Agreement is not affected.

24 Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this Agreement, does not amount to a waiver of any obligation or exercise of a right of, or breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation, right or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation, right or breach or as an implied waiver of that obligation, right or breach in relation to any other occasion.
- (d) A single or partial exercise or waiver by a Party of a right relating to this Agreement does not prevent any other exercise of that right or the exercise of any other right.
- (e) A Party is not liable for any loss, cost or expense of any other Party caused or contributed to by the waiver, exercise, attempted exercise, failure to exercise or delay in the exercise of a right.

25 GST

25.1 Construction

In this **clause 25** words and expressions which are not defined in this Agreement but which have a defined meaning in the GST Law have the same meaning as in the GST Law.

25.2 Intention of the Parties

Without limiting the operation of this **clause 25**, as at the date of this Agreement, the Parties intend that:

- (a) Divisions 81 and 82 of the GST Act apply to the supplies made under and in connection with this Agreement;
- (b) no tax invoices will be exchanged between the Parties (unless one is required for the purposes of **clause 6.9**); and
- (c) no additional amount will be payable to a Supplier (as defined in **clause 25.4** below) on account of GST.

25.3 Consideration GST exclusive

All prices or other sums payable or consideration to be provided under this Agreement are exclusive of GST.

25.4 Payment of GST – additional payment required

- (a) If an entity (**Supplier**) makes a taxable supply under or in connection with this Agreement (**Relevant Supply**), then, subject to **clause 25.4(d)**, the Party required under the other provisions of this Agreement to provide the consideration for that Relevant Supply (**Recipient**) must pay an additional amount to the Supplier (**GST Amount**), as calculated under **clauses 25.4(b), 25.4(c) and 25.4(e)** (as appropriate).
- (b) To the extent that the consideration to be provided by the Recipient for the Relevant Supply under the other provisions of this Agreement is a payment of money (including, for the avoidance of doubt, any payment under **clauses 25.4(c) and 25.4(e)**), the Recipient must pay to the Supplier an additional amount equal to the amount of the payment multiplied by the rate or rates of GST applicable to that Relevant Supply.
- (c) To the extent that the consideration to be provided by the Recipient for that Relevant Supply is neither:
 - (i) a payment of money; nor

- (ii) a taxable supply,

(Non-taxable non-monetary consideration)

the Recipient must pay to the Supplier an additional amount equal to 1/11th of the GST-inclusive market value of the Non-taxable non-monetary consideration.

- (d) To the extent that the consideration payable by the Recipient is a taxable supply made to the Supplier by the Recipient, then, notwithstanding **clause 25.4(a)** and subject to **clause 25.4(e)**, no additional amount is payable by the Recipient to the Supplier on account of the GST payable on that taxable supply.
- (e) Notwithstanding **clause 25.4(d)** if the GST-inclusive market value of the non-monetary consideration of the Relevant Supply (**Supplier's taxable supply**) is less than the GST-inclusive market value of the non-monetary consideration comprising the taxable supply made by the Recipient to the Supplier for the Supplier's taxable supply (**Recipient's taxable supply**) then, the Recipient must pay to the Supplier an additional amount equal to 1/11th of the difference between the GST-inclusive market value of the Recipient's taxable supply and the GST-inclusive market value of the Supplier's taxable supply.
- (f) The recipient will pay the GST Amount referred to in this **clause 25.4** in addition to and at the same time as the first part of the consideration is provided for the Relevant Supply.

25.5 Valuation of non-monetary consideration

The Parties will seek to agree upon the market value of any non-monetary consideration which the Recipient is required to provide under **clause 25.4**. If agreement cannot be reached prior to the time that a Party becomes liable for GST, the matter in dispute is to be determined by an independent expert nominated by the President for the time being of the Institute of Chartered Accountants in Australia. The Parties will each pay one half of the costs of referral and determination by the independent expert.

25.6 Tax invoice

The Supplier must deliver a tax invoice to the Recipient before the Supplier is entitled to payment of the GST Amount under **clause 25.4**. The Recipient can withhold payment of the GST Amount until the Supplier provides a tax invoice.

25.7 Adjustment event

If an adjustment event arises in respect of a taxable supply made by a Supplier under this Agreement, the GST Amount payable by the Recipient under **clause 25.4** will be recalculated taking into account any previous adjustment under this clause to reflect the adjustment event and a payment will be made by the Recipient to the Supplier or by the Supplier to the Recipient as the case requires.

25.8 Reimbursements

Where a party is required under this Agreement to pay, indemnify or reimburse an expense, loss or outgoing of another party, the amount to be paid, indemnified or reimbursed by the first party will be the sum of:

- (a) the amount of the expense, loss or outgoing less any input tax credits in respect of the expense, loss or outgoing to which the other party, or to which the representative member of a GST group of which the other party is a member, is entitled; and
- (b) any additional amount payable under **clause 25.4** in respect of that reimbursement.

25.9 No Merger

This **clause 25** does not merge in the completion, discharge, rescission or termination of this document or on the transfer of any property supplied or to be supplied under this document.

26 Relationship of Parties

This Agreement is not intended to create a partnership, joint venture or agency relationship between the Parties.

27 Further steps

Each Party must promptly do whatever any other Party reasonably requires of it to give effect to this document and to perform its obligations under it.

28 Counterparts

This document may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.

29 Rights cumulative

Except as expressly stated otherwise in this Agreement, the rights of a Party under this Agreement are cumulative and are in addition to any other rights of that Party.

30 Frustrated Contracts Act 1978

The provisions of the *Frustrated Contracts Act 1978* (NSW) are excluded as they apply to this Agreement.

Schedule 1

Section 7.4 Requirement

Provision of the Act	This Agreement
Under section 7.4(1), the Developer has:	
(a) sought a change to an environmental planning instrument.	(a) Yes
(b) made, or proposes to make, a development application.	(b) Yes
(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.	(c) No
Description of the land to which this Agreement applies - (Section 7.4(3)(a))	See definition of Land in clause 1.1 .
Description of the development to which this Agreement applies - (Section 7.4(3)(b)(ii))	See definition of Development in clause 1.1 .
The scope, timing and manner of delivery of Development Contributions required by this Agreement - (Section 7.4(3)(c))	See schedule 2 and clauses 5 and 6
Applicability of Section 7.11 of the Act - (Section 7.4(3)(d))	Section 7.11 is wholly excluded as it applies to the Land and the Development.
Applicability of Section 7.12 of the Act - (Section 7.4(3)(d))	Section 7.12 is wholly excluded as it applies to the Land and the Development.
Applicability of Section 7.24 of the Act - (Section 7.4(3)(d))	Section 7.24 is not excluded as it applies to the Land and the Development.
Applicability of Section 7.4(3)(e) of the Act	Not applicable as no section 7.11s are payable in respect of the Development.
Mechanism for Dispute resolution - (Section 7.4(3)(f))	See clause 11 .
Enforcement of this Agreement - (Section 7.4(3)(g))	See clause 8 .
Registration of this Agreement (Section 93H)	Yes, see clause 9 .
No obligation to grant consent or exercise functions - (Section 7.4(9))	See clauses 15 and 22 .

Schedule 2

Development Contributions

Column 1	Column 2	Column 3	Column 4	Column 5
Item	Public Purpose	Nature/Extent	Estimated Contribution Value/Monetary Contribution	Timing
1	Land Dedication: Active open space and recreation and water management	Dedication of a minimum of 16,547m ² of land for the purposes of public open space, conservation land, and stormwater infrastructure generally in the location identified on the Contribution Location Plan (Dedication Land).	\$1,323,760	Prior to the issue of a Subdivision Certificate creating the 50 th Urban Lot in the Development or as otherwise agreed between the Parties pursuant to clause 6.11 .
2	Works in Kind: Active Open Space	Embellishment of the Dedication Lands for public park purposes. The open space works are to include:	\$ 600,000	Prior to the issue of a Subdivision Certificate creating the 50 th Urban Lot in the Development or as otherwise agreed between the Parties pursuant to clause 6.11 .

		<ul style="list-style-type: none"> • Play Space • Groundcovers • Tree and shrub plantings • Concrete shared pathways with a minimum width of 2.6 metres • Timber boardwalks through and adjoining urban stormwater devices <p>Concept plan of the proposed open space works is to be approved by Council prior to commencement.</p> <p>The value of works is based on \$30 per square metre for embellishment.</p>		
5	Works: Environmental Conservation	The undertaking of works on conservation lands to be dedicated in accordance with a Vegetation Management Plan.	\$50,000	Prior to the issue of a Subdivision Certificate creating the 50 th Urban Lot in the Development or as otherwise agreed between the Parties pursuant to clause 6.11 .

6	Monetary Contribution: Community Facilities and Services	Provision of a monetary contribution for community service enhancements. The value based on a contribution rate of \$1,427 per Urban Lot, for an expected total yield of 90 dwellings	\$1,427 per Urban Lot (estimated total, based on 90 Urban Lots: \$128,430)	To be paid per Urban Lot prior to the issue of a Subdivision Certificate creating the relevant Urban Lot in the Development or as otherwise agreed between the Parties pursuant to clause 6.11 .
7	Monetary Contribution: Administration Costs	Provision of a monetary contribution for the ongoing administration costs associated with this VPA. The value is equivalent to 1.5% of the total contribution value for Works and Land	\$29,606	Prior to the issue of a Subdivision Certificate creating the 1 st Urban Lot in the Development or as otherwise agreed between the Parties pursuant to clause 6.11 .

Executed as an agreement.

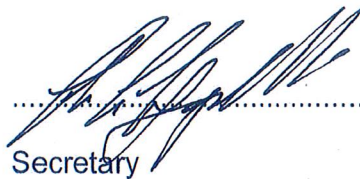
7 August 2019

Executed by **Bensley Development)**
Pty Ltd (ACN 604 415 278) pursuant
to section 127 of the *Corporations)*
Act 2001



Director

William Kinsella



Secretary

John Fitzgerald

Executed by **Campbelltown City**)
Council (ABN 31 459 914 087) by)
its General Manager and Mayor by)
the affixing of the Common Seal of)
Council in accordance with)
resolution dated


.....
....

General Manager (Signature)


.....
....

Mayor (Signature)

LINDY DEITZ
.....
....

Name General Manager (print)

G. BRTIČEVIĆ
.....
....

Name of Mayor (print)

Annexure A

Contribution Location Plan

Annexure B

Novation Deed

Draft No []

[Date]

Campbelltown City Council

[Original Developer]

[New Developer]

Deed of Novation for Voluntary Planning Agreement

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Date

Parties

Campbelltown City Council ABN 31 459 914 087 of Civic Centre, 91 Queen Street, Campbelltown, New South Wales (**Council**)

[Original Developer] ACN [insert] of [insert address] New South Wales (**Original Developer**)

[New Developer] ACN [insert] of [insert address] New South Wales (**New Developer**)

Background

- A The Council and the Original Developer are parties to the Original Agreement.
 - B The Original Agreement relates to the whole of the Land [or part of].
 - C The Original Developer wishes to transfer the whole [or part] of the Land to the New Developer.
 - D The Original Developer wishes to novate all [or part] of its rights and obligations under the Original Agreement to the New Developer.
-

Agreed terms

1 Definitions

In this document these terms have the following meanings:

Council Campbelltown City Council.

Effective Date [insert date upon which the novation becomes effective]

Land	Has the meaning given to that term in the Original Agreement.
Original Agreement	The voluntary planning agreement dated [insert] and made between the Council and the Original Developer.
Party	means a party to this document.

2 Novation

2.1 Original Agreement

Subject to **clause 2.2** and with effect from the Effective Date:

- (a) the New Developer is substituted for the Original Developer as a Party to the Original Agreement;
- (b) the New Developer will be bound by the Original Agreement, and will be entitled to the benefit of the Original Agreement, as if the New Developer was a Party to the Original Agreement instead of the Original Developer; and
- (c) the Original Developer is released and discharged from all obligations and liabilities, and from all claims (whether for costs, damages, fees, expenses or otherwise), arising under the Original Agreement.

[Note: Amend the above if only part of the Land is being transferred]

2.2 Reference in Original Agreement

All references to the Original Developer in the Original Agreement are to be construed as references to the New Developer.

[Note: Amend the above if only part of the Land is being transferred]

2.3 Address for notices

The Council must address all notices and communications to be given or made by it to the New Developer under the Original Agreement to the following address:

New Developer:

Address: [insert]

Fax: [insert]

Contact Person: [insert]

Email: [insert]

3 Affirmation of the Original Agreement

The Original Agreement will be read and construed subject to this document, and in all other respects the provisions of the Original Agreement are ratified and confirmed, and, subject to the variation and novation contained in this document, the Original Agreement will continue in full force and effect.

4 Indemnities

The New Developer indemnifies the Original Developer on demand against all liabilities, claims, damages and loss which the Original Developer suffers or incurs in relation to the Original Agreement including those which arise or relate to acts or omissions occurring on or after the Effective Date.

[Note: Amend the above if only part of the Land is being transferred]

5 Warranties and representations

5.1 Warranties

Each Party represents and warrants that, at the time of execution, and at the Effective Date:

- (a) it has capacity unconditionally to execute, deliver and comply with its obligations under this document;
- (b) it has taken all necessary action to authorise the unconditional execution and delivery of, and the compliance with, its obligations under this document;
- (c) this document is a valid and legally binding obligation and is enforceable against it by each other Party in accordance with its terms; and
- (d) its unconditional execution and delivery of, and compliance with its obligations under, this document do not contravene:
 - (i) any law or directive from a government entity;
 - (ii) its constituent documents;
 - (iii) any agreement or instrument to which it is a Party; or
 - (iv) any obligation of it to any other person.

5.2 Survival of warranties

The warranties and representations in **clause 5.1** survive the execution of this document and the novation of the Original Agreement.

6 GST

Where a supply made under this document gives rise to a liability for GST, the consideration to be provided for that supply (other than under this clause) will be increased by an additional amount equal to the GST payable on the supply. The additional amount must be paid, and the supplier must provide a tax invoice, at the same time as the other consideration for that supply is to be provided under this document. Terms used in this clause have the meanings in the *A New Tax System (Goods and Services Tax) Act 1999*.

7 Stamp duty and costs

The New Developer will pay all stamp duty arising directly or indirectly from this document.

8 Further acts

- (a) Each Party will take all steps, execute all deeds and do everything reasonably required by any other Party to give effect to any of the actions contemplated by this document.
- (b) This document binds each Party which signs it even if other parties do not, or if the execution by other parties is defective, void or voidable.

9 Amendment

This document may only be varied or replaced by a document executed by the parties.

10 Governing law and jurisdiction

- (a) This document and the transactions contemplated by this document are governed by and are to be construed in accordance with the laws applicable in New South Wales.
- (b) Each Party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in New South Wales and any courts which have jurisdiction to

hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

11 Counterparts

This document may consist of a number of counterparts and the counterparts taken together constitute one and the same instrument.

12 General

12.1 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined its other grammatical forms have corresponding meanings;
- (d) 'includes' means includes without limitation;
- (e) no rule of construction will apply to a clause to the disadvantage of a Party merely because that Party put forward the clause or would otherwise benefit from it; and
- (f) a reference to:
 - (i) a person includes a partnership, joint venture, unincorporated association, corporation and a government or statutory body or authority;
 - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
 - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
 - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation.

12.2 Headings

Headings do not affect the interpretation of this document.

Execution

Executed as a deed/agreement.

Executed by **Campbelltown City**)
Council (ABN 31 459 914 087) by)
its General Manager and Mayor by)
the affixing of the Common Seal of)
Council in accordance with)
resolution dated

.....
.....

General Manager (Signature)

.....
.....

Mayor (Signature)

.....
.....

Name General Manager (print)

.....
.....

Name of Mayor (print)

Executed by [Original Developer])
ABN [insert] in accordance with section 127(1) of)
the *Corporations Act 2001* (Cth):

.....
....

Company Secretary/Director

.....
....

Director

.....
....

Name of Company
Secretary/Director (print)

.....
....

Name of Director (print)

Executed by [New Developer])
ABN [insert] in accordance with)
section 127(1) of the *Corporations Act 2001* (Cth):

.....
....

Company Secretary/Director

.....
....

Director

.....
....

Name of Company
Secretary/Director (print)

.....
....

Name of Director (print)