

# DEED OF PLANNING AGREEMENT

THIS DEED OF PLANNING AGREEMENT made on

2012

**BETWEEN**                    **COUNCIL OF GREAT LAKES**

Breese Parade

Forster.

("Council") of the one part

**AND**                            **CRIGHTON PROPERTIES PTY LTD.**  
**Suite F, Level 1, 2 Reliance Drive**  
**TUGGERAH NSW 2259**

("Developer") of the other part

## RECITALS

- A.        The Developer owns the Land.
- B.        The Developer has lodged an application under part 3A of the EP&A Act for Project Approval over part of the land and Concept Plan Approval over the remainder of the Land for a combination of residential, tourism and commercial purposes.
- C.        As part of its proposal for development of the Land, the Developer has offered to enter into this agreement.

## DEFINITIONS:

In this agreement the following definitions apply:-

**"Council Lot"** is That part of Lot 54 DP 1039382 nominated as Lot 542 on the attached Draft plan of subdivision (Annexure 2.)

**"Council's solicitors"** means Mallik Rees Lawyers, 141 Vincent Street, Cessnock 2325 or such other solicitors as nominated in writing by Council to the Developer from time to time.

**"Concept Plan Approval"** means a Concept Plan approved under Part 3A of the EP&A Act.

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

**"Developer"** means any person who wishes to act upon an approval for the development of the land.

**"Developer's solicitors"** means Conditis and Henderson Cotter Lawyers, Suite 305, Level 3, Kensman Building, 131-133 Donnison Street, Gosford NSW 2250 or such other solicitors as nominated in writing by the Developer to Council from time to time.

**"Dwelling-house Lot"** is a lot in a plan of subdivision of the Land or part of the Land, upon which a dwelling-house or dual Occupancy is capable of being erected..

**"EPAA"** means the Environmental Planning & Assessment Act 1979 as amended and any Act replacing same.

**"GST"** has the same meaning as in the GST Law.

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

**"Land"** means that part of Lot 40 DP270100, Lot 19 DP 270100, Lot 30 DP 270100, Lot 1 DP 270100, Lot 40 DP 270100, Lot 5 DP 270561, Lot 1 DP 270561 and Lot 2 DP 270561 that is the subject of the Riverside Part 3A Concept Plan and Project Application and shown outlined in heavy black on the accompanying plan, annexed "1." hereto.

**"LPI"** means the Land and Property Information division of the Department of Lands\_(NSW).

**"Part 3A Application"** means an application for combined Concept Plan Approval and Project Approval lodged under Part 3A of the EP&A Act.

**"Part 3A Approval"** means the approval issued for the Part 3A application by the Minister.

**"Party"** means a party to this agreement, including its successors and assigns.

**"Project Approval"** means a Project Approval under Part 3A of the EP&A Act.

**"Proposed Development"** means the development proposed within the Part 3A Application.

**"Residential Lot"** means a home site proposed upon the plans which make up the part 3A application proposed to be used for residential and / or tourist residential purposes.

**"The Minister"** means the NSW State Minister for Planning.

**INTERPRETATION:**

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

- (1) Headings are inserted for convenience only and do not affect the interpretation of this agreement.
- (2) A reference in this agreement to a business day means a day other than a Saturday or Sunday on which banks are open for business generally in Sydney.
- (3) 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.
- (4) A reference in this agreement to dollars or \$ means Australian dollars and all amounts payable under this agreement are payable in Australian dollars.
- (5) A reference in this agreement to any law, legislation or legislative provision includes any statutory modification, amendment or re-enactment, and any subordinate legislation or regulations issued under that legislation or legislative provision.
- (6) A reference in this agreement to any agreement, deed or document is to that agreement, deed or document as amended, novated, supplemented or replaced.
- (7) A reference to a clause, part, schedule or attachment is a reference to a clause, part, schedule or attachment of or to this agreement.
- (8) An expression importing a natural person includes any company, trust, partnership, joint venture, association, body corporate or governmental agency.
- (9) 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.
- (10) 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 gender.
- (11) References to the word 'include' or 'including' are to be construed without limitation.
- (12) A reference to this agreement includes the agreement recorded in this agreement.
- (13) 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.
- (14) Any schedules and attachments form part of this agreement.
- (15) A covenant or agreement on the part of 2 or more persons binds them jointly and severally.

In the interpretation of this agreement no rule of construction shall apply to disadvantage one party on the basis that that party put forward the particular covenant term or provision.

## **OPERATIVE PART:**

### **1 Planning agreement under the EPAA**

The parties agree that this agreement is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the EPAA.

### **2 Application of this agreement**

This agreement applies to the Land.

### **3 Operation of this agreement**

3.1 This planning agreement takes effect on the date it is made

3.2 In the event that the Approval Authority makes amendments to the Proposed Development prior to the issuing of the Part 3A approval or any subsequent Project Approval, the parties to the agreement, may with each others agreement, amend the agreement.

### **4 DETAILS OF Part 3A Approval**

#### **4.1 Part 3A Application**

The Proposed Development consists of a;

- Concept Plan Application – which consists of 855 residential home sites, 65 tourist home sites as well as a range of water management devices and infrastructure provisions including 3 private clubhouse sites.
- Part 3A Approval will consist of a Concept Approval for the Proposed Development.

#### **4.2 Nature and Extent of Provision to be made**

If Part 3A Approval occurs, the Developer will undertake the works and pay the amounts as prescribed in Schedule 1 to this agreement.

#### **4.3 Time for Provision to be made**

The time by the provision shall be made is as set out in Schedule 1 to this agreement.

#### **4.4 Manner by Which Provision is to be made**

The manner by which the provision referred to in clause 4.2 is to be made is by the developer completing the works and paying to Council the monies as set out in Schedule 1 to the agreement.

#### **4.5 Promises by Developer**

The Developer promises to perform its obligation in clause 4.2 by undertaking the works and the paying monies set out in Schedule 1.

*Draft Voluntary Planning Agreement ..... and Great Lakes Council*

## **5 APPLICATION OF SECTIONS 94 AND 94A OF THE EPAA**

- 5.1 This agreement does not exclude the application of sections 94 or 94A of the EPAA to development applications received by the Council after Part 3A Approval, being in respect of the Land or part thereof, or any other land owned by the Developer.

## **6 Registration of this agreement s93H of the EPAA**

The Parties shall do all things reasonably necessary to enable the Council following Part 3A Approval, to obtain registration of this Agreement under section 93H of the Act at the LPI, such that on registration of this Agreement, the Registrar General will have made an entry in the relevant Folio(s) of the Register kept under the Real Property Act 1900 in relation to the Land. To that end the Developer shall deliver to the Council on the date this agreement is made all necessary documents in registrable form to enable the Council to lodge those documents at LPI and obtain immediate registration of this agreement following Gazettal.

## **7 Review of this agreement**

The Parties agree that from time to time it may become necessary to review this Agreement, but any amendment to this Agreement shall only be effective if in writing and signed by all Parties and registered under Section 93H of the EPAA.

## **8 Dispute resolution**

- 8.1 If a dispute arises out of or relates to this agreement, including any dispute as to breach or termination of this agreement or as to any claim in tort, in equity or under any legislation, a party cannot commence any court proceedings relating to the dispute unless that party has complied with the following clauses except where that party seeks urgent interlocutory relief.
- 8.2 A party claiming that a dispute has arisen must serve a notice specifying the nature of the dispute.
- 8.3 On receipt of that notice by that other party, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or similar techniques agreed by them.
- 8.4 If the parties do not agree within 7 days of service of the notice, or any further period agreed in writing by them, as to:
- 8.4.1 the dispute resolution technique and procedures to be adopted;
  - 8.4.2 the timetable for all steps in those procedures; and
  - 8.4.3 the selection and compensation of the independent person required for that technique,

the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of New South Wales and must request the President of the Law Society of New South Wales or the President's nominee to select the mediator and determine the mediator's remuneration.

## 9 ENFORCEMENT and SECURITY:

9.1 On the date this agreement is made, the Developer will deliver to the Council

9.1.1 a plan of subdivision of Lot 54 DP 1039382 showing only two lots, namely the **Council Lot**, and the residue lot, as shown in the plan that is annexed 'C' hereto), such plan being capable of immediate registration as a deposited plan at LPI and being properly executed by the Developer, every mortgagee of the Land and every other person having an estate or interest in the land whose execution of the plan is required to secure its immediate registration at LPI, as well as bearing any required executed subdivision certificate, and which plan will, on its registration, create the Council Lot.

9.1.2 the documents of title for the Land or, if they are not in the possession of the Developer, an irrevocable undertaking in the form of a deed poll by the person having possession of the title deeds to the Land, in favour of the Council, promising in consideration of the Council's entering into this planning agreement with the Developer; to consent to the registration of this agreement on the title to the land under section 93H of EPAA and the registration of any other documents required to vest the Council Lot in the name of the Council; to produce the title documents in relation to the Land when required by the Council and/or LPI to enable registration of this agreement under section 93H of EPAA and also the registration of any other documents required to vest the Council Lot in the name of the Council including the documents referred to in clauses 9.1.1, 9.1.3 and 9.1.4 below; and, should it receive a certificate of title for the Council Lot, whether it be in the name of the Council or not, to forward to the Council the certificate of title to the Council Lot immediately following its receipt by that person .

9.1.3 a form of transfer under the Real Property Act 1900 for the purpose of transfer of the Council Lot when it is created to the Council, with the Developer named as transferor and the Council of Great Lakes as transferee, properly executed by the Developer but with the description of land omitted, which omission the Council is entitled to rectify by inserting the proper title reference to the Council Lot that will be appropriate at the time of lodgment of the transfer at LPI.

9.1.4 any other document (for example, a discharge of mortgage or withdrawal of caveat but not being for a caveat lodged by the Council) in registrable form ("the other document") as is necessary to ensure that the Council is able to register this agreement and the plan and transfer referred to above and obtain the title to the Council Lot of the nature referred to in clause 9.7. If the other document is held by the person who will provide a deed poll under clause 9.1.2, the other

document need not be delivered as required by this clause 9.1.4 provided the person promises in that deed poll to produce the other document with the documents of title when required in accordance with the terms of clause 9.1.2.

- 9.2 The documents referred to in clause 9.1 above are to be held by the Council as security for the performance by the Developer of the obligations imposed on it under this agreement. The Developer must not permit or suffer the possession of the title deeds to be changed without the person into whose possession the title deed will go executing a similar deed poll to that required by clause 9.1.2, and if necessary, under clause 9.1.4, in favour of the Council and delivering that deed to the Council beforehand, but this obligation does not apply to a change of possession of the title deeds for the purpose of registration of a document under this agreement provided the person who produced the deeds is the same to whom the deeds are to be returned. The deed poll referred to in clause 9.1.2 may also be used by the Council for the purpose of enforcement of clause 7.
- 9.3 If Part 3A Approval occurs but the transfer of the Council Lot is not effected in accordance with this agreement by the time required by clause 4.3, then the Council is entitled to lodge for registration at LPI, any or all of the documents referred to in clauses 9.1.1, 9.1.3 and 9.1.4 and require compliance with the undertaking referred to in clause 9.1.2 and become registered as proprietor of the Council Lot. In such circumstances the Council will make that land available for the purpose and within the time described in clause 5.
- 9.4 Until the Developer has performed its obligations under this agreement, it shall not lodge or suffer or cause to be lodged for registration at LPI any document (except the plan held by the Council under clause 10) which would, if registered
- 9.4.1 cause any document held by the Council under clause 10 to be incapable of being registered at the LPI and/or
  - 9.4.2 cause the undertaking given under clause 9.1.2, or any document to be provided pursuant thereto, to become obsolete.
- 9.5 The Developer will pay all rates, taxes and charges owing in respect of the Land within 14 days of receiving each assessment notice for the Land, up to and including the date of registration of the transfer of the Council Lot to the Council, before that registration occurs. There shall be no apportionment of those rates, taxes and charges.
- 9.6 Should the Council register the transfer referred to in this agreement, the Developer promises that the Council will have on its registration, an estate in fee simple in possession in the Council Lot, freed and discharged from all estates, interests, trusts, restrictions, dedications, reservations, rights, charges, rates and contracts, except as may by this agreement be permitted.
- 9.7 The Developer grants to the Council, immediately upon Part 3A Approval, an equitable and proprietary interest in the Council Lot sufficient to support a

caveat that the Council may lodge at the LPI against the registration of dealings, to protect its estate or interest in that part of the Land shown on the plan that is attached "C" hereto as the intended Council Lot, pending the transfer to the Council of the Council Lot. The Developer also promises that it will not take or suffer to be taken any steps to be taken in relation to the removal of that caveat. The Council must withdraw that caveat as soon as possible following the vesting in it of the Council Lot.

- 9.8 If any document provided to and held by the Council under this agreement to ensure the performance of the Developer's obligations, becomes obsolete or incapable of registration at the LPI, the Developer, upon being made aware of that fact and whether requested by the Council or not, shall immediately take all necessary steps to ensure that the Council is returned to a position that will allow it to continue to hold adequate and sufficient documentation to secure the satisfactory performance of the Developer's obligations under this agreement.
- 9.9 The Developer will fairly and promptly answer to the best of its ability all requisitions raised by LPI in relation to the registration and/or lodgment of documents including plans, that are permitted or required to be registered under this agreement.
- 9.10 Notwithstanding anything else in this agreement, should the transfer to the Council Lot not be able to be effected for any reason by the process set out in this agreement, the Developer shall, when advised by the Council of the ineffectual transfer, forthwith do all things necessary to effect the vesting of the Council Lot in the Council and not suffer the interest that the Council has in the Council Lot to be adversely affected until that vesting occurs.

## 10 Notices

- 10.1 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:
  - 10.1.1 delivered or posted to that party at its address set out below.
  - 10.1.2 faxed to that party at its fax number set out below.
  - 10.1.3 emailed to that Party at its email address set out below.

### **Council**

Attention: The General Manager

Address: Breese Parade



PO Box 450  
FORSTER NSW 2528

Fax Number: (02) 6591 7366

Email: [council@greatlakes.nsw.gov.au](mailto:council@greatlakes.nsw.gov.au)

**Developer**

Attention: The Managing Director .....

Address: **PO Box 3369  
Tuggerah NSW 2259**

Fax Number: (02) 4352 4343

Email: geoff@crighton.com.au

- 10.2 If a party gives the other party 3 business days notice of change of its address or fax number, any notice, consent, information, application or request is only given or made by that other party if it is delivered, posted or faxed to the latest address or fax number.
- 10.3 Any notice, consent, information, application or request is to be treated as given or made at the following time:
  - 10.3.1 if it is delivered, when it is left at the relevant address.
  - 10.3.2 if it is sent by post, 2 business days after it is posted.
  - 10.3.3 if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.
- 10.4 If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a business day, or if on a business day, after 5pm 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.

**11 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.

**12 Costs**

12.1 The Developer will pay all stamp duty imposed on this agreement.

12.2 In all other respects, each party must bear its own costs.

**13 Entire agreement**

This agreement contains everything to which the parties have agreed in relation to the matters it deals 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, as permitted by law.

**14 Further acts**

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

**15 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.

**16 No fetter**

Nothing in this agreement shall be construed as requiring Council 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.

**17 Representations and warranties**

The parties represent and warrant that they have power to enter into this agreement and comply with their obligations under the agreement and that entry into this agreement will not result in the breach of any law.

**18 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.

**19 Modification**

No modification of this agreement will be of any force or effect unless it is in writing and signed by the parties to this agreement.

**20 Waiver**

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 of, or breach of obligation by, another party. A waiver by a party is only effective if it is in writing. A written waiver by a party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

**21 GST**

If any party reasonably decides that it is liable to pay GST on a supply made to the other party under this agreement and the supply was not priced to include GST, then the recipient of the supply must pay an additional amount equal to the GST on that supply.

# Schedule 1– Schedule of Contributions and Works (clause 4)

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## 1. Developer's contributions

### 1.1 Monetary Contributions

- (a) Subject to this clause, the monetary contributions to be paid by the developer to the Council are outlined set out in the Table below.

TABLE 1

Public Purpose Items	Contributions	Timing for payment
Open Space – New urban areas establishment	\$85,654.00	Before 295 Lots registered
Arterial Roads	\$499,907.00	Before 295 Lots registered
Marine Drive embellishment	\$391,058.00	Before 295 Lots registered
Miscellaneous	\$19,903.00	Before issue of CC for 840 Lots
<b>TOTAL:</b>	\$996,522.00	

- (b) The contribution rates set out above apply to the year 2010-11 only.
- (c) The rates are to be re-calculated on 1 July each year thereafter in accordance with the following formula:

$$\begin{array}{l} \text{Revised Rate for the particular} \\ \text{Item in the above table} \end{array} = \begin{array}{l} \text{Rate shown in the above table} \\ \end{array} \times \frac{\text{CPI 2}}{\text{CPI 1}}$$

where

CPI 1 is the All Groups Consumer Price Index, weighted average of 8 capital cities for December quarter 2011 being .....

CPI 2 is the All Groups Consumer Price Index, weighted average of 8 capital cities for the December quarter preceding 1 July in the year in which the rate is being re-calculated.

The CPI 2 is the All Groups Consumer Price Index, weighted average of 8 capital cities for the quarter immediately preceding 1 July in the year in which the rate is being re-calculated.

- (d) The 'Estimated Contributions' shown for item 1 in the table is for indicative purposes only and is to be adjusted according to the actual number of Dwelling-house Lots and Dual Occupancies to be developed on the land.

- (e) Monetary contributions are payable for a Dwelling-house Lot and a Dual Occupancy proposed to be erected on that Dwelling-house Lot.

However, the amount payable for each Dual Occupancy shall be reduced by the amount paid by the Developer prior to the issue of the subdivision certificate for the Dwelling-house Lot upon which the Dual Occupancy is proposed to be erected

**1.2 Material public benefit**

- (a) The developer will provide the following material public benefits:

TABLE 2

Public purpose	Works	Value of works	Timing for completion of works
Open Space, New urban areas acquisition	Land Dedication as per the attached draft plan (Annexure 2.)	\$1,250,000.00	Before 295 Lots registered
Arterial Roads	Upgrading of Myall Road in accordance with the attached road works concept plan (Annexure 3.)	\$2,200,000.00	Before issue of CC for 547 Lots
Other	Entry Statement to be built at highway intersection.	\$50,000.00	Before issue of CC for 840 Lots
Other	Entry Statement to be built at Myall Street / Toonang Drive intersection	\$50,000.00	Before issue of CC for 840 Lots

- (b) Detailed engineering plans and specifications for the above works are to be approved by Council prior to the commencement of any of the works.

**EXECUTED AS A DEED**

**Signed sealed and delivered by the Parties as follows**

THE COMMON SEAL OF COUNCIL )  
OF GREAT LAKES is hereunto affixed )  
pursuant to resolution made on

\_\_\_\_\_  
General Manager

\_\_\_\_\_  
Mayor

Executed by **Crighton Properties Pty )  
Limited. CAn 000 830 875 )  
Under Section 127(1) of the )  
Corporations Act 2001 by being signed )  
by:**

.....  
Director

.....  
Secretary

.....  
Name

.....  
Name

# DEED OF PLANNING AGREEMENT

**BETWEEN**

**COUNCIL OF GREAT LAKES**  
("Council")

**AND**

**CRIGHTON PROPERTIES PTY LTD**  
("Developer")

**DATED**

.....

**Annexure 1.**

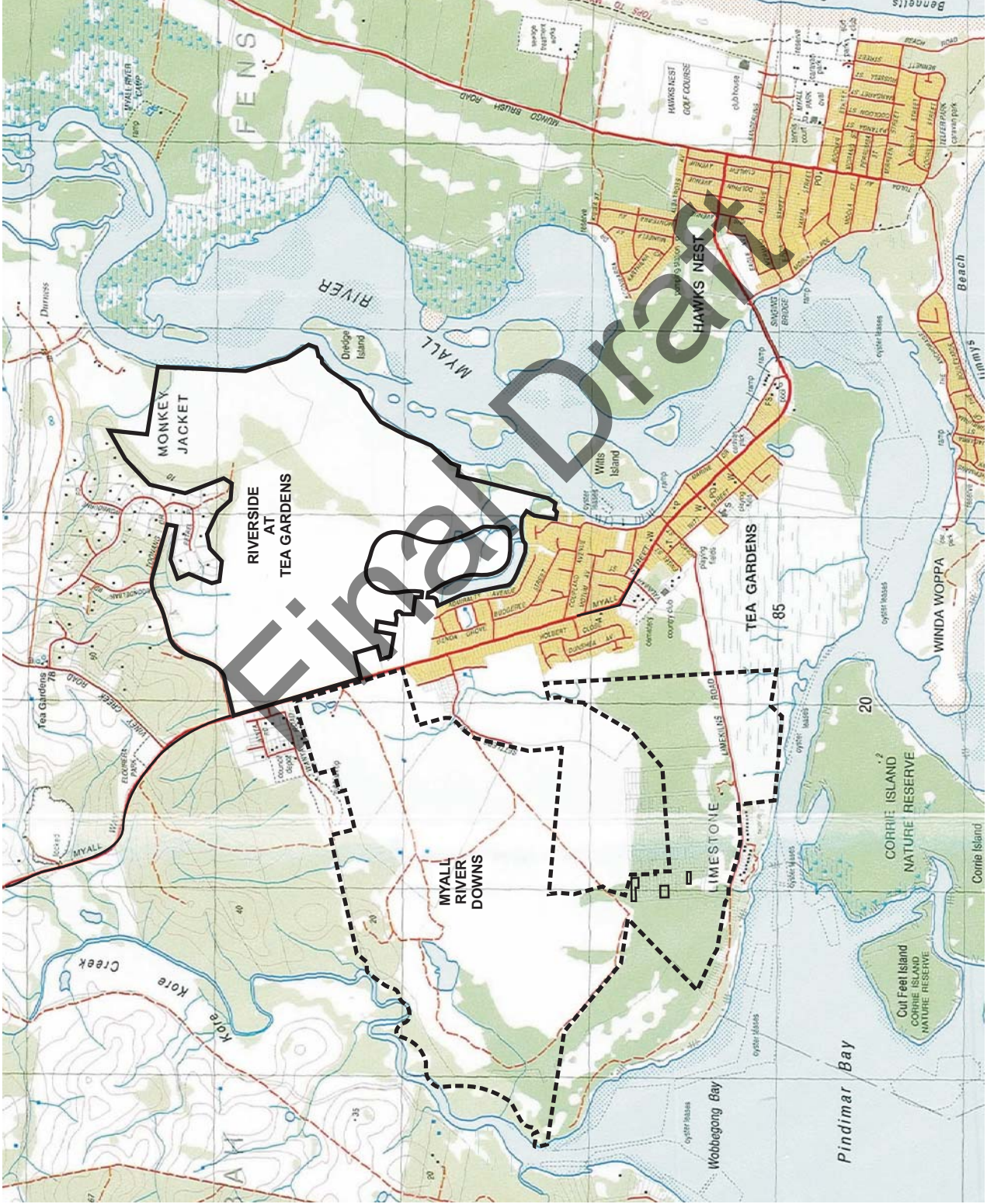
“Land” – Extent of Part 3A application to which this agreement relates.

Final Draft



**Legend**

-  Riverside at Tea Gardens
-  Site Boundary



**Figure 1.1**

**Locality Plan**

Client:	Crighton Properties Pty Ltd
Project:	Environmental Assessment Riverside at Tea Gardens
Drawing No:	0043707hv_EA_aug_01
Date:	21/08/08
Drawn by:	JD
Reviewed by:	AA
Source:	1:25,000 Topo Series Port Stephens Sheet
Scale:	Refer to Scale Bar



Environmental Resources Management Australia Pty Ltd  
53 Bonville Avenue, Thornton, NSW 2322  
Telephone +61 2 4964 2150



**Annexure 2.**

“Council Lot” – Draft Plan of subdivision.

Final Draft

- (B) EASEMENT TO DRAIN WATER VARIABLE WIDTH
- (C) RIGHT OF ACCESS 25 WIDE
- (D) EASEMENT FOR BERRY TO REMAIN 10 WIDE (OP 1022829)
- (E) BENEFIT OF EASEMENT TO DRAIN WATER
- (F) 1.5 & 3 WIDE (VIDE DP 819179)
- (Z) COVENANT (BK 190 NO 47)

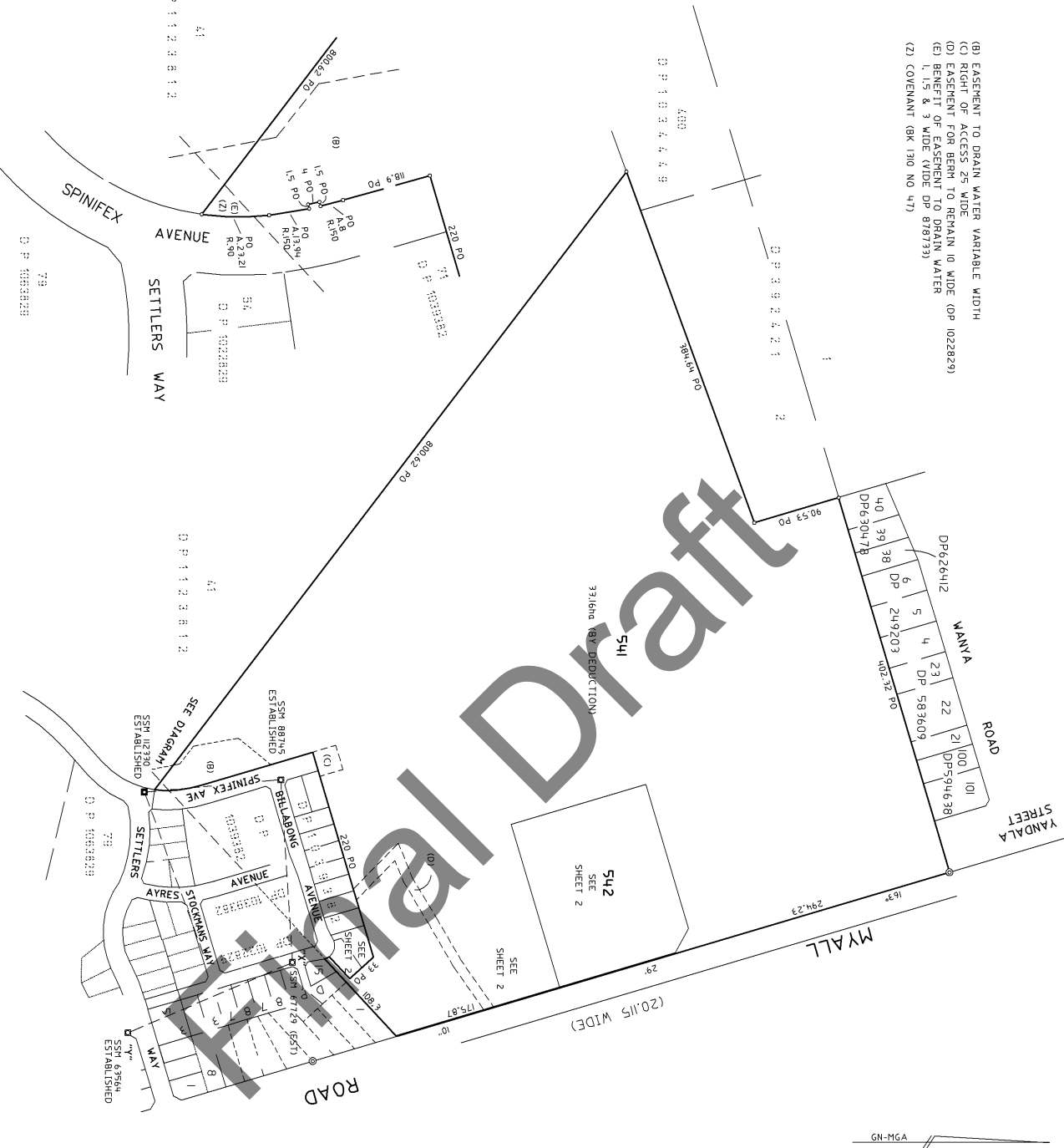


DIAGRAM  
SCALE: 1:1000

10 20 30 40 50 60 70 80 90 100 110 120 1300m of mm

Surveyor: DONALD GEORGE BEGG  
Date of Survey: DECEMBER 2008  
Surveyor's Ref: 920428 WPA

PLAN OF SUBDIVISION OF LOT

LGA: GREAT LAKES  
Locality: TEA GARDENS  
Subdivision No:

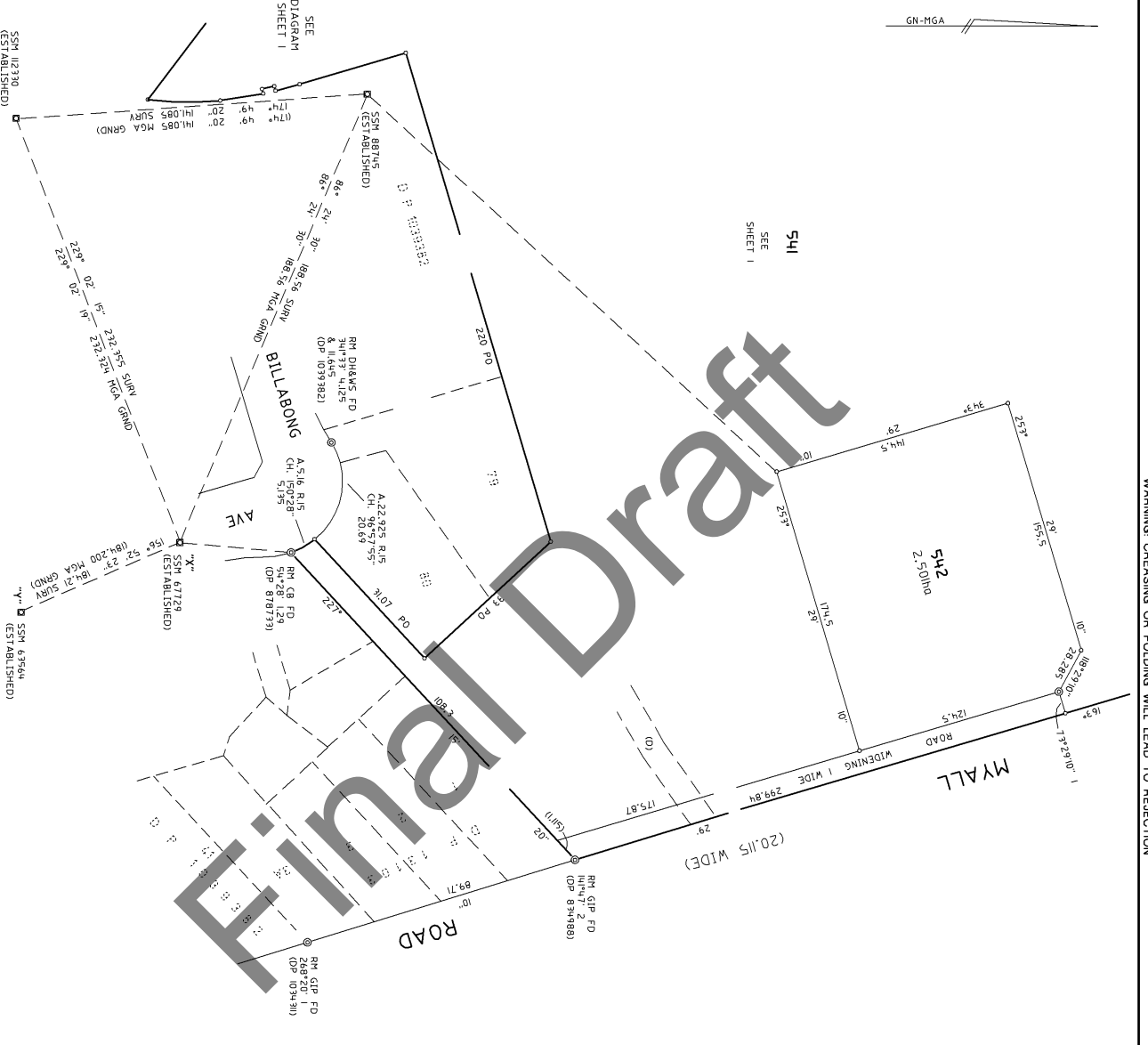
Registered

DP

SURVEYING REGULATION 2006: CLAUSES 35(1)(d) & 61(2)						
MARK	EASTING	NORTHING	CLASS	ORDER	METHOD	ORIGIN
SSM 67564	420 117.465	6386 721.092	C	U		SCINS
SSM 67729	420 105.460	6386 860.435	B	U		SCINS
SSM 88175	420 105.460	6386 860.435	B	U		SCINS
SSM 10230	419 921.177	6386 728.084	C	4		SCINS
SSM 10230	419 921.177	6386 728.084	C	4		SCINS

MGA CO-ORDS. ADOPTED FROM SCINS AS AT: XX/XX/2008  
COMBINED SEA LEVEL & SCALE FACTOR: X  
ZONE: 56

**DRAFT PLAN**  
DIMENSIONS AND AREAS ARE  
SUBJECT TO FINAL SURVEY



(D) EASEMENT FOR BERM TO REMAIN 10 WIDE (DP 10228229)

10	20	30	40	50	60	70	80	90	100	110	120
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Table of mm

Surveyor: DONALD GEORGE BEGG  
 Date of Survey: DECEMBER 2008  
 Surveyor's Ref: 920428 VPA

PLAN OF SUBDIVISION OF LOT

LGA: GREAT LAKES  
 Locality: TEA GARDENS  
 Subdivision No.  
 Lengths are in metres. Reduction Ratio 1 N.T.S.

Registered

DP

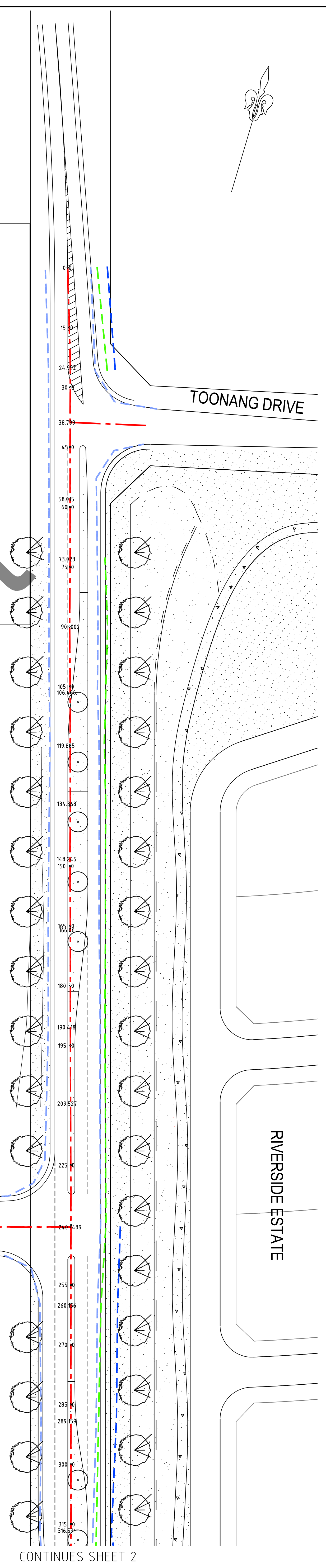
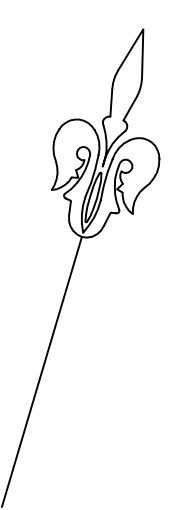
**DRAFT PLAN**  
 DIMENSIONS AND AREAS ARE  
 SUBJECT TO FINAL SURVEY

**Annexure 3.**

“Upgrading of Myall Road” – Extent of works proposed.

Final Draft





CHAINAGE	EXISTING LEVEL	DESIGN LEVEL		
0	5.621	5.621	IP 5.621	
5		5.533		
15	5.376	5.365		
24.993	5.213	5.211		
30	5.132	5.14		
38.799	4.99	5.023		
45	4.931	4.947	IP 4.830	
58.015	4.807	4.807		
60	4.791	4.788		
73.023	4.683	4.677		
75	4.667	4.662		
85		4.596		
90.002	4.546	4.567		
105	4.487	4.48		
106.466	4.481	4.471		
119.805	4.375	4.393		
134.368	4.308	4.308	IP 4.308	
135	4.309	4.309		
148.246	4.322	4.322	IP 4.322	
150	4.315	4.316		
165	4.258	4.262		
166.06	4.254	4.258		
180	4.205	4.208		
190.418	4.169	4.17		
195	4.15	4.154		
209.527	4.09	4.102		
210	4.088	4.1		
225	4.026	4.046		
240	3.964	3.992		
240.489	3.962	3.99		
255	3.922	3.938		
260.156	3.908	3.919		
270	3.879	3.884		
285	3.835	3.83	IP 3.830	
289.159	3.823	3.832		
300	3.829	3.839		
315	3.838	3.848		
316.591	3.839	3.848		
330	3.852	3.856		
332.129	3.854	3.858		
345	3.865	3.865	IP 3.865	

EXISTING CENTRELINE  
H=1500 V=1100

**LEGEND**

- EXIST. CENTRELINE
- EXIST. EDGE OF BITUMEN
- EXIST. SHOULDER
- EXIST. TOE OF BATTER

REV	DETAILS OF AMENDMENT	DESIGNED	DRAWN	CHECKED	APPROVED	DATE
A	Original Issue	AV	AV	-	-	13/07/07

**TATTERSALL SURVEYORS**  
DEVELOPMENT CONSULTANTS  
ENGINEERING, SURVEYING & PLANNING  
2 Bourke St. P.O. Box 54  
RAYMOND TERRACE 2324  
Fax (08) 9487353 Phone (08) 9487350  
DX 21403 RAYMOND TERRACE

**MYALL WAY RECONSTRUCTION TEA GARDENS**

CLIENT: \_\_\_\_\_

JOB No.: 2014/79

COMPUTER FILE: S:\projects\Myall Way\Myall Way.dwg

DATE: \_\_\_\_\_

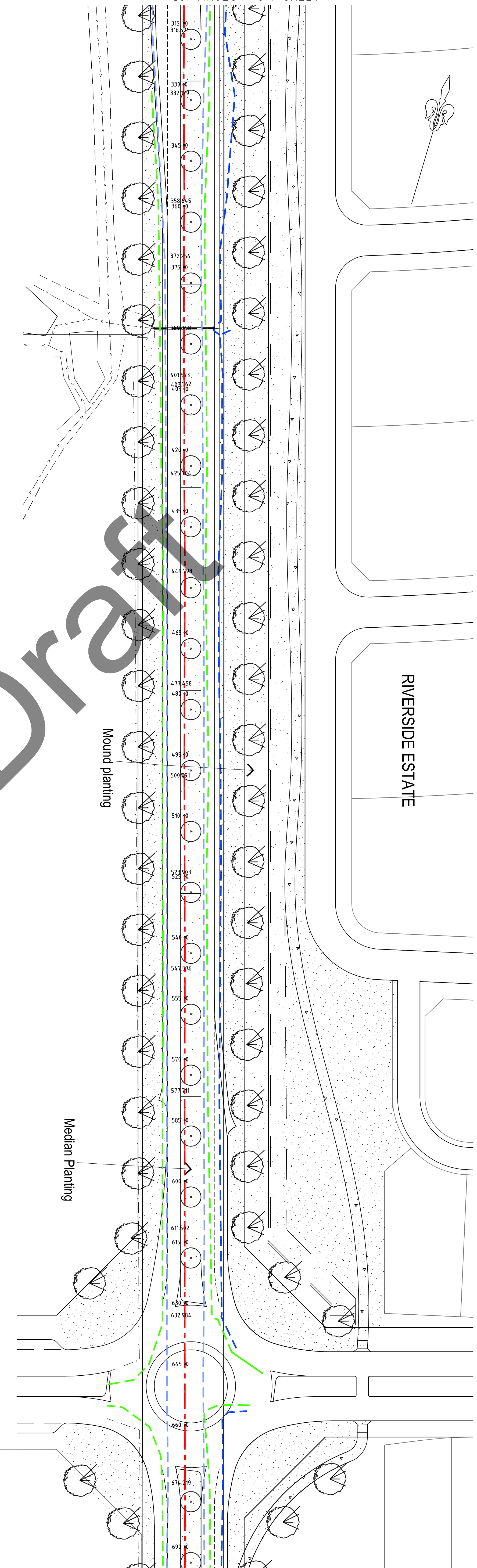
COUNCIL	REFERENCE
GREAT LAKES	20700192
FARISH	SHEET
SCALE	SIZE
1:500	A1
	SHEET No.
	1

Xref: 39370 - BOY (39370 - BOY.dwg) Xref: Sheevarer Boundaries and (Sheevarer Boundaries and.dwg) Xref: Riverside Road Layout B-ing (Riverside Road Layout B-ing.dwg) Xref: 320428 - Boundary Xref (320428 - Boundary Xref.dwg)

CONTINUES SHEET 2



CONTINUES FROM SHEET 1



CHAINAGE	EXISTING LEVEL	DESIGN LEVEL	
345	3.865	3.865	IP 3.865
358.645	3.854	3.856	
360	3.854	3.856	
372.257	3.852	3.848	
375	3.85	3.846	-0.063%
389.949	3.841	3.837	
401.573	3.836	3.829	
403.762	3.825	3.828	IP 3.827
405	3.827	3.827	
420	3.853	3.853	0.174%
425.704	3.863	3.863	IP 3.863
435	3.853	3.854	
449.798	3.837	3.839	
450	3.837	3.838	
465	3.828	3.823	
477.458	3.82	3.811	
480	3.816	3.808	
495	3.788	3.793	
500.091	3.778	3.788	-0.101%
510	3.77	3.778	
523.903	3.759	3.764	
525	3.758	3.763	
540	3.741	3.747	
547.576	3.732	3.74	
555	3.73	3.732	
570	3.725	3.717	
577.711	3.723	3.709	
585	3.702	3.702	IP 3.702
600	3.661	3.667	
611.502	3.629	3.641	
615	3.624	3.633	
630	3.599	3.598	
632.984	3.594	3.591	
645	3.563	3.564	-0.231%
660	3.525	3.529	
674.219	3.489	3.496	
675	3.488	3.494	
690	3.457	3.46	
697.913	3.441	3.441	
705	3.425	3.425	IP 3.425

EXISTING CULVERT

PROPOSED ROUNDABOUT

RIVERSIDE ESTATE

Mound planting

Median Planting

EXISTING CENTRELINE  
H=1500 V=1:100

LEGEND

- EXIST. CENTRELINE
- EXIST. EDGE OF BITUMEN
- EXIST. SHOULDER
- EXIST. TOE OF BATTER

REV	DETAILS OF AMENDMENT	DESIGNED BY	DRAWN BY	CHECKED BY	APPROVED BY	DATE
A	Original Issue	AV	AV			
	Denote the original signature and date when revision was issued					

**TATTERSALL SURVEYORS**  
 CONSULTANTS  
 SCALE: 1:500 (or A1 size plot)  
 COMPUTER FILE: S:\projects\Wyal\Quay\dwg\STG\Wyal Rd.dwg

SHEET No.: 2  
 JOB No.: 201479  
 FILE: 20700193  
 DATE: Printed 14/20 13/12/07  
 SCALE: A1

Xref: 789379 - B07 (9837) - B07.dwg Xref: Shearwater Bundaries vref (Shearwater Bundaries vref.dwg) Xref: Riverside Road Layout B-19 (Riverside Road Layout B-19.dwg) Xref: 792028 - Boundary Xref (792028 - Boundary Xref.dwg)

# Attachment B

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

## Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of a proposed planning agreement prepared under Section 93F of the Environmental Planning and Assessment Act 1979 (**EP&A Act**).

Clause 25E of the *Environmental Planning and Assessment Regulation 2000* requires that an explanatory note be prepared jointly between the parties to the agreement and that it be available for public inspection at the same time as the proposed planning agreement.

The planning authority for the agreement will be Great Lakes Council. Explanatory details of the agreement are as set out below:

**Planning Agreement** under s93F of the Environmental Planning and Assessment Act 1979

### 1. Parties

Great Lakes Council	<i>Planning Authority</i>
Crighton Properties Pty Ltd	<i>Developer</i>

### 2. Description of Subject Land:

Lots 1, 10, 19, 30 & 40 DP 270100 and Pt Lot 1, Pt Lot 2 & Lot 5 DP 270561 Myall Road Tea Gardens

### 3. Description of project

Crighton Properties (the 'Developer') have lodged an Environmental Assessment with the Department of Planning (Major Project 06-0010) for a mixed-use, residential, commercial and tourist subdivision at the Riverside site in Tea Gardens. The proposal is a project to which Part 3A of the *Environmental Planning and Assessment Act 1979* applies. In connection with the proposal, the Developer has agreed to enter into a Voluntary Planning Agreement with Great Lakes Council that offers to make contributions (both monetary and in-kind) towards a range of community infrastructure and facilities in the Tea Gardens locality. The contributions proposed are in addition to those levied under Section 94 of the *EP&A Act*.

### 4. Summary of Objectives, Nature and Effect of the Proposed Planning Agreement:

The objectives of the Planning Agreement are to:



- ensure that the development of the land results in the provision of physical infrastructure to adequately service the development and the wider Tea Gardens locality;
- ensure that the development of the land results in the payment of contributions towards the provision of community services and facilities that will be required as a consequence of the increased population from the development of the land.
- give effect to the developer's recognition that there is a social obligation incumbent on them to contribute to services and facilities that are provided by Council, over and beyond those identified in s94 Contributions Plans, and which enhance the attractiveness of the area for investment and which add to the wellbeing of the community.

The **nature** of the Planning Agreement is such that if Part 3A Approval occurs, the Developer will be obliged to undertake certain works and make certain contributions (both monetary and in-kind) towards the provision of a range of community infrastructure and facilities as prescribed in Schedule 1 to the agreement.

The **effect** of the Planning Agreement will be that the works undertaken and contributions made by the Developer to the Council will have a financial value of \$4,546,522 (calculated at current s94 rates), which is in addition to any contributions levied under Section 94 of the *EP&A Act*.

The contributions (both monetary and in-kind) will be applied toward the following community infrastructure and facilities:

1. Arterial Roads
2. Open Space – Acquisition and Embellishment
3. Marine Drive Embellishment
4. Other specific (entry statements at Pacific Highway intersection and at Myall Street/ Toonang Drive intersection)

Note: The contributions payable under the Planning Agreement are subject to adjustment calculated using Council's method of indexation in its current s94 Contributions Plans.

## 5. **Assessment of the Merits of the Proposed Planning Agreement:**

### ***The Planning Purposes Served by the Proposed Planning Agreement***

The provision of basic services and infrastructure to meet the needs of the growing population is an issue that constantly confronts Council when it prepares its budget. Sources, such as s94 contributions go a long way towards providing funds for this infrastructure but there are limitations on the use of s94. There are always services and facilities, other than the basic ones for which s94 contributions are levied, that enhance the well being of the community and which will make Tea Gardens a better place to live.

In recognition of this Crighton Properties has offered to enter into a Planning Agreement with Council to provide contributions with a financial value of \$4,546,522 (calculated at current s94 rates) for community infrastructure and

facilities to benefit the wider community. These funds will be in addition to the standard s94 contributions that will be payable to Council as development of the land proceeds. The funds will be expended so as to give better planning outcomes for the residents of, and visitors to, Tea Gardens.

***How the Proposed Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979***

The Planning Agreement promotes Clause 5(a)(i), (ii), (iv) and (v) of the Environmental Planning and Assessment Act 1979 which aim to encourage:

- (i) the proper management, development and conservation of natural and artificial resources, including agricultural land, natural areas, forests, minerals, water, cities, towns and villages for the purpose of promoting the social and economic welfare of the community and a better environment,
- (ii) the promotion and co-ordination of the orderly and economic use and development of land,
- (iv) the provision of land for public purposes, and
- (v) the provision and co-ordination of community services and facilities.

***How the Proposed Planning Agreement Promotes the Public Interest***

The proposed contributions will be expended on essential infrastructure as well as other improvements that will enhance the social and cultural welfare of the Tea Gardens community.

The planning purpose served by this agreement is the provision by the Developer of part of the anticipated cost of providing the public amenities, public services and infrastructure required partly because of the development on the Land. The agreement will provide a reasonable means of achieving this purpose.

Contributions will still be required from other developers towards the provision of other essential facilities.

The making of the Agreement is consistent with the principle that it is in the public interest for the community to benefit from major developments by the redistribution of some of the profits.

***How the Planning Agreement promotes Elements of Council's Charter***

The proposed planning agreement, being a mechanism to deliver the provision of infrastructure and community facilities, promotes the following points as stated in Council's Charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to exercise its functions with due regard for the cultural and linguistic diversity of its community;

- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible;
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible;
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants.

***Whether the proposed Planning Agreement Conforms with the Authority's Capital Works Program***

The majority of contributions to be provided by the developer, as set out in Schedule 1 of the Planning Agreement, are based on a work program for each of the respective services and facilities in Council's current s94 Contribution Plans.

In relation to the Material Public Benefits described in the table to Section 1.2 of the Agreement these are required as a result of the development of the land.