

Shellharbour City Council
and
Lend Lease Communities (Australia) Limited

Calderwood Voluntary Planning Agreement

Environmental Planning and Assessment Act 1979

The Allens contact for this document is Mark Stubbings

Deutsche Bank Place
Corner Hunter and Phillip Streets
Sydney NSW 2000 Australia
Tel +61 2 9230 4000
Fax +61 2 9230 5333
www.allens.com.au

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This Deed is made on 15/09/14

Parties

- 1 **Shellharbour City Council** (ABN 78 392 627 134) of Lamerton House, Lamerton Crescent, Shellharbour City Centre NSW 2529 (the **Council**).
- 2 **Lend Lease Communities (Australia) Limited** (ABN 88 000 966 085) of Level 4, 30 The Bond, 30 Hickson Road, Millers Point NSW 2000 (the **Developer**).

Recitals

- A The Developer intends to carry out the Development.
- B On 8 December 2010, the Minister for Planning granted the Concept Plan Approval.
- C The Owner is the owner of the Land and has consented to the Developer taking steps to carry out the Development.
- D The Developer has made or proposes to make a Development Application.
- E From the date the Planning Agreement commences to operate (pursuant to clause 2.1(b)), this Deed constitutes an agreement between the Developer and the Council that the Developer will make the Development Contributions on the terms and conditions of this Deed.

It is agreed as follows.

1 Definitions and Interpretation

1.1 Definitions

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

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

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

Albion Park Library means item C2.16 in the Shellharbour City Council Section 94 Contributions Plan 2013.

Albion Park Bypass means item C3.09 in the Shellharbour City Council Section 94 Contributions Plan 2013.

Allotment means a lot forming part of the land identified in any Development Application for subdivision of the whole, or any part, of any land for the purposes of the Development which lot is intended to be developed, subject to Development Consent, by construction of one or more Dwellings and is not intended to be further subdivided prior to the construction of those Dwellings for the purposes of the Development.

Anticipated Dwelling Yield means the anticipated number of Dwellings proposed to be constructed on Allotments the subject of a Residential Plan, to be determined as follows:

- (a) Council will determine the Anticipated Dwelling Yield acting reasonably having regard to:
 - (i) information provided by the Developer; and
 - (ii) any corresponding determination in accordance with **Clause 1 of Schedule 4** to the State Planning Agreement (which relates to the Transport Contributions payable by the Developer under the State Planning Agreement).

- (b) If the Council does not make a determination within 10 Business Days of receipt of the relevant information from the Developer in relation to the Anticipated Dwelling Yield, the Anticipated Dwelling Yield will be the number of Dwellings provided for in the information provided by the Developer.

Approval means any approvals, consents, certificates, permits, endorsements, licences, conditions or requirements (and any modifications or variations to them) which may be required by Law or by adjoining owners for the commencement and carrying out of the Contributions Works or the Development generally and includes an approval under Part 3A of the Act.

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

Bank Guarantee means one or more irrevocable and unconditional undertakings:

- (a) by an Australian bank which is an eligible financial institution for the purposes of Treasury Circular NSW TC08/01 dated 21 February 2008 as amended, supplemented or substituted from time to time; and
- (b) on terms acceptable to the Council, acting reasonably,

to pay the face value of that undertaking (being such an amount as is required under this Deed) on demand and expressed to be for the performance by the Developer for its obligations under this Deed.

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

Certifier means such person with the appropriate qualifications as is agreed by the parties.

Concept Plan Approval means the concept plan for the Development that was approved by the Minister for Planning on 8 December 2010.

Construction Certificate has the same meaning as in the Act.

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

Contribution Land means the land that the Developer is required to dedicate (or procure the dedication of) to the Council as described in **Schedule 4**.

Contribution Regime means all Laws governing the levying of contributions by the proponents of development including:

- (a) any contribution plan adopted by the Council pursuant to s 94EA of the Act (or any equivalent provision); and
- (b) any Ministerial declaration with respect to contributions pursuant to s 94EA of the Act (or any equivalent provision),

but excluding this Deed.

Contribution Works means the works to be undertaken by the Developer as described in **Schedule 4**.

CPI means the Sydney Consumer Price Index (All Groups) published by the Commonwealth Statistician, or if that index no longer exists, any similar index which the Council determines, acting reasonably.

Defects Liability Period means the period of 12 months commencing from the date of Practical Completion of the Contribution Works.

Deferred Allotment is defined in **clause 3(d) of Schedule 4**.

Development means the proposed use of land and associated works located on the Land and other land in both the Shellharbour and Wollongong Local Government Areas, as described in the Concept Plan Approval that includes approximately 4,800 Dwellings, 3 school sites, 50 hectares of mixed use/employment uses, infrastructure including road layout and utility provision, and land for riparian corridors and conservation.

Development Application has the same meaning as in the Act.

Development Consent has the same meaning as in the Act.

Development Contributions means the contributions provided for in **Schedule 4**.

Development Contribution Table means collectively, the tables in **clauses 1.1 and 1.2** of **Schedule 4**.

Dwelling means a room, or suite of rooms, occupied or used, or so constructed or adapted, as to be capable of being occupied or used, as a separate domicile to be erected on the Land as part of the Development.

Explanatory Note means the explanatory note required by the Regulation.

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

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

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

Land means the land described in **Part 1 of Schedule 3** and shown in **Schedule 8**.

Landscape Masterplan means a document that:

- (a) contains the same level of detail as the document entitled "Western Precinct Landscape Masterplan Strategy Report" and which is exhibited to this Deed;
- (b) has been adapted to the circumstances of the Development; and
- (c) has been prepared by the Developer in consultation with the Council.

Law means the relevant requirements of all statutes, rules, ordinances, codes, policies, regulations, proclamations, by-laws or consents issued by an Authority, present or future, including applicable principles of common law.

Notional Value means the notional value of an item of Contribution Works or Contribution Land specified in column 2 of the Development Contribution Table.

Owner means the owners of the Land at the date of this Deed.

Planning Agreement means this Deed as and when it becomes operative as a planning agreement under and by virtue of **clause 2.1(b)**.

Practical Completion means in relation to the Contribution Works, the point of time at which the relevant Certifier is satisfied, acting reasonably, that the Contribution Works have been completed and installed in accordance with all relevant Approvals and this Deed (except for minor defects or omissions).

Project Approval means an approval given under section 75J of the Act.

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

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

Registered Land is defined in **clause 5** of **Schedule 7**.

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

Relevant Lot is defined in **clause 5.3**.

Residential Plan is defined in **clause 3(b)** of **Schedule 4**.

Service Easements means easements for services and drainage which are noted on the Subdivision Plan.

State Planning Agreement means the planning agreement with respect to the Development between the Minister for Planning and the Developer (formerly known as Delfin Lend Lease Limited) executed on 3 March 2011.

Subdivision Certificate has the same meaning as in the Act.

Subdivision Plan means any plan of subdivision approved by the Council which creates separate lots for the Contribution Land.

Transfer means a transfer in the approved form under the Real Property Act which is duly stamped, signed and otherwise in registrable form for the purpose of transferring the Contribution Land to the Council.

Unregistered Land is defined in **clause 1** of **Schedule 7**.

1.2 Interpretation

In this Deed unless the context clearly indicates otherwise:

- (a) a reference to **this Deed** or another document means this Deed or that other document and any document which varies, supplements, replaces, assigns or novates this Deed or that other document;
- (b) a reference to **legislation** or a **legislative provision** includes any statutory modification, or substitution of that legislation or legislative provision and any subordinate legislation issued under that legislation or legislative provision;
- (c) a reference to a **body** or **authority** which ceases to exist is a reference to either a body or authority that the parties agree to substitute for the named body or authority or, failing agreement, to a body or authority having substantially the same objects as the named body or authority;
- (d) a reference to the **introduction**, a **clause**, **schedule** or **annexure** is a reference to the introduction, a clause, a schedule or an annexure to or of this Deed;
- (e) **clause headings**, **the introduction** and the **table of contents** are inserted for convenience only and do not form part of this Deed;
- (f) the **schedules** form part of this Deed;
- (g) a reference to a **person** includes a natural person, corporation, statutory corporation, partnership, the Crown or any other organisation or legal entity;
- (h) a reference to a **natural person** includes their personal representatives, successors and permitted assigns;
- (i) a reference to a **corporation** includes its successors and permitted assigns;
- (j) a reference to a right or obligation of a party is a reference to a right or obligation of that party under this Deed;
- (k) an **obligation** or **warranty** on the part of 2 or more persons binds them jointly and severally and an obligation or warranty in favour of 2 or more persons benefits them jointly and severally;
- (l) a requirement to do any thing includes a requirement to cause that thing to be done and a requirement not to do any thing includes a requirement to prevent that thing being done;

- (m) **including** and **includes** are not words of limitation;
- (n) a word that is derived from a defined word has a corresponding meaning;
- (o) **monetary amounts** are expressed in Australian dollars;
- (p) the singular includes the plural and vice-versa;
- (q) words importing one gender include all other genders;
- (r) a reference to a thing includes each part of that thing; and
- (s) neither this Deed nor any part of it is to be construed against a party on the basis that the party or its lawyers were responsible for its drafting.

2 Operation and Application of this Deed

2.1 Operation

- (a) Until the Planning Agreement operates pursuant to **clause 2.1(b)**, this Deed constitutes an irrevocable offer to the Council from the Developer to enter into the Planning Agreement.
- (b) The Planning Agreement operates, and becomes legally binding on both parties if:
 - (i) the Council grants consent to Shellharbour City Council Development Application DA 468/2013;
 - (ii) the Planning Agreement is entered into as required by clause 25C(1) of the Regulation; and
 - (iii) the Council executes this Deed.

2.2 Planning agreement under the Act

This Deed constitutes a planning agreement within the meaning of section 93F of the Act.

2.3 Application

This Deed applies to:

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

2.4 Development Contributions

The Council agrees that it may only use or expend any Development Contribution made by the Developer in accordance with **clause 4** of **Schedule 4**.

3 Application of Sections 94, 94A and 94EF of the Act

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

4 Requirement to Provide Development Contributions

The Developer undertakes to provide, or procure the provision of, the Development Contributions in the manner and at the times set out in **Schedule 4** and the parties agree to abide by the procedures and obligations set out in **Schedule 4**, **Schedule 5**, **Schedule 6** and **Schedule 7**.

5 Registration on title

5.1 Land ownership

The Developer represents and warrants that it is:

- (a) the owner of that part of the Land described in **part 2 of Schedule 3** or legally and beneficially entitled to become the owner of the Land described in **part 2 of Schedule 3** and will become the legal and beneficial owner of the Land, prior to the date that this Deed is required to be registered under **clause 5.2** of this Deed; and
- (b) legally and beneficially entitled to obtain all consents and approvals in relation to that part of the Land described in **part 3 of Schedule 3** and to compel any person referred to in or contemplated by **clause 5.2(b)(i)** to assist, cooperate and to otherwise do all things necessary for the Developer to comply with its obligations under **clause 5.2**.

5.2 Registration of Deed

- (a) As contemplated by section 93H of the Act, the Developer agrees to procure the registration of this Deed under the Real Property Act in the relevant folio of the Register as soon as practicable after:
 - (i) in relation to that part of the Land described in **part 2 of Schedule 3**, the date the Developer becomes the registered proprietor of that land;
 - (ii) in relation to that part of the Land described in **part 3 of Schedule 3**, the date of this Deed; and
 - (iii) in relation to any other part of the Land not specified in **part 2** or **part 3 of Schedule 3**, the date the Developer enters into arrangements with any person referred to in or contemplated by **clause 5.2(b)(i)** in respect of that land which entitles the Developer to require that person to assist, cooperate and to otherwise do all things necessary for the Developer to procure the registration of this Deed under the Real Property Act in the relevant folio of the Register,

noting that registration of this Deed shall be undertaken progressively, so that this Deed is registered on each part of the Land referred to in this paragraph **(a)** as soon as practicable in respect of that part of the Land.

- (b) In relation to the land referred to in **clause 5.2(a)**, the Developer, at its own expense, must take all practical steps and otherwise do anything that the Council reasonably requires to procure:
 - (i) the consent of each person who:
 - (A) has an estate or interest in the Land registered under the Real Property Act; or
 - (B) is seized or possessed of an estate or interest in the Land;
 - (ii) the execution of any documents;
 - (iii) the production of the relevant certificates of title; and
 - (iv) the lodgement and registration of this Deed, by the Registrar-General in the relevant folio of the Register, or in the General Register of Deeds if this Deed relates to land not under the Real Property Act.
- (c) The Developer will provide the Council with a copy of the relevant folio of the Register within 10 Business Days of registration of this Deed in accordance with this **clause 5.2**.

5.3 Release and discharge of Deed

- (a) If, in respect of an Allotment on which one or more Dwellings are proposed to be constructed and which is not capable of further subdivision (**Relevant Lot**), the Developer has fully satisfied its obligations under this Deed in relation to the payment of Contribution Amounts for the Dwellings proposed for that Relevant Lot and the Developer is not otherwise in default under this Deed (as determined by the Council (acting reasonably) and notified to the Developer in writing), then at the written request of the Developer (such request to contain all necessary title particulars that are relevant to the request), the Council must (at the Developer's cost) promptly:
- (i) provide a release and discharge (in immediately registrable form) of this Planning Agreement to the extent that the Planning Agreement affects that Relevant Lot; and
 - (ii) do all things necessary to enable the extinguishment of this Planning Agreement from the title of that Relevant Lot,
- and the Council agrees to use best endeavours to procure the outcomes referred to in paragraphs (i) and (ii) above as soon as practicable after the relevant request.
- (b) The land to be released and discharged from this Planning Agreement in accordance with **clause 5.3(a)** will also include parts of the Land which are not Allotments or Dwellings or which are not zoned, or intended to be developed, for Allotments or Dwellings.

6 Security

6.1 Security

The Developer has agreed to provide security under this Deed:

- (a) by registering this Deed on the title to the Land; and
- (b) in accordance with **Schedule 7**.

7 Dispute Resolution

7.1 Not commence

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

7.2 Written notice of dispute

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

7.3 Attempt to resolve

On receipt of notice under **clause 7.2**, the parties must endeavour in good faith to resolve the dispute expeditiously using informal dispute resolution techniques such as mediation, expert evaluation or other techniques agreed by them.

7.4 Mediation

If the parties do not agree within 21 Business Days of receipt of notice under **clause 7.2** (or any further period agreed in writing by them) as to:

- (a) the dispute resolution technique and procedures to be adopted;
 - (b) the timetable for all steps in those procedures; or
 - (c) the selection and compensation of the independent person required for such technique,
- the parties must mediate the dispute in accordance with the Mediation Rules of the Law Society of NSW. The parties must request the president of the Law Society of NSW or the president's nominee to select the mediator and determine the mediator's remuneration.

7.5 Court proceedings

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

7.6 Not use information

The parties acknowledge the purpose of any exchange of information or documents or the making of any offer of settlement under this **clause 7** is to attempt to settle the dispute. No party may use any information or documents obtained through any dispute resolution process undertaken under this **clause 7** for any purpose other than in an attempt to settle the dispute.

7.7 No prejudice

This **clause 7** does not prejudice the right of a party to institute court proceedings for urgent injunctive or declaratory relief in relation to any matter arising out of or relating to this Deed.

8 GST

8.1 Definitions

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

8.2 Intention of the parties

The parties intend that:

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

8.3 Reimbursement

Any payment or reimbursement required to be made under this Deed that is calculated by reference to a cost, expense, or other amount paid or incurred will be limited to the total cost, expense or amount less the amount of any input tax credit to which any entity is entitled for the acquisition to which the cost, expense or amount relates.

8.4 Consideration GST exclusive

Unless otherwise expressly stated, all prices or other sums payable or consideration to be provided under this Deed are GST Exclusive. Any consideration that is specified to be inclusive of GST must not be taken into account in calculating the GST payable in relation to a supply for the purposes of this **clause 8**.

8.5 Additional Amounts for GST

If GST becomes payable on any supply made by a party (**Supplier**) under or in connection with this Deed:

- (a) any party (**Recipient**) that is required to provide consideration to the Supplier for that supply must pay an additional amount to the Supplier equal to the amount of the GST payable on that supply (**GST Amount**), and:
 - (i) where that GST Amount is payable by the Council, the GST Amount will be limited to the amount of the input tax credit (if any) to which the Council (or the representative member of any GST group of which the Council, in any capacity, is a member) is entitled in relation to the Council's acquisition of that supply and is payable within 5 Business Days after the Council (or the representative member of any GST group of which the Council, in any capacity, is a member) has received the benefit of that input tax credit; and
 - (ii) in any other case, the GST Amount is payable at the same time as any other consideration is to be first provided for that supply; and
- (b) the Supplier must provide a tax invoice to the Recipient for that supply, no later than the time at which the GST Amount for that supply is to be paid in accordance with **clause 8.5(a)**.

8.6 Non monetary consideration

Clause 8.5 applies to non-monetary consideration.

8.7 No merger

This clause will not merge on completion or termination of this Deed.

9 Assignment

9.1 Consent

- (a) This Deed is personal to each party and no party may assign the rights or benefits of this Deed to any person except in the case of the Developer:
 - (i) to a related body corporate (within the meaning of section 50 of the *Corporations Act 2001*), providing that the Developer:
 - (A) must notify the Council of the name of the assignee as soon as practicable prior to the assignment occurring; and
 - (B) must guarantee the obligations of that related body corporate under or in connection with the Deed referred to in paragraph (iii) below and provide to the Council a duly executed deed (on terms reasonably acceptable to the Council) which documents that guarantee; or
 - (ii) to any other person, with the prior consent of the Council, which must not be unreasonably withheld if it is reasonably satisfied that the assignee has sufficient

assets, resources and expertise to perform all of the Developer's obligations under this Deed,

and, in either case prior to any such assignment:

- (iii) the Developer delivers to the Council a deed signed by the assignee which contains provisions under which the assignee agrees to comply with all of the obligations of the Developer under this Deed as if it were joined as a party to this Deed in the place of the Developer (as the case may be) (including obligations which arose before the assignment);
 - (iv) any default by the Developer under any provision of this Deed (as determined by the Council (acting reasonably) and notified to the Developer in writing) has been remedied by the Developer or waived by the Council on such conditions as the Council may determine in his absolute discretion in relation to that waiver;
 - (v) the Developer pays the Council's reasonable costs in relation to that assignment; and
 - (vi) the Council is satisfied acting reasonably, having regard to all evidence and other supporting material provided by the Developer, that the proposed assignee has obtained, whether by way of assignment by the Developer, or otherwise, the same rights in relation to the development of the Land (or the relevant part of the Land) as the Developer had prior to that assignment, in order to enable that assignee to fulfil all obligations to be performed by that assignee under or by virtue of this Deed.
- (b) If the Developer satisfies the requirements of **clause 9.1(a)**, the Developer will be fully released from its obligations under this Deed (subject to any guarantee obligations referred to or contemplated by **clause 9.1(a)(i)(B)**).

10 Warranties of Capacity

10.1 General warranties

Each party warrants to each other party that:

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

10.2 Power of attorney

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

11 Interest

If the Developer fails to pay any amount due to the Council on the due date for payment, the Developer must also pay to the Council interest at a rate of 2% above the loan reference rate charged by the Commonwealth Bank of Australia from time to time. That interest will be payable on the daily balance of amounts due from the due date for payment of those amounts until all outstanding amounts (including interest on those amounts) have been paid to the Council.

12 General Provisions

12.1 Entire Deed

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

12.2 Variation

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

12.3 Waiver

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

12.4 Further assurances

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

12.5 Time for doing acts

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

12.6 Governing law and jurisdiction

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

12.7 Severance

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

12.8 Preservation of existing rights

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

12.9 No merger

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

12.10 Counterparts

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

12.11 Relationship of parties

Unless otherwise stated:

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

12.12 Good faith

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

12.13 No fetter

Nothing in this Deed shall be construed as requiring either the Council to do anything that would cause the Council to breach any of the Council's obligations at law and without limitation, nothing in this Deed shall be construed as limiting or fettering in any way the discretion of the Council in exercising any of the Council's statutory functions, powers, authorities or duties.

12.14 Explanatory note

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

12.15 Expenses and stamp duty

- (a) Each Party is to pay its own legal costs and disbursements in connection with the negotiation, preparation, execution and carrying into effect of this Deed.
- (b) The Developer must pay for all costs and expenses associated with the giving of public notice of this Deed and the Explanatory Note in accordance with the Regulation.
- (c) The Developer must pay all stamp duty assessed on or in respect of this Deed and any instrument or transaction required by or necessary to give effect to this Deed.

12.16 Notices

- (a) Any notice, demand, consent, approval, request or other communication (notice) to be given under this Deed must be in writing and must be given to the recipient at its Address for Service by being:
 - (i) hand delivered; or
 - (ii) sent by facsimile transmission.
- (b) A notice is given if:
 - (i) hand delivered, on the date of delivery; or
 - (ii) sent by facsimile transmission during any Business Day, on the date that the sending party's facsimile machine records that the facsimile has been successfully transmitted.

EXECUTED as a Deed

~~The Common Seal of Shellharbour City~~

~~Council~~ was hereto affixed on

~~day of 2014~~

~~pursuant to resolution no made on~~

~~day of 2014:~~

CMC MA

CMC
.....
General Manager

ACTING

Marianne Nahba
.....

Mayor

CAREY MCINTYRE
.....
Print Name

MARIANNE SALIBA
.....
Print Name

Executed as a deed in accordance with
section 127 of the Corporations Act by **Lend
Lease Communities (Australia) Limited** (ABN
88 000 966 085):



Matthew Alon Meurs
.....
Signature of Director

Matthew Alon Meurs
.....
Name of Director

Paul David Cutler
.....
Signature of Director/Secretary

Paul David Cutler
.....
Name of Director/Secretary

Schedule 1**Requirements under section 93F of the Act (clause 1.2)**

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

REQUIREMENT UNDER THE ACT	THIS DEED
Planning instrument and/or development application – (section 93F(2)) The Developer has: (a) sought a change to an environmental planning instrument (b) made, or proposes to make, a Development Application (c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies	(a) No (b) Yes (c) No
Description of land to which this Deed applies – (section 93F(3)(a))	See Schedule 3
Description of change to the environmental planning instrument to which this Deed applies – (section 93F(3)(b))	N/A
The scope, timing and manner of delivery of contribution required by this Deed – (section 93F(3)(c))	See Schedule 4
Applicability of sections 94 and 94A of the Act – (section 93F(3)(d))	The application of sections 94 and 94A of the Act is excluded in respect of the Development, subject to clause 2(b) of Schedule 7 .
Applicability of section 94EF of the Act – (section 93F(3)(d))	The application of section 94EF of the Act is not excluded in respect of the Development.
Consideration of benefits under this Deed if section 94 applies – (section 93F(5))	Yes
Mechanism for Dispute Resolution – (section 93F(3)(f))	See clause 7
Enforcement of this Deed – (section 93F(3)(g))	See clause 6
No obligation to grant consent or exercise functions – (section 93F(10))	See clause 12.13

Schedule 2

Address for Service (clause 1.1)

1 The Council

Contact: The General Manager, Shellharbour City Council

Address: Lamerton House, Lamerton Crescent
Shellharbour City Centre NSW 2529

Facsimile No: (02) 4221 6016

2 Developer

Contact: The Company Secretary

Address: Level 4, 30 The Bond, 30 Hickson Road
Millers Point NSW 2000

Facsimile No: (02) 9673 8888

Schedule 3
Land (clause 1.1)

Part 1

Lot	Deposited Plan	Lot	Deposited Plan
4	259137	2	608238
5	259137	1	998349
1	1044038	1	194903
2	2534	3	259137
1	259137	22	809156
112	851153	2	259137
1	608238	6	259137
21	809156	10	619547
1	996926	1	558196
8	259137	42	878122
2	158988		

Part 2

Lot	Deposited Plan	Lot	Deposited Plan
1	996926	6	259137

Part 3

Lot	Deposited Plan	Lot	Deposited Plan
4	259137	2	608238
5	259137	1	998349
1	1044038	1	194903
2	2534	3	259137
1	259137	22	809156
112	851153	2	259137
2	158988		

Schedule 4**Development Contributions (clause 4)****1 Development Contribution Table**

The Developer undertakes to make the following Development Contributions:

1.1 Contribution Land and Contribution Works:

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>Any reference in this Development Contribution Table to a number of Dwellings is to be calculated by reference to the sum of:</p> <p>(a) the Anticipated Dwelling Yields for all Subdivision Certificates that have been issued or applied for at the relevant time (excluding the Anticipated Dwelling Yield for any Deferred Allotments); and</p> <p>(b) any Dwellings to which clause 3(d)(ii) of this Schedule 4 applies and for which a Construction Certificate has been issued.</p>		
<p>Multi-purpose Community Resource Centre</p> <p>Centre comprising approximately 900 sqm building on approximately 4,000 sqm site with space for youth, aged and children's services.</p> <p>The centre facilities to be considered will include a variety of large and smaller flexible spaces suitable for a range of social, leisure, learning and cultural activities, for example:</p> <ul style="list-style-type: none"> • a hall suitable for large gatherings and functions • rooms suitable for smaller groups • meeting rooms suitable for education/training • play space for children's activities • informal lounge / foyer area • hot desks for human service providers; • rooms for sessional services; • kitchen suitable to support 	<p>Contribution Works:</p> <p>Developer to design and construct item including provision of landscaping, fit out, parking, public art and site works (notional value \$3,150,000 (approx. \$3,500/sqm)).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$1,232,000).</p>	<p>Item to be operational no later than:</p> <ol style="list-style-type: none"> 1. twelve months and one day following the issue of a Subdivision Certificate for an Allotment on which the 3,000th Dwelling is proposed to be constructed; or 2. the issue of a Construction Certificate in respect of the 3,000th Dwelling, <p>whichever happens earlier.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>small private functions;</p> <ul style="list-style-type: none"> • storage • toilet facilities • adjacent outdoor space with children's play equipment and barbecue. <p>The Contribution Works will include landscaping, fit out, parking, public art and site works.</p> <p>NOTE: the centre is sized to accommodate requirements of the Development in both Shellharbour and Wollongong Local Government Areas.</p>		
<p>Local Park L8</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E3/RU2 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> • retention of existing vegetation where appropriate; • integrated cycle/pedestrian pathways; • integrated fitness trail nodes and equipment; • identity, directional and/or interpretive signage; • informal kickabout space; • informal playground/playspace with shade provision; • fencing, post and rail barrier and/or bollards; • lighting balanced with street network; • picnic shelter, tables, bins, seating; 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> landscaping including turf or turf seeding, garden beds, tree planting; and other associated works, services and embellishments. 		
<p>Local Park L11</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E2/E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L10</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L7</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>Local Park L6</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in B4 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L5</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in B4 & E2 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L4</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E2/E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>Local Park L9</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E2/E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L12</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>
<p>Local Park L13</p> <p>Embellishment and dedication of a minimum of 0.2 Ha of land (in R1 & E3 zoned land).</p> <p>Local Park embellishment and community facilities to be considered include the items specified in relation to Local Park L8.</p>	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$150,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000)</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$616,000).</p>	<p>The Developer must achieve Practical Completion of item no later than twelve months and one day following the issue of a Subdivision Certificate for a plan of subdivision that creates the Contribution Land as a separate lot.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>District Park D2</p> <p>1 Ha "Hillside" District Park</p> <p>Embellishment and dedication of a minimum of 1 Ha of land in R1 & E2/E3 zoned land</p> <p>District Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> dedicated carparking for parklands (approximately 10 spaces); irrigation; retention of existing vegetation where appropriate; integrated cycle/pedestrian pathways with Australian Standard lighting; identity, directional and/or interpretive signage; public artworks; informal kickabout space; fitness nodes and equipment; half basketball court/hardcourt; formal playground/ playspace with shade provision through trees and/or structures; fencing/bollards and/or post and rail; picnic shelters with lighting; barbecues, tables, bins, seating; landscaping including turf or turf seeding, garden beds; feature tree planting; and 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$750,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$2,595,200).</p>	<p>The Developer may determine the order in which it achieves Practical Completion of each item identified in this Development Contribution Table as a District Park as long as the Developer has achieved Practical Completion of a separate District Park before each of the following events:</p> <ol style="list-style-type: none"> twelve months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 500th Dwelling is proposed to be constructed; twelve months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 1,000th Dwelling is proposed to be constructed; twelve months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 2,000th Dwelling is proposed to be constructed; and twelve months and one day following

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> other associated works, services and embellishments. 		
<p>District Park D5</p> <p>1 Ha "Rivulet" District Park</p> <p>Embellishment and dedication of a minimum of 1 Ha of land (in E2/E3 & R5 zoned land).</p> <p>District Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> dedicated carparking for parklands (approximately 10 spaces); irrigation; retention of existing vegetation where appropriate; integrated cycle/pedestrian pathways with Australian Standard lighting; identity, directional and/or interpretive signage; public artworks; informal kickabout space; fitness nodes and equipment; half basketball court/hardcourt; formal playground/ playspace with shade provision through trees and/or structures; fencing/bollards and/or post and rail; picnic shelters with lighting, barbecues, tables, bins, seating; landscaping including turf 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$750,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$3,080,000).</p>	<p>the issue of a Subdivision Certificate in respect of the Allotment on which the 3,750th Dwelling is proposed to be constructed.</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> or turf seeding, garden beds; feature tree planting; and other associated works, services and embellishments. 		
<p>District Park D4</p> <p>3.8 Ha "Village Centre" District Park</p> <p>Embellishment and dedication of a minimum of 3.8 Ha of land (in B4, E2 & E3 zoned land).</p> <p>District Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> dedicated carparking for parklands (approximately 20 spaces); irrigation; ornamental and water quality lakes with boardwalks, promenades and decks; retention of existing vegetation where appropriate; integrated cycle/pedestrian pathways with Australian Standard lighting; identity, directional and/or interpretive signage; public artworks; informal kickabout space; fitness nodes and equipment; half basketball court; formal playground/ playspace with shade provision through trees and/or structures; 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$2,850,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$6,260,000).</p>	

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> fencing/bollards and/or post and rail; picnic shelters with lighting; barbecues, tables, bins, seating; landscaping including turf or turf seeding, garden beds; feature tree planting; and other associated works, services and embellishments. 		
<p>District Park #D3</p> <p>1 Ha "Residential" District Park</p> <p>Embellishment and dedication of a minimum of 1 Ha of land (in R1 zoned land).</p> <p>District Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> dedicated carparking for parklands (approximately 10 spaces); irrigation; retention of existing vegetation where appropriate; integrated cycle/pedestrian pathways with Australian Standard lighting; identity, directional and/or interpretive signage; public artworks; informal kickabout space; fitness nodes and equipment; half basketball court/hardcourt; 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$750,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$16,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$3,080,000).</p>	

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none">• formal playground/ playspace with shade provision through trees and/or structures;• fencing/bollards and/or post and rail;• picnic shelters with lighting;• barbecues, tables, bins, seating;• landscaping including turf or turf seeding, garden beds;• feature tree planting; and• other associated works, services and embellishments.		

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>City Park CW2 (Urban)</p> <p>2 ha "Lakeside" Urban City Park.</p> <p>Embellishment and dedication of a minimum of 2 Ha of land (in B4 & E2/E3 zoned land).</p> <p>City Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> • dedicated carparking for parklands (approximately 20 spaces); • public amenities; • irrigation; • ornamental and water quality lakes with boardwalks, promenades and decks; • retention of existing vegetation where appropriate; • integrated cycle/pedestrian pathways with Australian Standard lighting; • identity, directional and/or interpretive signage; • public artworks; • informal kickabout space; • fitness nodes and equipment; • half basketball court; • formal playground/ playspace with shade provision through trees and/or structures; • fencing/bollards and/or post and rail; • picnic shelters with lighting; • barbecues, tables, bins, seating; 	<p>Contribution Works:</p> <p>Developer to design and construct item (notional value \$1,500,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$60,000).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$3,887,500).</p>	<p>The Developer may determine the order in which it achieves Practical Completion of each item identified in the Development Contribution Table as a City Park as long as the Developer has achieved Practical Completion of a separate City Park before each of the following events:</p> <ol style="list-style-type: none"> 1 twelve months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 3,000th Dwelling is proposed to be constructed; and 2 twelve months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 3,500th Dwelling is proposed to be constructed.

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> • ornamental landscaping including turf or turf seeding, garden beds; and • feature tree planting and other associated works, services and embellishments. 		
<p>City Park CW3 (Bushland) (Location TBC)</p> <p>3.43 Ha "Hilltop" Bushland City Park.</p> <p>Embellishment and dedication of a minimum of 3.43 Ha of land (in E2/E3 zoned land)</p> <p>City Park embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> • dedicated carparking for parklands (approximately 20 spaces); • public amenities; • interpretive educational centre/outdoor classroom; • retention of existing vegetation where appropriate; • integrated cycle/pedestrian pathways with Australian Standard lighting; • identity, directional and/or interpretive signage; • public artworks; • informal kickabout space; • fitness nodes and equipment; • half basketball court; • formal playground/ playspace with shade provision through trees 	<p>Contribution Works: Developer to design and construct item (notional value \$2,055,000).</p> <p>Developer to maintain item for three years following Practical Completion of item (notional value \$40,000).</p> <p>Contribution Land: Developer to procure the dedication of item to the Council at no cost (notional value \$171,500).</p>	

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<p>and/or structures;</p> <ul style="list-style-type: none"> fencing/bollards and/or post and rail; picnic shelters with lighting; barbecues, tables, bins, seating; landscaping including turf or turf seeding, garden beds; and tree planting and other associated works, services and embellishments. 		
<p>Sports Fields S1</p> <p>15.84 Ha Active Sport Grounds</p> <p>Embellishment and dedication of a minimum of 15.84 Ha of land (in RE1, E3 & B4 zoned land).</p> <p>Sports Field embellishment and community facilities to be considered include:</p> <ul style="list-style-type: none"> vehicular access and dedicated carparking for parklands (approximately 80 spaces); 3 x sporting ovals/fields; 1 x central amenities building including change rooms, central kiosk facility, communal storage, clubhouse/meeting room, publically accessible toilets; associated training facilities as applicable (eg cricket nets); playing field lighting to Australian Standard; irrigation system for playing fields; ornamental and water 	<p>Contribution Works:</p> <p>Developer to design and construct fields (notional value \$7,500,000).</p> <p>Developer to maintain item for three years following Practical Completion of each stage of item (notional value \$85,500).</p> <p>Contribution Land:</p> <p>Developer to procure dedication of item to the Council at no cost (notional value \$792,000).</p>	<p>Delivered in 2 stages.</p> <p>Stage 1 to be delivered no later than:</p> <ol style="list-style-type: none"> 12 months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 2,000th Dwelling is proposed to be constructed; or the opening of the first primary school on the Land, <p>whichever occurs first.</p> <p>Stage 2 to be delivered no later than:</p> <ol style="list-style-type: none"> 12 months and one day following the issue of a Subdivision Certificate in respect of the Allotment on which the 3,000th Dwelling is proposed to be constructed; or the opening of the

1. Development Contribution Item	2. Manner of Delivery	3. Timing
<ul style="list-style-type: none"> • quality lakes; • retention of existing vegetation where appropriate; • integrated cycle/pedestrian pathways with Australian Standard lighting; • identity, directional and/or interpretive signage; • public artworks; • fenced dog off leash area; • fitness nodes and equipment; • hardcourts (approximately 6 in number); • formal playground/ playspace with shade provision through trees and/or structures; • fencing/bollards and/or post and rail; • picnic shelters with lighting; • barbecues, tables, bins, seating; • landscaping including turf or turf seeding, garden beds; and • tree planting and other associated works, services and embellishments. 		<p>first high school on the Land, whichever occurs first.</p>

1.2 Contribution Amounts

1. Development Contribution Item	2. Manner of Delivery	3. Timing
Albion Park Library Upgrade	<p>Contribution Amount: Monetary contributions are to be made towards one or more of the following: buildings; fit out; landscaping; car parking; public art; site works; library resources, equipment and technology.</p> <p>\$2,208,000 to be paid in stages in accordance with clause 3 of this Schedule 4.</p>	<p>Contribution Amount to be paid prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of this Schedule 4.</p> <p>The Council will endeavour to ensure that the upgrade of existing Albion Park library facility is operational by:</p> <ol style="list-style-type: none"> 1 the time specified in Council's Section 94 Contribution Plan from time to time; or 2 such time as the needs generated by the Development are likely to require the provision of the Albion Park Library Upgrade as determined by the Council, <p>whichever occurs first.</p>
<p>Local Roads</p> <p>Albion Park Bypass [TMAP 14; 15; 16 & 30]</p>	<p>Contribution Amount: \$7,200,000 to be paid in stages in accordance with clause 3 of this Schedule 4.</p> <p>Contribution Land: Assuming the currently proposed alignment of the Albion Park Bypass shown in Schedule 9 (or a materially similar alignment and physical footprint) is adopted, land within the Development that is required for the implementation of the Albion Park Bypass will be provided to the Council for the sum</p>	<p>Contribution Amount to be paid prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of this Schedule 4.</p> <p>Contribution Land to be transferred to the Council following the issue of the relevant Subdivision Certificate, Development Consent and the adoption by the Council of final construction plans for the</p>

1. Development Contribution Item	2. Manner of Delivery	3. Timing
	of \$1 (Notional value \$523,000).	<p>Albion Park Bypass.</p> <p>The Council will endeavour to ensure that the Albion Park By-Pass is operational by:</p> <ol style="list-style-type: none"> 1 the time specified in Council's Section 94 Contribution Plan from time to time; or 2 such time as the needs generated by the Development are likely to require the provision of the Albion Park Bypass as determined by the Council, <p>whichever occurs first.</p>
<p>City Wide Community Infrastructure</p> <p>Including but not limited to:</p> <ul style="list-style-type: none"> • Shellharbour City Performance Theatre; • Council Administration Offices; • City Library; and • Civic Auditorium 	<p>Contribution Amount:</p> <p>\$7,440,000 to be paid in stages in accordance with clause 3 of this Schedule 4.</p>	<p>Contribution Amount to be paid prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of this Schedule 4.</p>
<p>City Wide Open Space and Recreation Infrastructure</p> <p>Including but not limited to:</p> <ul style="list-style-type: none"> • Beach Foreshore; and • Shellharbour City Stadium 	<p>Contribution Amount:</p> <p>\$2,160,000 to be paid in stages in accordance with clause 3 of this Schedule 4.</p>	<p>Contribution Amount to be paid prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of this Schedule 4.</p>
<p>Administration of Planning Agreement</p>	<p>Contribution Amount:</p> <p>\$480,000 to be paid in stages in accordance with clause 3 of this Schedule 4.</p>	<p>Contribution Amount to be paid prior to the issue of the relevant Subdivision Certificate in accordance with clause 3 of this Schedule 4.</p>

2 Increase in Development Contributions

- (a) Any amount:
- (i) specified in **clause 3(c)** of **Schedule 4**;
 - (ii) specified as a Contribution Amount in the Development Contribution Table; or
 - (iii) specified as a Notional Value for an item of Contribution Works in the Development Contribution Table,

must be increased annually on the date of publication of the June quarterly CPI by the Commonwealth Statistician in accordance with the following formula:

$$A = B \times \frac{C}{D}$$

Where:

A is the indexed amount;

B is the monetary amount specified in this Deed and referred to above;

C is the most recent June quarter CPI published as at the date of calculation; and

D is the most recent CPI published as at the date of this Deed.

- (b) For the avoidance of doubt, **clause 2(a)** of this **Schedule 4** does not apply to any Notional Value assigned to an item of Contribution Land listed in the Development Contribution Table.
- (c) Any amount specified as the Notional Value for an item of Contribution Land in the Development Contribution Table must be increased as follows:
- (i) At five year intervals from the execution of this Deed the Developer must appoint an independent registered valuer who has the required experience and is acceptable to the Council (acting reasonably) to undertake a determination of the market value of all items of Contribution Land not then dedicated to the Council.
 - (ii) Any such valuation must be provided to the Council within one month of the date that the relevant five year interval ends.
 - (iii) The Developer must procure that any determination made by the valuer for the purposes of **clause 2(c)(i)** of this **Schedule 4** is expressed to be for the benefit of both the Council and the Developer.
 - (iv) The market value determined by the valuer for an item of Contribution Land will be taken to be the Notional Value of that Contribution Land.

3 Payment of Contribution Amounts identified in Clause 1.2 of Schedule 4

- (a) The Developer must pay the Contribution Amounts identified in **Clause 1.2** of **Schedule 4** in accordance with this clause.
- (b) For the purpose of this clause 3 of Schedule 4 a **Residential Plan** is a plan of subdivision with respect to the Development which when registered would create one or more Allotments.

- (c) Prior to the issue of any Subdivision Certificate in respect of a Residential Plan, the Developer must pay a Contribution Amount being the relevant cumulative "Contribution per Dwelling" for the Anticipated Dwelling Yield for the relevant Residential Plan as determined in accordance with the table set out below:

Number of Dwelling	Contribution per Dwelling
For the first 1,000 Dwellings (0 – 1,000 Dwellings)	\$3,310
For the 1,001st Dwelling to and including the 2,000th Dwelling (1,001 – 2,000 Dwellings)	\$3,710
For the 2,001st Dwelling to and including the 3,000th Dwelling (2,001 – 3,000 Dwellings)	\$4,110
For the 3,001st Dwelling to and including the 4,000th Dwelling (3,001 – 4,000 Dwellings)	\$4,510
For any further Dwellings	\$4,810

- (d) If the Developer and the Council agree (such agreement not be unreasonably withheld) that there are Allotments within a Residential Plan which the Developer does not intend to transfer to an end user and with respect to which it is unlikely that a Construction Certificate for Dwellings on that Allotment will be issued within two years following the issue of a Subdivision Certificate for that plan (**Deferred Allotment**):
- (i) any such Deferred Allotment is not included in the calculation of the Contribution Amount payable under **clause 3(c)** of this **Schedule 4** with respect to the relevant Residential Plan; and
 - (ii) the Developer will be required to pay a Contribution Amount being the relevant cumulative "Contribution per Dwelling" for all Dwellings permitted to be constructed in accordance any Construction Certificate lodged with respect to that Deferred Allotment as determined in accordance with the table set out in **clause 3(c)** of this **Schedule 4**.
- (e) The Developer must pay any Contribution Amount payable under **clause 3(d)(ii)** of this **Schedule 4** prior to the issue of the relevant Construction Certificate referred to in that clause.
- (f) On the occurrence of each of the following events:
- (i) every six months following execution of this Deed;
 - (ii) prior to the granting of a Subdivision Certificate that will create the final Allotment within the Development; and
 - (iii) prior to the issue of a Construction Certificate for the final Deferred Allotment, the following must occur:
 - (iv) the Developer must provide the Council with a report stating (to the best of the Developer's knowledge) the number of Dwellings on the Land that have been completed and occupied at the relevant time; and
 - (v) if the number of Dwellings on the Land that have been completed and occupied at the relevant time exceeds the number of Dwellings for which the Developer has paid a Contribution Amount in accordance with **clause 3(c)** of this **Schedule 4**, the Developer must pay the applicable cumulative "Contribution per Dwelling" amount for the number of Dwellings required to ensure that the Council has received a Contribution Amount in accordance with **clause 3(c)** of this

Schedule 4 for each Dwelling on the Land that has been completed and occupied at the relevant time.

- (g) For the avoidance of doubt, compliance with this **clause 3** of this **Schedule 4** will satisfy the Developer's obligation to make all Development Contributions identified in **Clause 1.2** of **Schedule 4**.
- (h) The parties agree that if the Concept Plan Approval is amended so that the number of Dwellings approved under the Concept Plan Approval significantly exceeds 4,800, the parties will discuss, in good faith, any amendments required to this Deed to reflect the needs generated by the additional number of Dwellings approved under the Concept Plan Approval as amended.

4 Use of Contribution Amounts by the Council

- (a) In respect of any Contribution Amounts that the Developer is required to pay in relation to the Albion Park Library and the Albion Park Bypass, the Council must only use or expend any Contribution Amounts for their identified purpose.
- (b) Subject to Council's compliance with **clause 4(a)** of this **Schedule 4**, any such Contribution Amount paid by the Developer to the Council may be pooled by the Council with any other Contribution Amounts paid by the Developer pursuant to this Deed and used or expended for any purpose within the Shellharbour Local Government Area.

5 Change to Contributions Regime

- (a) This clause will apply where:
 - (i) a change to the Contribution Regime occurs such that a specific Development Contribution required to be made by the Developer under this Deed (in whole or in part) is required to be provided to the Council by a person other than the Developer; and
 - (ii) upon the date of the change to the Contribution Regime, the Developer has not paid or provided the relevant Development Contribution.
- (b) If this clause applies, then:
 - (i) the Developer will be entitled to propose amendments to this Deed that reflect the changes to the Contribution Regime; and
 - (ii) the Council will consider these amendments in good faith.

6 Contribution Alternatives

6.1 Better Outcomes

Without limiting **clauses 6.2** or **6.3** of this **Schedule 4**, at the request of either the Council or the Developer and provided that the Council and the Developer agree, the Developer may satisfy any of its obligations to provide Contribution Works listed in **clause 1.1** of this **Schedule 4** by providing contributions works of a different nature or at a different time to that specified in the Development Contribution Table, but which serve the same or similar purpose as those specified in the Development Contribution Table.

6.2 Alternatives to Contribution Works

- (a) At the request of either the Council or the Developer and provided that the Council and the Developer agree, the Developer may satisfy any of its obligations to provide Contribution Works by paying the Notional Value assigned to the respective Contribution Works as a Contribution Amount.
- (b) The Council agrees that if the Developer performs its obligations in this Deed by paying a Contribution Amount in lieu of providing Contribution Works, the Council must hold the Contribution Amount paid by the Developer for the purpose of the relevant Contribution Works and apply the money towards that purpose within a reasonable time of receipt of the relevant monetary contribution.
- (c) Where it is impractical (in reasonable circumstances) for the Council to comply with **clause 6.2(b)** of this **Schedule 4** and the Developer (acting reasonably) gives its written consent to the Council not complying with **clause 6.2(b)** of this **Schedule 4**, the Council must spend the Contribution Amount on services, infrastructure or facilities to be delivered, in order of precedence:
 - (i) on the Land; or
 - (ii) at a location outside the boundary of the Land but within the Council's Local Government Area in the manner consented to in writing by the Developer (acting reasonably),within a reasonable time of receipt of the relevant monetary contribution.
- (d) The Developer must give, or procure, reasonable access to the Council to that part of the Land upon which works are to be carried out by the Council for the purposes of carrying out the works contemplated by this **clause 6.2** of this **Schedule 4**.
- (e) For the avoidance of doubt, if the Developer, pursuant to this **clause 6.2** of this **Schedule 4**, pays the Notional Value of an item of Contribution Works in lieu of providing the Contribution Works, the Developer is not also required to pay the Notional Value assigned to any Contribution Land that must be provided to the Council in connection with the Contribution Works.

6.3 Alternatives to Payment of Contribution Amounts

- (a) At the request of either the Council or the Developer and provided that the Council and the Developer agree, the Developer may satisfy any of its obligations to pay a Contribution Amount by providing the works or services associated with the Contribution Amount as Contribution Works (or contribution works of a different nature to those specified in the Development Contribution Table, but which serve the same or similar purpose as those specified in the Development Contribution Table).
- (b) Any agreement contemplated by **clause 6.3(a)** of this **Schedule 4** must include agreement as to the time in which the Developer is to complete the relevant item of Contribution Works.
- (c) The Developer must carry out the Contribution Works contemplated by **clause 6.3(a)** of this **Schedule 4** in accordance with **Schedule 6**.
- (d) The Council must give, or procure, access to the Developer to all land upon which works are to be carried out or services are to be provided by the Developer for the purposes of the Developer providing the Contribution Works contemplated by this **clause 6.3** of this **Schedule 4**.

6.4 Amendment to Deed

If in the opinion of the Council or the Developer (both acting reasonably) any agreement reached under **clause 5** or this **clause 6** of this **Schedule 4** constitutes a variation or amendment to this Deed to which section 93G of the Act applies, then the Parties must comply with section 93G of the Act in relation to that variation or amendment.

7 Location of Contribution Works and Contribution Land

The location of all items of Contribution Works or Contribution Land must be generally in accordance with **Schedule 9**.

Schedule 5**Contribution Land Procedures (clause 4)****1 Subdivision of Land**

In order to give effect to the transfer of the Contribution Land to the Council in accordance with the Development Contribution Table, there must be a subdivision of the Land to create the parcels of land that will comprise the Contribution Land.

2 Application for Subdivision Certificate

If the Developer applies for any Subdivision Certificate:

- (a) over any area in which the Developer is required to dedicate Contribution Land in accordance with **Schedule 4** and **Schedule 9**; and
- (b) that purports to create one or more Allotments,

that Subdivision Certificate must also provide for the subdivision of the Contribution Land contemplated by **clause 1** of this **Schedule 5**.

3 Lodgement of Subdivision Plan

Within 40 Business Days of the Developer receiving written notification of any approval being given by the Council for the Subdivision Plan, the Developer must lodge the Subdivision Plan for registration at the Land and Property Management Authority.

4 Transfer of Contribution Land

On the date of notification that the Subdivision Plan has been registered, the Developer must within 2 Business Days serve a Transfer on the Council with the relevant certificates of title and in circumstances where:

- (a) the Contribution Land is free from any encumbrances other than the Service Easements; or
- (b) relevant discharges in registrable form are also served on the Council at the same time in relation to any encumbrances other than the Service Easements.

5 Requisitions

The Developer must immediately comply, or procure compliance with, any requisitions raised by the Registrar-General in relation to the transfer of the Contribution Land.

Schedule 6**Contributions Works Procedures (clause 4)****1 Approvals and Design responsibility**

- (a) The Developer must at its risk and expense:
 - (i) obtain all Approvals necessary to carry out the Contribution Works; and
 - (ii) comply with all conditions of all such Approvals.
- (b) The Developer agrees to design or procure the design of the Contribution Works (so as to enable the achievement of Practical Completion of the Contribution Works) in accordance with this Deed.
- (c) Before commencing the Contribution Works, the Developer must give to the Council copies of all Approvals for the Contribution Works.

2 Landscape Masterplan

- (a) Prior to lodging the first Development Application for a residential subdivision creating more than 50 Allotments following the execution of this Deed, the Developer must submit a Landscape Masterplan to the Council for approval by the Council.
- (b) If the Council, acting reasonably, does not approve or reject the Landscape Masterplan within three months of submission, the Council will be deemed to have approved the Landscape Masterplan.
- (c) **Clause 12.13** does not apply to Council's consideration of the Landscape Masterplan.
- (d) The Developer must carry out the Contribution Works in accordance with a Landscape Masterplan that has been approved by the Council.
- (e) For the purpose of clarity, the Landscape Masterplan must be approved under this **clause 2** of this **Schedule 6** before the Developer can Practically Complete any item of the Contribution Works to which that plan applies.

3 Insurance

- (a) The Developer must effect and maintain all necessary insurance policies in respect to the Contribution Works including, but not limited to physical loss, damage or destruction of the Contribution Works, third party liability, contractors and professional indemnity insurance with an insurer approved by the Council and on terms reasonably acceptable to the Council.
- (b) All insurances which the Developer is required by this Deed to effect and maintain must note the rights and interests of the Council.
- (c) All insurances which the Developer is required by this Deed to effect must be maintained until the expiration of the Defects Liability Period.
- (d) The insurance cover in relation to works insurance must be for an amount not less than the full insurable value of the Contribution Works on a full reinstatement and replacement basis (including extra costs of reinstatement, costs of demolition and removal of debris, and professional fees).
- (e) Whenever reasonably requested in writing by the Council, the Developer must give the Council certificates of currency for the insurance policies which the Developer is required by this Deed to effect and maintain.

4 Construction of the Contribution Works

- (a) The Developer must procure the execution and completion of the Contribution Works in accordance with:
 - (i) the Approvals;
 - (ii) the timetable set out in Column 3 of the Development Contribution Table; and
 - (iii) its other obligations under this Deed.
- (b) The Developer must carry out or procure the Contribution Works to be carried out:
 - (i) in a good and workmanlike manner, using good quality materials, so that they are structurally sound and fit for the purpose for which they are required under this Deed; and
 - (ii) in compliance with relevant standards determined by Australian Standards Limited, the Building Code of Australia and any relevant manufacturers' standards.
- (c) The Developer must promptly advise the Council of any significant delays which it experiences in completing the Contribution Works.

5 Access to Land

If the Developer is required to Practically Complete or maintain an item of Contribution Works on Contribution Land that has been transferred to the Council pursuant to **Schedule 5**, the Council must provide the Developer with reasonable access to the Contribution Land in order to enable the Developer to satisfy the Developer's obligation to Practically Complete and maintain the item of Contribution Works.

6 Completion of the Contribution Works

- (a) When the Developer is of the opinion that an item of Contribution Works has reached Practical Completion, the Developer must:
 - (i) request the relevant Certifier to issue a certificate confirming Practical Completion (**Certificate of Practical Completion**); and
 - (ii) at the same time give the Council a copy of that request.
- (b) Within 10 Business Days after the receipt of the Developer's request, the Certifier must carry out a joint inspection of the Contribution Works with the Council and the Developer and either:
 - (i) give the Developer (with a copy to the Council at the same time) a Certificate of Practical Completion certifying that the Contribution Works have reached Practical Completion; or
 - (ii) give the Developer (with a copy to the Council at the same time) the reasons for not issuing that certificate and provide a detailed list of work required to be completed in order for that certificate to be issued.
- (c) On receipt of the detailed list referred to in **paragraph 6(b)(ii)** of this **Schedule 6**, the Developer must carry out the work referred to in that list and, on completion of that work, request the Certifier to issue a Certificate of Practical Completion. If the Certifier is satisfied that all such work has been completed in accordance with this Deed, then the Certifier must issue the Certificate of Practical Completion within 10 Business Days after receipt of the Developer's request. Otherwise the provisions of **clauses 6(a) to 6(c)** in this **Schedule 6** inclusive re-apply.

- (d) If the Council reasonably requires, the Developer must use all reasonable endeavours to procure the issue and delivery to the Council of copies of the following items (as may be relevant) in relation to each item of Contribution Works:
 - (i) a copy of as built drawings and all warranties and operations manuals given in connection with the Contribution Works;
 - (ii) a copy of all certificates issued by any Authority in relation to any part of the Contribution Works which have not previously been delivered to the Council; and
 - (iii) a copy of a building certificate under Part 8 of the Act in respect of the Contribution Works,promptly, and in any event within 90 Business Days, after Practical Completion.
- (e) If the Development Contribution Table requires the Developer to maintain an item of Contribution Works for a period of time, that period of time commences when the Certifier grants a Certificate of Practical Completion.

7 Indemnity

The Developer indemnifies and releases the Council against all damage, expense, loss or liability of any nature, suffered or incurred by the Council arising from any act or omission by the Developer (or any person engaged by it) in connection with the performance of the Contribution Works.

8 Defects Liability Period

- (a) At any time during the Defects Liability Period, the Council may inspect the Contribution Works for the purpose of ascertaining what defects and omissions (if any) in the Contribution Works are required to be made good by the Developer.
- (b) The Council may give notice to the Developer that:
 - (i) states that part of the Contribution Works is defective, giving details;
 - (ii) specifies the works which the Council considers are required to rectify the defect;
 - (iii) provides a reasonable estimate of the costs to rectify such works, including particulars of how those costs were calculated; and
 - (iv) allows the Developer a reasonable period to rectify such works.
- (c) The Developer must rectify any defects or omissions in the Contribution Works which are identified in a notice issued in accordance with **clause 8(b)** of this **Schedule 6**.
- (d) If the Developer fails to complete or rectify such works within the period required by a notice issued under **clause 8(b)** of this **Schedule 6**, then the Council may have such works completed or rectified and the Developer must reimburse the Council promptly following any demand by the Council for all costs incurred by the Council in completing or rectifying such works.
- (e) The Developer indemnifies the Council for all monies payable by the Developer to the Council pursuant to **clause 8(d)** of this **Schedule 6**.
- (f) The Developer must pay on demand any amount it must pay under the indemnity in **clause 8(e)** of this **Schedule 6**.
- (g) If the Contribution Works have been transferred to the Council as Contribution Land or otherwise, the Council must provide the Developer with reasonable access to the Contribution Land in order to carry out any defect rectification works required under this **clause 8** of this **Schedule 6**.

9 Handover of Construction Works

- (a) The Developer must notify the Council at least one year prior to the date it intends to hand over maintenance of an item of Contribution Works to the Council.
- (b) At least six months before the date it intends to hand over maintenance of an item of Contribution Works to the Council, the Developer must submit to the Council an appropriate plan of management relating to the Contribution Works.
- (c) Prior to the hand over of the maintenance of an item of Contribution Works, the Council and the Developer must carry out a final inspection of the item of Contribution Works.
- (d) Within 5 Business Days of the final inspection, the Council must identify by notice in writing to the Developer any remaining defects in the Contribution Works.
- (e) The Developer must rectify, or procure the rectification of, those remaining defects (excluding any defects arising out of the ordinary use of the Contribution Works) within 20 Business Days after the day on which the Developer received the Council's notification.

Schedule 7**Bank Guarantee (clause 6.1)****Part A – Unregistered Land****1 Bank Guarantee**

If prior to the issue of a Subdivision Certificate that creates one or more Allotments on any part of the Land, this Deed has not been registered on title to any part of the land which is the subject of the Subdivision Certificate (**Unregistered Land**), then prior to the grant of any such certificate by the Council, the Developer must either:

- (a) procure registration of this Planning Agreement on that Unregistered Land in accordance with **clause 5.2** of this Deed; or
- (b) provide security to the Council in the form of a Bank Guarantee for the face value equivalent to the sum of the:
 - (i) Contribution Amounts that the Developer will be required to pay in relation to the granting of the Subdivision Certificate over the Unregistered Land;
 - (ii) Notional Values of any Contribution Works that the Developer will be required to provide on the Unregistered Land as a consequence of the granting of the Subdivision Certificate by the Council; and
 - (iii) Notional Values of any Contribution Land forming part of the Unregistered Land that the Developer will be required to transfer to the Council as a consequence of the granting of the Subdivision Certificate by the Council,

and the terms and conditions of this **Schedule 7** apply in relation to those arrangements.

2 Development of Unregistered Land

- (a) Where the Developer applies for a Subdivision Certificate over Unregistered Land and has not complied with **clause 1** of this **Schedule 7**, the Council may refuse to issue the Subdivision Certificate until the Developer complies with **clause 1** of this **Schedule 7**.
- (b) Where a person who is not a party to this Deed applies for Development Consent for the subdivision of Unregistered Land (**Relevant Development Application**) and **clause 1** of this **Schedule 7** has not been complied with in respect to all subdivision contemplated by the Relevant Development Application, the Council may:
 - (i) notify the Developer in writing that a Relevant Development Application has been made; and
 - (ii) if, after 20 Business Days following the notice given to the Developer pursuant to **clause 2(b)(i)** of this **Schedule 7**, **clause 1** of this **Schedule 7** has not been complied with for all subdivision contemplated by the Relevant Development Application, the Council may elect to exclude the Relevant Development Application from the operation of this Deed so that sections 94 and 94A of the Act apply to the Relevant Development Application.

3 Claims under Bank Guarantee

The Developer agrees that the Council may make claims under any Bank Guarantee provided by it in accordance with **clause 1(b)** of this **Schedule 7** on the following basis:

- (a) The Council may call upon a Bank Guarantee (in full or in part):
 - (i) if the Developer has not paid any Contribution Amount in relation to an Allotment on Unregistered Land on or before the time for payment under this Deed;
 - (ii) if the Developer has not dedicated an item of Contribution Land forming part of the Unregistered Land in accordance with this Deed; or
 - (iii) if the Developer:
 - (A) has not Practically Completed an item of Contribution Works on the Unregistered Land before the time specified under this Deed;
 - (B) has not carried out any defect rectification required under **clause 8** of **Schedule 6** in relation to an item of Contribution Works on the Unregistered Land; or
 - (C) has not maintained an item of Contribution Works on the Unregistered Land for the period required by the Development Contribution Table.
- (b) The Council agrees not to make any claim under a Bank Guarantee without providing at least 10 Business Days' prior written notice to the Developer of its intention to do so.

4 Release of Bank Guarantee

If the Developer has:

- (a) registered this Planning Agreement on the relevant parcel of Unregistered Land; or
- (b) satisfied all of its obligations under this Deed with respect to the Unregistered Land which were secured by any Bank Guarantee provided to the Council in accordance with **clause 1** of this **Schedule 7**, and:
 - (i) the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with **clause 3** of this **Schedule 7**; and
 - (ii) the Council is satisfied, acting reasonably, that there are no actual or contingent liabilities arising as a result of the making of the Development Contributions for the relevant parcel of the Unregistered Land,

then the Council will promptly return the Bank Guarantee to the Developer (less any reasonable costs, charges, duties and taxes payable), or the remainder of the monies secured by the Bank Guarantee (as the case may be).

Part B – Registered Land

5 Bank Guarantee

- (a) Prior to the issue of a Subdivision Certificate that creates one or more Allotments on any part of the Land upon which this Deed has been registered on title to any part of the land which is the subject of the Subdivision Certificate (**Registered Land**), then prior to the grant of any such certificate by the Council, the Developer must provide security to the Council in the form of a Bank Guarantee for the face value equivalent to the sum of the Notional Values of any Contribution Works that the Developer will be required to provide

on the Registered Land (and has not already provided) as a consequence of the granting of the Subdivision Certificate by the Council and the terms and conditions of this **Schedule 7** apply in relation to that arrangement.

- (b) For example, if:
- (i) the Subdivision Certificate applies to a plan that when registered would create the Allotment on which it is proposed to construct the 3,000th Dwelling;
 - (ii) an item of the Contribution Works must be provided within a certain period after the issue of that Subdivision Certificate; and
 - (iii) at the time of the application for that Subdivision Certification that item of the Contribution Works has not been provided,
- then a Bank Guarantee under this **clause 5** of this **Schedule 7** must be provided with respect to that item.

6 Claims under Bank Guarantee

The Developer agrees that the Council may make claims under any Bank Guarantee provided by it in accordance with **clause 5** of this **Schedule 7** on the following basis:

- (a) The Council may call upon a Bank Guarantee (in full or in part) if the Developer:
- (i) has not Practically Completed an item of Contribution Works on the Registered Land before the time specified under this Deed;
 - (ii) has not carried out any defect rectification required under **clause 8** of **Schedule 6** in relation to an item of Contribution Works on the Registered Land; or
 - (iii) has not maintained an item of Contribution Works on the Registered Land for the period required by the Development Contribution Table.
- (b) The Council agrees not to make any claim under a Bank Guarantee without providing at least 10 Business Days' prior written notice to the Developer of its intention to do so.

7 Release of Bank Guarantee

7.1 Following Practical Completion

If:

- (a) the Developer has satisfied an obligation to Practically Complete an item of Contribution Works which was secured by any Bank Guarantee provided to the Council in accordance with **clause 5** of this **Schedule 7**;
- (b) the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with **clause 6** of this **Schedule 7**; and
- (c) the Council is satisfied, acting reasonably, that there are no actual or contingent liabilities arising as a result of the making of the Development Contributions,

then the Council will promptly return the Bank Guarantee to the Developer (less any reasonable costs, charges, duties and taxes payable) or the remainder of the monies secured by the Bank Guarantee (as the case may be) in exchange for a Bank Guarantee for the face value equivalent to the Notional Value of any maintenance period the Developer is required to carry out following Practical Completion of the Contribution Works secured by the Bank Guarantee.

7.2 Following Maintenance Period

If:

- (a) the Developer has satisfied an obligation to maintain an item of Contribution Works which was secured by any Bank Guarantee provided to the Council in accordance with **clause 7.1** of this **Schedule 7**;
- (b) the whole of the monies secured by the Bank Guarantee have not been expended and the monies accounted for in accordance with **clause 6** of this **Schedule 7**; and
- (c) the Council is satisfied, acting reasonably, that there are no actual or contingent liabilities arising as a result of the making of the Development Contributions,

then the Council will promptly return the Bank Guarantee to the Developer (less any reasonable costs, charges, duties and taxes payable), or the remainder of the monies secured by the Bank Guarantee (as the case may be).

Part C – General

8 Rolling Bank Guarantee

The Council agrees that the Developer may satisfy its obligations under **Parts A** and **B** of this **Schedule 7** by providing one Bank Guarantee with a face value, which varies over time so that it is equal to or greater than the total amount that the Developer is required to secure under **Parts A** and **B** of this **Schedule 7** at the relevant time.

Part D – Compulsory Acquisition

9 Compulsory Acquisition

- (a) This **clause 9** of this **Schedule 7** only applies to the extent that the Developer either becomes the registered proprietor of any Contribution Land or otherwise has contractual rights with the registered proprietor of any Contribution Land which are consistent with this **clause 9** of this **Schedule 7** (**Applicable Contribution Land**).
- (b) If the Developer does not transfer any Applicable Contribution Land as required by this Deed, the Developer agrees to the Council, after providing 30 days notice, compulsorily acquiring that Applicable Contribution Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW), for the amount of \$1.00.
- (c) The Developer and the Council agree that:
 - (i) this **clause 9** of this **Schedule 7** is an agreement between the Council and the Developer for the purposes of section 30 of the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW); and
 - (ii) in this **clause 9** of this **Schedule 7** the Council and the Developer have agreed on all relevant matters concerning the compulsory acquisition and the compensation to be paid for the acquisition.
- (d) Except as otherwise agreed between the Developer and the Council, the Developer must ensure that the relevant Applicable Contribution Land is free of all encumbrances and affectations (including, any charge or liability for rates, taxes and charges) except for Service Easements and those reservations, easements and other affectations (but not including any mortgage or charge) as registered as at the date of this Deed or easements or covenants which have been agreed by the Council, on both the date that the Developer is liable to procure the transfer of the relevant Applicable Contribution Land to the Council in accordance with this **clause 9** of this **Schedule 7** and the date on which

the Council compulsorily acquires the relevant Contribution Land in accordance with the *Land Acquisition (Just Terms Compensation) Act 1991* (NSW).

Schedule 8
Applicable Area



KEY PLAN



NOTES

Issue	Amendment	Date
A	Draft VPA	11.4.2014
B	Draft VPA	02.05.2014

Developer



Project

Calderwood

Drawing Title
Calderwood VPA
Applicable Area



Calderwood project area

Scale AT A3 1:15000
Drawn by NAH
Drawing Number QA Applicable Area

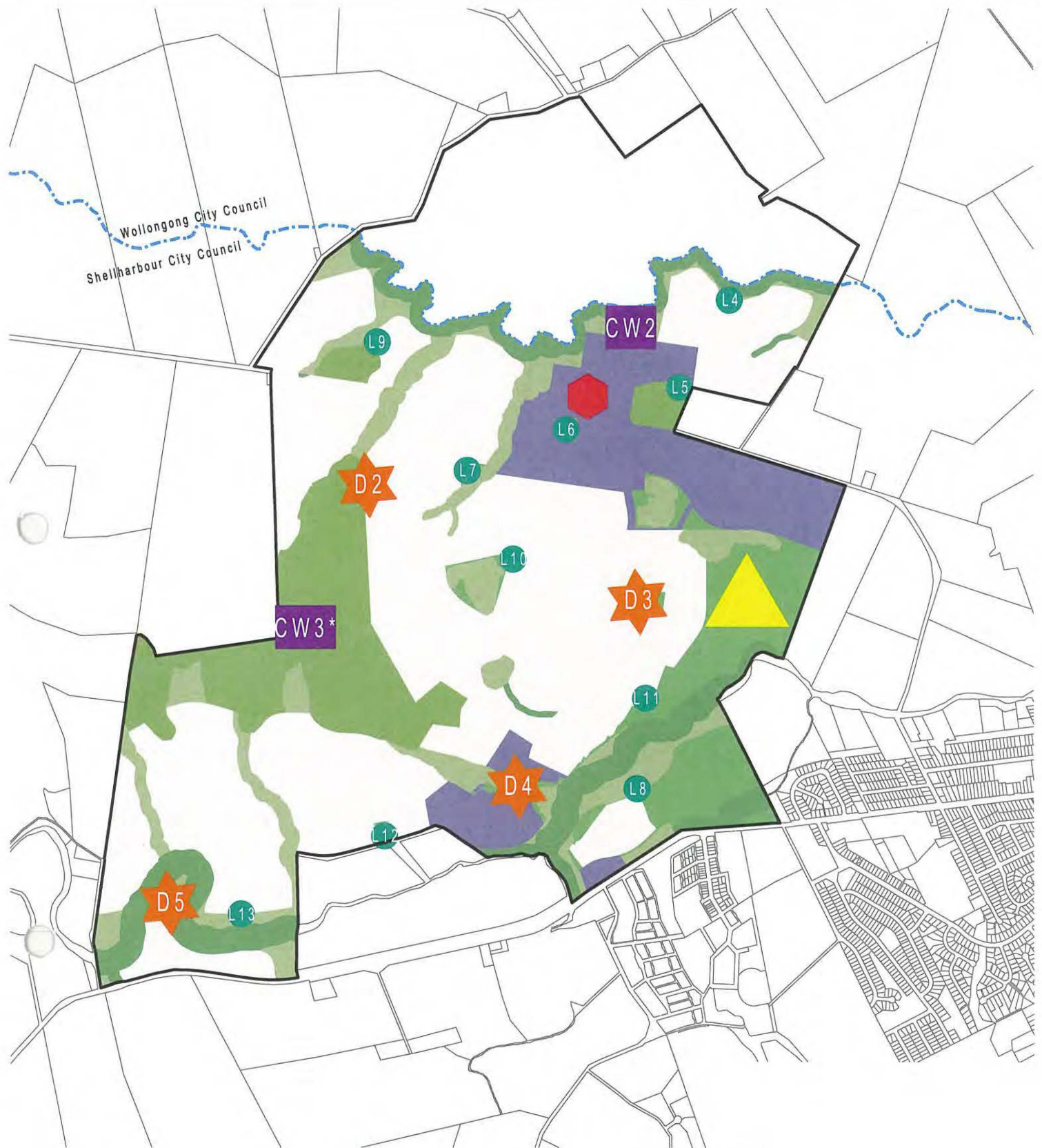


Issue B

0 150m 300m 600m 900m

Schedule 9

Location of Contribution Land and Contribution Works



- L1 Local Parks (Schedule 4)
 - D1 District Parks
 - ▲ Sporting Fields
 - CW1 City Parks
 - ◆ Multi Purpose Community Resource Centre
- * final location subject to agreement

KEY PLAN



NOTES

Issue	Amendment	Date
A	Draft VPA	11.04.2014
B	Draft VPA	02.05.2014



Calderwood project area

Developer



Project

Calderwood

Drawing Title

Calderwood VPA

On site Open Space
and Community Facilities

Scale AT A3

1:15000

Drawn by

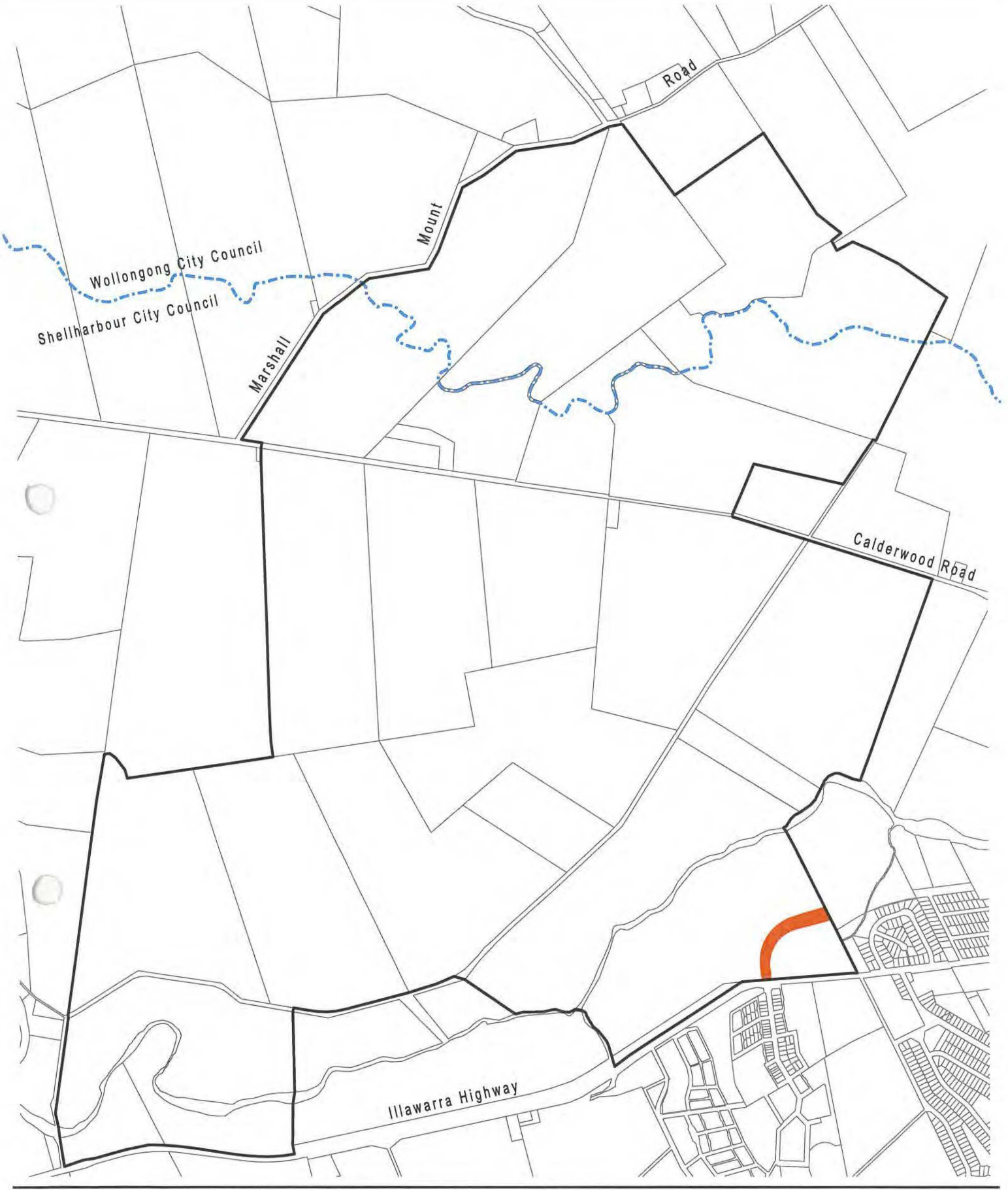
NAH

Drawing Number

OA Indicative OS



Issue B



KEY PLAN



NOTES

Issue	Amendment	Date
A	Draft VPA	11.04.2014
B	Draft VPA	02.05.2014



Contribution Land - Albion Park Bypass

Calderwood project area

Developer



Project

Calderwood

Drawing Title

Calderwood VPA

Albion Park Bypass Plan

Scale AT A3

1:12000

Drawn by

NAH

Drawing Number

CW AlbPb Bypass



Issue B