

Planning Agreement

Penrith City Council

Council

Lensworth Glenmore Park Limited

Lensworth

Mulpha FKP Pty Limited trading as Norwest Land

Norwest Land

Holicombe Pty. Limited

Holicombe

Sergio & Assunta Vianello

Vianello

Mint Holdings Pty. Limited

Mint Holdings

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Planning Agreement made at _____ on _____

Parties **Penrith City Council ABN 43 794 422 563** of 601 High Street, Penrith, NSW 2750

("Council")

Lensworth Glenmore Park Limited ABN 59 007 533 888 of 133 Castlereagh Street, SYDNEY NSW 2000

("Lensworth")

Mulpha FKP Pty Limited trading as Norwest Land ABN 27 000 004 633 of FKP House, Level 4, 17-19 Bridge Street, SYDNEY NSW 2000

("Norwest Land")

Holicombe Pty. Limited ABN 76 691 030 709 of 2091 Castlereagh Road, PENRITH NSW 2150

("Holicombe")

Sergio & Assunta Vianello ABN 27 709 051 547 of "Hills of Home" 2183 The Northern Road, MULGOA NSW 2745

("Vianello")

Mint Holdings Pty. Limited ABN 20 002 055 165 of 36 South Street RYDALMERE NSW 2166

("Mint Holdings")

Background

- A. Each Landowner owns that part of the Land as nominated to be owned by it in Schedule 2.
- B. The Land is within the Council's Local Government Area.
- C. Each Landowner seeks the gazettal of a new environmental planning instrument (being the LEP) to carry out Development on that part of the Land owned by it.
- D. By way of this deed, each Landowner offers to enter into a planning agreement in connection with that new environmental planning instrument on the terms and conditions of this deed.

Operative provisions

1. Definitions and Interpretation

1.1 Definitions

The meaning of capitalised terms in this deed is as follows (unless otherwise specified):

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

"Affordable Housing Contributions" means each contribution made by each Landowner under Item 1 (Affordable Housing) of the table in Schedule 3.

"Assignment and Dealing Terms" means the obligations imposed under on the relevant Parties under, and by virtue of Schedule 7.

"ASX Listing Rules" means the listing rules established by ASX Limited ACN 008 624 691 to, inter alia, govern the admission of entities to the official list, quotation of securities, suspension of securities from quotation and removal of entities from the official list.

"Authority" means any governmental, semi-governmental, administrative, fiscal or judicial body, department, commission, authority, tribunal, agency or entity and includes an accredited certifier accredited under section 109T of the Act.

"Bank Bill Rate" means:

- (a) the average bid rate which is shown at approximately 10.15am (Sydney time) on the first day of that period on the Reuters screen BBSY (or any page that replaces it) for a term equivalent to 90 days; or
- (b) if it is not possible for any reason for the Council to determine the Bank Bill Rate under paragraph (a), then the Bank Bill Rate will be the average, rounded upwards if necessary to four decimal places and expressed as a yield percentage per annum, of the bid rates quoted by each Reference Bank at or about 10.30am on that day (or such number of Reference Banks as provide quotes to the Council at that time on that day), for bank accepted Bills having a term as described above, as conclusively determined in good faith by the Council.

"Bill" means a bill of exchange as defined in the *Bills of Exchange Act 1909* (Cth), but does not include a cheque.

"Biodiversity Corridor Planting Works" means the works required to be carried out by the Landowners as described in Item 5 (Biodiversity Corridor Planting Works) of the table in Schedule 3.

"Business Day" means any day except for Saturday or Sunday or a day which is a public holiday in Sydney.

"CC Application" means any proposed application for a Construction Certificate contemplated by paragraph Schedule 35.5 of Schedule 3.

"Consent Authority" means, in relation to an Application, the Authority having the function to determine the Application.

"Construction Certificate" means a certificate issued under section 109C (1)(b) of the Act.

"Consumer Price Index" means the Consumer Price Index (All Groups) for Sydney published by the Australian Statistician or the index substituted for it by the Australian Statistician or if that index is no longer published (and the Australian Statistician has not substituted it by another index), then any other index which, by agreement between the Landowners and the Council, is a similar index.

"Corporations Act" means the *Corporations Act 2001* (Cwlth).

"Costs" includes costs, charges and expenses, including those incurred in connection with advisers.

"Costs Schedule" means Schedule 8 of this deed.

"Council" means the Penrith City Council.

"Current CPI" means, in respect of a Review Date, the Consumer Price Index number for the quarter ending immediately before that Review Date.

"Development" means obtaining all necessary approvals, the carrying out of subdivision, infrastructure works and improvements to the Land, and selling all or any part of the Land.

"Development Application" has the meaning given to that term in the Act.

"Development Consent" has the meaning given to that term in the Act.

"Development Contributions" means those contributions referred to in the Development Contributions Schedule.

"Development Contributions Schedule" means the Development Contributions set out in the table of Schedule 3 of this deed.

"Dispute Resolution Procedures" means the procedures imposed on the relevant Parties under Schedule 5.

"DWE" means the New South Wales Department of Water and Energy.

"Dwelling" means a building or part of a building that is designed, constructed or adapted for use as a single residence (including a detached or semi-detached house, terrace or town house, duplex, villa-home, home unit or residential flat).

"Employment Contribution Date" means, in respect of each relevant Employment Contribution to be made under the section headed 'Employment Contribution' in the table in Schedule 3, the date for payment of that Employment Contribution as referred to in the second column of the section headed 'Employment Contribution' in the table in Schedule 3.

"Employment Contributions" means each contribution made by each Landowner under Item 2 (Employment) of the table in Schedule 3.

"Explanatory Note" means the explanatory note relating to this deed, as required by clause 25E of the Regulation.

"First Interim AH Contribution Instalment Date" means the later of:

- (a) the date of issue of the first Subdivision Certificate which relates to any part of the Land owned by Lensworth;
- (b) the date of issue of the first Subdivision Certificate which relates to any part of the Land owned by Norwest Land; and
- (c) the date which is 30 June 2009.

"First Interim Employment Contribution Instalment" has the meaning given to that term in Column 1 of the table in Schedule 3.

"First Interim Employment Contribution Instalment Date" means the later of:

- (a) the date of issue of the first Subdivision Certificate which relates to any part of the Land owned by Lensworth;
- (b) the date of issue of the first Subdivision Certificate which relates to any part of the Land owned by Norwest Land; and
- (c) the date which is 31 December 2008.

"Fourth Interim Employment Contribution Instalment" has the meaning given to that term in Column 1 of the table in Schedule 3.

"Fourth Interim Employment Contribution Instalment Date" means the later of the third anniversary of the First Interim Employment Contribution Instalment Date and the date on which a Subdivision Certificate is issued that relates to the 100th Residential Lot next to be created in respect of any part of the Land after the creation of the Residential Lots created in respect of the Subdivision Certificate that relates to the 200th Residential Lot to be created in respect of any part of the Land .

"Gazettal Date" means the date of gazettal of the LEP.

"General Register of Deeds" means the land registry so entitled and maintained under the *Conveyancing Act* 1919.

"Glenmore Park Stage 2 Development Contributions Plan 2007" means the Contributions Plan in respect of the Land adopted by Council pursuant to section 94B of the Act as amended from time to time.

"Integral Energy" means Integral Energy Australia.

"Interest Rate" means for any day, the aggregate of 2% and the Bank Bill Rate for that day.

"Interim Employment Contribution Instalment" means each of the First Interim Employment Contribution Instalment, the Second Interim Employment Contribution Instalment, the Third Interim Employment Contribution Instalment and the Fourth Interim Employment Contribution Instalment.

"Land" means the land described in Schedule 2.

"Landowners" means each of Lensworth, Norwest Land, Holicombe, Vianello and Mint Holdings and their successors and assigns.

"Law" means:

- (a) the common law including principles of equity; and
- (b) the requirements of all statutes, rules, ordinances, codes, regulations, proclamations, by-laws or consents by an Authority,

presently applying or as they may apply in the future.

"Legislation" means any statute, rule, ordinance, code, regulation, proclamation, by-law or consent by an Authority.

"LEP" means the environmental planning instrument known as the "Penrith Local Environment Plan (Glenmore Park Stage 2) 2009"..

"Net Developable Hectare" means those hectares of the Land proposed to be used for residential purposes within the land zoned Residential R1 or R2 in the LEP, but excluding:

- (a) land set aside for publicly owned community facilities community services provided under section 94 of the Act;
- (b) land set aside for public schools;
- (c) land set aside for publicly owned health facilities;

- (d) land set aside for ambulance stations, fire stations and police stations;
- (e) roads to be provided under the provision of section 94 of the Act;
- (f) half the width of any road fronting:
 - (i) the Mulgoa Nature Reserve referred to in the LEP;
 - (ii) land zoned E1 in the LEP;
 - (iii) land zoned E2 in the LEP;
 - (iv) land zoned RE1 in the LEP; and
- (g) areas for facilities provided by, or for, Sydney Water or Integral Energy.

"OH&S Regulation" means the *Occupational Health and Safety Regulation 2001* (NSW).

"Party" means a party to this deed, including their respective successors and assigns.

"Plan of Subdivision" means a registered plan of subdivision within the meaning of section 195 of the Conveyancing Act 1919.

"Planning Agreement" means the planning agreement that comes into operation upon satisfaction of the requirements set out in clause 2(b), comprising the form and content of this deed.

"Previous CPI" means, in respect of a Review Date, the Consumer Price Index number of the quarter ending immediately before the Gazettal Date.

"Quarter" means each period commencing on the day immediately after either 31 March, 30 June, 30 September or 31 December and ending on either 31 March, 30 June, 30 September or 31 December (as applicable), with the first quarter commencing on the relevant Target Date and ending on the immediately succeeding 31 March, 30 June, 30 September or 31 December (as applicable) and the last quarter commencing on the immediately preceding 31 March, 30 June, 30 September or 31 December and ending on the relevant Employment Contribution Date.

"Real Property Act" means the *Real Property Act 1900*.

"Regulation" means the *Environmental Planning and Assessment Regulation 2000*

"Release and Discharge Terms" means the obligations imposed on the relevant Parties under, and by virtue of, Schedule 4.

"Residential Lot" means any lot which is to be created by the registration of a Plan of Subdivision at the Land and Property Information New South Wales and which is intended to be improved by the construction of not more than one Dwelling thereon.

"Review Date" means, for each Development Contribution payment to be made pursuant to column 1 of the table in Schedule 3, the corresponding date that that Development Contribution is to be paid pursuant to column 2 of the table in Schedule 3.

"Second Interim AH Contribution Instalment Date" means the date which is the first anniversary of the First Interim AH Contribution Instalment Date.

"Second Interim Employment Contribution Instalment" has the meaning given to that term in Column 1 of the table in Schedule 3.

"Second Interim Employment Contribution Instalment Date" means the date which is the first anniversary of the First Interim Employment Contribution Instalment Date.

"Service Provider" means a provider of a Service.

"Service" means each service servicing any part of the Land including power, electricity, gas, water, sewerage and telecommunications and includes all pipes, wires, cables, ducts and other conduits in connection with them.

"State" means the State of New South Wales.

"Subdivision Certificate" means a certificate issued under section 109C(1)(d) of the Act for a plan creating residential allotments.

"Substantial Commencement Date" means each of:

- (a) the date which is 3 years after the date on which a Subdivision Certificate is issued relating to the 100th Residential Lot to be created in respect of that part of the Land owned by Lensworth;
- (a) the date which is 3 years after the date on which a Subdivision Certificate is issued relating to the 20th Residential Lot to be created in respect of that part of the Land owned by Norwest Land;
- (b) the date which is 3 years after the date on which a Subdivision Certificate is issued relating to the 20th Residential Lot to be created in respect of that part of the Land owned by Vianello;
- (c) the date which is 3 years after the date on which a Subdivision Certificate is issued relating to the 20th Residential Lot to be created in respect of that part of the Land owned by Holicombe; and
- (d) the date which is 3 years after the date on which a Subdivision Certificate is issued relating to the 20th Residential Lot to be created in respect of that part of the Land owned by Mint Holdings.

"Sunset Date" means 31 December 2009.

"Surveyor" means an appropriately experienced, qualified and registered surveyor engaged by any of the Landowners.

"Surveyor's Certification" has the same meaning given to that term in paragraph 2.6(a) of Schedule 3.

"Surveyors Creek Catchment" means the area identified as the 'Surveyors Creek Catchment' on the plan comprising Annexure B.

"Surveyors Creek Corridor" means those lands which are zoned E2 Environmental Conservation in the draft LEP being that area of land identified as the 'Surveyors Creek Corridor' on the plan comprising Annexure A, or any plan or document that replaces the Glenmore Park Stage 2 Development Contributions Plan 2007.

"Surveyors Creek Corridor Dedication Date" means the date which is two years and three months after the date when the last outstanding item of the following works is completed (as contemplated by the Glenmore Park Stage 2 Development Contributions Plan 2007):

- (a) the Trunk Drainage Works ; and

- (b) the Biodiversity Corridor Planting Works.

"**Sydney Water**" means Sydney Water Corporation Limited ACN 063 279 649..

"**Third Interim Employment Contribution Instalment Date**" means the later of the second anniversary of the First Interim Employment Contribution Instalment Date and the date on which a Subdivision Certificate is issued that relates to the 200th Residential Lot to be created in respect of any part of the Land.

"**Trunk Drainage Works**" means the works required to be carried out by the Landowners as described in Item 4 (Trunk Drainage Works) of the table in Schedule 3.

1.2 Interpretation

In this deed:

- (a) headings are for convenience only and do not affect interpretation;
- and unless the context indicates a contrary intention:
- (b) if more than one person is identified as the Landowners, that expression refers to each Landowner separately, and the obligations of the Landowners under this deed bind them severally only. In respect of Vianello, Sergio Vianello and Assunta Vianello are jointly and severally bound in relation to the obligations of Vianello under this deed;
- (c) "**person**" includes an individual, the estate of an individual, a corporation, an authority, an association or a joint venture (whether incorporated or unincorporated), a partnership and a trust;
- (d) a reference to a party includes that party's executors, administrators, successors and permitted assigns, including persons taking by way of novation;
- (e) a reference to a document (including this deed) is to that document as varied, novated, ratified or replaced from time to time;
- (f) a reference to a statute includes its delegated legislation and a reference to a statute or delegated legislation or a provision of either includes consolidations, amendments, re-enactments and replacements;
- (g) a word importing the singular includes the plural (and vice versa), and a word indicating a gender includes every other gender;
- (h) a reference to a party, clause, schedule, exhibit, attachment or annexure is a reference to a party, clause, schedule, exhibit, attachment or annexure to or of this deed, and a reference to this deed includes all schedules, exhibits, attachments and annexures to it;
- (i) if a word or phrase is given a defined meaning, any other part of speech or grammatical form of that word or phrase has a corresponding meaning;
- (j) "**includes**" in any form is not a word of limitation;
- (k) a reference to "**\$**" or "**dollar**" is to Australian currency; and
- (l) the Schedules, Exhibits and Annexures form part of this deed..

2. Operation of this deed

- (a) This deed operates as a planning agreement applying to all Development on the Land.
- (b) This deed is conditional upon, and operates with effect from, the Gazettal Date.
- (c) The Landowners must notify the Council in writing of their intention to terminate this deed before exercising any right under clause 2(f) to terminate this deed.
- (d) Subject to clause 2(e), the Landowners acknowledge that they are not entitled to terminate this deed until the later of:
 - (i) three months after the date of the notice referred to in clause 2(c); and
 - (ii) the Sunset Date.
- (e) The Landowners agree that they cannot terminate this deed if the LEP is gazetted.
- (f) Subject to clause 2(c), in the event the LEP is not gazetted on or before the Sunset Date, either Party may terminate this deed by written notice to the other Parties.
- (g) Subject to any rights any Party may have under this deed or at law arising by virtue of anything done or not done prior to the termination of this deed, no compensation is payable by any Party to any other Party in respect of any termination of this deed pursuant to clause 2(f).
- (h) In the event this deed is terminated pursuant to clause 2(f), the Parties acknowledge that Council may:
 - (i) withdraw its support for the gazettal of the LEP; and
 - (ii) request the New South Wales Department of Planning to suspend the gazettal process with respect to the LEP.

3. Further Agreements Relating to this deed

- (a) The Parties are to enter into such further agreements as are expressly required to be entered into by this deed.
- (b) The Parties may enter into such other agreements relating to any matter the subject of this deed that they consider are necessary or desirable in order to give effect to this deed.
- (c) An agreement referred to in clause 3(a) or 3(b) is not to be inconsistent with this deed.

4. Planning Agreement under the Act

The Planning Agreement constitutes a planning agreement within the meaning of section 93F of the Act.

5. Application of the Planning Agreement

The Planning Agreement applies to:

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

6. Development Contributions

Each Landowner will provide its Development Contributions in accordance with the Development Contributions Schedule and otherwise on the terms of this Planning Agreement.

7. Council Acknowledgements and requirements

7.1 Landowner contributions conditions

The Council acknowledges that:

- (a) the Affordable Housing Contributions must be used for the sole purpose of providing long-term permanent rental accommodation for very low-income households in the Penrith Local Government Area;
- (b) the Employment Contributions must be used for the sole purpose of developing employment and business opportunities in the Penrith Local Government Area;
- (c) the Surveyors Creek Biodiversity Corridor Dedication Contributions and Biodiversity Corridor Planting Works Contributions achieve a substantial Regional Biodiversity Linkage from Mulgoa Nature Reserve part of the way to the identified Biodiversity Protection Areas to the east of the Northern Road, consistent with Council's Rural Land Strategy; and
- (d) the Trunk Drainage Works Contributions provide appropriate rehabilitation and remediation of Surveyor's Creek Corridor through the estate.

8. Review of principles and contributions

The Council acknowledges and agrees that, at the request of the Landowners, it will enter into negotiations with the Landowners (acting in good faith and reasonably) in relation to changing the timing of Development Contributions by the Landowners under this deed having regard to the progress of the Development or any adverse economic conditions that prevail at the time which may adversely impact upon the Landowners ability to make the contributions required to be made of them pursuant to this agreement.

9. Application of s94, s94A and s94EF of the Act to the Development

9.1 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.

10. Interests in the Project Land

10.1 Ownership

Each Landowner separately represents and warrants to the Council that as at the date of this deed, it is the legal and beneficial owner of that part of the Land which is nominated as being owned by it in Schedule 2.

10.2 Registration of the Planning Agreement

- (a) Each Landowner agrees that it will procure the registration of the Planning Agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the register for the Land for which it is the legal owner in accordance with section 93H of the Act.
- (b) Each Landowner at its own expense will, promptly after the Planning Agreement comes into operation, 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 that part of the Land which it is the legal owner registered under the *Real Property Act 1900* (NSW); or
 - B. is seized or possessed of an estate or interest in that part of the Land for which it is the legal owner; and
 - (ii) the execution of any documents; and
 - (iii) the production of the relevant duplicate certificates of title,
to enable the registration of the Planning Agreement under the *Real Property Act 1900* (NSW) in the relevant folios of the register for that part of the Land for which it is the legal owner in accordance with section 93H of the Act; and
- (c) Each Landowner, at its own expense, will take all practical steps, and otherwise do anything that the Council reasonably requires:
 - (i) to procure the lodgement of the Planning Agreement with the Registrar-General as soon as reasonably practicable after the Planning Agreement comes into operation but in any event, no later than 20 Business Days after that date; and
 - (ii) to procure the registration of the Planning Agreement by the Registrar-General either in the relevant folios of the register for the Land or in the General Register of Deeds if the Planning Agreement relates to land not under the *Real Property Act 1900* (NSW) as soon as reasonably practicable after the Planning Agreement is lodged for registration but, in any event, no later than 20 Business Days after the date on which the Landowners lodge the Planning Agreement with the Registrar-General.

10.3 Release and discharge of this deed

The Council agrees to release and discharge the Planning Agreement on the Release and Discharge Terms.

11. Review or Replacement of, or Amendment to, this deed

- (a) The Parties agree that this deed may be reviewed or modified and that any review or modification of this deed will be conducted in the circumstances and in the manner determined by the Parties. For clarity, no such review or replacement shall have any force or effect unless and until formal legal documents are signed by the Parties.

- (b) The Parties agree that the progress of the Development or any adverse change in economic conditions may give rise to a review of this deed in accordance with clause 8 of this deed.
- (c) The Council and any one or more Landowner(s) can agree to vary, by way of deed, any rights and obligations as between the Council and that Landowner(s) without the consent and approval of any other Landowner, provided that any such variation does not have an adverse effect on any rights and obligations of the other Landowners.
- (d) In the event the Council and any one or more Landowner(s) agree to vary this deed pursuant to clause 11(c), the Council and that Landowner(s) must give a copy of the varied deed to each other Landowner within 10 Business Days of making that variation.

12. Dispute Resolution

The Parties agree that any disputes under or in relation to this deed between the Council and any other Party will be resolved in accordance with the Dispute Resolution Procedures.

13. GST

13.1 Application

The Parties anticipate that:

- (a) GST will not become payable by any Party under or in connection with this deed such that the provisions of the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time) will not apply to this deed; and
- (b) in the event GST becomes payable by any Party under or in connection with this deed, the provisions of this clause 13 apply.

13.2 Interpretation

- (a) Except where the context suggests otherwise, terms used in this clause 13 have the meanings given to those terms by the *A New Tax System (Goods and Services Tax) Act 1999* (as amended from time to time).
- (b) Any part of a supply that is treated as a separate supply for GST purposes (including attributing GST payable to tax periods) will be treated as a separate supply for the purposes of this clause 13.
- (c) A reference to something done (including a supply made) by a party includes a reference to something done by any entity through which that party acts.

13.3 Reimbursements

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 an entity is entitled for the acquisition to which the cost, expense or amount relates.

13.4 Additional amount of GST payable

Subject to clause 13.6, if GST becomes payable on any supply made by a party ("**Supplier**") under or in connection with this deed:

- (a) any amount payable or consideration to be provided under any provision of this deed (other than this clause 13), for that supply is exclusive of GST;
- (b) 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**"), at the same time as any other consideration is to be first provided for that supply; and
- (c) 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 13.4(b).

13.5 Variation

- (a) If the GST Amount properly payable in relation to a supply (as determined in accordance with clause 13.4 and clause 13.6), varies from the additional amount paid by the Recipient under clause 13.4, then the Supplier will provide a corresponding refund or credit to, or will be entitled to receive the amount of that variation from, the Recipient. Any payment, credit or refund under this clause 13.5(a) is deemed to be a payment, credit or refund of the GST Amount payable under clause 13.4.
- (b) The Supplier must issue an adjustment note to the Recipient in respect of any adjustment event occurring in relation to a supply made under or in connection with this deed as soon as reasonably practicable after the Supplier becomes aware of the adjustment event.

13.6 Exchange of non-monetary consideration

- (a) To the extent that the consideration provided for the Supplier's taxable supply to which clause 13.4 applies is a taxable supply made by the Recipient (the "**Recipient Supply**"), the GST Amount that would otherwise be payable by the Recipient to the Supplier in accordance with clause 13.4 shall be reduced by the amount of GST payable by the Recipient on the Recipient Supply.
- (b) The Recipient must issue to the Supplier an invoice for any Recipient Supply on or before the time at which the Recipient must pay the GST Amount in accordance with clause 13.4 (or the time at which such GST Amount would have been payable in accordance with clause 13.4 but for the operation of clause 13.6(a)).

13.7 No merger

This clause will not merge on completion or termination of the deed.

14. Explanatory Note

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

15. Effect of Scheduled terms and conditions

The Parties agree to comply with the terms and conditions contained in the Schedules as if those rights and obligations were expressly set out in full in the operative parts of this deed.

16. Several liability of Landowner

Unless expressly provided to the contrary in this deed, the Parties acknowledge and agree that:

- (a) the obligations of each Landowner under this deed are several to the obligations of each other Landowner under this deed;
- (b) a Landowner does not guarantee the performance by any other Landowner in respect of that other Landowner's obligations under this deed; and
- (c) a breach by one Landowner of its obligations under this deed, does not constitute a breach by any other Landowner of its obligations under this deed.

17. General provisions

The Parties agree to the miscellaneous and general provisions set out in Schedule 9.

Executed as a deed.

Schedule 1 - Section 93F Requirements

SUBJECT and SUB-SECTION OF THE ACT	THE PLANNING AGREEMENT
<p>Planning instrument and/or development application - (Section 93F(1))</p> <p>The Landowners have:</p> <p>(a) sought a change to an environmental planning instrument.</p> <p>(b) made, or proposes to make, a development application.</p> <p>(c) entered into an agreement with, or is otherwise associated with, a person, to whom paragraph (a) or (b) applies.</p>	<p>(a) Yes</p> <p>(b) Yes</p> <p>(c) No</p>
<p>Description of the land to which this deed applies- (Section 93F(3)(a))</p>	<p>The whole of the land described in Schedule 2.</p>
<p>Description of change to the environmental planning instrument to which this deed applies- (Section 93F(3)(b))</p>	<p>The gazettal of a new environmental planning instrument (being the LEP) relating to the Land.</p>
<p>The scope, timing and manner of delivery of contribution required by the Planning Agreement - (Section 93F(3)(c))</p>	<p>See Schedule 3.</p>

SUBJECT and SUB-SECTION OF THE ACT	THE PLANNING AGREEMENT
Applicability of Section 94 of the Act - (Section 93F(3)(d))	<p>The application of section 94 of the Act:</p> <p>(a) is excluded in relation to such part of the Trunk Drainage Works and/or the Biodiversity Corridor Planting Works to be carried out within the Surveyors Creek Catchment (as shown in the Surveyors Creek Catchment Plan set out in Annexure B);</p> <p>(b) is not excluded in relation to any other matter or thing the subject of the Glenmore Park Stage 2 Development Contributions Plan 2007; and</p> <p>(c) is excluded in relation to any requirement to pay any monetary contribution and/or dedicate any land imposed under a contributions plan prepared and approved by Council, pursuant to section 94EA of the Act, after 1 January 2008, to the extent that such monetary contribution or dedication of land exceeds what the monetary contribution or dedication of land Council is entitled to require consistent with any contributions plan prepared and approved by Council, pursuant to section 94EA of the Act, in force as at 1 January 2008.</p>
Applicability of Section 94A of the Act - (Section 93F(3)(d))	The application of section 94A of the Act is excluded.
Applicability of Section 94EF of the Act - (Section 93F(3)(d))	The application of section 94EF of the Act is excluded.
Mechanism for Dispute resolution - (Section 93F(3)(f))	See clause 12 and Schedule 5.
Enforcement of the Planning Agreement - (Section 93F(3)(g))	See clause 10.2.
Registration of this deed (Section 93F(3)(g)) The parties agree that the Planning Agreement will be registered in accordance with clause 10.	Yes
No obligation to grant consent or exercise functions - (Section 93F(9))	See paragraph 7 of Schedule 9.

Schedule 2 - Land

1. Title

The Land that comprises those parts of the land owned by each of the Landowners as described below which are identified and delineated by heavy black ink on the 'Glenmore Park Stage 2 Land Application Map' attached to the draft LEP 2007 (Glenmore Park Stage 2):

Lensworth owns the whole of the land described in:

Part of Lot 8832 in Deposited Plan 1109846, being part of the land comprised in Folio Identifier 8832/1109846

Norwest Land owns the whole of the land described in:

Lot 1 in Deposited Plan 541090, being the whole of the land comprised in Folio Identifier 1/541090

Vianello owns the whole of the land described in:

Part of Lot 1 in Deposited Plan 224861, being part of the land comprised in Folio Identifier 1/224861

Part of Lot 4 in Deposited Plan 226490, being part of the land comprised in Folio Identifier 4/226490

Mint Holdings owns the whole of the land described in:

Part of Lot 2 in Deposited Plan 541090, being part of the land comprised in Folio Identifier 2/541090

Holicombe owns the whole of the land described in:

Lot 1 in Deposited Plan 222144, being the whole of the land comprised in Folio Identifier 1/222144

Schedule 3 - Development Contributions Schedule

1. Development Contributions - the Planning Agreement

Each Landowner undertakes to provide the Development Contributions as set out and provided for in the table below.

Schedule 3 - Table

Development Contribution	Date Development Contribution is payable or to be provided
<p>ITEM 1. AFFORDABLE HOUSING</p> <p>Affordable Housing Contribution</p> <p>The Affordable Housing Contribution payable is \$1,000,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$299,076.95 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth (at a Net Developable Hectare rate of \$8,967.82 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$386,544.89 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land (at a Net Developable Hectare rate of \$8,009.63 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$185,992.68 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Vianello (at a Net Developable Hectare rate of \$8,967.82 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$59,187.64 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Mint Holdings (at a Net Developable Hectare rate of \$8,967.82 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); and • \$69,197.84 (as increased by CPI 	<p>(a) Subject to paragraph (b), to be paid, in relation to any Subdivision Certificate issued on and from the Second Interim AH Contribution Instalment Date, by the relevant Landowner progressively in instalments in relation to each Net Developable Hectare (or any part thereof) comprised in a proposed subdivision plan for any part of that Landowner's Land prior to the issue of that Subdivision Certificate which relates to that part of the Landowner's Land.</p> <p>(b) Notwithstanding paragraph (a) above, any part of the Affordable Housing Contribution payable by any of the Landowners that has not been paid by the Substantial Commencement Date relevant to that Landowner must be paid on or before that Substantial Commencement Date.</p> <p>When calculating amounts payable by a Landowner in respect of the Affordable Housing Contribution payable by that Landowner, all amounts that have been paid by that Landowner in respect of the First Interim Affordable Housing Contribution Instalment and the Second Interim Affordable Housing Contribution Instalment shall be taken into account so that, in calculating amounts payable in respect of the Affordable Housing Contribution referred to in Item 1 of this</p>

<p>Indexation pursuant to paragraph 3 of Schedule 3) payable by Holicombe (at a Net Developable Hectare rate of \$4,079.34 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)).</p>	<p>Schedule, each Landowner will be deemed to have paid an amount equivalent to such components of the First Interim Affordable Housing Contribution Instalment and the Second Interim Affordable Housing Contribution Instalment that have already been paid by that Landowner. .</p>
<p>First Interim Affordable Housing Contribution Instalment</p> <p>The First Interim Affordable Housing Contribution Instalment payable is \$250,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$74,769.24 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; • \$96,636.22 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land; • \$46,498.17 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Vianello; • \$14,796.91 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Mint Holdings; and • \$17,299.46 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Holicombe. 	<p>The First Interim AH Contribution Instalment Date (subject to paragraph 2.2 of this Schedule 3).</p>
<p>Second Interim Affordable Housing Contribution Instalment</p> <p>The Second Interim Affordable Housing Contribution Instalment payable is \$250,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$109,053.17 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; and • \$140,946.83 (as increased by CPI Indexation pursuant to paragraph 3 of 	<p>The Second Interim AH Contribution Instalment Date (subject to paragraph 2.2 of this Schedule 3).</p>

Schedule 3) payable by Norwest Land.	
<p>ITEM 2. EMPLOYMENT</p> <p>Employment Contribution</p> <p>The Employment Contribution payable is \$1,600,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$478,523.12 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth (at a Net Developable Hectare rate of \$14,348.52 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$618,471.82 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land (at a Net Developable Hectare rate of \$12,815.41 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$297,588.29 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Vianello (at a Net Developable Hectare rate of \$14,348.52 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); • \$94,700.23 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Mint Holdings (at a Net Developable Hectare rate of \$14,348.52 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)); and • \$110,716.54 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Holicombe (at a Net Developable Hectare rate of \$6,526.94 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3)). 	<p>To be paid, in relation to any Subdivision Certificate issued on and from the Fourth Interim Employment Contribution Instalment Date, by the relevant Landowner progressively in instalments in relation to each Net Developable Hectare (or any part thereof) comprised in a proposed subdivision plan for any part of that Landowner's Land prior to the issue of that Subdivision Certificate which relates to that part of the Landowner's Land (subject to paragraph 2.2 of this Schedule 3).</p> <p>When calculating amounts payable by a Landowner in respect of the Employment Contribution payable by that Landowner, all amounts (other than amounts payable under paragraph 2.7 of Schedule 3) that have been paid by that Landowner in respect of the First Interim Employment Contribution Instalment, the Second Interim Employment Contribution Instalment, the Third Interim Employment Contribution Instalment and the Fourth Interim Employment Contribution Instalment shall be taken into account so that, in calculating amounts payable in respect of the Employment Contribution referred to in Item 1 of this Schedule, each Landowner will be deemed to have paid an amount equivalent to such components of the First Interim Employment Contribution Instalment, the Second Interim Employment Contribution Instalment, the Third Interim Employment Contribution Instalment and the Fourth Interim Employment Contribution Instalment that have already been paid by that Landowner (other than amounts payable under paragraph 2.7 of Schedule 3).</p>

<p>First Interim Employment Contribution Instalment</p> <p>The First Interim Employment Contribution Instalment payable is \$200,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) (First Interim Employment Contribution Instalment) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$59,815.39 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; • \$77,308.98 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land; • \$37,198.54 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Vianello; • \$11,837.53 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Mint Holdings; and • \$13,839.56 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Holicombe. 	<p>The First Interim Employment Contribution Instalment Date (subject to paragraph 2.2 of this Schedule 3).</p>
<p>Second Interim Employment Contribution Instalment</p> <p>The Second Interim Employment Contribution Instalment payable is \$200,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) (Second Interim Employment Contribution Instalment) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$87,242.54 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; and • \$112,757.46 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land. 	<p>The Second Interim Employment Contribution Instalment Date (subject to paragraph 2.2 of this Schedule 3).</p>
<p>Third Interim Employment Contribution Instalment</p>	<p>The Third Interim Employment Contribution Instalment Date (subject to</p>

<p>The Third Interim Employment Contribution Instalment payable is \$200,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) (Third Interim Employment Contribution Instalment) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$87,242.54 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; and • \$112,757.46 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land, <p>in each case together with an additional amount where paragraph 2.7 of Schedule 3 applies, calculated in accordance with paragraph 2.8 of Schedule 3.</p>	<p>paragraph 2.2 of this Schedule 3).</p>
<p>Fourth Interim Employment Contribution Instalment</p> <p>The Fourth Interim Employment Contribution Instalment payable is \$200,000 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) (Fourth Interim Employment Contribution Instalment) apportioned between the Landowners as follows:</p> <ul style="list-style-type: none"> • \$87,242.54 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Lensworth; and • \$112,757.46 (as increased by CPI Indexation pursuant to paragraph 3 of Schedule 3) payable by Norwest Land, <p>in each case together with an additional amount where paragraph 2.7 of Schedule 3 applies, calculated in accordance with paragraph 2.8 of Schedule 3.</p>	<p>The Fourth Interim Employment Contribution Instalment Date (subject to paragraph 2.2 of this Schedule 3).</p>
<p>ITEM 3. DEDICATION OF LAND</p> <p>Each of Mint Holdings, Vianello, Lensworth and Norwest Land will separately dedicate to Council (and Council agrees to accept each such dedication) any part of its Land which comprises any part of the Surveyors Creek Corridor, provided that the relevant Landowner has completed the last outstanding item of any part of the Trunk Drainage Works and the Biodiversity Corridor Planting Works to be located on that</p>	<p>The dedication of any part of the Surveyors Creek Corridor will occur:</p> <p>(a) no earlier than two years after the date on which the relevant Landowner has completed the last outstanding item of the Trunk Drainage Works and the Biodiversity Corridor Planting</p>

<p>part of the Land owned by that Landowner to be dedicated.</p>	<p>Works on that part of the Surveyors Creek Corridor owned by that Landowner; and</p> <p>(b) no later than the Surveyors Creek Corridor Dedication Date.</p>
<p>ITEM 4. TRUNK DRAINAGE WORKS</p> <p>The Trunk Drainage Works means those works referred to in section 5.1 of the Glenmore Park Stage 2 Development Contributions Plan 2007, being those works detailed on the concept sketches set out in Annexure C and to be carried out by Lensworth, Norwest, Vianello and Mint Holdings.</p>	<p>To be completed:</p> <p>(a) in respect of any Trunk Drainage Works to be carried out on that part of the Land owned by Lensworth, by Lensworth prior to the date on which a Subdivision Certificate is issued that refers to the 250th Residential Lot to be created in respect of any part of the Land owned by Lensworth;</p> <p>(b) in respect of any Trunk Drainage Works to be carried out on that part of the Land owned by Norwest, by Norwest prior to the date on which a Subdivision Certificate is issued that refers to the 225th Residential Lot to be created within the Surveyors Creek Catchment, Precincts D and E, on that part of the Land owned by Norwest;</p> <p>(c) in respect of any Trunk Drainage Works to be carried out on that part of the Land owned by Vianello, by Vianello prior to the date on which a Subdivision Certificate is issued that refers to the 150th Residential Lot to be created in respect of any part of the Land owned by Vianello; and</p> <p>(d) in respect of any Trunk Drainage Works to be carried out on that part of the Land owned by Mint Holdings, by Mint Holdings prior to the date on which a Subdivision Certificate is issued that refers</p>

	<p>to the 45th Residential Lot to be created in respect of any part of the Land owned by Mint Holdings,</p> <p>or, in each case, as required by any relevant Development Consent issued by the Council.</p>
<p>ITEM 5. BIODIVERSITY CORRIDOR PLANTING WORKS</p> <p>The Biodiversity Corridor Planting Works means those works referred to in section 5.2 of the Glenmore Park Stage 2 Development Contributions Plan 2007, being those works detailed on the concept sketches set out in Annexure D and to be carried out by Lensworth, Norwest, Vianello and Mint Holdings.</p>	<p>To be completed:</p> <p>(a) in respect of any Biodiversity Corridor Planting Works to be carried out on that part of the Land owned by Lensworth, by Lensworth prior to the date on which a Subdivision Certificate is issued that refers to the 250th Residential Lot to be created in respect of any part of the Land owned by Lensworth;</p> <p>(b) in respect of any Biodiversity Corridor Planting Works to be carried out on that part of the Land owned by Norwest, by Norwest prior to the date on which a Subdivision Certificate is issued that refers to the 300th Residential Lot to be created within the Surveyors Creek Catchment, Precincts D and E, on that part of the Land owned by Norwest;</p> <p>(c) in respect of any Biodiversity Corridor Planting Works to be carried out on that part of the Land owned by Vianello, by Vianello prior to the date on which a Subdivision Certificate is issued that refers to the 225th Residential Lot to be created in respect of any part of the Land owned by Vianello; and</p> <p>(d) in respect of any Biodiversity Corridor Planting Works to be carried out on that part of the Land owned by Mint Holdings, by Mint Holdings prior to the</p>

	date on which a Subdivision Certificate is issued that refers to the 45th Residential Lot to be created in respect of any part of the Land owned by Mint Holdings.
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2. Total Affordable Housing Contributions and Employment Contributions

2.1 Landowners acknowledgement

The Landowners acknowledge that despite any other provision of this deed:

- (a) the aggregate of all Affordable Housing Contributions payable by the Landowners to the Council under this deed is \$1,000,000 (subject to CPI indexation as contemplated by paragraph 3 of this Schedule 3) ("**Total Affordable Housing Contributions**"); and
- (b) the aggregate of all Employment Contributions payable by the Landowners to the Council under this deed is \$1,600,000 (subject to CPI indexation as contemplated by paragraph 3 of this Schedule 3) ("**Total Employment Contributions**").

2.2 Ability to pay

- (a) Council acknowledges that despite any other provision of this deed, a Landowner may pay to Council all or any part of its Affordable Housing Contribution or its Employment Contributions prior to the date specified in column 2 of the table in paragraph 1 of this Schedule 3 (providing that at such time, in respect of a Landowner, Council has issued a Subdivision Certificate for any part of the Land owned by that Landowner).
- (b) For clarity and despite paragraph 1 of this Schedule 3, if only the First or Second Interim Employment Contribution Instalments have been paid by the date which is the second anniversary of the Gazettal Date, then no further Employment Contributions need to be paid until at least 200 allotments have become the subject of a Subdivision Certificate in respect of the Land.

2.3 Total Affordable Housing Contributions

If, in respect of a Landowner, prior to the issue of the last Subdivision Certificate for the last stage of the Land owned by that Landowner (i.e. there are no further Subdivision Certificates to be applied for or issued in respect of that Landowner's land), that Landowner:

- (a) has not paid to Council an amount equivalent to the amount of Total Affordable Housing Contributions allocated to that Landowner under Item 1 of this Schedule 3 ("**AH Amount Payable**"), then that Landowner must, within 30 Business Days after any request from the Council, pay to the Council any amount by which the AH Amount Payable is more than the amount actually paid or payable by the Landowner under this deed for Affordable Housing Contributions; or
- (b) paid or payable to Council an amount which is more than the AH Amount Payable, then the Council must, within 30 Business Days after any request from that Landowner, pay to that Landowner any amount by which the actual total amount

paid or payable by that Landowner under this deed for Affordable Housing Contributions is more than the AH Amount Payable.

2.4 Total Employment Contributions

If, in respect of a Landowner, prior to the issue of the last Subdivision Certificate for the last stage of the Land owned by that Landowner (i.e. there are no further Subdivision Certificates to be applied for or issued in respect of that Landowner's land), that Landowner has:

- (a) not paid to Council an amount equivalent to the amount of Total Employment Contributions allocated to that Landowner under Item 2 of this Schedule 3 ("**Employment Amount Payable**"), then that Landowner must, within 30 Business Days after any request from the Council, pay to the Council any amount by which the actual Employment Amount Payable is more than the amount paid or payable by the Landowner under this deed for Employment Contributions; or
- (b) paid to Council an amount which is more than the Employment Amount Payable, then the Council must, within 30 Business Days after any request from that Landowner, pay to that Landowner any amount by which the total amount paid or payable by that Landowner under this deed for Employment Contributions is more than the Employment Amount Payable.

2.5 Subdivision Certificates

- (a) That part of the Affordable Housing Contribution and Employment Contribution payable by each Landowner shall be payable by each Landowner (pursuant to Items 1 and 2 in the Table in paragraph 1 of this Schedule 3) progressively by instalments on or prior to the dates referred to in Column 2 of Items 1 and 2 in the Table in paragraph 1 of this Schedule 3.
- (b) Lensworth agrees to notify each other Landowner of the issue by Council of the first Subdivision Certificate which relates to any part of the Land owned by Lensworth within 15 Business Days of the date of issue of that Subdivision Certificate.
- (c) Norwest Land agrees to notify each other Landowner of the issue by Council of the first Subdivision Certificate which relates to any part of the Land owned by Norwest Land within 15 Business Days of the date of issue of that Subdivision Certificate.

2.6 Certification - Net Developable Hectares

This paragraph 2.6 of Schedule 3 applies to any Development Contribution which is payable progressively in relation to the number of Net Developable Hectares (or any part thereof) in a Subdivision Certificate to be issued by Council.

- (a) Prior to a Landowner making a Development Contribution payment to Council in connection with the anticipated issue by Council of a Subdivision Certificate in accordance with the table in paragraph 1 of Schedule 3, that Landowner must provide to Council a certification (acceptable to the Council (acting reasonably)) signed by the Surveyor which confirms the number of Net Developable Hectares (or any part thereof) applicable to that Subdivision Certificate ("**Surveyor's Certification**").

- (b) Within 7 Business Days of receiving a Surveyor's Certification, the Council must notify the relevant Landowner of its acceptance (or otherwise) of any such Surveyor's Certification.
- (c) If the Council notifies the relevant Landowner that it does not accept a Surveyor's Certification or otherwise fails to notify the relevant Landowner within the 7 Business Day period referred to in paragraph (b), then such action will be deemed to be a dispute for the purposes of this deed and will be resolved in accordance with Schedule 5.

2.7 Interest

- (a) Subject always to paragraph 2.7(f), in the event the Council decides to fund economic development initiatives for employment purposes prior to the Third Interim Employment Contribution Instalment Date or the Fourth Interim Employment Contribution Instalment Date (as the case may be), the Council must notify the Landowners in writing 60 Business Days before it commits to pay money for any such economic development initiative where that payment would have been funded from the payment of the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be) if those payments were made by the relevant Landowner on the relevant Employment Contribution Date.
- (b) At the request of the Landowners, the Council agrees to meet with the Landowners in good faith to discuss all matters in connection with the proposed funding of the economic development initiatives referred to in paragraph 2.7(a) of this Schedule 3, the purpose of those initiatives, the timing of the funding of those initiatives and the adverse impacts (if any) on any of the Landowners in respect to funding those initiatives prior to any relevant Employment Contribution Date.
- (c) The Council agrees to have regard to any comments made by the Landowners at the meeting referred to in paragraph 2.7(b) of this Schedule 3 in determining whether to commit to funding the economic development initiatives referred to in paragraph 2.7(a) of this Schedule 3 prior to the Third Interim Employment Contribution Instalment Date or the Fourth Interim Employment Contribution Instalment Date (as the case may be).
- (d) At any time after the meeting referred to in paragraph 2.7(b) of this Schedule 3, the Council may, subject always to paragraph 2.7(f), give the Landowners notice in writing that it has determined to fund economic development initiatives for employment purposes prior to the Third Interim Employment Contribution Instalment Date or the Fourth Interim Employment Contribution Instalment Date (as the case may be).
- (e) In the event Council gives the Landowners the notice referred to in paragraph 2.7(d) of this Schedule 3, subject always to paragraph 2.7(f), an extra amount calculated in accordance with paragraph 2.8 of this Schedule 3 will become payable by the Landowners in addition to, and at the same time as, each of the Third Interim Employment Contribution Instalment and the Fourth Interim Employment Contribution Instalment to the extent that any of such Employment Contributions are paid by any Landowner later than the relevant Employment Contribution Date for any of those respective Employment Contributions. For clarity, the parties acknowledge that no such extra amount will be payable in respect of each of the First Interim Employment Contribution Instalment and the Second Interim Employment Contribution Instalment.

- (f) Council agrees and acknowledges that:
- (i) it will not be entitled to fund economic development initiatives for employment purposes prior to:
 - A. in respect of the Third Interim Employment Contribution Instalment, prior to the second anniversary of the First Interim Employment Contribution Instalment Date; and
 - B. in respect of the Fourth Interim Employment Contribution Instalment, prior to the third anniversary of the First Interim Employment Contribution Instalment Date; and
 - (ii) any such funding must not exceed \$200,000 per year determined from the second anniversary of the First Interim Employment Contribution Instalment Date.

2.8 Increased Employment Contributions

In the event the Council gives the Landowners a notice referred to in paragraph 2.7(d) of this Schedule 3 (but subject always to paragraph 2.7(f)), the amount of the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be) will be increased in accordance with the following formula:

$$ICIA = ICA + QA$$

Where:

ICIA means the increased amount of the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be) payable under this paragraph 2.8.

ICA means the amount of each of the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be) as provided for in Column 1 of Item 2 in Schedule 3, as increased by CPI indexation as provided for in paragraph 3 of Schedule 3.

QA means the aggregate of the amounts determined in accordance with the following formula as calculated for each Quarter during the period from:

- (i) in respect of the Third Interim Employment Contribution Instalment, the date which is the second anniversary of the First Interim Employment Contribution Instalment Date until the Third Interim Employment Contribution Instalment is paid; and
- (ii) in respect of the Fourth Interim Employment Contribution Instalment, the which is the third anniversary of the First Employment Contribution Instalment Date until the Fourth Interim Employment Contribution Instalment is paid.

$$QA = \frac{(CA \times R \times D)}{365}$$

Where:

CA means the lesser of:

- (a) the amount of the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be) referred to in Column 1 of Item 2 in Schedule 3 (before any increase by CPI indexation pursuant to paragraph 3 of Schedule 3); and
- (b) the amount Council actually funds in respect of economic development initiatives referred to in any notice issued by Council pursuant to paragraph 2.7(d) of this Schedule 3 to the extent those amounts have been funded by Council prior to the Third Interim Employment Contribution Instalment or the Fourth Interim Employment Contribution Instalment (as the case may be).

R means the Interest Rate on the last day of each such Quarter.

D means the number of days in each such Quarter.

3. CPI Indexation

3.1 Indexation by CPI

All amounts in Column 1 of the table in Schedule 3 and paragraph 2.1 of this Schedule 3 (to the extent that they have not already been paid in accordance with this deed) are subject to a review on a Review Date to reflect changes in the Consumer Price Index.

If on a Review Date, the Current CPI exceeds the Previous CPI, the amounts in Column 1 of the table in Schedule 3 and paragraph 2.1 of this Schedule 3 (to the extent that they have not already been paid in accordance with this deed) are multiplied by the Current CPI and divided by the Previous CPI.

4. Payments (part Net Developable Hectare)

The amount which is payable by a Landowner for a Development Contribution on any part of a Net Developable Hectare under column 1 of the table in Schedule 3 is to be calculated on a pro-rata basis such that the amount payable for that part of a Net Developable Hectare is equivalent to the amount payable by that Landowner for a whole Net Developable Hectare multiplied by the proportion (expressed as a decimal fraction) that that part of a Net Developable Hectare bears to the whole Net Developable Hectare.

5. Trunk Drainage Works and Biodiversity Corridor Planting Works

5.1 Trunk Drainage Works

Each of Lensworth, Norwest Land, Vianello and Mint Holdings (**Relevant Landowners**) agree to:

- (a) procure the necessary approvals in respect of that part of the Trunk Drainage Works to be constructed on the relevant part of its Land; and
- (b) design and carry out that part of the Trunk Drainage Works to be constructed on the relevant part of its Land,

as provided for in this Schedule.

5.2 Biodiversity Corridor Planting Works

Each of the Relevant Landowners agree to:

- (a) procure the necessary approvals in respect of that part of the Biodiversity Corridor Planting Works to be constructed on the relevant part of its Land; and
- (b) design and carry out that part of the Biodiversity Corridor Planting Works to be constructed on the relevant part of its Land,

as provided for in this Schedule.

5.3 Lodgement of form of Development Applications with Council

- (a) The Relevant Landowners must, in the identical form it is proposed to be lodged with the Consent Authority, lodge with the Council for its approval the form of Development Application in respect of each of:
 - (i) the Trunk Drainage Works; and
 - (ii) the Biodiversity Corridor Planting Works.
- (b) Where the Council's approval is required under paragraph 5.3(a) of this Schedule, the Council must notify the Relevant Landowners in writing whether or not it approves the form of Development Application referred to in paragraph 5.3(a) within 20 Business Days after the Council receives:
 - (i) a notice from the Relevant Landowners requesting the Council's approval; and
 - (ii) a copy of the proposed form of Development Application.
- (c) The Relevant Landowners acknowledge that:
 - (i) in giving or withholding its approval to a form of Development Application referred to in paragraph 5.3(a) of this Schedule, the Council is not acting in the capacity of a consent or approvals authority; and
 - (ii) in giving its approval to a form of Development Application referred to in paragraph 5.3(a) of this Schedule, the Council may impose reasonable conditions.
- (d) The Council agrees not to unreasonably withhold its approval to the form of any Development Application referred to in paragraph 5.3(a) of this Schedule nor impose any unreasonable conditions where:
 - (i) the form of Development Application in respect of the Trunk Drainage Works is generally consistent with the concept sketches set out in Annexure C; and
 - (ii) the form of Development Application in respect of the Biodiversity Corridor Planting Works is generally consistent with the concept sketches set out in Annexure D.
- (e) The Council must, at all times when exercising its rights under this paragraph 5.3, act reasonably.

- (f) If the Relevant Landowners believe the Council has acted unreasonably in breach of this paragraph 5.3 or dispute the opinion of the Council set out in the notice referred to in paragraph 5.3(b) of this Schedule, those Landowners must give a notice to that effect to the Council within 5 Business Days of the Council's notice given under and by virtue of paragraph 5.3(b) of this Schedule, and the provisions of Schedule 5 will apply to that dispute.
- (g) Notwithstanding paragraph 5.3(e) of this Schedule, the Council agrees not to unreasonably withhold its approval to the form of Development Application referred to in paragraph 5.3(a) of this Schedule.
- (h) If the Council withholds its approval to the form of Development Application referred to in paragraph 5.3(a) of this Schedule, it will promptly notify the Relevant Landowners of its reasons.
- (i) Upon receipt by the Relevant Landowners of any notice referred to in paragraph 5.3(h) of this Schedule, the Relevant Landowners must either:
 - (i) as soon as practicable, amend the proposed form of Development Application referred to in paragraph 5.3(a) of this Schedule taking the Council's reasons into account, and re-submit the amended proposed form of Development Application to the Council for its approval; or
 - (ii) promptly advise the Council in writing that they dispute the Council's reasons, in which case the matter must be resolved in accordance with Schedule 5.
- (j) If, following referral of the matter to dispute resolution, it is determined that:
 - (i) the Council was entitled to withhold its approval to the proposed form of Development Application, then paragraph 5.3(i)(i) of this Schedule will apply; or
 - (ii) the Council was not entitled to withhold its approval to the proposed form of Development Application, then the Council must reconsider the form of Development Application in accordance with the terms of this deed.
- (k) If the Relevant Landowners submit to the Council the form of Development Application referred to in paragraph 5.3(a) of this Schedule, the Council will be deemed to have approved the proposed form of Development Application if the Council does not notify the Relevant Landowners that it approves or does not approve the proposed form of Development Application within 20 Business Days after the date on which the Council receives the proposed form of Development Application, and the Council must from the date of deemed approval perform its obligations under this deed as if it had approved that proposed form of Development Application.

5.4 Development Consent

When exercising its rights as the Consent Authority for the purpose of determining whether to issue a Development Consent in respect of the Development Applications referred to in paragraph 5.3(a) of this Schedule, the Council must have regard to:

- (a) whether the Development Application in respect of the Trunk Drainage Works is generally consistent with the concept sketches set out in Annexure C; and
- (b) whether the Development Application in respect of the Biodiversity Corridor Planting Works is generally consistent with the concept sketches set out in Annexure D.

5.5 CC Applications

- (a) Each of the Relevant Landowners must at its risk and expense:
 - (i) prepare a form of CC Application for such parts of the Trunk Drainage Works and the Biodiversity Corridor Planting Works to be located on any part of its Land which comprises part of the Surveyors Creek Corridor;
 - (ii) submit any form of CC Application referred to in paragraph (i) to the Council for its approval prior to finalising that CC Application; and
 - (iii) have regard (acting reasonably) to the comments and recommendations made by the Council when finalising that CC Application.
- (b) Where the Council's approval is required under paragraph 5.5(a)(ii) of this Schedule, the Council must notify the Relevant Landowner in writing whether or not it approves the form of CC Application referred to in 5.5(a)(ii) within 20 Business Days after the Council receives:
 - (i) a notice from the Relevant Landowner requesting the Council's approval; and
 - (ii) a copy of the proposed form of CC Application.
- (c) The Relevant Landowners acknowledge that in giving or withholding its approval to a form of CC Application, the Council is not acting in the capacity of a consent or approvals authority.
- (d) At the request of the Relevant Landowner, the Council must provide to the Relevant Landowner any details that the Council may have in connection with any aspect of the form of CC Application for each relevant part of the Trunk Drainage Works and the Biodiversity Corridor Planting Works.
- (e) The Council must, at all times when exercising its rights under this paragraph 5.5, act reasonably.
- (f) If a Relevant Landowner believes the Council has acted unreasonably in breach of this paragraph 5.5 or disputes the opinion of the Council set out in the notice referred to in paragraph 5.5(b) of this Schedule, that Landowner must give a notice to that effect to the Council within 5 Business Days of the Council's notice given under and by virtue of paragraph 5.5(b) of this Schedule, and the provisions of Schedule 5 will apply to that dispute.
- (g) Notwithstanding paragraph 5.5(e) of this Schedule, the Council agrees not to unreasonably withhold its approval to the form of CC Application referred to in paragraph 5.5(a)(ii) of this Schedule.

- (h) If the Council withholds its approval to the form of CC Application referred to in paragraph 5.5(a)(ii) of this Schedule, it will promptly notify the Relevant Landowner of its reasons.
- (i) Upon receipt by the Relevant Landowner of any notice referred to in paragraph 5.5(h) of this Schedule, the Relevant Landowner must either:
 - (i) as soon as practicable, amend the proposed form of CC Application referred to in paragraph 5.5(a)(ii) of this Schedule taking the Council's reasons into account, and re-submit the amended proposed form of CC Application to the Council for its approval; or
 - (ii) promptly advise the Council in writing that it disputes the Council's reasons, in which case the matter must be resolved in accordance with Schedule 5.
- (j) If, following referral of the matter to dispute resolution, it is determined that:
 - (i) the Council was entitled to withhold its approval to the proposed form of CC Application, then paragraph 5.5(i)(i) of this Schedule will apply; or
 - (ii) the Council was not entitled to withhold its approval to the proposed form of CC Application, then the Council must reconsider the form of CC Application in accordance with the terms of this deed.
- (k) If a Relevant Landowner submits a form of CC Application to the Council, the Council will be deemed to have approved that proposed form of CC Application if the Council does not notify that Relevant Landowner that it approves or does not approve the proposed form of CC Application within 20 Business Days after the date on which the Council receives the proposed form of CC Application, and the Council must from the date of deemed approval perform its obligations under this deed as if it had approved the proposed form of CC Application.

6. Access to Land dedicated to Council

With effect from the date on which any part of the Land which comprises the Surveyors Creek Corridor is dedicated to Council pursuant to Item 3 of paragraph 1 in Schedule 3:

- (a) Council grants access to that part of the Land to each Landowner to the extent access to that part of the Land is reasonably required by the Landowners to:
 - (i) construct raingardens (including, without limitation, water quality devices);
 - (ii) carry out road, drainage and utility works; and
 - (iii) maintain the Biodiversity Corridor Planting Works; and
- (b) Council agrees, at the request of any Landowner, to:
 - (i) grant any easement for Services in respect of any part of that Land as is reasonably required by a Service Provider;
 - (ii) procure the registration by Land and Property Information New South Wales of any such easement; and

- (iii) seek the reimbursement of its reasonable administrative and legal costs with respect to the grant by it of any easement and any costs incurred in connection with the grant of that easement.

Schedule 4 - Release and Discharge Terms

- (a) If, in respect of all Residential Lots the subject of a Subdivision Certificate ("**Relevant Lots**"), a Landowner is not in breach of its obligations under this deed (as determined by the Council (acting reasonably)), then upon the issue by Council of that Subdivision Certificate the Council must promptly:
 - (i) provide a release and discharge of the Planning Agreement to the extent that the Planning Agreement affects those Relevant Lots; and
 - (ii) do all things necessary to enable the extinguishment of the Planning Agreement from title of those Relevant Lots.

- (b) If the whole or any part of the Land is sold, transferred or disposed by a Landowner ("**Transfer Land**") and the requirements of Schedule 7 have been satisfied in respect of that sale, transfer or disposal, then the Council must promptly:
 - (i) provide a release and discharge of the Planning Agreement to the extent that the Planning Agreement affects the Transfer Land; and
 - (ii) do all things necessary to enable the extinguishment of the Planning Agreement from title of those Relevant Lots.

- (c) If this Planning Agreement is at any time registered on an separate allotment of land which is not the Land, then at the request of the Landowner of that land, Council must promptly do all things necessary to enable the extinguishment of the Planning Agreement from title of that land.

Schedule 5 - Dispute resolution

1. Notice of Dispute

If a dispute between the Council and any of the other Parties (either jointly or severally) arises in connection with this deed or its subject matter, then any Party may give to the other Parties a notice of dispute in writing adequately identifying and providing details of the dispute.

The Parties must continue to perform their respective obligations under this deed if there is a dispute but will not be required to complete the matter, the subject of the dispute, unless each Party indemnifies the other Parties against cost, damages and all losses suffered in completing the disputed matter if the dispute is not resolved in favour of the indemnifying Party.

2. Further steps required before proceedings

Any dispute between the Council and the other Parties (either jointly or severally) arising in connection with this deed or its subject matter must as a condition precedent to the commencement of litigation first be the subject of mediation between a person appointed from time to time by each Party to the dispute (under written notice to the other Parties) to represent that Party.

3. Disputes for expert determination

If the mediation referred to in paragraph 2 has not resulted in settlement of the dispute, any Party may, with the prior written consent of each other Party, refer the matter to expert determination in accordance with paragraph 4, such expert to act in accordance with the requirements of this Schedule 5.

4. Choice of expert

A dispute to be referred to an expert in accordance with paragraph 3 must be determined by an independent expert in the relevant field:

- (a) agreed between and appointed jointly by the Parties; or
- (b) in the absence of agreement within 5 Business Days of the agreement of the Parties to refer the matter to expert determination under paragraph 3, appointed by the President or other senior officer for the time being of the body administering the relevant field.

If the Parties cannot agree as to the relevant field, any one Party may refer the matter to the President of the New South Wales Bar Association (or the President's nominee) whose decision as to the relevant field is final and binding on the Parties.

5. Requirements for expert

The expert appointed to determine a dispute:

- (a) must have a technical understanding of the issues in contest;
- (b) must not have a significantly greater understanding of one Party's business or operations which might allow the other side to construe this greater understanding as a bias or a conflict of interest;

- (c) must inform the Parties before being appointed the extent of the expert's understanding of each Party's business or operations and, if that information indicates a possible bias, then that expert must not be appointed except with the written approval of the Parties.

The Parties must enter into an agreement with the expert appointed under this Schedule 8 setting out the terms of the expert's determination and the fees and expenses payable to the expert.

6. Directions to expert

In reaching a determination in respect of a dispute under paragraph 3, the independent expert must give effect to the intent of the Parties entering into this deed.

7. Expert not arbitrator

The expert must:

- (a) act as an expert and not as an arbitrator; and
- (b) proceed in any manner as the expert thinks fit but must observe the rules of natural justice but not the rules of evidence, not accept verbal submission unless both Parties are present and on receipt of written submissions from one Party ensure that a copy of such submission is given promptly to the other Party; and
- (c) take into consideration all documents, information and other material which the Parties give the expert which the expert in its absolute discretion considers relevant to the determination of the dispute; and
- (d) not be expected or required to obtain or refer to any other documents, information or material (but may do so if the expert so wishes); and
- (e) issue a draft certificate stating the expert's intended determination giving each Party 15 Business Days to make further submissions; and
- (f) issue a final certificate stating the expert's determination; and
- (g) act with expedition with a view to issuing the final certificate as soon as practicable.

8. Compliance with directions

The Parties must comply with all directions given by the expert in relation to the resolution of the dispute and must within a time period specified by the expert, give the expert:

- (a) a short statement of facts; and
- (b) a description of the dispute; and
- (c) any other documents, records or information the expert requests.

9. Expert may commission reports

The expert may commission the expert's own advisers or consultants (including lawyers, accountants, bankers, engineers, surveyors or other technical consultants) to provide information to assist the expert in making a determination. The Parties must indemnify the expert for the cost of those advisers or consultants.

10. Expert may convene meetings

- (a) The expert will hold a meeting with all the Parties present to discuss the dispute. The meeting must be conducted in a manner which the expert considers appropriate. The meeting may be adjourned to, and resumed at, a later time in the expert's discretion.
- (b) The Parties agree that a meeting under this paragraph is not a hearing and is not an arbitration.

11. Final determination of expert and expert's costs

- (a) The Parties agree that the final determination by an expert will be final and binding upon them.
- (b) The expert or mediator will not be liable in respect of the expert determination or mediation, except in the case of fraud or misfeasance by the expert or mediator.
- (c) The Parties agree to release and indemnify the expert from and against all claims, except in the case of fraud or misfeasance by the expert, which may be made against the expert by any person in respect of the expert's appointment to determine the dispute.
- (d) Council must pay 50% of the expert's costs in making the determination and the relevant other Parties to the dispute must (jointly) pay 50% of the expert's costs in making the determination.

12. Other courses of action

If the mediation referred to in paragraph 2 does not result in resolution of the dispute and one of the Parties does not agree to refer the matter to expert determination in accordance with paragraph 3, any Party may take whatever course of action it deems appropriate for the purpose of resolving the dispute, including (without limitation) by commencing proceedings in any Court of competent jurisdiction.

13. Confidentiality of information

The Parties agree, and must procure that, the mediator and expert agrees as a condition of his or her appointment:

- (a) subject to paragraph (b) below, to keep confidential all documents, information and other material, disclosed to them during or in relation to the expert determination or mediation; and
- (b) not to disclose any confidential documents, information and other material except:
 - (i) to a Party or adviser who has signed a confidentiality undertaking to the same effect as this paragraph 13; or
 - (ii) if required by Law or the ASX Listing Rules to do so; or
- (c) not to use confidential documents, information or other material disclosed to them during or in relation to the expert determination for a purpose other than the expert determination or mediation.

The Parties must keep confidential and must not disclose or rely upon or make the subject of a subpoena to give evidence or produce documents in any arbitral, judicial or other proceedings:

- (d) views expressed or proposals or suggestions made by a Party or the expert during the expert determination or mediation relating to a possible settlement of the dispute; and
- (e) admissions or concessions made by a Party during the expert determination or mediation in relation to the dispute; and
- (f) information, documents or other material concerning the dispute which are disclosed by a Party during the expert determination or mediation unless such information, documents or facts will have been otherwise discoverable in judicial or arbitral proceedings.

Schedule 6 - Not Used

Schedule 7 - Assignment and Dealing Terms

1.1 Landowner rights to sell the whole of its interest in the Land

- (a) Each Landowner must not sell, transfer or dispose of the whole of its interest in the Land (other than a Residential Lot) ("**Transfer Land**") unless before it sells, transfers or disposes of the Transfer Land to another person ("**Transferee**"):
 - (i) the Transferee delivers to the Council and each other Landowner a deed signed by the Transferee in a form substantially the same as the Accession Deed set out in Annexure E, such deed to contain provisions under which the Transferee agrees to comply with all the obligations of the relevant Landowner under this deed as if it were joined as a party to this deed in the place of the relevant Landowner (including obligations which arose before the transfer, assignment or disposition); and
 - (ii) subject to paragraph 1.1(d) of this Schedule 7, any default by the relevant Landowner under any provision of this deed has been remedied by that relevant Landowner or waived by the Council on such conditions as the Council may determine in its absolute discretion; and
 - (iii) the relevant Landowner and the Transferee pay the Council's and the other Landowners reasonable Costs in relation to that assignment.
- (b) If a Landowner sells, transfers or disposes of the whole of its interest in the Land and fully satisfies the requirements of paragraph 1.1(a) of this Schedule 7, the Landowner will be fully released from its obligations under this deed.
- (c) Despite the requirements of paragraphs 1.1(a) or 1.2(a) of this Schedule 7, the Landowners have the right to sell, transfer or dispose of any part of their Land without first satisfying the obligations in this deed provided that Council is satisfied (acting reasonably) that adequate security has been provided to ensure compliance with any obligations under this deed which remain to be performed, in respect of the relevant part of the Land to be transferred.
- (d) The Landowners and the Council agree that paragraph 1.1(a)(ii) of this Schedule 7 does not apply where the Council is of the opinion that the relevant Landowner has defaulted under a provision of this deed and either:
 - (i) it is determined pursuant to Schedule 5 that the relevant Landowner has not defaulted under that provision of this deed; or
 - (ii) the Transferee agrees to assume the obligations of the relevant Landowner in respect of that default by virtue of, and pursuant to, the Accession Deed referred to in paragraph 1.1(a)(i) of this Schedule 7.

1.2 Landowner rights to sell any part of its interest in the Land

- (a) Each Landowner must not sell, transfer or dispose of any part (but not the whole) of its interest in the Land (other than a Residential Lot) unless before it sells, transfers or disposes of any such part of the Land to another person ("**Proposed Transferee**"):

- (i) the Proposed Transferee delivers to the Council and each other Landowner a deed signed by the Proposed Transferee in a form substantially the same as the Accession Deed set out in Annexure E, such deed to contain provisions under which the Proposed Transferee agrees to comply with so many of the obligations of the relevant Landowner under this deed as the Proposed Transferee and the relevant Landowner agree ("**Transferred Obligations**") as if it were joined as a party to this deed in the place of the relevant Landowner (including obligations which arose before the transfer, assignment or disposition) in relation to the Transferred Obligations only; and
 - (ii) subject to paragraph 1.2(c) of this Schedule 7, any default by the relevant Landowner under any provision of this deed has been remedied by that relevant Landowner or waived by the Council on such conditions as the Council may determine in its absolute discretion; and
 - (iii) the relevant Landowner and the Proposed Transferee pay the Council's and the other Landowners reasonable Costs in relation to that assignment.
- (b) If a Landowner sells, transfers or disposes of any part of its interest in the Land and fully satisfies the requirements of paragraph 1.2(a) of this Schedule 7, the Landowner will be released from its obligations under this deed to the extent that such sale, transfer or disposal relates to the Transferred Obligations.
- (c) The Landowners and the Council agree that paragraph 1.2(a)(ii) of this Schedule 7 does not apply where the Council is of the opinion that the relevant Landowner has defaulted under a provision of this deed and either:
- (i) it is determined pursuant to Schedule 5 that the relevant Landowner has not defaulted under that provision of this deed; or
 - (ii) the Proposed Transferee agrees to assume the obligations of the relevant Landowner in respect of that default by virtue of, and pursuant to, the Accession Deed referred to in paragraph 1.2(a)(i) of this Schedule 7.

Schedule 8 - Costs

Each Party to this deed will pay their own Costs.

Schedule 9 - General terms

1. Notices

1.1 Form

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

- (a) delivered or posted to that Party at its address set out below; or
- (b) faxed to that Party at its fax number set out below;

Council

Address: 601 High Street, PENRITH NSW 2751

Telephone: 02 4732 7777

Fax: (02) 4732 7958

Attention: The Legal and Governance Manager

Lensworth

Address: 133 Castlereagh Street, SYDNEY NSW 2000

Telephone: (02) 9035 2871

Fax: (02) 8988 2871

Attention: Andrew Boyd

Norwest Land

Address: FKP House, Level 4, 17-19 Bridge Street, SYDNEY NSW 2000

Telephone: (02) 9270 6100

Fax: (02) 9270 6199

Attention: Cameron Lamb

S & A Vianello

Address: "Hills of Home" 2183 The Northern Road, MULGOA NSW 2745

Telephone: (02) 4736 6838

Fax: (02) 4736 6838

Attention: Emilio Vianello

Mint Holdings

Address: 36 South Street RYDALMERE NSW 2166
Telephone: (02) 9898 8625
Fax: (02) 9898 1877
Attention: Bee Hong Leo

Holicombe

Address: 2091 Castlereagh Road, PENRITH NSW 2570
Telephone: (02) 4723 9900
Fax: (02) 4721 1809
Attention: Scott Jameson

1.2 Change of address

If a Party gives another Party 3 Business Days notice of a change of its address or fax number, any notice, consent, information, application, or request is only given or made by that other Party if it is delivered, posted or faxed to the latest address or fax number.

1.3 Receipt

Any notice, consent, information, application or request is to be treated as given or made at the following time:

- (a) if it is delivered, when it is left at the relevant address;
- (b) if it is sent by post, 2 Business Days after it is posted; and
- (c) if it is sent by fax, as soon as the sender receives from the sender's fax machine a report of an error free transmission to the correct fax number.

1.4 Receipt - next Business Day

If any notice, consent, information, application or request is delivered, or an error free transmission report in relation to it is received, on a day that is not a Business Day, after 5pm on that day in the place of the Party to whom it is sent, it is to be treated as having been given or made at the beginning of the next Business Day.

2. Approvals and Consent

Except as otherwise set out in this deed, and subject to any statutory obligations, the Council may give or withhold an approval or consent to be given under this deed in its absolute discretion and subject to any conditions determined by the Council. The Council is not obliged to give its reasons for giving or withholding consent or for giving consent subject to conditions.

3. Assignment and dealings

None of the Parties to this deed may assign or otherwise deal with its rights under this deed or allow any interest in this deed to arise or be varied in each case unless stated otherwise in Schedule 7.

4. Costs

The costs regarding the negotiation, preparation and execution of this deed are to be borne by the Parties in accordance with Schedule 8.

The costs of stamping and registration of this deed are to be borne by the Landowners.

5. Further Acts

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

6. Governing Law and Jurisdiction

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

7. No fetter

Nothing in this deed is to be construed as requiring an Authority to do anything that would cause it to be in breach of any of its obligations at Law, and without limitation:

- (a) nothing in this deed is to be construed as limiting or fettering in any way the exercise of any statutory discretion or duty; and
- (b) nothing this deed imposes any obligation on a Consent Authority to:
 - (i) grant development consent or project approval; or
 - (ii) exercise any function or power under the Act in relation to a change, or a proposed change, in an environmental planning instrument.

8. Representations and warranties

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

9. Severability

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

10. Modification

No modification of this deed will be of any force or effect unless it is in writing and signed by the Parties as a deed.

11. Waiver

- (a) The fact that a Party fails to do, or delays in doing, something the Party is entitled to do under this deed, does not amount to a waiver of any obligation of, or a breach of obligation by, another Party.
- (b) A waiver by a Party is only effective if it is in writing.
- (c) A written waiver by a Party is only effective in relation to the particular obligation or breach in respect of which it is given. It is not to be taken as an implied waiver of any other obligation or breach or as an implied waiver of that obligation or breach in relation to any other occasion.

12. Confidentiality**12.1 This deed not confidential**

The Parties agree that the terms of this deed are not confidential and the Documents may be treated as a public document and notified or exhibited or reported without restriction by any Party.

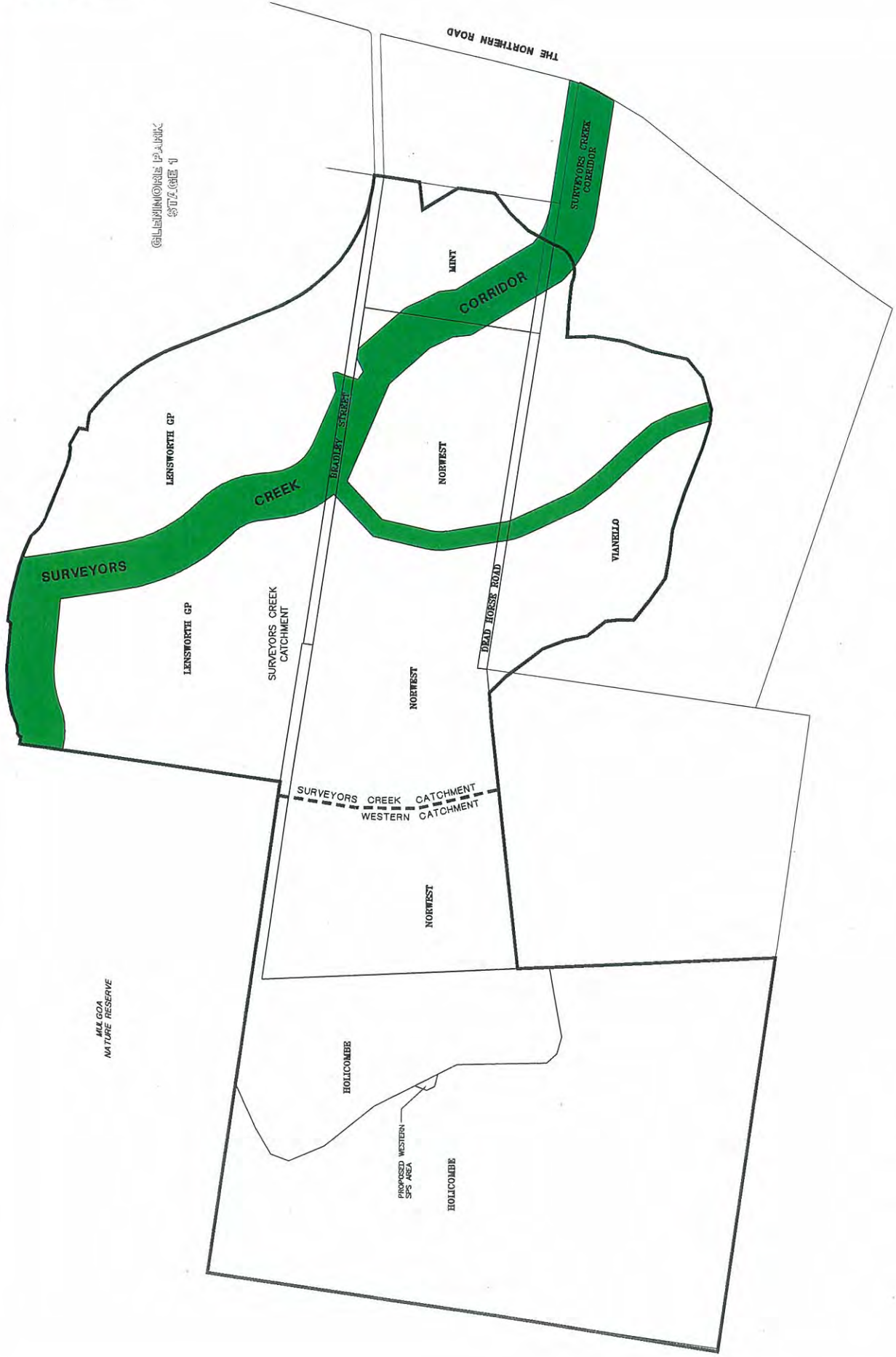
13. Counterparts

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

Annexure A - Plan of Surveyors Creek Corridor



GLENMORE PARK STAGE 1



MUL GOA NATURE RESERVE



GLENMORE PARK 2

J. Wyndham Prince Pty. Ltd.

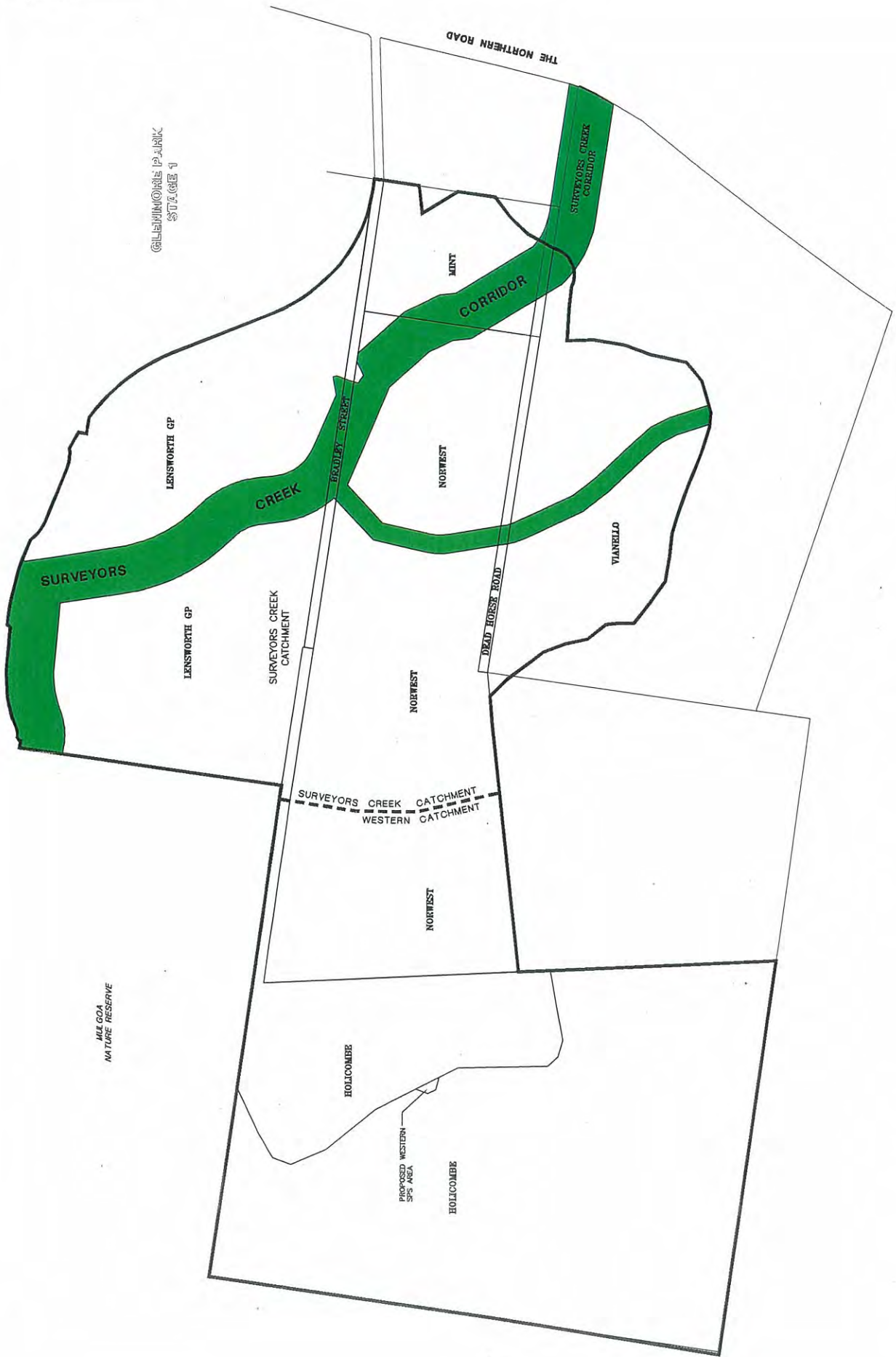
CONSULTING CIVIL ENGINEERS
 EMAIL: jwp@jwp.com.au
 PH: 083 4752 3888
 FAX: 083 471 7788

7633/MP/A2-C

Annexure B - Surveyors Creek Catchment Plan



GLENMORE PARK
STAGE 1



GLENMORE PARK 2

J. Wyndham Prince Pty. Ltd.


 CONSULTING CIVIL ENGINEERS
 EMAIL: jw@wyndhamprince.com.au
 PHONE: 0752 422 328
 FAX: 0752 421 788
 7633/MP/A2-C

Annexure C - Trunk Drainage Works



LEGEND

EXHIBIT OF VPA

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH LANDOWNER. ANY CHANGE TO THE STREAM INVERT LEVELS, CHANNEL BEDROCKS, OR BOUNDARIES WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.

ADVANCE COPY ONLY
NOT FOR CONSTRUCTION

APPROVED:	KANDIRSON	DATE:	
CHECKED:	KANAKAN	DATE:	





CONTINUES DWG 8133SK53
 ADVANCE COPY ONLY
 NOT FOR CONSTRUCTION

APPROVED: _____ DATE: _____
 CHECKED: _____ ENGINEER: _____



NOTE:
 1. DRAINAGE LINES SHOWN IN ROAD ARE FOR ILLUSTRATION ONLY AND NOT PART OF THE VPA
 2. FOOTPATH & CYCLEWAYS ARE FOR ILLUSTRATION AND ARE NOT PART OF THE VPA ETC.

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH LANDOWNER. ANY CHANGE TO THE STREAM INVERT LEVELS AT LAND BOUNDARIES WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.

LEGEND

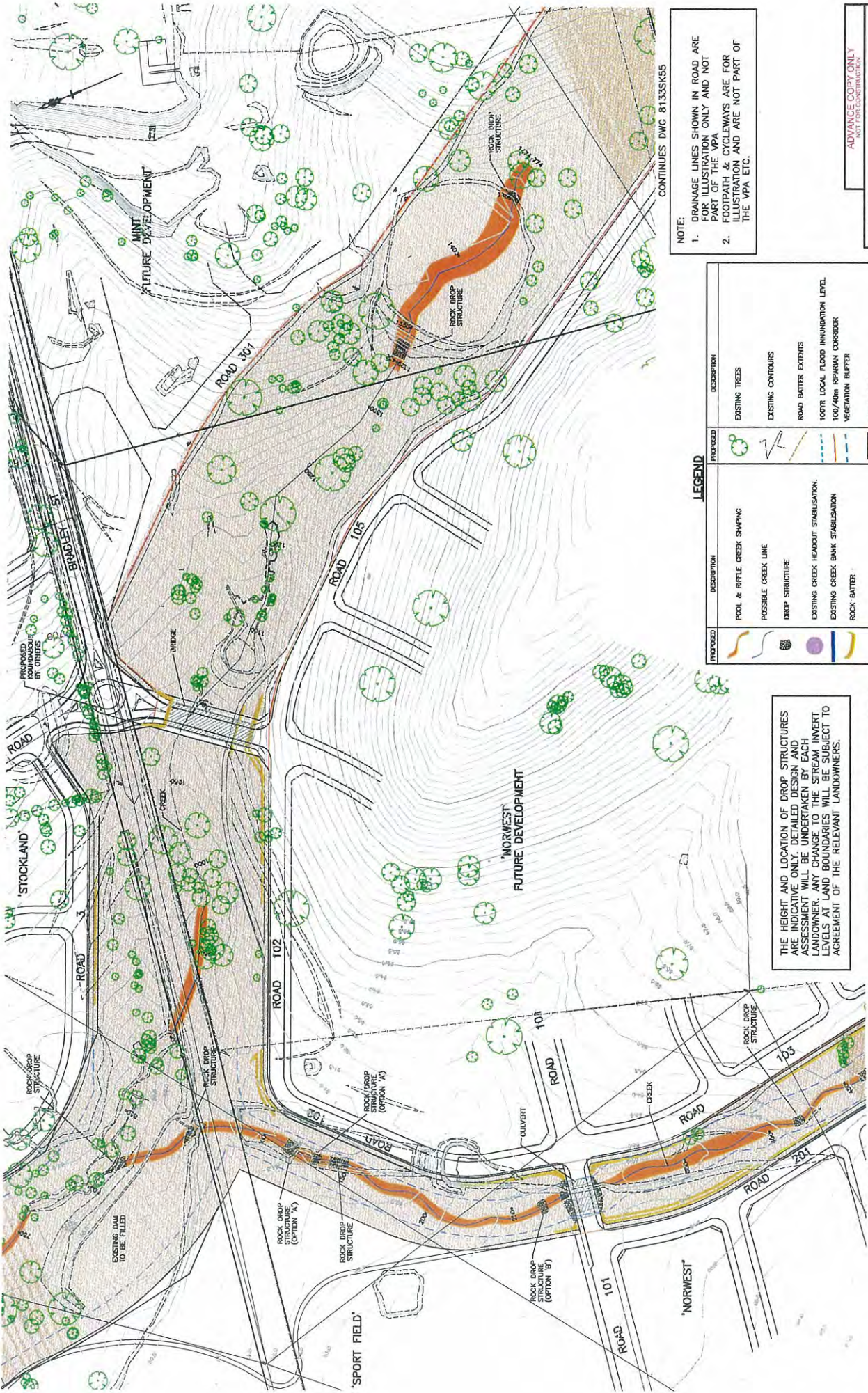
PROPOSED	DESCRIPTION	PROPOSED	DESCRIPTION
	POOL & RIFFLE CREEK SHAPING		EXISTING TREES
	POSSIBLE CREEK LINE		EXISTING CONTOURS
	DROP STRUCTURE		ROAD BATTER EXTENDS
	EXISTING CREEK HEADOUT STABILISATION		100M LOCAL FLOOD INUNDATION LEVEL
	EXISTING CREEK BANK STABILISATION		100/40M RIPARIAN CORRIDOR
	ROCK BATTER		VEGETATION BUFFER
			EXTENT OF VPA



VANELLO MINT HOLDINGS HOLICOMBE

CONTINUES DWG 81333DA2

CONTINUES DWG 81333K54



NOTE:
 1. DRAINAGE LINES SHOWN IN ROAD ARE PART OF THE VPA AND NOT PART OF THE VPA.
 2. FOOTPATH & CYCLEWAYS ARE FOR ILLUSTRATION AND ARE NOT PART OF THE VPA ETC.

PROPOSED	DESCRIPTION	PROPOSED	DESCRIPTION
	POOL & RIFFLE CREEK SNAPPING		EXISTING TREES
	POSSIBLE CREEK LINE		EXISTING CONTOURS
	DROP STRUCTURE		ROAD BATTER EXTENTS
	EXISTING CREEK HEADCUT STABILISATION		100YR LOCAL FLOOD INUNDATION LEVEL
	EXISTING CREEK BANK STABILISATION		100/40M STREAM CORRIDOR
	ROCK BATTER		VEGETATION BUFFER
			EXTENT OF VPA

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH PARTY. HEIGHTS AND LOCATIONS WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.



APPROVED: _____
 SANDBERSON / PABERL DATE: _____
 CHURCHILL / KENAKIAN DATE: _____

ADVANCE COPY ONLY
 NOT FOR CONSTRUCTION

CONTINUES DWG 8133SK53



NOTE:
 1. DRAINAGE LINES SHOWN IN ROAD ARE FOR ILLUSTRATION ONLY AND NOT PART OF THE VPA FOOTPATH & CYCLEWAYS ARE FOR ILLUSTRATION AND ARE NOT PART OF THE VPA ETC.

PROPOSED	DESCRIPTION	EXISTING	DESCRIPTION
	POOL & RIFLE CREEK SHAPING		EXISTING TREES
	POSSIBLE CREEK LINE		EXISTING CONTOURS
	DROP STRUCTURE		ROAD BATTER EXTENTS
	EXISTING CREEK HEADOUT STABILISATION		100YR LOCAL FLOOD INUNDATION LEVEL
	EXISTING CREEK BANK STABILISATION		100/40m RIPRAP CORRIDOR
	ROCK BATTER		VEGETATION BUFFER
			EXTENT OF VPA

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH LANDOWNER. ANY CHANGE TO THE STREAM INVERT LEVELS AT LAND BOUNDARIES WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.



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APPROVED: SANDERSON / PARRISH	DATE: _____
ENGINEER: SANDERSON	DRAWN: _____

CONTINUES DWG 8133SK53



NOTE:
 1. DRAINAGE LINES SHOWN IN ROAD ARE FOR ILLUSTRATION ONLY AND NOT PART OF THE VPA FOOTPATH & CYCLEWAYS ARE FOR ILLUSTRATION AND ARE NOT PART OF THE VPA ETC.

LEGEND

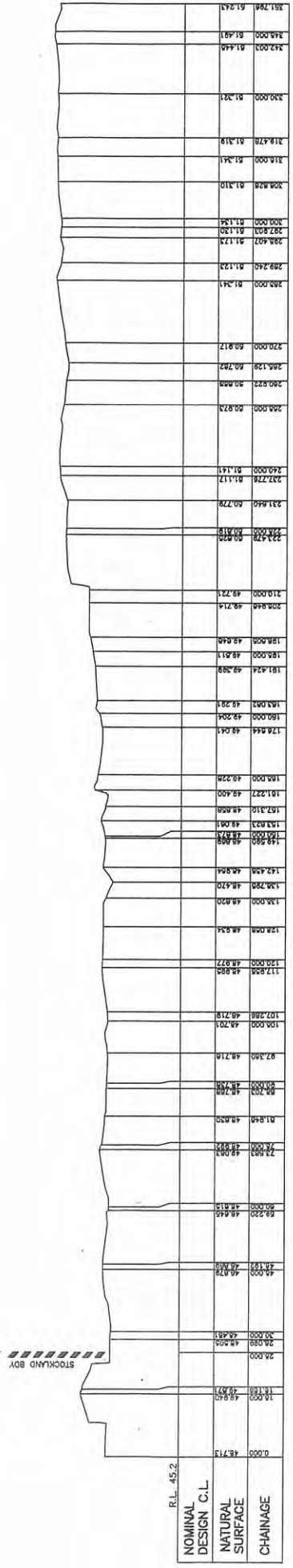
PROPOSED	DESCRIPTION	PROPOSED	DESCRIPTION
	POOL & RIFLE CREEK SHAPING		EXISTING TREES
	POSSIBLE CREEK LINE		EXISTING CONTOURS
	DROP STRUCTURE		ROAD BENTER EXTENTS
	EXISTING CREEK HEADCUT STABILISATION		100% LOCAL FLOOD INUNDATION LEVEL
	EXISTING CREEK BANK STABILISATION		100/40m REPAIR CORRIDOR
	ROCK BENTER		VEGETATION BUFFER
			EXTENT OF VPA

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH PARTY. ANY CHANGES TO THE STREAM INVERT LEVELS, WIDTH, AND BENTERS WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.



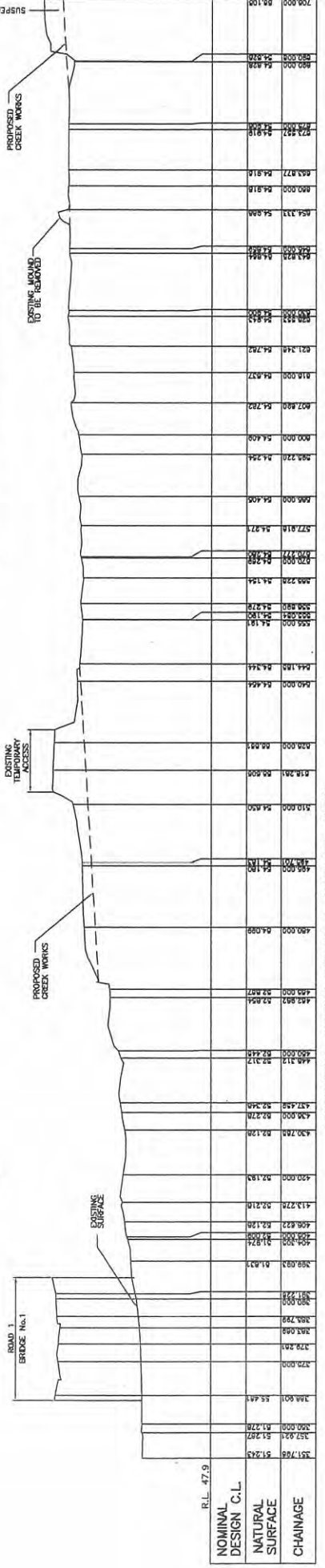
ADVANCE COPY ONLY NOT FOR CONSTRUCTION

APPROVED:	SANDERSON / F. MEBL	DATE:	
CHIEFCADD:	K. NAKKAN	DATE:	



LONGITUDINAL SECTION CREEK No.1 - CH00 - CH351.796
 SCALES: HORIZ: 1:500 VERT: 1:500

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH LANDOWNER. ANY CHANGE TO THE STREAM INVERT LEVELS AT LAND BOUNDARIES WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.



LONGITUDINAL SECTION CREEK No.1 - CH351.796 - CH705
 SCALES: HORIZ: 1:500 VERT: 1:500



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 NOT FOR CONSTRUCTION

APPROVED: _____ DATE: _____
 SANDERSON / PARTNERS
 CHECKED: _____ DATE: _____
 SANDERSON



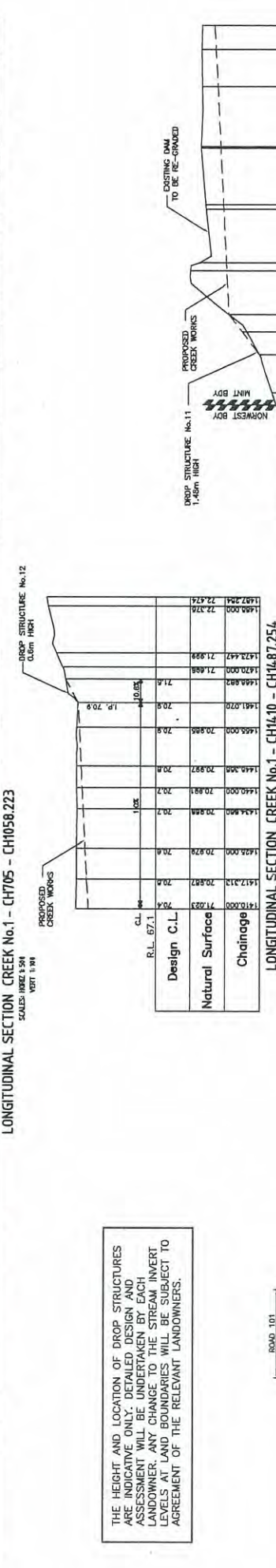
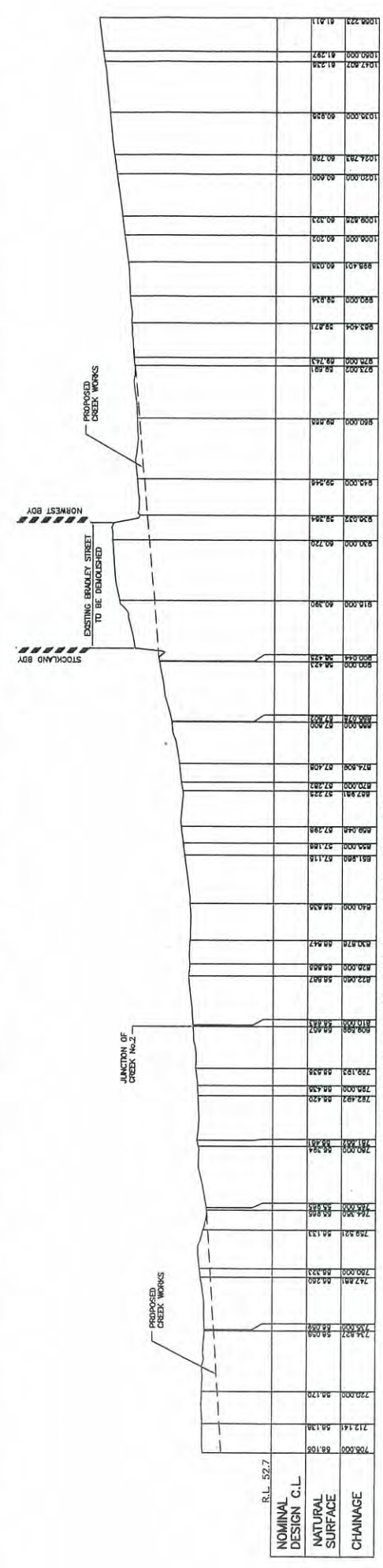
VANELLO MINT HOLDINGS HOLCOMBE

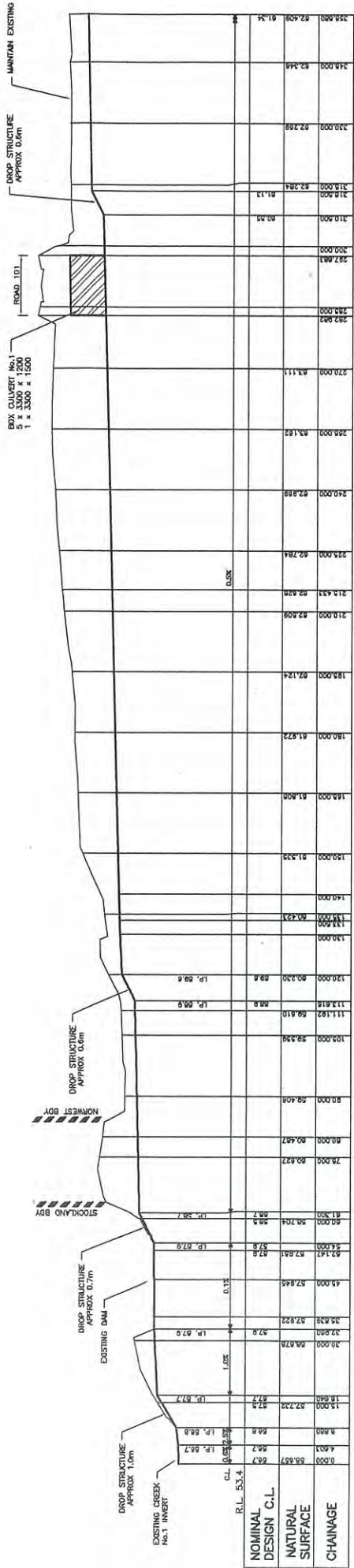
Glenmore Park

PROPOSED TRUNK DRAINAGE CORRIDOR
 CREEK No.1 LONGITUDINAL SECTION CH0.0 - CH705.00

8133 SK56

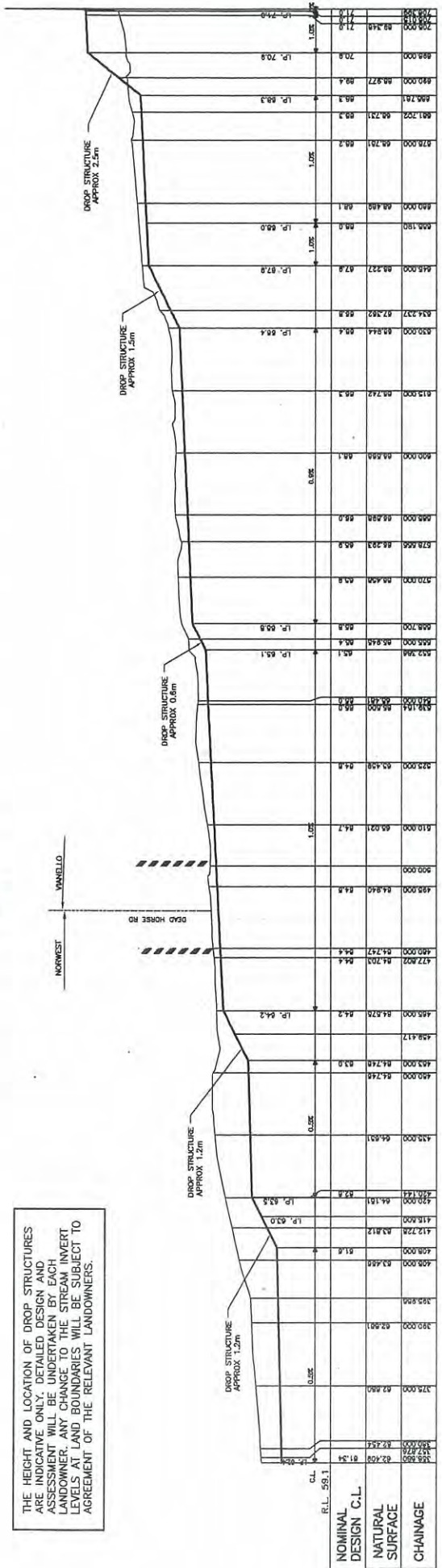
October 08





LONGITUDINAL SECTION CREEK No.2 - CH00 - CH356.680

THE HEIGHT AND LOCATION OF DROP STRUCTURES ARE INDICATIVE ONLY. DETAILED DESIGN AND ASSESSMENT WILL BE UNDERTAKEN BY EACH LANDOWNER. ANY CHANGE TO THE STREAM INVERT LEVELS AT LAND BOUNDARIES WILL BE SUBJECT TO AGREEMENT OF THE RELEVANT LANDOWNERS.

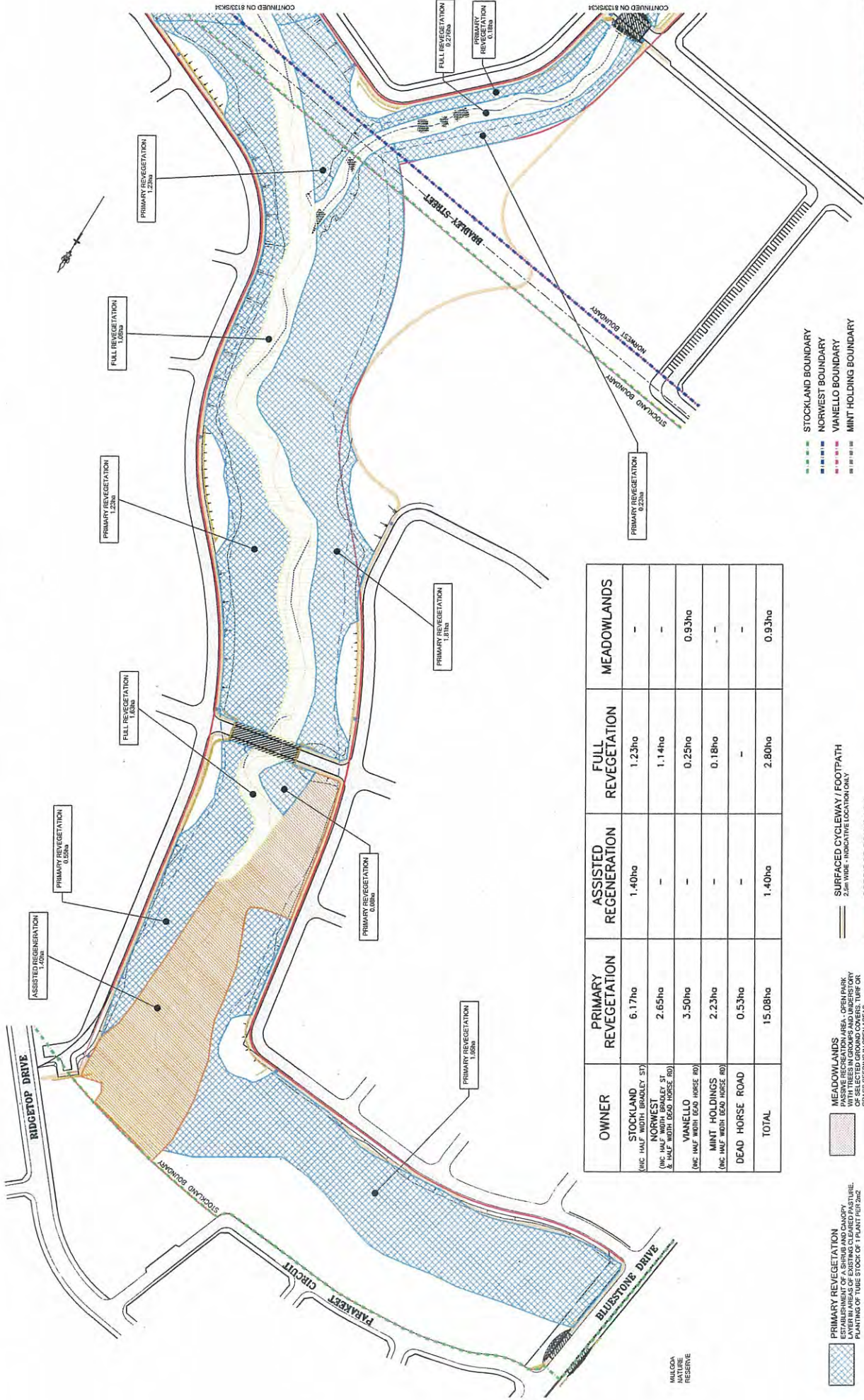


LONGITUDINAL SECTION CREEK No.2 - CH356.68 - CH706.399

APPROVED: _____ DATE: _____
 CHECKED: _____ DATE: _____
 SANDERSON / TAMEHL
 KNAIKAN



Annexure D - Biodiversity Corridor Planting Works



OWNER	PRIMARY REGENERATION	ASSISTED REGENERATION	FULL REGENERATION	MEADOWLANDS
STOCKLAND (INC HALF WIDTH BRADLEY ST)	6.17ha	1.40ha	1.23ha	-
NORWEST (INC HALF WIDTH BRADLEY ST & HALF WIDTH DEAD HORSE RD)	2.65ha	-	1.14ha	-
VIANELLO (INC HALF WIDTH DEAD HORSE RD)	3.50ha	-	0.25ha	0.93ha
MINT HOLDINGS (INC HALF WIDTH DEAD HORSE RD)	2.23ha	-	0.18ha	-
DEAD HORSE ROAD	0.53ha	-	-	-
TOTAL	15.08ha	1.40ha	2.80ha	0.93ha

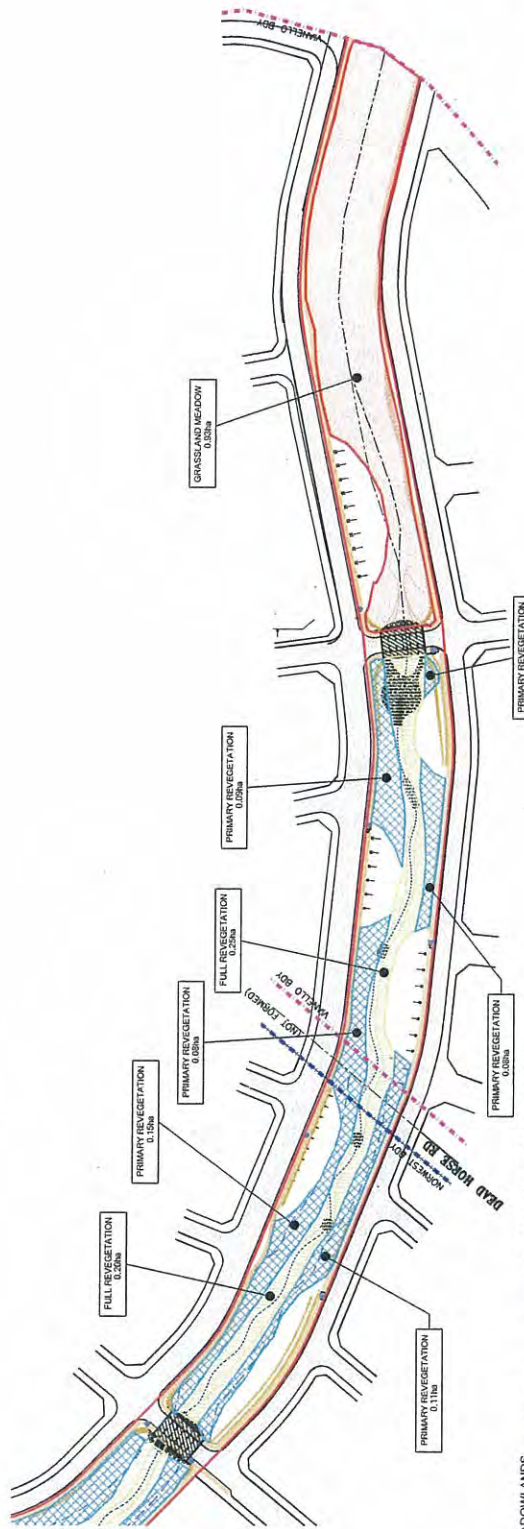
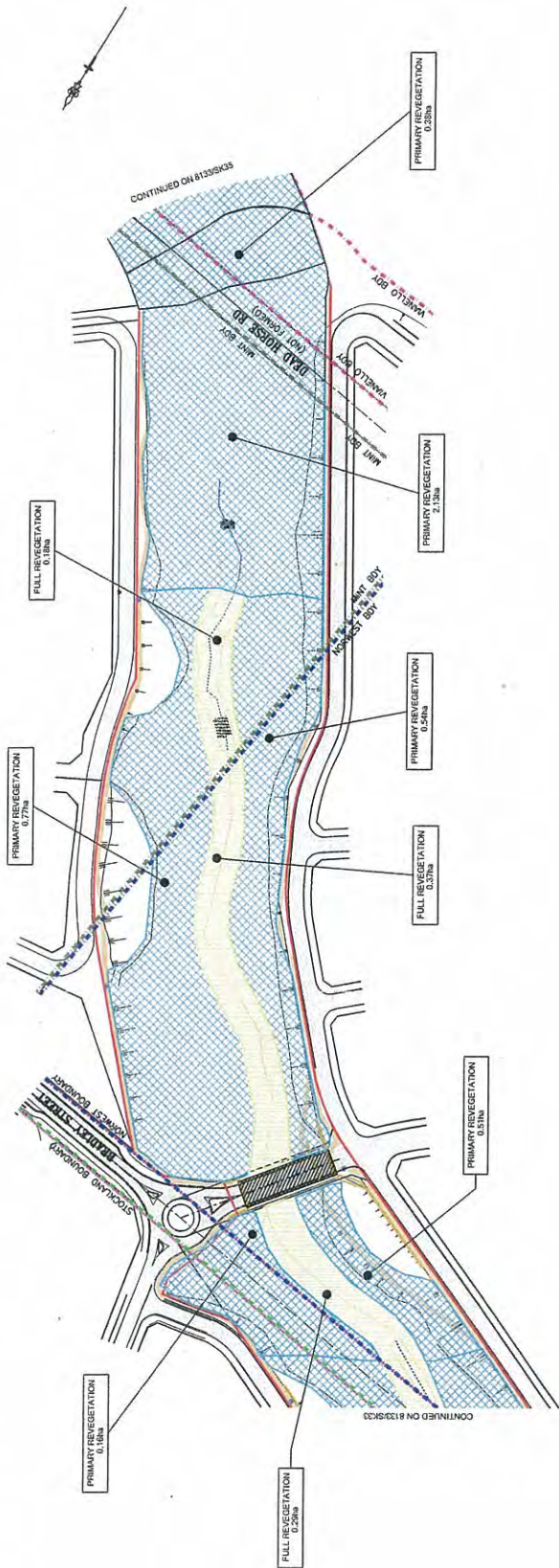
- PRIMARY REGENERATION**
MEADOWLANDS ARE OPEN BANKS WITH TREES IN GROWS AND UNDERSTORY OF SELECTED GROUND COVERS TURF OR GRASS SEEDING IN OPEN AREAS.
PLANTING OF TUBE STOCK @ 1 PLANT PER 2M²
- FULL REGENERATION**
AREAS OF EXISTING NATURAL VEGETATION WITH A MINIMUM WIDTH OF 10M.
PLANTING OF TUBE STOCK @ 5 PLANTS PER M² WITH JUTE MESH OR MATT.
- MEADOWLANDS**
AREAS OF EXISTING NATURAL VEGETATION WITH TREES IN GROWS AND UNDERSTORY OF SELECTED GROUND COVERS TURF OR GRASS SEEDING IN OPEN AREAS.
- ASSISTED REGENERATION**
AREAS OF EXISTING NATURAL VEGETATION WITH A MINIMUM WIDTH OF 10M.
REGENERATION METHODS AND SUPPLEMENTARY PLANTING OF TUBE STOCK PER M²
- SURFACED CYCLEWAY / FOOTPATH**
2.5m WIDE - INDICATIVE LOCATION ONLY
- CORRIDOR BOUNDARY**
- CORE RIPARIAN ZONE**
- ROCK WALLS**

1:1250 @ A1

11/250 @ A1

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APPROVED: SANDERSON / P. ABIL DATE: _____
CHECKED: K. NAKKAN DATE: _____



ADVANCE COPY ONLY
NOT FOR CONSTRUCTION

APPROVED: SANDERSON / FARHIL DATE: _____
CHECKED: KNANKAN DATE: _____

1:1250 @ A1
0 25 50 75 100 125
METRES

- STOCKLAND BOUNDARY
- NORWEST BOUNDARY
- VIANELLO BOUNDARY
- MINT HOLDING BOUNDARY

PRIMARY REVEGETATION
ESTABLISHMENT OF A SHRUB AND CANOPY LAYER IN AREAS OF EXISTING CLEARED PASTURE. PLANTING OF TUBE STOCK OF 1 PLANT PER 2M².

FULL REVEGETATION
FULLY STRUCTURED REVEGETATION WITH PLANTING OF TUBE STOCK AT A DENSITY OF 5 PLANTS PER HE WITH JUTE MESH OR MAT.

MEADOWLANDS
PASSIVE RECREATION AREA - OPEN PARK WITH TREES IN GROUPS AND UNDERSTORY PLANTING OF TUBE STOCK OF 1 PLANT PER 2M² GRASS SEEDING IN OPEN AREAS.

ASSISTED REGENERATION
TO BE REHABILITATED WITH BUSHLAND REGENERATION METHODS AND SUPPLEMENTARY PLANTING OF 1 TUBE STOCK PER HE.

SURFACED CYCLEWAY / FOOTPATH
2.5m WIDE - INDICATIVE LOCATION ONLY

CORRIDOR BOUNDARY
CORE RIPARIAN ZONE
ROCK WALLS

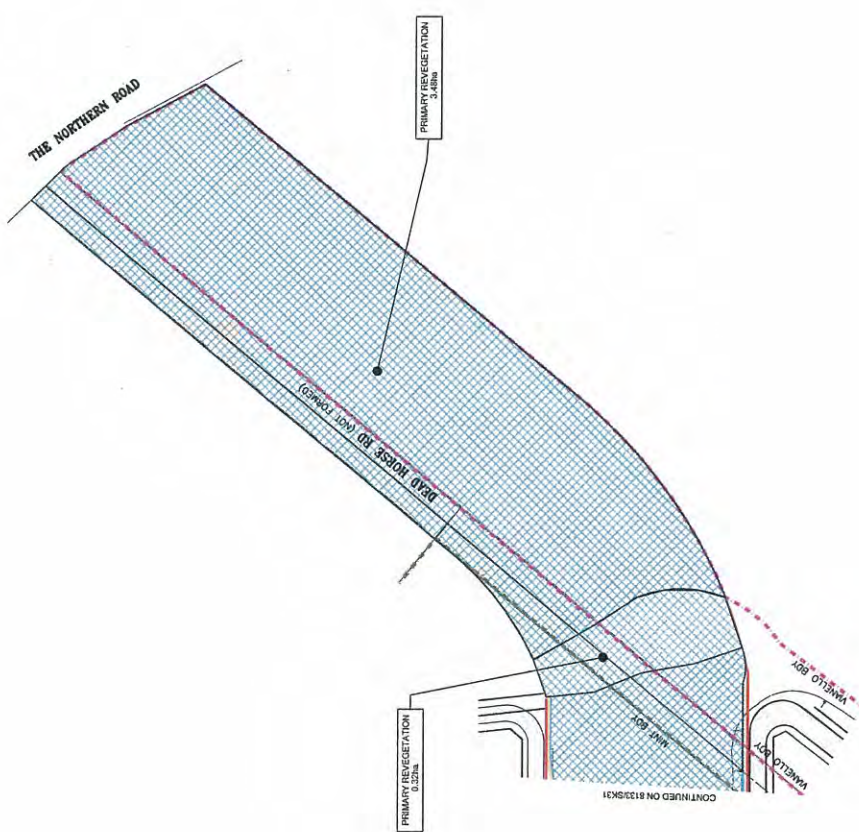


VIANELLO MINT HOLDINGS

Glenmore Park

8133 SK34B
September 08

PROPOSED REVEGETATION STRATEGY



<p>PRIMARY REVEGETATION ESTABLISHMENT OF A SHRUB AND CANOPY LAYER IN AREAS OF EXISTING CLEARED PASTURE. PLANTING OF TUBE STOCK AT 1 PLANT/7.5m².</p>	<p>MEADOWLANDS PASSIVE RECREATION AREA - OPEN PARK WITH TREES IN GROUPS AND UNDERSTORY PLANTING OF TURF OR GRASS SEEDING IN OPEN AREAS.</p>	<p>SURFACED CYCLEWAY / FOOTPATH 2.5m WIDE - INDICATIVE LOCATION ONLY</p>	<p>STOCKLAND BOUNDARY</p>
<p>FULL REVEGETATION PLANTING OF TUBE STOCK AT A DENSITY OF 5 PLANTS PER m² WITH LATE MESH OR MATT.</p>	<p>ASSISTED REGENERATION AREAS TO BE REHABILITATED WITH BUSHLAND REVEGETATION METHODS AND SUPPLEMENTARY PLANTING OF TUBE STOCK PER VE.</p>	<p>CORRIDOR BOUNDARY</p>	<p>NORWEST BOUNDARY</p>
<p>ROCK WALLS</p>	<p>CORE RIPARIAN ZONE</p>	<p>MINT HOLDING BOUNDARY</p>	<p>VIANELLO BOUNDARY</p>

APPROVED: _____ DATE: _____
 CHECKED: _____ DATE: _____
 SANDBERSON / F. ABILL
 KNANKAN

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Annexure E - Accession Deed

CLAYTON UTZ

Accession Deed

Penrith City Council

Council

Lensworth Glenmore Park Limited

Lensworth

Mulpha FKP Pty Limited trading as Norwest Land

Norwest Land

Holicombe Pty. Limited

Holicombe

Sergio & Assunta Vianello

Vianello

Mint Holdings Pty. Limited

Mint Holdings

[Insert Transferor's name]

Transferor

[Insert Transferee's name]

Transferee

Contents

1.	Definitions and interpretation.....	2
1.1	Definitions.....	2
1.2	References to certain general terms.....	3
1.3	Headings.....	3
2.	Novation.....	3
2.1	Original Agreement.....	3
2.2	Liability before Effective Date.....	4
3.	Affirmation of the Original Agreement.....	4
4.	GST.....	4
5.	Notices.....	4
6.	Further acts.....	4
7.	Governing law.....	5
8.	Counterparts deemed originals.....	5

Deed dated

Parties

Penrith City Council ABN 43 794 422 563 of 601 High Street, Penrith, NSW 2750

("Council")

Lensworth Glenmore Park Limited ABN 59 007 533 888 of 133 Castlereagh Street, SYDNEY NSW 2000

("Lensworth")

Mulpha FKP Pty Limited trading as Norwest Land ABN 27 000 004 633 of FKP House, Level 4, 17-19 Bridge Street, SYDNEY NSW 2000

("Norwest Land")

Holicombe Pty. Limited ABN 76 691 030 709 of 2091 Castlereagh Road, PENRITH NSW 2150

("Holicombe")

Sergio & Assunta Vianello ABN 27 709 051 547 of "Hills of Home" 2183 The Northern Road, MULGOA NSW 2745

("Vianello")

Mint Holdings Pty. Limited ABN 20 002 055 165 of 36 South Street RYDALMERE NSW 2166

("Mint Holdings")

(Collectively, the Land Owners)

[Insert Transferor's name] of **[insert]** (Transferor)

[Insert Transferee's name] of **[insert]** (Transferee)

Background

- A. The Council and the Landowners are parties to the Original Agreement.
- B. The Original Agreement relates to the Land.
- C. The Transferor wants to transfer [the whole of] [part or parts of] the Land comprising Lot **[insert Lot number]** in DP **[insert Deposited Plan number]**.

1. Definitions and interpretation

1.1 Definitions

Effective Date means **[insert]**.

Land has the meaning given to that term in the Original Agreement.

Original Agreement means the voluntary planning agreement dated **[insert]** and made between the Council and the Landowners.

Transferred Obligations means *[insert either:*

- (a) *all the obligations of the Transferor under the Original Agreement in the event the Transferor transfers the whole of its part of the Land; or*
- (b) *the obligations agreed by the Transferee and the Transferor pursuant to paragraph 1.2(a)(i) of Schedule 7 of the Original Agreement in the event the Transferor transfers only part of its part of the Land].*

1.2 References to certain general terms

In this Deed unless the contrary intention appears:

- (a) a reference to this Deed or another instrument includes any variation or replacement of them;
- (b) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;
- (c) the singular includes the plural and vice versa;
- (d) the word person includes a firm, body corporate, an unincorporated association or an authority;
- (e) a reference to a person includes a reference to the person's executors, administrators, successors, substitutes (including, without limitation, persons taking by novation) and assigns;
- (f) an agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally;
- (g) a reference to any thing (including, without limitation, any amount) is a reference to the whole or any part of it and a reference to a group of persons is a reference to anyone or more of them; and
- (h) "include" in any form when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar nature.

1.3 Headings

Headings are inserted for convenience and do not affect the interpretation of this Deed.

2. Novation

2.1 Original Agreement

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

- (a) the Transferee:
 - (i) is substituted for the Transferor as a party to the Original Agreement, and agrees to perform the Transferred Obligations; and
 - (ii) will be bound by the Original Agreement, and will be entitled to the benefit of the Original Agreement, as if the Transferee was a party to the

Original Agreement instead of the Transferor insofar as the Original Agreement relates to the Transferred Obligations;

- (b) the Transferor:
 - (i) ceases to be a party to the Voluntary Planning Agreement; and
 - (ii) is released and discharged from all obligations and liabilities, and from all claims (whether for costs, damages, fees, expenses or otherwise), arising under the Original Agreement insofar as the Original Agreement relates to the Transferred Obligations.

2.2 Liability before Effective Date

Notwithstanding clause 2.1, the Transferor is not released, relieved or discharged from liability under the Original Agreement before the Effective Date, or any breach which the Transferor may have committed before the Effective Date of any provision of the Original Agreement insofar as the Original Agreement relates to the Transferred Obligations.

3. Affirmation of the Original Agreement

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

4. GST

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

5. Notices

For the purposes of the Original Agreement, the address of the Transferee to which all notices, consents, requests and other documents required to be given or sent is as follows:

[insert Transferee's notice details].

6. Further acts

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

7. Governing law

This Deed is governed by and construed in accordance with the laws for the time being of New South Wales and the Landowners, including the Incoming Landowner, expressly submit to the jurisdiction of the Courts of New South Wales.

8. Counterparts deemed originals

This Deed may be executed in any number of counterparts, each of which will be deemed an original but all of which constitute one and the same instrument.

Executed as a deed.

The common seal of **The Council of The City of Penrith** was affixed under a resolution passed by Council on _____ in the presence of:

Signature of General Manager

Alan Stoneham

Executed by Lensworth Glenmore Park Limited in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Executed by Mulpha FKP Pty Limited in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Signature of Mayor

Jim Aitken OAM

Signature of Director or Sole Director and Secretary

Name of Director or Sole Director and Secretary in full

Signature of Director or Sole Director and Secretary

Name of Director or Sole Director and Secretary in full

Executed by Holicombe Pty. Limited in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Signed sealed and delivered by Sergio Vianello in the presence of:

Signature of Witness

Name of Witness in full

Signed sealed and delivered by Assunta Vianello in the presence of:

Signature of Witness

Name of Witness in full

Signature of Director or Sole Director and Secretary

Name of Director or Sole Director and Secretary in full

Signature

Signature

Executed by Mint Holdings Pty. Limited in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Executed by [Insert name of Transferor] in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Executed by [Insert name of Transferee] in accordance with section 127 of the *Corporations Act* by or in the presence of:

Signature of Secretary/other Director

Name of Secretary/other Director in full

Signature of Director or Sole Director and Secretary

Name of Director or Sole Director and Secretary in full

Signature of Director or Sole Director and Secretary

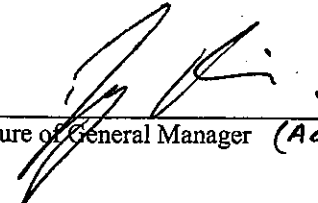
Name of Director or Sole Director and Secretary in full

Signature of Director or Sole Director and Secretary

Name of Director or Sole Director and Secretary in full

Executed as a Deed.

The common seal of **The Council of The City of Penrith** was affixed under a resolution passed by Council on *5 November 2007* in the presence of:



Signature of General Manager (Acting)

~~Alan Stoneham~~ *Barry Husking*

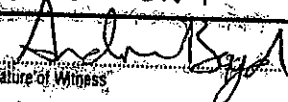
Signature of Mayor


Kevin D Cronin

~~Jim Aitken OAM~~ *Kevin Cramer OAM*

Executed by **Lensworth Glenmore Park Limited** in accordance with section 127 of the *Corporations Act* by or in the presence of:

Executed for and on behalf of Lensworth Glenmore Park Ltd ACN 007 533 888 by its duly authorised attorney under Power of Attorney registered in Book 4541 No. 451 who declares that he has no notification of revocation of the said Power of Attorney in the presence of:


Signature of Witness
ANDREW BOYD
Name of Witness
133 Castlereagh Street, Sydney
Address of Witness



Barry John Mann

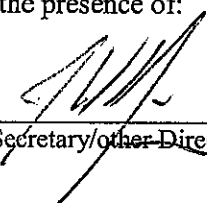
Signature of Secretary/other Director

Signature of Director or Sole Director and Secretary

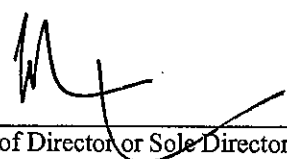
Name of Secretary/other Director in full

Name of Director or Sole Director and Secretary in full

Executed by **Mulpha FKP Pty Limited** in accordance with section 127 of the *Corporations Act* by or in the presence of:



Signature of Secretary/other Director



Signature of Director or Sole Director and Secretary

JOAN WOODHEAD

Name of Secretary/other Director in full

GEOFF GRAPY

Name of Director or Sole Director and Secretary in full

Executed by **Holicombe Pty. Limited** in accordance with section 127 of the *Corporations Act* by or in the presence of:

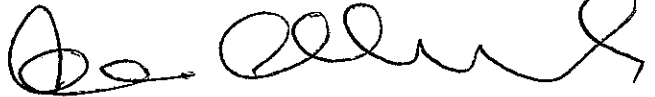


Signature of Secretary/other Director

ROBERT JOHN WEARN.

Name of Secretary/other Director in full

Signed sealed and delivered by **Sergio Vianello** in the presence of:

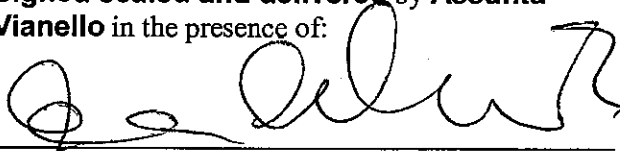


Signature of Witness

PAUL MATTHEWS

Name of Witness in full

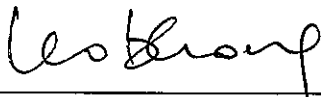
Signed sealed and delivered by **Assunta Vianello** in the presence of:



Signature of Witness

Name of Witness in full

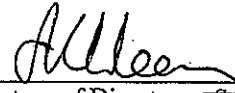
Executed by **Mint Holdings Pty. Limited** in accordance with section 127 of the *Corporations Act* by or in the presence of:



Signature of Secretary/other Director

BEE HONG LEO

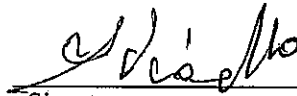
Name of Secretary/other Director in full



Signature of Director or Sole Director and Secretary

ADRIAN COLIN WEARN

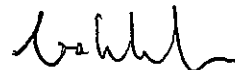
Name of Director or Sole Director and Secretary in full



Signature

A. Vianello

Signature



Signature of Director or Sole Director and Secretary

SOON SINN GOH

Name of Director or Sole Director and Secretary in full