

Annexure C: Amended Planning Agreement

Bingara Gorge (Wilton Parklands) Development Planning Agreement

Wollondilly Shire Council

DLL Wilton Pty Limited

Lend Lease Corporation Limited

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Planning Agreement

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Date

Parties

1. **Wollondilly Shire Council** of Frank McKay Building, 62-64 Menangle Street, Picton, New South Wales (the *Council*);
2. **DLL Wilton Pty Limited** (ABN 31 110 022 976) of Level 4, 30 The Bond, 30 Hickson Road, Sydney, New South Wales (*DLL Wilton*); and
3. **Lend Lease Corporation Limited** (ABN 32 000 226 228) of Level 4, 30 The Bond, 30 Hickson Road, Sydney, New South Wales (*LLC*).

Recitals

- A The Owner is the owner of the Land and has appointed DLL Wilton to carry out the Development.
- B The Land is within the Council's Local Government Area and the Council will be the consent authority for the Development under the Act.
- C The Land is subject to the LEP.
- D In recognition of:
- (a) the special circumstances relating to the provision of infrastructure and other public services and amenities required for a development of the magnitude proposed for the Land under the LEP;
 - (b) the flexibility which may be required in the provision of infrastructure and other public services and amenities required for the Development and the method of delivery of those services;
 - (c) the unique features of the proposed Development;
 - (d) the dedications, contributions and works which the Developer would be expected, as at the date of this deed, by Law (including the Act) to make to carry out the proposed Development; and
 - (e) the wish to co-ordinate the infrastructure and other services to be provided by the Council and the Developer,
- the Parties have entered into this deed.

E This deed is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act which, subject to clause 10.3, excludes the application of sections 94 and 94A (but not the application of section 94EF) of the Act to the Development.

It is agreed as follows.

PART 1 – Formal Matters

1. Definitions and interpretation

1.1 Dictionary

The following words have these meanings in this deed unless the contrary intention appears:

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

Alternative Delivery Outcome is the product of the alternative delivery process described in clause 14.5.

Australian Standards means any current applicable standard published by Standards Australia International Limited trading as Standards Australia.

Authority means a government, semi government, local government, statutory, public, ministerial, civil, administrative, fiscal or judicial body or other authority or body with relevant power or authority.

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

Bushfire Protection Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 2 of Annexure E.

Commencement Date means the date of this deed.

Community Association means the entity established under the Community Governance Structure which will be in control of those Works referred to in clauses 13.6, 13.7(a) and 14.4.

Community Governance Structure means the title, subdivision and management structure proposed for the Development.

Community Parks has the meaning given in clause 13.6.

Companion Animal Management Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 1 of Annexure E.

Confidential Information means any information and all other knowledge at any time disclosed (whether in writing or orally) by the Parties to each other, or acquired by the Parties in relation to the other's activities or services which is not already in the public domain and which:

- (a) is by its nature confidential;
- (b) is designated, or marked, or stipulated by either Party as confidential (whether in writing or otherwise);

- (c) any Party knows or ought to know is confidential; or
- (d) is information which may reasonably be considered to be of a confidential nature.

Contributions has the meaning given in clause 10.1.

Contributions Plan means the *Wollondilly Development Contributions Plan 2005 - December 2005*.

CPI means the Consumer Price Index (All Groups Index) for Sydney as published by the Australian Bureau of Statistics.

Default Notice has the meaning given in clause 4.1.

Developer means DLL Wilton and, if assignment is undertaken in accordance with clause 6.3, the relevant successor or assignee.

Development means the development of the Land in accordance with the Staged Development Consent, the Entry Road Development Consent, the Golf Course Development Consent, which includes 1,165 residential lots with minimum lot sizes as shown on the Concept Plan attached to the Staged Development Application and the use of the Land for the purposes (and generally in the areas) shown on the Concept Plan attached to the Staged Development Application for:

- (a) open space;
- (b) a mixed use village centre incorporating, but not limited to, commercial and retail uses;
- (c) community facilities;
- (d) recreational facilities (such as a golf course and golf driving range);
- (e) landscaped streets and access paths;
- (f) a sewage treatment plant and treated water reuse scheme; and
- (g) utility services,

and in accordance with all other consents granted by an Authority as may be necessary to carry out the Development.

Development Application means an application for Development Consent relating to the Development or any part of the Development.

Development Consent means a development consent granted under the Act by the Council relating to the Development or any part of the Land.

Development Cost means, in relation to an item of Work:

- (a) the construction cost of the relevant item of Work;
- (b) any costs incurred under a building contract in relation to the relevant item of Work;
- (c) the costs of any consultants engaged in relation to the relevant item of Work;
- (d) any costs or expenses payable to any Authority in relation to the relevant item of Work; and
- (e) costs incurred by the Developer in appointing the Quantity Surveyor referred to in clause 17(b)(i).

Discretion has the meaning given in clause 1.2.

Document includes agreement, deed, instrument, memorandum, note and the like.

Entry Road Development Consent means Development Consent ID 1556-04 granted by Council on 15 May 2006, a copy of which is attached in Annexure F, as amended from time to time.

Golf Course Development Consent means Development Consent ID 1558-04 granted by Council on 15 August 2005, a copy of which is attached in Annexure F, as amended from time to time.

Independent Engineer means an appropriately qualified and experienced civil engineer who is a member or is eligible to be a member of Engineers Australia and who has been approved by the Council (which approval must not be unreasonably withheld or delayed) prior to engagement by the Developer.

Index means the CPI, but if that index ceases to be published, such other index as the Council and the Developer may agree or, failing agreement, as determined under clause 5.

Land means Lots 200 to 211 in Deposited Plan 1104390 as shown on the Map.

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

LEADR means the body known as LEADR being Lawyers Engaged in Alternative Dispute Resolution or any body which substantially replaces it.

LEP means the *Wollondilly Local Environmental Plan 1991*.

Library, Information and Community Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 1 of Annexure C.

Library, Information and Community Works means the works and services set out in Part 2 of Annexure C.

Local Government Area means an area proclaimed under section 204(1) of the *Local Government Act 1993* (NSW).

LPI means the Office of Land and Property Information, New South Wales.

Map means the map which is attached in Annexure A.

Minister means the Minister for the time being administering (or jointly administering) the Act.

Miscellaneous Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 4 of Annexure E.

Monetary Contributions means any or all of the following:

- (a) the Open Space, Sporting and Recreation Monetary Contribution;
- (b) the Library, Information and Community Monetary Contribution;
- (c) the Transport and Traffic Management Monetary Contribution;
- (d) the Companion Animal Management Monetary Contribution;
- (e) the Bushfire Protection Monetary Contribution;
- (f) the Plan Management and Administration Monetary Contribution; and
- (g) the Miscellaneous Monetary Contribution.

Non-Residential Development means all development of the Land other than development for the purposes of:

- (a) a Residential Allotment;
- (b) open space;
- (c) utilities and associated facilities;
- (d) community and Community Association facilities;
- (e) golf course and golf maintenance facilities;
- (f) educational establishments and not for profit child care centres;
- (g) landscaped streets and access paths; and
- (h) medical or emergency services facility.

Open Space, Sporting and Recreation Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 1 of Annexure B.

Open Space, Sporting and Recreation Works means the works set out in Part 2 of Annexure B.

Owner means Bradcorp Wilton Park Pty Limited (ABN 69 086 388 212) and its successors or assigns.

Part means a Part of this deed.

Party means a party to this deed. **Parties** has a corresponding meaning.

Plan Management and Administration Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 3 of Annexure E.

Practical Completion means in respect of each item of the Works, the completion of the relevant Works except for minor matters which have not been completed but which are capable of completion without preventing the relevant Works from being used for their intended purpose.

Quantity Surveyor means a person who:

- (a) is a member of their respective professional organisation and has been for at least 5 years;
- (b) practises as a quantity surveyor for works of the same nature as the relevant Works;
- (c) is active as a quantity surveyor at the time of his appointment;
- (d) has at least 3 years experience in valuing works of the same nature as the relevant Works; and
- (e) undertakes to act fairly and promptly in accordance with the requirements of this deed.

Register means the torrens title register maintained by the Registrar General under the *Real Property Act 1900* (NSW).

Related Body Corporate has the same meaning given to that term in the *Corporations Act 2001* (Cth).

Representatives has the meaning given to that term in clause 5.1.

Residential Allotment means a lot comprising part of the Land to be created as part of the Development that is intended to be used for the purpose of a dwelling or a dwelling house without being further subdivided and with or without further Development Consent.

RTA means Roads and Traffic Authority of New South Wales.

Staged Development Application means Development Application ID 993/05 lodged with the Council on 8 November 2005.

Staged Development Consent means Development Consent ID 993/05 granted by the Council on 15 May 2006, a copy of which is attached in Annexure F, as amended from time to time.

State means the State of New South Wales and, where the context permits, includes a public authority as defined in section 4(1) of the Act.

State Government means the government of the State, including its elected and appointed representatives.

Subdivision Certificate has the same meaning as in the Act.

Transport and Traffic Management Monetary Contribution means the monetary contribution which the Developer must pay to the Council in accordance with Part 1 of Annexure D.

Transport and Traffic Management Works means the works set out in Part 2 of Annexure D.

Wilton Recreational Reserve means Lot 7004 in Deposited Plan 92818 and Lot 118 in Deposited Plan 751297 as shown on Annexure H.

Wilton Village means the existing village of Wilton as shown on Annexure I.

Works means any or all of the following:

- (a) the Open Space, Sporting and Recreation Works;
- (b) the Library, Information and Community Works; and
- (c) the Transport and Traffic Management Works.

Works Completion Date means the date for completion of an item of Work as set out in Part 2 of Annexures B, C and D.

1.2 Deed does not fetter discretion

- (a) This deed is not intended to operate to fetter, in any unlawful manner:
 - (i) the power of the Council to make any Law; or
 - (ii) the exercise by the Council of any statutory power or discretion,(all referred to in this deed as a **Discretion**).
- (b) No provision of this deed is intended to, or does, constitute any unlawful fetter on any Discretion. If, contrary to the operation of this clause, any provision of this deed is held by a court of competent jurisdiction to constitute an unlawful fetter on any Discretion, the Parties agree:
 - (i) they will take all practical steps, including the execution of any further documents, to ensure the objective of this clause 1.2 is substantially satisfied; and
 - (ii) in the event that clause 1.2(b)(i) cannot be achieved without giving rise to an unlawful fetter on a Discretion, the relevant provision is to be severed and the remainder of this deed has full force and effect; and

- (iii) to endeavour to satisfy the common objectives of the Parties in relation to the provision of this deed which is held to be an unlawful fetter to the extent that is possible having regard to the relevant court judgement.
- (c) Where a Law permits the Council to contract out of a provision of that Law or gives the Council power to exercise a Discretion, then if the Council has in this deed contracted out of a provision or exercised a Discretion under this deed, then to that extent this deed is not to be taken to be inconsistent with that Law.
- (d) Without limiting this clause 1.2, nothing in this deed operates to limit the availability of any remedies available to the Council under sections 123, 124 and 125 of the Act.

1.3 Interpretation Act 1987

Subject to clause 1.2 of this deed, section 3, Part 2, and sections 36, 38 and 76 of the *Interpretation Act 1987* govern the interpretation of this deed to the extent to which they are applicable as if a reference in that Act to an *Act* or *instrument* is a reference to this deed and with such other modifications or adaptations as may be necessary for that governing purpose.

1.4 Annexures, headings and textual notes

- (a) The Annexures form part of this deed.
- (b) The headings and any textual notes in this deed do not form part of the operative provisions of this deed but are provided merely for the assistance of the reader.

1.5 Subject to applicable Laws

This deed is to be read and performed subject to:

- (a) any Law or statutory rule; and
- (b) any lawful decision, direction, requirement or the like of any Authority of the State, which relates to the subject matter of this deed, and any act, matter or thing which is required or forbidden to be done by such a Law, statutory rule, decision, direction or requirement does not constitute a breach of this deed even if it is contrary to this deed.

1.6 Compliance with Laws

If a Law is changed or a new Law comes into force (both referred to as *New Law*) and the Developer is obliged by the New Law to:

- (a) do something or pay an amount which it is already contractually obliged to do or pay under this deed then, to the extent only that the relevant obligation is required under both the New Law and this deed, compliance with the New Law will constitute compliance with the relevant obligation under this deed; or
- (b) make a further contribution not contemplated by this deed, the Developer may subject to clause 1.2, require that the provisions of this deed and the contributions to be made under it be taken into account in the assessment of that further contribution.

1.7 Conflicting interpretations

If a provision of this deed is genuinely capable of different interpretations, the interpretation which:

- (a) is consistent with clause 1.2;
- (b) best meets the purposes of this deed; and
- (c) promotes the aims of the Act and the LEP,

is to be preferred.

1.8 Severance of invalid provisions

Subject to clause 1.2, if a provision of this deed is declared to be invalid by a court, the remainder of this deed will, to the fullest extent possible, be read and performed as if the invalid provision did not form part of this deed.

1.9 Joint and individual liability and benefits

Except as otherwise provided in this deed, any agreement, covenant, representation or warranty under this deed by two or more persons binds them jointly and each of them individually, and any benefit in favour of two or more persons is for the benefit of them jointly and each of them individually.

1.10 Approvals and consents

Where this deed calls for a Party to give its consent or approval, that consent or approval may be given or withheld, or given subject to conditions, in the absolute discretion of the Party, except where otherwise provided in this deed.

1.11 Indexation of amounts payable by the Parties

All amounts referred to in this deed (other than those referred to in clause 10.3) are to be increased (with the calculation to be made as from the date any such amount is due to be paid under this deed) in accordance with increases in the Index in accordance with the following formula:

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

where:

- A** = the indexed amount;
- B** = the relevant amount as set out in this deed;
- C** = the Index most recently published before the date that the relevant payment or the calculation with respect to the relevant amount is to be made; and
- D** = the Index most recently published before the Commencement Date.

For the avoidance of doubt, if A is less than B, then the relevant amount will not change.

1.12 Effect of this deed

- (a) The Parties agree that this deed is a planning agreement governed by Subdivision 2 of Division 6 of Part 4 of the Act which, subject to clause 10.3, excludes the application of

sections 94 and 94A (but not the application of section 94EF) of the Act to the Development.

- (b) This deed applies to the Development of the Land.
- (c) Any explanatory note prepared in relation to this deed is not to be used to assist in construing this deed.

1.13 Developer and the Land

- (a) DLL Wilton is the proponent for the Development of the Land.
- (b) DLL Wilton warrants in favour of the Council that it is authorised by the Owner to enter into this deed and carry out the Development of the Land.

2. Commencement, term and amendment of this deed

2.1 Commencement of this deed

This deed commences on the Commencement Date.

2.2 Term of this deed

This deed will remain in force from the Commencement Date until:

- (a) it is terminated by operation of Law; or
- (b) all obligations are performed or satisfied.

2.3 Amendment of this deed

The Parties agree that, subject to section 93G of the Act, this deed can be reviewed and amended at any time by mutual agreement.

3. Confidentiality and public announcements

3.1 This deed not confidential

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

3.2 Other information confidential

- (a) The Parties acknowledge that:
 - (i) Confidential Information may have been supplied to some or all of the Parties in the negotiations leading up to the making of this deed; and
 - (ii) the Parties may disclose to each other further Confidential Information in connection with the subject matter of this deed.
- (b) Subject to paragraphs (c) and (d), each Party agrees:
 - (i) not to disclose any Confidential Information received before or after the making of this deed to any person without the prior written consent of the Party who supplied the Confidential Information; and

- (ii) to take all reasonable steps to ensure all Confidential Information received before or after the making of this deed is kept confidential and protected against unauthorised use and access.
- (c) A Party may disclose Confidential Information in the following circumstances:
 - (i) in order to comply with the Law, State Government policy or local government policy or any listing rule; or
 - (ii) to any of their employees, consultants, advisers, financiers or contractors to whom it is considered necessary to disclose the information, if the employees, consultants, advisers, financiers or contractors undertake to keep the information confidential.
- (d) The obligations of confidentiality under this clause do not extend to information which is public knowledge other than as a result of a breach of this clause.

4. Default

4.1 Notice of default

In the event a Party considers another Party has failed to perform and fulfil an obligation under this deed, before it takes any action (including calling on the guarantee contained in clause 19) it must give notice in writing to that Party (*Default Notice*) giving full particulars of the matters in respect of which it considers default has occurred and by such notice require the default to be remedied within a reasonable time not being less than 20 Business Days.

4.2 Reasonable time

In determining a reasonable time, regard must be had to both the nature of the default and the work or other action required to remedy it, the weather, availability of labour, plant and/or equipment, strikes and whether or not the continuation of the default constitutes or causes a public nuisance or raises other circumstances of urgency or emergency.

4.3 Suspension of time – dispute

If a Party, as it is entitled to do, refers the Default Notice to dispute resolution, clause 5.2 will apply.

5. Dispute resolution

5.1 Notice of dispute

If a dispute or lack of certainty between the Parties arises in connection with this deed or its subject matter (a *dispute*), then either Party (the *First Party*) must give to the other (the *Second Party*) a notice of dispute in writing adequately identifying and providing details of the dispute and designating as its representative a person to negotiate the dispute. The Second Party must, within 5 Business Days of service of the notice of dispute, provide a notice to the First Party designating as its representative a person to negotiate the Dispute (the representatives designated by the Parties being together, the *Representatives*).

5.2 Conduct pending resolution

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 the appropriate Party indemnifies the other relevant Parties against costs, damages and all losses suffered in completing the disputed matter if the dispute is not resolved in favour of the indemnifying Party.

5.3 Further steps required before proceedings

Subject to clauses 5.14 and 5.15 and except as otherwise expressly provided in this deed, any dispute between the Parties arising in connection with this deed or its subject matter must, as a condition precedent to the commencement of litigation, mediation under clause 5.5 or determination by an expert under clause 5.6, first be referred to the Representatives. The Representatives must endeavour to resolve the dispute within 5 Business Days.

5.4 Disputes for mediation or expert determination

If the Representatives have not been able to resolve the dispute, then the Parties must agree within 5 Business Days to either refer the matter to mediation under clause 5.5 or expert resolution under clause 5.6.

5.5 Disputes for mediation

- (a) If the Parties agree in accordance with clause 5.4 to refer the dispute to mediation, the mediation must be conducted by a mediator agreed by the Parties and, if the Parties cannot agree within 5 Business Days, then by a mediator appointed by LEADR.
- (b) If the mediation referred to in paragraph (a) has not resulted in settlement of the dispute and has been terminated, the Parties may agree to have the matter determined by expert determination under clause 5.6.

5.6 Choice of expert

- (a) If the Parties agree to have the matter determined by expert determination, this clause 5.6 applies.
- (b) The dispute must be determined by an independent expert in the relevant field:
 - (i) agreed between and appointed jointly by the Parties; or
 - (ii) in the absence of agreement within 5 Business Days after the date that the Parties agree to have the matter determined by expert determination, appointed by the President or other senior officer for the time being of the body administering or expert in the relevant field.
- (c) If the Parties fail to agree as to the relevant field within 5 Business Days after the Parties agree to have the matter determined by expert determination, either Party may at any time 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.
- (d) The expert appointed to determine a dispute:
 - (i) must have a technical understanding of the issues in dispute;

- (ii) must not have a significantly greater understanding of one Party's business, functions or operations which might allow the other side to construe this greater understanding as a bias; and
 - (iii) must inform the Parties before being appointed of 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.
- (e) The Parties must promptly enter into an agreement with the expert appointed under this clause 5.6 setting out the terms of the expert's determination and the fees payable to the expert.

5.7 Directions to expert

- (a) In reaching a determination in respect of a dispute under clause 5.6, the independent expert must give effect to the intent of the Parties entering into this deed and the purposes of this deed.
- (b) The expert must:
 - (i) act as an expert and not as an arbitrator;
 - (ii) proceed in any manner as the expert thinks fit without being bound to observe the rules of natural justice or the rules of evidence;
 - (iii) not accept verbal submissions unless both Parties are present;
 - (iv) on receipt of a written submission from one Party, ensure that a copy of that submission is given promptly to the other Party;
 - (v) 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;
 - (vi) 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);
 - (vii) issue a draft certificate stating the expert's intended determination (together with written reasons), giving each Party 10 Business Days to make further submissions;
 - (viii) issue a final certificate stating the expert's determination (together with written reasons); and
 - (ix) act with expedition with a view to issuing the final certificate as soon as practicable.
- (c) The Parties must comply with all directions given by the expert in relation to the resolution of the dispute and must within the time period specified by the expert, give the expert:
 - (i) a short statement of facts;
 - (ii) a description of the dispute; and
 - (iii) any other documents, records or information which the expert requests.

5.8 Expert may commission reports

- (a) Subject to paragraph (b):
 - (i) 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; and
 - (ii) the Parties must indemnify the expert for the cost of those advisers or consultants in accordance with clause 5.6(e) of this deed.
- (b) The Parties must approve the costs of those advisers or consultants in writing prior to the expert engaging those advisers or consultants.

5.9 Expert may convene meetings

- (a) The expert must hold a meeting with all of 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 paragraph (a) is not a hearing and is not an arbitration.

5.10 Other courses of action

If:

- (a) the Parties cannot agree in accordance with clause 5.4 to refer the matter to mediation or determination by an expert; or
- (b) the mediation referred to in clause 5.5 has not resulted in settlement of the dispute and has been terminated and the Parties have not agreed to refer the matter to expert determination within 5 Business Days after termination of the mediation;

then either Party may take whatever course of action it deems appropriate for the purpose of resolving the dispute.

5.11 Confidentiality of information provided in dispute resolution process

- (a) The Parties agree, and must procure that the mediator and the expert agrees as a condition of his or her appointment:
 - (i) subject to paragraph (ii), to keep confidential all documents, information and other material disclosed to them during or in relation to the mediation or expert determination;
 - (ii) not to disclose any confidential documents, information and other material except:
 - (A) to a Party or adviser or consultant who has signed a confidentiality undertaking; or
 - (B) if required by Law to do so or State Government policy or local government policy or any listing rule; and
 - (iii) not to use confidential documents, information or other material disclosed to them during or in relation to the mediation or expert determination for a purpose other than the mediation or expert determination.

- (b) 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:
- (i) views expressed or proposals or suggestions made by a Party or the mediator or the expert during the expert determination or mediation relating to a possible settlement of the dispute;
 - (ii) admissions or concessions made by a Party during the mediation or expert determination in relation to the dispute; and
 - (iii) information, documents or other material concerning the dispute which are disclosed by a Party during the mediation or expert determination unless such information, documents or facts would be discoverable in judicial or arbitral proceedings.

5.12 Final determination of expert

The Parties agree that the final determination by an expert will be final and binding upon them except in the case of fraud or misfeasance by the expert.

5.13 Costs

If any independent expert does not award costs, each Party must contribute equally to the expert's costs in making the determination.

5.14 Remedies available under the Act

This clause 5 does not operate to limit the availability of any remedies available to Council under sections 123, 124 and 125 of the Act.

5.15 Urgent relief

This clause 5 does not prevent a party from seeking urgent injunctive or declaratory relief.

6. Dealings with this deed

6.1 Registration of this deed

- (a) The Developer and the Council agree that this deed is to be registered under section 93H of the Act on the folios of the Register pertaining to the Land.
- (b) The Developer must take all practicable steps as and when required by the Council so that this deed can be registered under section 93H of the Act on the folios of the Register pertaining to the Land, including:
 - (i) procuring the consent to the registration of this deed under section 93H of the Act on the folios of the Register pertaining to the Land of the mortgagee or any other person who has an estate or interest registered on the folios of the Register pertaining to the Land;
 - (ii) arranging for the production of the relevant duplicate certificates of title pertaining to the Land at the LPI;

- (iii) executing such documents and doing such things as may be required to enable the registration of this deed under section 93H of the Act on the folios of the Register pertaining to the Land; and
 - (iv) promptly responding to any requisition raised by the LPI regarding any matter within the Developer's control.
- (c) The Developer must pay its own costs and all costs reasonably incurred by the Council in connection with the registration of this deed under section 93H of the Act on the folios of the Register pertaining to the Land.

6.2 Notations on title

If:

- (a) this deed is registered on the folios of the Register pertaining to the Land;
- (b) the Developer prepares and submits to the Council the documents necessary to remove this deed from the recording on the folios of the Register pertaining to specified parts of the Land; and
- (c) the Developer has satisfied all of its obligations under this deed with respect to those specified parts of the Land which are required to be satisfied up to the date of submission of those documents,

then, upon submission of those documents to the Council, the Council must:

- (d) promptly sign those documents and return them to the Developer at the same time as it issues a Subdivision Certificate relating to the specified parts of the Land;
- (e) authorises the Developer to complete those documents by inserting any information necessary to register the documents on the newly created folios of the Register pertaining to those specified parts of the Land; and
- (f) promptly do all acts and things necessary to assist the Developer to remove this deed from the recording on the folios of the Register pertaining to those parts of the Land, including promptly responding to any requisition raised by the LPI regarding any matter within the Council's control.

6.3 Assignment

Until the completion of the Development, the Developer cannot assign, novate, charge, encumber or otherwise deal with its rights and obligations under this deed, or attempt or purport to do so unless the Developer:

- (a) gives the Council no less than 10 Business Days notice in writing of the proposed assignment, charge, encumbrance or novation of its rights or obligations under this deed;
- (b) procures that the assignee or novatee provides to the Council replacement security in favour of the Council, in a form reasonably satisfactory to the Council, in place of any such security provided by, or required to be provided by, the Developer which has not then been released; and

- (c) the Developer procures that any assignee or novatee of the Developer's rights and obligations under this deed promptly executes a deed in favour of the Council whereby:
- (i) the assignee or novatee becomes contractually bound with the Council to perform the Developer's obligations and have the benefit of the Developer's rights under this deed; and
 - (ii) the assignor or the novator (as the case may be) is released from its obligations under this deed.

6.4 Consequences of assignment

Within 10 Business Days of the Developer complying with its obligations under clause 6.3, the Council must execute and return to the Developer the deed referred to in clause 6.3(c) so that the Developer is released from its obligations under this deed.

6.5 Related Body Corporate

Despite clause 6.3, whilst DLL Wilton or a Related Body Corporate of DLL Wilton is the Developer, the Developer may assign its rights and obligations under this deed to a Related Body Corporate of DLL Wilton without obtaining the Council's consent, but notice of the assignment must be given to the Council.

7. GST

7.1 Definitions

In this clause:

Adjustment Note has the meaning given by the GST Law.

Consideration has the meaning given by the GST Law.

GST has the meaning given by the GST Law.

GST Amount means in relation to a Taxable Supply the amount of GST payable in respect of the Taxable Supply.

GST Group has the meaning given by the GST Law.

GST Law has the meaning given by the *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Input Tax Credit has the meaning given by the GST Law and a reference to an Input Tax Credit entitlement of a Party includes an Input Tax Credit for an acquisition made by that Party but to which another member of the same GST Group is entitled under the GST Law.

Margin Scheme has the meaning given by the GST Law.

Taxable Supply has the meaning given by the GST Law excluding the reference to section 84-5 of the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) and (except where expressly agreed otherwise) excluding a supply in respect of which the supplier chooses to apply the Margin Scheme in working out the amount of GST on that supply.

Tax Invoice has the meaning given by the GST Law.

7.2 GST to be added to amounts payable

If GST is payable on a Taxable Supply made under, by reference to or in connection with this deed, the Party providing the Consideration for that Taxable Supply must also pay the GST Amount as additional Consideration. This clause does not apply to the extent that the Consideration for the Taxable Supply is expressly agreed to be GST inclusive. Unless otherwise expressly stated, prices or other sums payable or Consideration to be provided under or in accordance with this deed are exclusive of GST.

7.3 Tax Invoice and Adjustment Note

No payment of any amount pursuant to this deed, and no payment of the GST Amount where the Consideration for the Taxable Supply is expressly agreed to be GST inclusive, is required until the supplier has provided a Tax Invoice or Adjustment Note (as the case may be) to the recipient.

7.4 Liability net of GST

Any reference in the calculation of Consideration or of any indemnity, reimbursement or similar amount to a cost, expense or other liability incurred by a Party, must exclude the amount of any Input Tax Credit entitlement of that Party in relation to the relevant cost, expense or other liability.

7.5 GST obligations to survive termination

This clause will continue to apply after expiration or termination of this deed.

8. Miscellaneous

8.1 Choice of Law

The Laws of New South Wales as in force from time to time govern this deed.

8.2 Further assurance

Each Party to this deed must sign and execute all documents and do all things as may be reasonably required to be done by the Party to give effect to this deed.

8.3 Force Majeure

- (a) In this clause 8.3, *force majeure*, means any physical or material restraint beyond the reasonable control of the Party claiming the force majeure and includes, without limitation, fire, the discovery of threatened species on the Land or industrial disputes or the Council being delayed in obtaining the consent referred to in clause 13.4.
- (b) If a Party is unable by reason of force majeure to carry out wholly or in part its obligations under this deed (other than an obligation to transfer land or make a payment), it must:
 - (i) give to the other Party prompt notice of the force majeure with reasonably full particulars; and
 - (ii) suggest an alternative method, if any, of satisfying its obligations under this deed.
- (c) If a Party is unable to satisfy its obligations under this deed by an alternative method, the obligations of the Parties so far as they are affected by the force majeure are then suspended

during continuance of the force majeure and any further period as may be reasonable in the circumstances.

- (d) The Party giving such notice under this clause must use all reasonable effort and diligence to remove the force majeure or ameliorate its effects as quickly as practicable.
- (e) The Parties agree that any costs associated in ameliorating a force majeure event will be apportioned, if necessary, in such manner as may be fair and reasonable.
- (f) The Parties agree that this force majeure provision does not apply to an obligation of a Party to transfer land or to pay money.
- (g) If the Parties are unable to agree on the existence of an event of force majeure or the period during which the obligations of the Parties are suspended during the continuance of the force majeure, that dispute must be referred for determination under clause 5.

8.4 Notices

Any notice, request, demand, consent or other communication given or made under this deed:

- (a) must be in writing and signed by the sender or the person duly authorised by the sender;
- (b) must be addressed and delivered to the intended recipient at the address or fax number below or the address or fax number last notified by the intended recipient to the sender after the date of this deed:

- (i) to the Council
Wollondilly Shire Council
Frank McKay Building
62-64 Menangle Street
Picton NSW 2571
Fax No. (02) 4677 2339
- (ii) to the Developer
DLL Wilton Pty Limited
Level 4
30 The Bond
30 Hickson Road
Sydney NSW 2000
Fax No. (02) 9383 8259
- (iii) to the Guarantor
Lend Lease Corporation Limited
Level 4
30 The Bond
30 Hickson Road
Sydney NSW 2000
Fax No. (02) 9383 8259

- (c) will be taken to be duly given or made when delivered, received, or left at the above address or fax number. If delivery or receipt occurs on a day that is not a Business Day in the place to which the notice is sent or is later than 4pm (local time) at that place, it will be taken to have been duly given or made at the commencement of business on the next Business Day in that place.

PART 2 – The rights and obligations of the Council and the Developer

9. Purpose

This Part:

- (a) identifies the facilities, services and infrastructure needed to support the Development;
- (b) identifies when the facilities, services and infrastructure will be required, and who will be responsible for providing them; and
- (c) identifies when specific facilities and services or funds will be required to meet the demands created by the Development and how they will be provided.

10. Contributions

10.1 Contributions by the Developer

- (a) In accordance with this deed and subject to clauses 11 and 12, the Parties agree that the Developer must:
 - (i) pay the Open Space, Sporting and Recreation Monetary Contribution and undertake the Open Space, Sporting and Recreation Works in accordance with clause 12(e)¹³;
 - (ii) pay the Library, Information and Community Monetary Contribution and undertake the Library, Information and Community Works in accordance with clause 14;
 - (iii) pay the Transport and Traffic Management Monetary Contribution and undertake the Transport and Traffic Management Works in accordance with clause 15; and
 - (iv) pay the Companion Animal Management Monetary Contribution, the Bushfire Protection Monetary Contribution, the Plan Management and Administration Monetary Contribution and the Miscellaneous Monetary Contribution in accordance with clause 16,(together, the *Contributions*).
- (b) If the Developer has, prior to the Commencement Date, made any monetary contributions under sections 94 or 94A in accordance with a condition of any Development Consent (the *Prior Monetary Contributions*), then the Monetary Contributions will be reduced by the amount of the Prior Monetary Contributions in accordance with the written direction of the Developer.
- (c) Subject to clause 10.3, the Contributions and obligations imposed on the Developer in this deed are in place of and exclude the application of sections 94 and 94A (but not the application of section 94EF) of the Act to the Development.

10.2 Contribution Alternatives

- (a) At the request of either the Council or the Developer and provided that the Council and the Developer agree, the Developer may make any of the Contributions relating to the Works by payment to the Council of money.
- (b) If the Developer and the Council agree that the Developer will pay a monetary amount under clause 10.2(a), the provisions of clause 11 apply.
- (c) At the request of either the Council or the Developer and provided that the Council and the Developer agree, the Developer may make any of the Monetary Contributions by the carrying out of works or the provision of services.
- (d) If the Developer and the Council agree that the Developer will carry out the works or provide the services under clause 10.2(c), the provisions of clause 12 apply.
- (e) Clause 5 does not apply to any disputes under this clause 10.2 and the Developer and the Council may withhold their agreement under this clause 10.2 in their absolute discretion.
- (f) If in the opinion of the Council or the Developer (both acting reasonably) any agreement reached under this clause 10.2 constitutes a variation or amendment to this deed to which section 93G of the Act applies, then the Parties must comply with section 93G of the Act in relation to that variation or amendment.

10.3 Section 94A Contributions

Where a Development Consent:

- (a) is issued in relation to the Development; and
- (b) relates to Non-Residential Development that has a proposed cost of development of \$50,000 or more,

the Council may under section 94A of the Act impose as a condition of the Development Consent a requirement that the Developer pay a levy to the Council of the proposed cost of carrying out the Non-Residential Development, at an amount equivalent to 1% of the proposed cost of carrying out that Non-Residential Development.

10.4 Staged Development Consent

The Council agrees that the requirements of:

- (a) conditions 4.18 and 15 of the Staged Development Consent will be satisfied on the date of execution of this deed by the Parties;
- (b) condition 16.7 of the Staged Development Consent will be satisfied when the relevant entity forming part of the Community Governance Structure enters into an agreement with Council where that entity agrees to maintain the acoustic walls and associated landscaping constructed under the Entry Road Development Consent in accordance with clause 13.8;
- (c) condition 20.16 of the Staged Development Consent will be satisfied when the Community Association is in control of the Library, Information and Community Works in accordance with clause 14.4; and

- (d) condition 20.17 of the Staged Development Consent will be satisfied on payment by the Developer to the Council of the \$350,000 amount that forms part of the Miscellaneous Monetary Contribution.

11. Monetary Contributions

- (a) If the Council and the Developer agree that the Developer may make any of the Contributions relating to the Works by payment to the Council of money in accordance with clause 10.2(a), then the Council and the Developer agree that the amount of the monetary contribution will be the amount shown as the value of the relevant Works in the Annexures varied in accordance with clause 1.11.
- (b) The Council agrees that if the Developer performs its obligations in this deed by making a monetary contribution, the Council must hold the monetary contribution paid by the Developer for the purpose of the relevant Works and apply the money towards that purpose within a reasonable time.
- (c) Where it is impractical (in reasonable circumstances) for the Council to comply with clause 11(b) and the Developer (acting reasonably) gives its written consent to the Council not complying with clause 11(b), the Council must spend the contribution on services, infrastructure or facilities to be delivered, in order of precedence:
 - (i) on the Land;
 - (ii) within Wilton Village;
 - (iii) within Precinct 4 (as that term is used in the Contributions Plan); or
 - (iv) at a location outside the boundary of the Land but within the Council's Local Government Area in the manner consented to in writing by the Developer (acting reasonably),within a reasonable time of receipt of the relevant monetary contribution.
- (d) The Developer must give, or procure, access to the Council to that part of the Land upon which works are to be carried out by the Council for the purposes of carrying out the works contemplated by this clause 11 provided that the Council executes a licence agreement substantially in the form of Annexure G.
- (e) The Monetary Contributions paid pursuant to this deed may be pooled by the Council with other monetary contributions paid under Division 6 of Part 4 of the Act in accordance with the conditions of a development consent or planning agreement and applied progressively for the purpose for which the payment was required under this deed.
- (f) If the Monetary Contributions paid pursuant to this deed exceed the amount required to carry out the purpose for which the payments were required as identified in Part 1 of Annexures B, C and D and Parts 1, 2, 3 and 4 of Annexure E, the surplus may be used and applied by the Council towards the provision of services, infrastructure or facilities:
 - (i) within Wilton Village;
 - (ii) within Precinct 4 (as that term is used in the Contributions Plan); or

- (iii) at a location outside the boundary of the Land but within the Council's Local Government Area in the manner consented to in writing by the Developer (acting reasonably).

12. Works Contributions

- (a) If the Council and the Developer agree that the Developer may make any of the Monetary Contributions by the carrying out of works or the provision of services in accordance with clause 10.2(c), then the Developer agrees that the works or services must be those identified in Part 1 of Annexures B, C, D and E, as appropriate.
- (b) The Developer must comply with its obligations under clause 12(a) within a reasonable time of agreement being reached by the Council and the Developer under clause 10.2(c).
- (c) The works or services must be carried out by a person with the necessary expertise, competence and skills and in accordance with the design approved by and to the standards of the Council, which standards are to be reasonably determined but which are no greater than those which apply to similar works or services carried out by or on behalf of the Council. Prior to the works or services commencing, they must be approved by the Council (acting reasonably) in accordance with the Council's usual requirements, to the extent relevant.
- (d) The Council must give, or procure, access to the Developer to all land upon which the works are to be carried out or the services are to be provided by the Developer for the purposes of carrying out the works or providing the services contemplated by this clause 12 provided that the Developer executes a licence agreement substantially in the form of Annexure G.
- (e) The Developer is responsible for preparing all documentation for, and for securing all necessary planning, environmental and other approvals required for the delivery of the works contributions as set out in this clause 12.

13. Open Space, Sporting and Recreation

13.1 Open Space, Sporting and Recreation Contribution

The Developer must:

- (a) pay the Open Space, Sporting and Recreation Monetary Contribution to the Council within the timeframes set out in Part 1 of Annexure B; and
- (b) undertake the Open Space, Sporting and Recreation Works.

13.2 Payment of Open Space and Recreation Monetary Contribution

The Council must hold the Open Space Sporting and Recreation Monetary Contribution paid by the Developer for the purpose identified in Part 1 of Annexure B and apply the money towards that purpose within a reasonable time.

13.3 Open Space, Sporting and Recreation Works

The Developer must procure the design and construction of the Open Space, Sporting and Recreation Work in accordance with the Act within the timeframes set out in Part 2 of Annexure B.

13.4 Access for Works

Subject to the Council obtaining the consent of the Minister administering the *Crown Lands Act 1989* (if necessary), and the parties complying with the relevant provisions of the *Crown Lands Act 1989*, the Council must grant the Developer or any of its servants, agents or contractors access to the Wilton Recreational Reserve to enable the Developer to comply with its obligations under this clause ~~12(e)~~¹³ provided that the Developer executes a licence agreement substantially in the form of Annexure G.

13.5 Irrigation of Wilton Recreational Reserve

The Council must permit the Developer and the Community Association to irrigate the Wilton Recreational Reserve from water recycled by the sewage treatment plant to be constructed as part of the Development provided that:

- (a) the recycled water to be used for irrigation is in accordance with the requirements of any Authority applying to water produced by the sewage treatment plant;
- (b) subject to paragraph (c), the volume, frequency and duration of the irrigation will be determined and agreed between the Council, the Developer and/or the Community Association (each acting reasonably and in good faith), having regard to all relevant considerations, including seasonal issues, the use of Wilton Recreational Reserve and the available capacity of water recycled by the sewage treatment plant to be constructed as part of the Development; and
- (c) if the Council gives prior written notice to the Developer and the Community Association (as applicable) of the use of the Wilton Recreational Reserve by members of the community and the date and time on which that use will take place, the Developer and the Community Association must not irrigate the Wilton Recreational Reserve during the time of that event or for a reasonable period beforehand, having regard to the nature of the use.

13.6 Community Association Control

The Developer must do all things necessary to procure that the Community Association is in control of those works identified in Part 2 of Annexure B as a "Level Two Park" (the **Community Parks**) so that the Community Association will be responsible for maintaining or procuring the maintenance of the Community Parks. The Community Parks must be subject to an encumbrance, public positive covenant or other effective form of control which ensures that the Community Parks are made available for public use, subject to the by-laws and rules of the Community Association from time to time.

13.7 Stormwater Detention Ponds

- (a) The Developer must construct all stormwater detention ponds within the Development in accordance with the LEP and as and when required for the Development. The Developer must do all things necessary to procure that the Community Association is in control of the

stormwater detention ponds so that the Community Association will be responsible for maintaining or procuring the maintenance of those works.

- (b) The Council will be responsible for maintaining or procuring the maintenance of the pipe infrastructure from the road reserve to the headwall at the stormwater detention ponds.

13.8 Additional maintenance obligation

The Developer must do all things necessary to procure that the relevant entity forming part of the Community Governance Structure enters into an agreement with Council on terms and conditions acceptable to the parties to that agreement where that entity agrees to maintain the acoustic walls and associated landscaping constructed under the Entry Road Development Consent in accordance with condition 16.7 of the Staged Development Consent. The agreement must be entered into on or prior to practical completion of those acoustic walls and associated landscaping.

13.9 Timing of delivery Community Parks

- (a) The Developer and the Council acknowledge that the timing for delivery of the Community Parks set out in Part 2 of Annexure B has been determined by reference to the Developer's proposed programme for the sale and development of Residential Allotments within the Development as at the date of execution of this Deed by the parties so that the Community Parks will be delivered at the same time as Residential Allotments surrounding the relevant Community Park are sold.
- (b) If the Developer proposes to amend its programme for the sale and development of Residential Allotments within the Development, the Developer may, with the Council's prior written consent (which must not be unreasonably withheld or delayed), amend the timing for delivery of the Community Parks set out in Part 2 of Annexure B so that the Community Parks will be delivered at the same time as Residential Allotments surrounding the relevant Community Park are sold.

14. Library, Information and Community

14.1 Library, Information and Community Contribution

The Developer must:

- (a) pay the Library, Information and Community Monetary Contribution to the Council within the timeframes set out in Part 1 of Annexure C; and
- (b) undertake the Library, Information and Community Works.

14.2 Payment of Library, Information and Community Monetary Contribution

The Council must hold the Library, Information and Community Monetary Contribution paid by the Developer for the purpose identified in Part 1 of Annexure C and apply the money towards that purpose within a reasonable time.

14.3 Library, Information and Community Works

The Developer must procure the design and construction of the Library, Information and Community Works in accordance with the Act within the timeframes set out in Part 2 of Annexure C.

14.4 Community Association Control

The Developer must do all things necessary to procure that the Community Association is in control of the Library, Information and Community Works identified in Part 2 of Annexure C so that the Community Association will be responsible for the management and for maintaining or procuring the maintenance of the Library, Information and Community Works. The Library, Information and Community Works must be subject to an encumbrance, public positive covenant or other effective form of control which ensures that the Library, Information and Community Works are made available for public use at affordable and reasonable rates referable to the facility when not in use by the Community Association, subject to the by-laws and rules of the Community Association from time to time.

14.5 Alternative Delivery

- (a) Despite clauses 10.2 and 14.1, the Parties agree that, if the Council and the Developer agree, the Developer may satisfy the requirement to provide the Library, Information and Community Works by providing an Alternative Delivery Outcome as described in the following clauses.
- (b) The Developer and the Council must, in good faith, endeavour to agree the Alternative Delivery Outcome for any item of the Library, Information and Community Works proposed by the Developer or the Council.
- (c) The Developer and the Council agree that the Alternative Delivery Outcome may include:
 - (i) shared use;
 - (ii) integrated service delivery;
 - (iii) flexibility in design;
 - (iv) co-location or separation of facilities;
 - (v) contributions being allocated to a mix of capital and recurrent costs; and
 - (vi) the transfer of management responsibility to a commercial entity, subject to rights of access to the residents of the Development and the public.
- (d) The Parties must:
 - (i) consult in relation to, and, in good faith, endeavour to agree on, a management plan for any Alternative Delivery Outcome for any item of the Library, Information and Community Works; and
 - (ii) in good faith, endeavour to agree on the Alternative Delivery Outcome for any item of the Library, Information and Community Works proposed by the Developer or the Council, including agreeing on the following:
 - (A) the concept for the particular item of the Library, Information and Community Works;

- (B) the user brief and alternative delivery method for the particular item of the Library, Information and Community Works; and
 - (C) that the particular item of the Library, Information and Community Works satisfies the Developer's obligations under this deed in relation to that item of the Library, Information and Community Works.
- (e) The parties agree that the following matters must be taken into account when considering an Alternative Delivery Outcome:
- (i) whether the alternative works and services meet demand that will be generated by the Development;
 - (ii) whether the alternative works and services are of the same standard or better than the works and services which they will replace;
 - (iii) whether the alternative works and services will result in the more efficient, effective and flexible provision of works or services;
 - (iv) whether the alternative works and services will be provided by the same date or time as the works and services which they are replacing;
 - (v) whether future service delivery is likely to be compromised by the alternative works and services; and
 - (vi) whether any third parties need to be consulted for the alternative works and services to be provided.
- (f) The agreed Alternative Delivery Outcome for the particular item of the Library, Information and Community Works must comply with the LEP.
- (g) Clause 5 does not apply to any disputes under this clause 14.5 and the Developer and the Council may withhold their agreement under this clause 14.5 in their absolute discretion.
- (h) If in the opinion of the Council or the Developer (both acting reasonably) any agreement reached under this clause 14.5 constitutes a variation or amendment to this deed to which section 93G of the Act applies, then the Parties must comply with section 93G of the Act in relation to that variation or amendment.

15. Transport and Traffic Management

15.1 Transport and Traffic Management Contribution

The Developer will:

- (a) pay the Transport and Traffic Management Monetary Contribution to the Council within the timeframes set out in Part 1 of Annexure D; and
- (b) undertake the Transport and Traffic Management Works.

15.2 Payment of Transport and Traffic Management Contribution

The Council must hold the Transport and Traffic Management Contribution paid by the Developer for the purpose identified in Part 1 of Annexure D and apply the money towards that purpose within a reasonable time.

15.3 Transport and Traffic Management Works

The Developer will procure the design and construction of the Transport and Traffic Management Works in accordance with the Act and the *Roads Act 1993* (NSW) within the timeframes set out in Part 2 of Annexure D.

15.4 Access to Roads

The Council must, if necessary, seek the concurrence of the RTA and give access to each public road over which the Council has control to the Developer and its contractors, agents and servants for the purpose of constructing the Transport and Traffic Management Works.

15A Security for New Oval Road Works

- (a) Prior to 30 September the Developer must provide a Bank Guarantee to the Council to the value of \$1,856,626, being equivalent to 200% of the estimated cost of the New Oval Road.
- (b) If the Developer does not comply with any of its obligations under this Deed in respect of New Oval Road the Council may, after giving 14 days' notice;
 - i. remedy any default at the expense of the Developer; and
 - ii. draw down on the security amount without notice to the Developer to reimburse the Council for the costs incurred in remedying the Developer's default, including to meet the costs of any associated liability, loss, costs, charges or expenses directly or indirectly incurred by the Council because of the failure of the Developer to fulfil its obligations under this Deed.
- (c) The Council will return the relevant part of the Bank Guarantee to the Developer:
 - i. If no defects are identified within the 12 month period commencing from the date New Oval Road is completed, within a further 25 Business Days from the end of that 12 month period, or
 - ii. Where the Council has given one or more defect notices to the Developer within 12 months from the date New Oval Road is completed, within 25 Business Days after the last defect has been rectified to the satisfaction of the Council.
- (d) If the Council calls on a Bank Guarantee in accordance with this Deed the Council may, by notice in writing to the Developer, require the Developer to provide a further Bank Guarantee in an amount that, when added to any unused portion of any existing Bank Guarantee, does not exceed the amount of the Bank Guarantee the Council is entitled to hold under clause 15A.
- (e) Nothing in this clause 15A limits the Council's right to call on the Developer to perform the Guaranteed Obligations under cl.19.

16. Other Monetary Contributions

16.1 Other Monetary Contributions

The Developer will pay to the Council within the relevant timeframes set out in Annexure E:

- (a) the Companion Animal Management Monetary Contribution;

- (b) the Bushfire Protection Monetary Contribution;
- (c) the Plan Management and Administration Monetary Contribution; and
- (d) the Miscellaneous Monetary Contribution.

16.2 Payment of Other Monetary Contributions

- (a) The Council must hold the Companion Animal Management Monetary Contribution paid by the Developer for the purpose identified in Part 1 of Annexure E and apply the money towards that purpose within a reasonable time.
- (b) The Council must hold the Bushfire Protection Monetary Contribution paid by the Developer for the purpose identified in Part 2 of Annexure E and apply the money towards that purpose within a reasonable time.
- (c) The Council must hold the Plan Management and Administration Monetary Contribution paid by the Developer for the purpose identified in Part 3 of Annexure E and apply the money towards that purpose within a reasonable time.

The Council must hold the Miscellaneous Monetary Contribution paid by the Developer for the purpose identified in Part 4 of Annexure E and apply the money towards that purpose within a reasonable time. The Council agrees that upon payment by the Developer to the Council of the \$350,000 amount that forms part of the Miscellaneous Monetary Contribution, the Developer will be released from any obligation to make any further monetary contribution in respect of the Development to the upgrade of the intersection of Almond Street and Picton Road to a full seagull standard.

- (d) The Council must undertake all reasonable endeavours to complete the upgrade of the intersection of Almond Street and Picton Road to a full seagull standard on or before issue of the Subdivision Certificate for the last Residential Allotment in the Development. If the Council does not do so it must pay \$350,000 to the Developer as a refund of the monetary contribution made by the Developer to this item of work.

17. Practical Completion of Works

- (a) The Developer must give the Council 10 Business Days notice of the anticipated date of Practical Completion of an item of the Works.
- (b) Within 5 Business Days after service of the Developer's notice under paragraph (a):
 - (i) the Developer must procure the Quantity Surveyor to provide a certificate in favour of the Council and the Developer as to the Development Cost of the relevant Works; and
 - (ii) the Developer and the Council must jointly inspect the relevant Works and note any defect in or unsatisfactory work forming part of the Works requiring attention before Practical Completion of the relevant Works can be achieved (*Further Work*).
- (c) Once either:

- (i) the Council and the Developer agree during the joint inspection referred to in paragraph (b) that there is no Further Work; or
- (ii) the completion of the Further Work has occurred in the reasonable opinion of the Developer,

then the Developer must procure the Independent Engineer to issue a certificate stating that Practical Completion of the relevant Works has been reached and specifying the date on which it was reached. The certificate issued by the Independent Engineer must contain an acknowledgement from the Independent Engineer that it is recognised that Council will rely upon the certificate.

- (d) This clause 17 does not apply to the Works listed in the item headed "Community Liaison Officer" in Annexure C.

18. General Obligations

18.1 Compliance with Requirements

Despite any other provision of this deed, the Developer must carry out the Works in accordance with the following:

- (a) having due regard to the safety and rights of the public;
- (b) having due regard to the requirements of each Authority which has a right to impose a requirement or whose consent or approval is required with respect to the carrying out of any works;
- (c) without interrupting or otherwise disturbing the traffic flow on any road without first obtaining the written consent of the Council;
- (d) by first obtaining the approval of the Council to any arrangements to modify traffic flow, divert or control traffic for the purposes of any construction work;
- (e) signposting any works to ensure the safety of vehicular traffic and pedestrian movement and guidance. Signposting must not contain advertising material;
- (f) permitting the Council or any person authorised by the Council to enter and inspect any construction work carried out or being carried out;
- (g) providing all reasonable information and material relevant to the performance of its obligations under this clause if requested in writing by the Council, including information relating to traffic control, records and tests and services results for any construction works and any other relevant information held or received from time to time;
- (h) ensuring that the Development Cost of the Works as certified by the Quantity Surveyor in accordance with clause 17(b)(i) is equal to or greater than the value of the relevant item of the Works set out in the Annexures; and
- (i) in accordance with the following and in the event of an inconsistency in the following order of priority:
 - (i) all relevant Development Consents;
 - (ii) all Australian Standards applicable to works of the same nature as the Works; and

- (iii) in a proper and workmanlike manner and in accordance with current industry practice and standards relating works of the same nature as the Works.

18.2 Remedial Protective and Urgent Repair

The Developer must, while carrying out Works and immediately on receipt of a notice from the Council, carry out such reasonable remedial protective repair or other urgent work as may be necessary to prevent loss or damage to those construction works or adjacent property, or to prevent personal injury or death by or as a result of construction by the Developer or its contractors.

18.3 Failure to Perform Urgent Work

If the Developer is unwilling or unable to perform the urgent work required in the notice issued under clause 18.2, then the Council may do the urgent work and the reasonable cost of that work will be a debt due to the Council.

18.4 Failure to perform obligations

If the Developer fails to complete the Works by the relevant Works Completion Date then:

- (a) the Council may call on the guarantee contained in clause 19, to enable the Council to complete and/or rectify the Works; and
- (b) should the guarantee contained in clause 19 be insufficient to complete and/or rectify the Works, then the Council may claim the reasonable cost of completing the Works (acting reasonably and having regard to the status and condition of the works completed) as a debt in any court of competent jurisdiction. The cost shall be assessed as at the time the Works are carried out.

18.5 Indemnity

- (a) The Developer must indemnify the Council from and against all actions, claims, costs, expenses and damages (including the cost of defending or settling any action or claim) in respect of loss of or damage to property (including the Council's property) or personal injury (including death) to any person to the extent that the actions, claims, costs, expenses and damages arise out of or by reason of anything done or omitted intentionally or negligently by the Developer and in respect of or flowing from any breach of this Part 2.
- (b) For the avoidance of doubt, the Developer's liability under paragraph (a) is reduced to the extent that the actions, claims, costs, expenses and damages arise out of or by reason of anything done or omitted intentionally or negligently by a person other than the Developer.

18.6 Provision of proceedings

- (a) If the Council receives or is served with any communication, notice, summons, complaint or any legal process from any person or entity in respect of which an indemnity is provided to the Council by the Developer under clause 18.4, then the Council must promptly provide to the Developer a copy of any such communication, notice, summons, complaint or legal process and all particulars of the same and full details of all the relevant circumstances and events.

- (b) The Council must not consent to any matter or thing contained or referred to in any such document or communication nor take any related action, where the matter or thing affects the Developer, without first obtaining the written consent of the Developer.

18.7 Appearance in proceedings

The Developer, by its solicitors or counsel, may at its cost appear in and have the conduct of every such matter and proceedings referred to in clause 18.6 notwithstanding that the Council may also appear in any such matter or proceedings. The Developer may at its cost defend or prosecute and appeal against any decision of any court or other Authority in such manner as the Developer in its discretion may think fit.

18.8 Council's legal costs

Within 20 Business Days after receipt of a Tax Invoice issued to the Developer after the Commencement Date, the Developer must make a contribution to the Council's reasonable legal costs in relation to the preparation of this deed up to the agreed maximum amount of \$20,000 (exclusive of GST).

18.9 Community Association

The parties acknowledge that:

- (a) the Corporate Governance Structure involves the use of a 2 tier subdivision, one by community plan which creates community development lots and community property and one by precinct plan which creates precinct development lots and precinct property; and
- (b) the Community Association will be in control of all community property and also all precinct property.

19. Guarantee and Indemnity by LLC

19.1 Definitions

In this clause 19:

Guaranteed Obligations means all agreements, conditions, covenants, provisions, obligations and liabilities expressed or implied on the part of DLL Wilton to be performed, observed or complied with under this deed in favour of the Council whilst DLL Wilton is the Developer.

19.2 Guarantee

LLC guarantees to the Council the performance, observance or compliance of the Guaranteed Obligations by DLL Wilton provided that the Guaranteed Obligations are not invalid, void, voidable or irrecoverable and are fully enforceable and on the basis that the Council mitigates damages to the extent (if any) that it has such a duty to mitigate damages to DLL Wilton.

19.3 Payment

- (a) If DLL Wilton defaults in the payment of any monetary amount forming part of the Guaranteed Obligations, LLC must pay that amount to the Council.
- (b) Any amount which LLC is liable to pay the Council must be paid within 20 Business Days of a demand which must:
 - (i) be in writing;
 - (ii) state that it is made under clause 19.3;
 - (iii) state and provide details of the amount being demanded and confirm that:
 - (A) a written demand for payment of the amount has been made on DLL Wilton by the Council;
 - (B) at least 20 Business Days have passed since the demand on DLL Wilton was made; and
 - (C) the demand on DLL Wilton remains unsatisfied; and
 - (iv) be signed by or on behalf of the Council.

19.4 Liability unaffected by other events

The liability of LLC is not affected by anything which, but for this provision, might release, prejudicially affect or discharge that liability or in any way relieve LLC from any obligation, including any of the following (whether with or without the consent of LLC):

- (a) the grant to DLL Wilton or any other person or both of any time, waiver or other indulgence, or the discharge or release of DLL Wilton or any other person or both;
- (b) any transaction or arrangement that may take place between the Council and DLL Wilton or any other person or both;
- (c) the liquidation of DLL Wilton or any other person or both;
- (d) the Council becoming a party to or bound by any compromise, moratorium, assignment of property, scheme of arrangement, composition of debts or scheme of reconstruction by or relating to DLL Wilton or any other person or both;
- (e) the Council exercising or delaying or refraining from exercising any right, power or remedy given to the Council by Law or by this deed;
- (f) the amendment, variation, novation, replacement, rescission, invalidity, extinguishment, repudiation, avoidance, unenforceability, frustration, failure, expiry, determination, loss, release, discharge, abandonment, assignment or transfer, in whole or in part and either with or without consideration, of this deed at any time or of any right, obligation, power or remedy;
- (g) the failure by DLL Wilton or any other person or both to notify LLC of any default by DLL Wilton or any other person or both under this deed;
- (h) the Council obtaining a judgment against DLL Wilton or any other person or both for the payment of money payable under this deed;

- (i) any legal limitation, disability, incapacity or other circumstances relating to DLL Wilton, LLC or any other person or both; and
- (j) any change in circumstance (including of a person or in the members or constitution of a partnership),

provided that this deed is not invalid, voidable or irrecoverable and is fully enforceable with respect to the Guaranteed Obligations.

19.5 Principal and independent obligation

This guarantee is a principal and independent obligation. Except for stamp duty purposes, it is not ancillary or secondary to another right or obligation.

19.6 Continuing guarantee

This is a continuing guarantee despite any settlement of account, intervening payment or anything else until all Guaranteed Obligations have been performed, observed and complied with by DLL Wilton.

19.7 Variation

This guarantee covers this deed as amended, varied or replaced from time to time, with the consent of LLC.

19.8 Limitation on Guarantee

All obligations of LLC under this guarantee in relation to the Guaranteed Obligations shall be released in respect of any claim made by the Council under this guarantee after the date on which the Guaranteed Obligations are performed or satisfied.

19.9 Release of Guarantee

If the Council consents to the assignment or novation of the obligations of the Developer under clause 6.3 of this deed, then LLC shall have no liability to the Council in respect of the Guaranteed Obligations as from the date such assignment or novation becomes effective other than for those Guaranteed Obligations which arise before the date of such assignment or novation.

19.10 Limitation on Guarantee and Indemnity

Despite any other provision in this deed the aggregate maximum liability of LLC under this clause 19 in relation to the Guaranteed Obligations is the lesser of:

- (a) subject to clause 1.11, \$19,660,000; and
- (b) the total value of all Works that have not reached Practical Completion or Monetary Contributions that have not been made.

EXECUTED and delivered as a deed

The Common Seal of Wollondilly Shire

Council was hereto affixed

on day of

pursuant to resolution no.

made on day of :

General Manager

Mayor

Print Name

Print Name

Executed as a deed in accordance with
section 127 of the *Corporations Act 2001* (Cth)
by **DLL Wilton Pty Limited**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Executed as a deed in accordance with
section 127 of the *Corporations Act 2001* (Cth)
by **Lend Lease Corporation Limited**:

Director Signature

Director/Secretary Signature

Print Name

Print Name

Annexure A

Map

Annexure B

Open Space, Sporting and Recreation

Part 1: Open Space, Sporting and Recreation Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
<p>Open space, sporting and recreational facilities within the Council's Local Government Area</p>	<p>Subject to clause 1.11, \$240,000. Payment is to be made as follows:</p>		
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 	<p>Recoupment for completed Wollondilly Community Leisure Centre – 434 Argyle Street, Picton.</p>	<p>\$60,000</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	<p>Recoupment for completed Wollondilly Community Leisure Centre – 434 Argyle Street, Picton.</p>	<p>\$60,000</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 	<p>Recoupment for completed Wollondilly Community Leisure Centre – 434 Argyle Street, Picton.</p>	<p>\$60,000</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 1,000th Residential Allotment. 	<p>Recoupment for completed Wollondilly Community Leisure Centre – 434 Argyle Street, Picton.</p>	<p>\$60,000</p>
<p>TOTAL</p>			<p>\$240,000</p>

Part 2: Open Space, Sporting and Recreation Works by the Developer

Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Level One Park – Wilton Recreational Reserve</p>	<p>Active sporting facilities comprising:</p> <ul style="list-style-type: none"> • 2.8 hectares of land (within an overall area of 8.8 hectares occupied by Wilton Recreational Reserve); • 2 x winter sports fields and cricket pitch between; • 4 x multi-purpose hardcourts; • 1 x picnic and BBQ area; • 1 x playground upgrade; • associated seating; • associated services; • associated permanent, in-ground irrigation system; and • associated landscaping (with tree planting), returfing, fencing and vehicle control barrier or bollards. 	<p>\$1,200,000</p>	<p>By issue of the Subdivision Certificate for the 500th Residential Allotment</p>
<p>"A" on attached plan in Annexure H</p>			

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Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Level Two Park – Western North Park "1" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 1.9 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • 2 x viewing towers • associated seating, lighting and services, irrigation and landscaping 	<p>\$2,190,000</p>	<p>By issue of the Subdivision Certificate for the 750th Residential Allotment</p>
<p>Level Two Park – Homestead Park "2" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 0.84 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • associated seating, lighting and services, irrigation and landscaping 	<p>\$1,050,000</p>	<p>By issue of the Subdivision Certificate for the 650th Residential Allotment</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Level Two Park – Eastern North Park "3" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 0.86 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • 1 x viewing tower • 1 x kickabout area • 1 x cycle circuit • associated seating, lighting and services, irrigation and landscaping 	<p>\$1,120,000</p>	<p>By issue of the Subdivision Certificate for the 950th Residential Allotment</p>
<p>Level Two Park – Eastern East Park "4" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 0.8 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • associated seating, lighting and services, irrigation and landscaping 	<p>\$820,000</p>	<p>By issue of the Subdivision Certificate for the 950th Residential Allotment</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Level Two Park – Eastern South Park "5" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 1.4 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • 1 x hardcourt • associated seating, lighting and services, irrigation and landscaping 	<p>\$1,535,000</p>	<p>By issue of the Subdivision Certificate for the 1,050th Residential Allotment</p>
<p>Level Two Park – Western Golf Park "6" on attached plan in Annexure H</p>	<ul style="list-style-type: none"> • 0.42 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • associated seating, lighting and services, irrigation and landscaping 	<p>\$580,000</p>	<p>By issue of the Subdivision Certificate for the 250th Residential Allotment</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
Level Two Park – South West Park "7" on attached plan in Annexure H	<ul style="list-style-type: none"> • 0.3 hectares of land • 1 x half width road frontage • 1 x playground and shade • 1 x BBQ area • 1 x kickabout area • associated seating, lighting and services, irrigation and landscaping 	\$400,000	By issue of the Subdivision Certificate for the 400 th Residential Allotment
Level Two Park – Sales and Information Centre Park "8" on attached plan in Annexure H	<ul style="list-style-type: none"> • 1.6 hectares of land • 1 x half width road frontage • 1 x park shelter • 1 x playground and shade • 1 x BBQ area • 2 x lakes • 1 x amphitheatre & outdoor stage • associated seating, lighting and services, irrigation and landscaping 	\$1,715,000	By issue of the Subdivision Certificate for the 250 th Residential Allotment
TOTAL		\$10,610,000	

Annexure C

Library Information and Community

Part 1: Library, Information and Community Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
<p>Council-provided library information and community facilities within the Council's Local Government Area</p>	<p>Subject to clause 1.11, \$1,900,000. Payment is to be made as follows:</p> <ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 	<p>(a) Provision of a freestanding public internet access e-kiosk or alternative internet provision (\$1,152); and/or</p> <p>(b) New library resource material; and/or</p> <p>(c) Provision of Central Library special services areas (L2) and/or towards the construction of a Central Library (L1) (\$198,848); and</p> <p>(d) Towards Civic Administration and Customer Service Centre (IAS) and/or Works Depot (IA6) (\$275,000).</p>	<p>\$475,000</p>

Planning Agreement

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	<ul style="list-style-type: none"> (a) New library resource material; and/or (b) Mobile Library Vehicle (L4) [IMPORTANT NOTE: Mobile Library to visit the Development on a regular basis]; and/or (c) Provision of Central Library special services areas (L2) and/or towards the construction of a Central Library (L1) (\$200,000); and (d) Towards Civic Administration and Customer Service Centre (IA5) and / or Works Depot (IA6) (\$275,000). 	\$475,000
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 	<ul style="list-style-type: none"> (a) New library resource material; and/or (b) Provision of Central Library special services areas (L2) and / or towards the construction of a Central Library (L1) (\$200,000); and (c) Towards Civic Administration and Customer Service Centre (IA5) and / or Works Depot (IA6) (\$275,000). 	\$475,000

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Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 1,000th Residential Allotment. 	(a) New library resource material; and/or (b) Provision of Central Library special services areas (L2), and / or towards the construction of a Central Library (L1) (\$200,000); and (c) Towards Civic Administration and Customer Service Centre (IA5), and / or Works Depot (IA6) (\$275,000).	\$475,000
TOTAL			\$1,900,000.00

Part 2: Library, Information and Community Works by the Developer

Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Community function and meeting space</p> <p>"A" on attached plan in Annexure J</p>	<ul style="list-style-type: none"> • Land on which the facilities are provided • Community Association building(s) with a minimum gross floor area of 577sqm, provided on a staged basis, in one or more locations, comprising: <ul style="list-style-type: none"> • a multi purpose function floorspace, suitable for large gatherings, functions and entertainment uses; • amenities; • circulation spaces; • storage of Community Association equipment (eg, tables, chairs, IT and communication equipment); • meeting rooms; and • administration and office space for a Community Liaison Officer; • consultants and Authority fees (ie: design documentation, administration and approvals) • associated landscaping and irrigation 	<p>\$1,510,000</p>	<p>By issue of the Subdivision Certificate for the 800th Residential Allotment</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
	<p>IMPORTANT NOTES:</p> <ol style="list-style-type: none"> 1. The above space(s) will be used by the Bingara Community for: <ul style="list-style-type: none"> • community meetings and interest group gatherings / meetings; • entertainment and social functions; and • educational, cultural, social and arts programmes run by the Community Liaison Officer. 2. Uses such as the golf pro-shop, changing rooms, cafés, restaurants and bars are not included as community facilities to be provided under this deed. 3. The architectural solution for the above space(s) shall be guided by the following: <ul style="list-style-type: none"> • the Community Function and Meeting Space shall have an individual identity and character as a building or structure to help identification and promote sense of community ownership; 		

Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>"B" on attached plan in Annexure J</p>	<ul style="list-style-type: none"> • the Community Function and Meeting Space shall have more than one point of physical access (entry / exit) to help facilitate community functions with different needs (eg "public" functions and "private" functions); and • physical access to the Community Function and Meeting Space shall be managed so as to avoid direct visual and physical connection with the private leisure club and associated facilities (eg bar and gaming machines), or equivalent. 		
<p>4. Temporary community floor space shall be provided at the Delfin Lend Lease Sales and Information Centre. 5. The Sales and Information Centre shall provide a venue for the Community Liaison Officer and activities for the community until provision of the Community Function and Meeting Space at location "A" on attached plan in Annexure J.</p>			<p>By issue of the Occupation Certificate for the 1st Residential Allotment.</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
<p>Community Liaison Officer</p>	<p>This item comprises the employment of a Community Development and Cultural Programmes Officer (<i>Community Liaison Officer</i>) by the Developer for a four (4) year period.</p> <p>The item includes salary and on-costs. The Community Liaison Officer will have appropriate qualifications or experience in community development commensurate with other community liaison officers employed by the Developer in NSW.</p> <p>The role will involve:</p> <ul style="list-style-type: none"> • the development and implementation of: • new Development resident welcome programmes (including residents information kit and community learning initiatives to educate residents of the Development on the understanding of community title, and on the roles, responsibilities and structures involved in the Community Association and its various entities); • programmes to inform the residents of the Development of mine subsidence and gas drainage infrastructure from coal seams; • community empowerment strategies and programmes, including community intranet; • not for profit interest groups and their ongoing 	<p>\$200,000</p>	<p>By issue of the Subdivision Certificate for the 1st Residential Allotment</p>

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Item	Proposed Scope of Works	Value of Works	Timing of Works
	<p>facilitation;</p> <ul style="list-style-type: none"> • social and cultural programmes for residents of the Development, including public art programmes; • youth orientated programmes; • educational programs; • employment / business support strategies and programmes; • programmes to facilitate the integration of the residents of the Development with the existing residents of Wilton Village; • advocating the needs and requirements of the residents of the Development with relevant government and non-government agencies in identifying areas for the provision of quality social infrastructure; • encouraging residents to participate in and join local volunteer groups including, but not limited to, bushland management groups, the NSW State Emergency Service, the NSW Rural Fire Service etc and 		

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Item	Proposed Scope of Works	Value of Works	Timing of Works
	<ul style="list-style-type: none"> • provision of appropriate and accessible human and community services. <p>Annual reporting of the above activities will be provided to the Council.</p>		
	<p>IMPORTANT NOTES:</p> <ol style="list-style-type: none"> 1. The Community Liaison Officer shall be appointed for at least 2 days per week and will remain engaged for a minimum of 4 years. 2. The Community Liaison Officer shall be accountable to the Developer and shall be expected to work in the best interests of the residents of the Development. 3. The Community Liaison Officer shall act as a resource for residents of the Development (and, where deemed appropriate and relevant, the residents of Wilton Village). 		
TOTAL		\$1,710,000.00	

Annexure D

Transport and Traffic Management

Part 1: Transport and Traffic Management Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
<p>New or augmented traffic facilities, upgrading of intersections and sections of road, traffic minimisation and speed regulation facilities within residential neighbourhoods and provisions of shared cycleways and other alternate transport facilities, within the Council's Local Government Area</p>	<p>Subject to clause 1.11, \$1,610,000. Payment is to be made as follows:</p>	<ul style="list-style-type: none"> Upgrade of the intersection of Almond Street and Picton Road to full seagull treatment for safety and amenity; and/or 	<p>\$402,500</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 		
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	<ul style="list-style-type: none"> Road improvements on Main Roads within Picton, as required (ie: Argyle/Menangle 	<p>\$402,500</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 		
	<ul style="list-style-type: none"> 25% on the earlier of: <ul style="list-style-type: none"> (a) issue of the Subdivision Certificate for the 1,000th Residential Allotment; or (b) completion of construction of the Almond Street/Picton Road junction, where the final 25% is used to reimburse Council for the cost to Council of the Almond Street/Picton Road junction. 	<ul style="list-style-type: none"> Street intersection upgrade (T7); and/or Argyle/Prince Street junction and widening works (T3); and/or Argyle/Prince Street to Wood Street upgrade to 4 lanes (T5); and/or transport and traffic facilities as identified in 	<p>\$402,500</p>

Planning Agreement

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
SUB TOTAL		the Contributions Plan as may be amended from time to time).	
SUB TOTAL	Payments to be made at the same time and in the same percentages as set out above, resulting in four equal payments of \$100,000.	Traffic & Transport Management From Part 4 of Annexure E	\$1,610,000 \$400,000
TOTAL			\$2,010,000

Part 2: Transport and Traffic Management Works by the Developer

Item	Proposed Scope of Works	Value of Works	Timing of Works
Hornby Street Upgrade Shown coloured blue on attached plan 1 in Annexure K	Hornby Street upgrade between the Development and Broughton St comprising: <ul style="list-style-type: none"> • reconstruction of existing pavement; • stormwater table drains (no piped SW works); • preliminaries and supervision (including traffic management); and • excludes kerb, verge and footpaths. 	Estimated at \$800,000	By issue of the Subdivision Certificate for the 450 th Residential Allotment
New Oval Road (Wollondilly Street) Shown coloured red on attached plan 1 in Annexure K	New Oval Road (Wollondilly Street) comprising: <ul style="list-style-type: none"> • <u>Securing all planning and environmental approvals and all associated costs</u> • clearing, grubbing, chipping of vegetation; • preliminaries and supervision (including traffic management); • type C full width pavement; • longitudinal stormwater drainage. 	Estimated at <u>\$928,313 (indexed to June 2020)700,000</u>	By issue of the Subdivision Certificate for the 800th <u>1300th</u> Residential Allotment
SUB TOTAL		\$1,500,000	
Offsite Shareway Shown coloured blue on attached plan 2 in Annexure K	2m wide concrete shareway located on the road verge (off carriageway) between the new Entry Road and Broughton Street with necessary road crossing(s)	\$320,000	By issue of the Subdivision Certificate for the 450 th Residential Allotment

Planning Agreement

Allens Arthur Robinson



Item	Proposed Scope of Works	Value of Works	Timing of Works
Other Offsite Shareway Shown coloured red on attached plan 2 in Annexure K (Alternative Route) or preferred route via Camden Street	2m wide concrete shareway located on the road verge (off carriageway) between the junction of Hornby Street and Broughton Street and the junction of Argyle Street and Camden Street in Wilton Village with necessary road crossing(s). Preferred route via Camden Street, alternative route via Almond Street	Any monies left over following the construction of the above shareway plus \$150,000 from Part 1 of Annexure D amount due on issue of the Subdivision Certificate for the 500 th Residential Allotment	By issue of the Subdivision Certificate for the 450 th Residential Allotment
SUB TOTAL		\$320,000	
TOTAL		\$1,820,000	

Annexure E

Other Monetary Contributions

Part 1: Companion Animal Management Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
Companion animal management facilities within the Council's Local Government Area	<p>Subject to clause 1.11, \$50,000. Payment is to be made as follows:</p> <ul style="list-style-type: none"> • 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 	<p>(a) Purchase of dog transport trailer (A6) (\$5,500); and / or</p> <p>(b) Expansion of office space, facilities, car parking, storage and service areas of the Wollondilly Animal Shelter at Wonga Road, Picton (\$7,000)</p>	\$12,500
	<ul style="list-style-type: none"> • 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	<p>Contributions towards the following:</p> <p>(a) Provision of dog off leash areas (A10) (\$28,422); and / or</p> <p>(b) Stockyard relocation and expansion, including development approval / land reclassification costs of the Wollondilly Animal Shelter at Wonga Road, Picton (A3) (\$11,369); or</p>	\$12,500

Planning Agreement

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 	<ul style="list-style-type: none"> Other facilities as required. <p>Contributions towards the following:</p> <ul style="list-style-type: none"> Provision of dog off leash areas (A10) (\$28,422); and / or Stockyard relocation and expansion, including development approval / land reclassification costs of the Wollondilly Animal Shelter at Wonga Road, Picton (A3) (\$11,369); or Other facilities as required. 	\$12,500
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 1,000th Residential Allotment. 	<ul style="list-style-type: none"> Other facilities as required. <p>Contributions towards the following:</p> <ul style="list-style-type: none"> Provision of dog off leash areas (A10) (\$28,422); and / or Stockyard relocation and expansion, including development approval / land reclassification costs of the Wollondilly Animal Shelter at Wonga Road, Picton (A3) (\$11,369); or Other facilities as required. 	\$12,500
TOTAL			\$50,000

Part 2: Bushfire Protection Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
<p>New/augmented capital works within the Council's Local Government Area for bushfire protection purposes</p>	<p>Subject to clause 1.11, \$170,000. Payment is to be made as follows:</p>	<p>Contributions towards the following:</p>	
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 	<p>(a) Recoupment of costs of communications centre at Bridge Street, Picton; or (b) Vehicle and equipment as required.</p>	<p>\$42,500</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	<p>(a) Recoupment of costs of communications centre at Bridge Street, Picton; or (b) Vehicle and equipment as required.</p>	<p>\$42,500</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 	<p>(a) Recoupment of costs of communications centre at Bridge Street, Picton; or (b) Vehicle and equipment as required.</p>	<p>\$42,500</p>
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 1,000th Residential Allotment. 	<p>(a) Recoupment of costs of communications centre at Bridge Street, Picton; or (b) Vehicle and equipment as required.</p>	<p>\$42,500</p>
	<p>TOTAL</p>		

Part 3: Plan Management and Administration Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Payment
Management and administration of the Contributions Plan	Subject to clause 1.11, \$200,000. Payment is to be made as follows:	Contributions towards the following:	
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 200th Residential Allotment; 	Plan Management and Administration	\$50,000
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 500th Residential Allotment; 	Plan Management and Administration	\$50,000
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 750th Residential Allotment; and 	Plan Management and Administration	\$50,000
	<ul style="list-style-type: none"> 25% on issue of the Subdivision Certificate for the 1,000th Residential Allotment. 	Plan Management and Administration	\$50,000
SUB TOTAL			\$200,000
SUB TOTAL	Payments to be made at the same time and in the same percentages as set out above, resulting in four equal payments of \$150,000.	Plan Management and Administration From Part 4 of Annexure E	\$600,000
TOTAL			\$800,000

Part 4: Miscellaneous Monetary Contribution

Item	Amount of Monetary Contribution and timing of payment	Purpose for which payment is required	Timing of Payment
Public amenities and services within the Council's Local Government Area	Subject to clause 1.1.1, \$1,350,000. Payment is to be made as follows:		
	<ul style="list-style-type: none"> • \$600,000; 	Plan Management and Administration	Refer to Part 3 of Annexure E
	<ul style="list-style-type: none"> • \$400,000; and 	Traffic and Transport Management	Refer to Part 1 of Annexure D
	<ul style="list-style-type: none"> • \$350,000. 	Transport and Traffic Management – specifically the full seagull treatment at the junction of Picton Road and Almond Street which must be constructed in accordance with RTA standards	The commencement of construction of the proposed seagull treatment at the junction of Picton Road and Almond Street or alternative date if agreed in writing by both parties
SUB TOTAL	\$1,350,000	(a) \$600,000; and (b) \$400,000 have been transferred to Part 3 of Annexure E and Part 1 of Annexure D respectively	
MINUS	\$1,000,000		
TOTAL	\$350,000		

Annexure F

**Staged Development Consent, Entry Road Consent and Golf Course
Consent**



Our Reference: ID993-05 DS:CMG

Delfin Lend Lease Ltd
Level 5
30 The Bond
30 Hickson Road
Millers Point NSW 2000

18 May 2006

Dear Sir/Madam,

WOLLONDILLY COUNCIL - NEW SOUTH WALES ENVIRONMENTAL PLANNING & ASSESSMENT ACT, 1979 (AS AMENDED) - NOTICE OF DETERMINATION - DEVELOPMENT APPLICATION NO. ID993-05

Applicant: Delfin Lend Lease Ltd

Date of Application: 8 November 2005

Pursuant to Section 81 of the Environmental Planning & Assessment Act, 1979 (As Amended) Notice is hereby given of the determination of Development Application No. ID993-05 relating to the land and proposed development described as follows:

Land: Lot 6 DP 836296 and Lot 101 DP 1045369
Location: 15-45 Hornby Street & 80 Condell Park Road, Wilton 2571
Zone: Rural 1(a1) & Rural 1(a2) - Wollondilly Local Environmental Plan 1991
Proposed Development: Staged Development
Date of Determination: 15 May 2006

In pursuance of its power under the above mentioned plan, the Council, as the responsible Authority, resolved at its meeting held on 15 May 2006 to grant a approval of the abovementioned application subject to the following conditions which are hereby imposed to protect the amenity of the neighbourhood, viz:

1. COMPLIANCE

To ensure that the development is carried out in accordance with the conditions of consent and the approved plans to Council's satisfaction.

1.1 Development Consent is granted for the following on Lot 101 DP 1045369 and Lot 6 DP 836296, Condell Park Road, Wilton:

A. Staged Development being the overall development of the site which includes:

- The use of the land for the purposes (and generally in the areas) shown on the Concept Plan for the site:
 - Housing;
 - Open space;
 - A mixed use village centre, incorporating, but not limited to, commercial and retail uses;
 - Community facilities;
 - Recreational facilities (such as the golf course);
 - Landscaped streets and access paths;
 - A sewage treatment plant and treated waste water reuse scheme;
 - Utility services.
- 1,165 residential lots with the minimum lot sizes as shown on the Concept Plan.

Subject to a further development application being submitted for any works not identified as being part of Stage 1.

B. Stage 1 Development which is:

1. the subdivision of land including:
 - a Torrens title subdivision to create:
 - (a) four lots comprising the community land to be dedicated for environmental protection and community recreation under the care and management of the Environmental Trust as identified in Annexure C to the State Development Agreement;
 - (b) A separate lot containing the golf course to enable this element of the development to be separately owned and managed within the overall governance framework;
 - (c) Two lots to be subject of further subdivision as a community scheme under the Community Land Development Act 1989 and the Community Land Management Act 1989; and
 - (d) A residual lot.
2. the construction and operation of a sewage treatment plant and treated effluent reuse irrigation scheme to serve the development as shown on the Concept Plan and the Stage 1 development.

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3. the construction of the golf driving range and the final 8 holes of the golf course, the first 10 holes of which was approved under the consent to DA1558-04.
4. 215 residential lots.
5. infrastructure, access, earthworks, landscaping and other works associated with the above.

1.2 Development shall take place generally in accordance with the information and plans submitted with Development Application No. ID993-05 including amendments submitted in response to information requests and in particular in accordance with the following documents and plans except where otherwise directed by the conditions of this consent:

- Statement of Environmental Effects prepared by BBC Consulting Planners & CH2MHill dated November, 2005
- Stormwater Management Strategy prepared by J Wyndham Prince Pty Ltd dated 7 November, 2005
- Indigenous Heritage Conservation Management Plan prepared by Kayandel Archaeological Services dated November, 2005
- Noise Impact Statement for the proposed sewage treatment plant prepared by Bridges Acoustics dated 30 June, 2005
- Odour Assessment by CH2MHill dated November, 2004
- Road work drainage and earth work plans prepared by VKL Consulting Pty Ltd drawings numbered 5502-05-34 to 5502-05-33 dated November, 2005
- Engineering Report for the Sewage Treatment Plant and Part Golf Course prepared by VKL Consulting Pty Ltd dated November, 2005 and attached drawings numbered 5502-05-04 to 5502-05-49 inclusive
- Report on the disposal of treated effluent from the Wilton Parklands Residential Development prepared by VKL Consulting Pty Ltd dated November, 2005 version 2
- Waste Management Plan prepared by Delfin Lend Lease Ltd dated 8 November, 2005
- Drawings No. PML7697a – L000 Issue B, L001 Issue A, L002 Issue C, L003 Issue C, L004-L0017 inclusive Issue A, L018 Issue E, L022 Issue B, prepared by Hassall Pty Ltd
- Drawings No. 23310P12C, 23310P13B and 23310P14C prepared by Wallis and Moore Pty Ltd dated November, 2005 being the community plan of subdivision and plan of subdivision of community association scheme Numbers 1 and 2 (Note this consent does not grant consent to Stage 2 of community Scheme 1 identified on Drawing No. 23310P13B or Stages 2 or 3 of Community Scheme 2 identified on Drawing No. 23310P14C)
- The response to request for additional information prepared by Delfin Lend Lease dated 23 January, 2006 including Appendices A to R inclusive with the exception of Appendix F
- The response to request for additional information prepared by Delfin Lend Lease dated 10 March, 2006
- Delfin Development-Gas Pipeline Risk Assessment to DR 04561: AS2885.1 – "2004 Draft" prepared by URS dated 10 February, 2006
- Report on Phase 1 Salinity Assessment prepared by Douglas Partners dated 25 January, 2006

Where there is an inconsistency between two documents listed above the information provided in the more recent document shall prevail.

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1.3 This consent does permit separate subdivision certificates to be released for the residential lots approved by this consent in stages provided that all conditions of consent relevant to each stage have been completed to the satisfaction of Council prior to the release of the subdivision certificate for that stage.

1.4 No work shall commence within 40 metres of any water course until a permit under Part 3A of the Rivers and Foreshores Improvement Act has been obtained if required and a copy provided to Council. Should a Part 3A permit not be required, a letter confirming such shall be obtained from the Department of Natural Resources and a copy of this letter submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.

1.5 Water Storage on the land shall not exceed the maximum harvestable right dam capacity of the land under the Farm Dams Policy without the approval of the Department of Natural Resources (DNR). Note: DNR have advised Council that this is 38.25 megalitres.

2. INTEGRATED DEVELOPMENT CONDITIONS

To ensure that the development is consistent with the requirements of the Rural Fire Service, Mine Subsidence Board and the Department of Environment and Conservation.

2.1 The General Terms of Approval of the Department of Environment and Conservation attached to this consent shall form part of the conditions of consent to this application.

2.2 The proposed roads shall comply with Section 4.3.1 of Planning for Bushfire Protection 2001.

2.3 The location of fire hydrants shall comply with the distances detailed in Section 6.4.3 of Planning for Bushfire Protection 2001. Locations of fire hydrants are to be delineated by blue pavement markers offset 100mm from the centre of the road. The direction of offset shall indicate on which side of the road the hydrant is located.

2.4 A Bush Fire Management Plan is to be prepared for Residue Lot 208 with an emphasis on the areas that adjoin residential land that addresses the following requirements:

- Contact person / department and details
- Schedule & description of works for the construction of any proposed Asset Protection Zones and their continued maintenance
- Management strategies, proposed schedule and description of works for any remnant bushland within the property boundary
- Details of access through any gate / fire trail system for remnant bushland areas

2.5 A Bush Fire Management Plan is to be prepared for the Community Land (Lot 1) as shown on the Community Plan of Subdivision (Drawing No 23310 P12 Date: Nov 2005) that ensures vegetation is not allowed to generate into a bushfire hazard (i.e. managed to Inner Protection Area standards as outlined in Section 4.2.2 of Planning for Bushfire Protection 2001).

2.6 Asset Protection Zones shall be provided at all stages of development and are to be determined in accordance with Table A2.2 of Planning for Bushfire Protection 201 and Annexure 4: Results – APZ Determination of the Bushfire Threat Assessment prepared by Wallis & Moore (dated June 2002). .../5

2.7 The final drawings for all works associated with this development are to be submitted to the Mine Subsidence Board prior to the commencement of construction. These drawings shall contain a certification by a qualified structural engineer to the effect that any improvement constructed to meet the specification of such final drawings will be safe, serviceable and repairable taking into account the following mine subsidence parameters:

- (a) Maximum vertical subsidence of 950mm
- (b) Maximum grounds strains of $\pm 2.5\text{mm/m}$
- (c) Maximum tilt of 6mm/m
- (d) Maximum radius of curvature of 10,000 metres

3. ENGINEERING & CONSTRUCTION SPECIFICATIONS

These conditions have been imposed to ensure that developments within the Shire are of a standard which is both safe and acceptable to Council and members of the public:

3.1 All works are to be designed and carried out in accordance with Wollondilly Shire Council's adopted Design Code and Construction Specification except where varied by Development Control Plan No. 56 Wilton Park.

3.2 Engineering design plans and stormwater drainage calculations, for all road and drainage construction, shall be submitted to the nominated Principal Certifying Authority. The plans must be approved prior to the issue of a Construction Certificate for any works associated with this development. All levels are to be reduced to Australian Height Datum. Road design parameters shall comply with the requirements of Council's Design Code D.C.P.

3.3 A "Soil and Water Management Plan" (SWMP) that outlines the measures that will be taken to limit and contain sediment laden runoff during construction shall be submitted to Council. The measures shall be in accordance with Council's Construction specification and the Department of Housing's "Blue Book". The plan is to be approved by the Principal Certifying Authority with the engineering plans.

3.4 A "Traffic Management Plan" that details suitable safety measures that will be implemented whenever work is being undertaken in the public road reserve shall be submitted to Council. The safety precautions are to be in accordance with the requirements of the RTA's "Traffic Control at Work sites" manual. The plan is to be prepared and endorsed by a person with current RTA certification and provided to the Principal Certifying Authority before issue of Construction Certificate for the development.

3.5 Where Council's Construction Specification require that density tests, beam tests or CBR tests be undertaken, the results shall be forwarded to Council within 7 days. A NATA registered laboratory shall carry out the tests. When testing for density, the Standard Compaction testing method is to be used.

Failure to submit test results may result in Council refusing to issue completion certificates and hence may result in additional works being required.

3.6 A certified "Works as Executed" plan from a Chartered Professional Engineer or Registered Surveyor is to be submitted to Council before the final inspection for the Certificate of Practical Completion. The "Works as Executed" plan must certify that the works have been constructed in accordance with the approved drawings and to the levels specified.

3.7 All works shall be consistent with the document "Delfin Development Gas Pipeline Risk Assessment to DR 04561: AS2885.1 – 2004 Draft" prepared by URS dated 15 March, 2006. Prior to the release of the Construction Certificate, evidence of compliance with this requirement shall be submitted to the Principal Certifying Authority from an appropriately qualified person.

4. PUBLIC ROADS

These conditions have been imposed to ensure all public road works required by the development are provided to an adequate standard.

4.1 Provision of kerb and gutter and sealed road shoulder from the edge of the existing bitumen to the lip of the gutter shall be constructed along the existing Hornby Street frontage immediately adjoining the proposed development including associated drainage works and cul-de-sac at proposed Lot 24 in Community Association Scheme No.1.

4.2 The applicant shall, at no cost to Council, construct and dedicate to Council a suitable road or roads to ensure all lots will have access to an appropriate public road. The road shall be constructed to Council's Design Code DCP and Development Control Plan No. 56 Wilton Park.

4.3 Prior to the release of the Linen Plan, a proposed list of street names is to be furnished to Council for endorsement.

4.4 In accordance with Section 138 of the Roads Act a 138 Consent Certificate must be obtained from Council's Works Division a minimum 7 days prior to commencement of work. A fee is payable for issue of this Consent Certificate.

4.5 The junction of Picton Road and the site access road (currently the Hornby Street West and Condell Park Road junction) shall be upgraded to a full "seagull" in accordance with the *RTA Road Design Guide*.

4.6 Two eastbound lanes shall be provided on Picton Road from the Hume Highway interchange to the site access road in accordance with the *RTA Road Design Guide*.

4.7 Two westbound lanes shall be provided on Picton Road from the Hume Highway interchange to the site access road in accordance with the *RTA Road Design Guide*.

4.8 The Condell Park Road and Entry Road intersection shall be restricted to left in and left out only with the applicant to demonstrate that turning movements can be achieved in accordance with AUSTRROADS turning templates for B-Double trucks both at this intersection and at the roundabout closest to Picton Road.

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- 4.9 The applicant shall provide suitable direction signage to provide for the changed traffic conditions. The applicant shall submit a signs and marking plan to the RTA for approval.
- 4.10 Safe Intersection Sight Distance to the RTA's standards shall be available for all movements to and from Picton Road.
- 4.11 Landscaping and fencing should not restrict vehicular sight lines on Picton Road.
- 4.12 Geometric road design shall be in accordance with *RTA Road Design Guide*. Pavement design shall be in accordance with the *AUSTROADS Pavement Design Guide*. All design shall be for the existing 100kph speed zone.
- 4.13 All roadworks associated with this development will be at no cost to the RTA.
- 4.14 No advertising signs or structures are permitted within Picton Road road reserve. The erection of advertising structures shall be in accordance with SEPP64.
- 4.15 Prior to construction work commencing, a joint inspection with the contractor, applicant and Council of the existing roads shall be carried out to formulate a maintenance agreement for local roads that will be affected by construction traffic.
- 4.16 A bond shall be provided to Council, prior to the issue of a Construction Certificate, to cover the cost of repairs to affected roads should this work not be carried out by the contractor.
- 4.17 A network of shared pathways and pedestrian pathways located on the road verge (off carriageway) shall be provided in accordance with the plan adopted as part of DCP 56 Wilton Park except that all shall be 2.0 metres wide.
- 4.18 A 2.0 metre wide concrete shareway located on the road verge (off carriageway) shall be constructed in Hornby Street west from the Entry Road to Broughlon Street prior to the release of the linen plan for the 200th lot. This 2.0 metre wide shareway shall be extended from Broughlon Street to the existing shops at the intersection of Argyle Street and Camden Street to the release of the subdivision Certificate for the 200th residential lot.
- 4.19 For Roads 9,10,11,12,13,24,25,28 and 29 the verge on the shareway side shall be widened to 4.5 metres and narrowed to 3.5 metres on the opposite side to provide adequate space for the 2.0 metres wide pathway, utility services and street tree planting.
- The acceptance of this carriageway width is subject to confirmation of compliance with the maximum daily vehicle flow as shown in "Characteristic of Roads in Wilton Parklands" table in DCP 56 Wilton Park.
- 4.20 All services including water mains and treated effluent mains wherever practical shall not be located beneath the shareways.
- 4.21 Temporary turning heads shall be provided at the end of Roads 9,10,12,13,14,25 and 26. All turning heads shall be sealed to a standard approved by Council. The applicant shall provide Council with plans indicating the type and level of seal prior to construction work commencing.

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4.22 Typical cross sections shown on VKL Consulting drawing no 5502-05-03A for roads 1,2,6 and 7 shall be amended to delete the concrete dish crossing/drain, this will remove the interface between road pavements and the concrete drain. The standard 3.0% cross fall shall extend to the outside of the parking lane where kerb and gutter shall be constructed.

Council will consider the implementation of the typical cross section on drawing 5502-05-03A for roads 1, 2, 6 and 7 if alternative materials specification and design such as concrete are used for the parking lanes.

4.23 Roads 14 and 25 shall have a minimum reserve width of 11.5 metres to conform with "Characteristics of Roads in Wilton Parklands" table in Development Control Plan No. 56 Wilton Park.

4.24 The asphaltic concrete depth for A1 and A2 roads shall be a minimum 50 mm and the remainder of roads shall be a minimum 40 mm.

4.25 The applicant shall provide test report(s) on asphaltic concrete works in public road(s) including certification of material, thickness and compaction from a qualified pavement engineer in compliance with relevant Australian Standards and RTA specifications.

4.26 Street Lighting shall be provided within the subdivision to comply with the current Australian Standard and shall be certified by an Integral Energy approved design consultant. The street lighting shall be installed for energy efficient design and operation.

4.27 Transport, access and movement are to be provided in accordance with Section 6.11 of DCP 56 Wilton Park. Details for which are to be submitted to Council for approval prior to the issue of a Construction Certificate.

4.28 The applicant shall, at no cost to Council, dedicate 4m x 4m splay corner at the road junctions to maintain sight lines.

4.29 All infrastructure is to be designed to incorporate energy efficient materials including recycled materials where appropriate.

4.30 Acoustic noise barriers must be constructed in accordance with the requirements of the consent to Development Application ID1556-04 for the Entry Road prior to the release of any subdivision certificates for lots that will be used for residential development.

4.31 A shared pathway 2 metres wide including safe crossing points for crossing roads shall be provided connecting all parklands to the shared pathway network. Details of this are to be provided on the Engineering Plans.

4.32 There shall be no advertising signs that are visible from the Hume Highway. There shall be no advertising signs other than one real estate sign (subject to separate approval) visible from Picton Road.

4.33 For all shareways the surface finish and grades shall comply with AS1428-1-2001 for accessibility. Rest areas (paved laybys) with seating and shade shall be constructed at regular intervals and at convenient locations – such as parkland areas.

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4.34 Design and construction of shareways shall be generally consistent with Austroads Guide to Traffic and Engineering Practice.

4.35 Shareways are to be provided with shade trees compatible with the spatial restrictions of the footpath reserve and pavement type with a canopy structure that does not obscure the line of sight for pedestrians, cyclists and motorists.

4.36 Bus stops, including the pavement surrounding the bus stop and the pathway between the bus stop and the road edge shall be designed to be fully accessible. Bus stops shall be provided with seating, shelter, lighting and public transport information. Safe crossing points shall be provided in the vicinity of all bus stops.

4.37 The works for the entry road approved under Development Application ID1556-04 shall be completed prior to the release of the subdivision Certificate for any lots to be used for residential development.

4.38 All road works along Picton Road shall have regard to the need for equitable distribution of runoff to existing farm dams. Details shall be provided on the Engineering Plans demonstrating compliance with this requirement.

5. STREET TREES

These conditions are imposed to ensure that street trees are sensitive to the environment in which they are located.

5.1 Alternative types of tree protection to those proposed must be approved by Council prior to the commencement of works and shall only be approved where Council believes the change to be beneficial.

5.2 Plans shall be provided that details the location of all utility services, shareways and street trees all on the one plan.

5.3 The following street trees species shown on Delfin Lend Lease Landscape Concept Design plan drawing no LO12-B are unacceptable as street trees and are not permitted:

- *Angophora costata*
- *Plantus x acerifolia* 'Columbia'
- *Allocasuarina littoralis*
- *Eucalyptus heamastoma*
- *Gleditsia triacanthos*
- *Populus nigra*
- *Liquidamber styraciflua*

Except that *Plantus x acerifolia* 'columbia', *Populus nigra* and *Liquidamber styraciflua* will be considered in limited locations where it can be demonstrated that the issues relating to ongoing maintenance and impact on infrastructure can be resolved.

5.4 All street trees and landscaping located within Public Roads and Public Reserves shall be maintained for a 12 months defects liability period from the date of the release of each subdivision certificate for a subdivision creating residential lots. A bond shall be paid, with the amount determined at the time, to Council for a period of 3 years thereafter to cover the cost of replacing trees or landscaping that dies or is damaged irrevocably.

6. DRAINAGE/STORMWATER

These conditions have been imposed to ensure drainage/stormwater is appropriately managed.

6.1 Stormwater runoff from and through the property is to be appropriately managed so as to control nuisance, damage and hazard during storm events.

6.2 A drainage system shall be provided that ensures appropriate management of stormwater on all newly constructed roads. A drainage system shall be provided to collect and convey runoff from storms up to the 10% AEP to a point suitable for integration with a suitable natural or constructed stormwater drainage system. Defined overland flow paths shall be provided to safely convey runoff from storm events up to the 1% AEP.

6.3 An interallotment drainage system shall be provided for those lots not able to discharge stormwater by gravity flow to the road gutter or suitable Council drainage system.

6.4 Council drainage easements are to be minimum 3.0 m wide but may be larger depending on the size of the drainage structures. Typically, a suitable grassed swale will need to be constructed within the easement to convey the 1% AEP Overland flow.

6.5 Drainage is to be carried out in accordance with Council's adopted Stormwater Management Strategy by J Wyndham Prince & Associates.

6.6 A 'base case' of the pre-development conditions of the Stage 1 site is to be established and provided to Council prior to the commencement of stage 1 works within 250m of Stringy Bark Creek. The 'base case' is to include information on the Stringy Bark Creek watercourse recorded at 5 locations as defined in Condition 6.13, that include an assessment of the water course within a 10m x 10m quadrant in terms of vegetation (including aquatic vegetation), aquatic vertebrates and invertebrates, BOD, turbidity and other suspended and dissolved particulates.

6.7 A watercourse monitoring plan demonstrating how the existing environment detailed in the information provided for condition 6.6 will be monitored shall be submitted to Council for approval prior to the release of the Construction Certificate. The watercourse monitoring plan shall be included in the water quality monitoring regime required under condition 6.13.

6.8 Stormwater treatment for each Stage of the development is to be independent of consequent stages so if no further stages were to be constructed then the stormwater treatment system would treat water to the appropriate levels.

6.9 Stormwater runoff from the site for storm events up to the 1 year ARI are to be treated to the *Healthy Rivers Commission 1998* water quality standards for Urban areas – Main Stream in the Hawkesbury Nepean River. Litter and sediment pollution is to be treated to *Upper Nepean River Catchment Management Plan 1999* standards. Evidence that the proposed stormwater treatment system is achieving these guidelines is to be included in the water quality monitoring regime under condition 6.14.

6.10 The golf course is to remain a 'closed loop' in relation to water runoff for all storm events up to and including the 1 year ARI.

6.11 An Operation and Maintenance Plan for the management of the constructed and natural water bodies associated with this development is to be approved prior to the issue of the Construction Certificate.

6.12 A soil moisture monitoring regime for the Stage 1 site is to be implemented within the development site that will prevent over-watering of the site. Monitoring of the soil characteristics should also be undertaken bi-annually at each of the water logging monitoring points for the build up of nutrients and toxicants within the soil. Monitoring shall commence at the establishment phase of vegetation for the golf course. This testing is to be undertaken by a suitably qualified person and analysed at a NATA accredited laboratory. The results of this testing are to be forwarded to Council within seven (7) days of receiving the results.

6.13 A water quality monitoring regime is to be implemented for the site and undertaken for 5 years after the subcatchment is fully developed. This will include data logger monitoring with Stringy Bark Creek at the following locations:

- Along the two southern branches of the creek
- At the confluence of the two southern branches
- At the confluence of the western branch of the creek
- Immediately prior to the confluence of the Stringy Bark Creek and Allens Creek

This monitoring shall evaluate those features detailed in condition 6.6 and shall test BOD, total nitrogen, total phosphorous, nitrite, nitrate, oil and grease, total suspended solids and surfactants. Monitoring shall commence prior to the commencement of Construction and sampling shall be undertaken every three months from the date of the first data obtained. This testing is to be undertaken by a suitably qualified person. The results of this testing are to be forwarded to Council within seven (7) days of receiving the results.

Should the results of the monitoring indicate over a sustained period of time that the treatment system is not performing to the standard required then measures shall be put in place to ensure treatment meets the required water quality objectives.

6.14 Only water is to be stored in the underground storage tanks that are constructed in the Environment Protection Zone. The tanks should avoid vegetated areas where possible. Filling should be minimal and the area should be rehabilitated with suitable species. Detailed plans are to be provided with the Engineering Plans, approved by the Principal Certifying Authority and approved prior to the issue of the Construction Certificate.

7. EARTH FILL

To ensure the safe disposal of fill the following conditions are imposed:

7.1 All filling on the site, including footpath areas, shall be compacted to not less than 95% Standard Compaction. A report on the site filling is to be submitted in accordance with Wollondilly Shire Council's Construction Specification by an appropriately qualified Geotechnical Engineer or Soil Scientist. Such a report shall be supported by a survey plan of the site indicating the areas filled and depth of fill in relation to the lot boundaries.

7.2 There being no loss of support of the drainage easement as a result of excavation or filling within the site.

7.3 There being no loss of support or encroachment of fill onto adjoining lands as a result of excavation or filling within the site.

7.4 Only clean fill is to be used in regard to this development. In this regard, clean fill includes natural materials such as earth, rock and stone. Under no circumstances is any other material to be used. In this regard, no building, demolition or putrescible wastes are to be utilised. The applicant is advised that concrete and other materials sourced from the removal of infrastructure, such as roads, is not considered to be clean fill in relation to this condition.

7.5 The applicant is to provide Council with an Audit Report of the fill to be used in carrying out this Development Application, prior to commencing works and a final statement at the practical completion of works. The Audit Report is to be carried out by a suitably qualified and practising professional.

7.6 Filling in the Environmentally Significant Area shall be limited to those areas marked as red on the Wallis & Moore Pty Ltd Drawing No. 23310 P23 Issue 00 dated 9/3/06.

8. INSPECTIONS

These conditions have been imposed to ensure that the structure is constructed to an approved standard and related approvals.

8.1 Attention is drawn to the requirement for inspections and approval by Principal Certifying Authority, at the follow stages of the development:

- Prior to commencement of any construction work in the site, after erosion and sediment control and traffic control measures are implemented
- When drainage lines have been laid, jointed and bedded, prior to backfilling
- Prior to pouring of the drainage pits, when the formwork and steel is in place
- Prior to pouring of the road drainage culverts, when the formwork and steel is in place
- When roadworks have been excavated to subgrade, prior to placing of pavement
- When subsoil drainage lines have been excavated and drainage pipe laid prior to placing filter material
- When part of the pavement depth (as indicated by Council) has been placed
- During the roller test, which is to be carried out using a three point roller or approved equivalent

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- At completion of pavement shaping, prior to priming
- At completion of the preparation of kerb and guttering subgrade
- At completion of the preparation of all concrete layback gutter crossing subgrade
- Prior to pouring vehicle crossing slabs, when formwork and steel is in place
- At practical completion of works
- At final completion of works (minimum of 12 months after date of issue of practical completion certificate)

Note: it is the responsibility of the applicant or contractor to notify Council when inspections are required. Failure to notify Council may lead to additional work being required prior to issue of inspection certificates. A minimum of 48 hours notice is required for inspections. Bookings can be made by phoning Council of (02) 4677 1132 during office hours.

9. EROSION AND SEDIMENT CONTROL

These conditions have been imposed to minimise the impact of the development on the environment and on adjoining properties.

9.1 Erosion and sediment control devices are to be installed prior to any construction activity on the site. These devices are to be maintained for the full period of construction and beyond this period where necessary.

9.2 Vehicle access is to be controlled so as to prevent tracking of sediment onto adjoining roadways, particularly during wet weather or when the site has been affected by wet weather.

9.3 Topsoil stripped from the construction site is to be stockpiled and protected from erosion until re-used during landscaping.

9.4 All disturbed areas are to be stabilised by turfing, mulching, paving or otherwise suitably stabilised within 30 days of completion.

10. LANDSCAPING

To reduce the impact of any development activity on the landscape/scenic quality through vegetation works and maintenance.

10.1 Compliance with the provisions of Council's Tree Preservation Order. Under the order a person shall not, except with the consent of Council, ringbark, cut down, top, lop or wilfully destroy any tree which:

- (a) Is greater than 3m in height;
- (b) Has a girth greater than 45cm at a height of 1m from the ground;
- (c) Has a branch spread greater than 3m.

10.2 Detailed landscaping plans for all works associated with Stage 1 of this consent complying with the requirements of the various related conditions of this consent shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

10.3 Landscaping is to be installed in accordance with the approved Landscaping Plans prior to the release of the linen plan to the extent that they relate to the linen plan being released.

10.4 All new landscaping except grasses shall include a selection of locally indigenous species. At least 50% of plants used in all landscaping works shall be locally indigenous species. In the case of road reserves a minimum of 20% of plantings shall be locally indigenous species. All public open space areas shall comprise 100% locally indigenous species. A plan detailing the numbers to be planted of each species is to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate. All plantings in the environmentally significant land shall be locally indigenous species.

10.5 All landscaping works outside the golf course shall be designed to be low maintenance and provide a safe environment.

10.6 Any trees planted in the parkland adjoining lots 36 and 37 in community scheme 2 shall be at least 5 metres from the boundary of these lots and shall not include any trees which would overhang this 5 metre setback to ensure adequate space is available in this location for access by a fire fighting vehicle should the need ever arise.

10.7 The two windrows running north-south along the eastern spur of the site shall be retained.

10.8 Where facilities such as playground equipment, barbeques, picnic facilities, shelters, seating and the like are provided within the public open space these facilities shall be accessible by a pathway that complies with the requirements of Australian Standard AS1428-1 (2001) and designed for universal use and shall be connected to the shared pathway network throughout the development.

10.9 All artificial watering of landscaping must use water drawn exclusively from the re-use water to be provided from the dual reticulation system once this system has been established. If this water from time to time becomes unavailable then the use of alternate sources maybe considered subject to approval from Council and any other relevant authority dependant on the source.

11. ENVIRONMENTAL MANAGEMENT

These conditions have been imposed to minimise the impact of development on the natural environment.

11.1 A Weed and Pest Eradication and Management Plan for the Stage 1 works and the environmentally significant land is to be prepared by a suitably qualified and experienced person(s) prior to the release of the Construction Certificate and shall include:

- a. An inventory of all Noxious and Environmental Weeds on the development site and a site plan indicating weed infestations with referenced to the species and degree of infestation (ie. Low, Medium or High);
- b. A Treatment Schedule in tabulated form, specifying for each species:
 - the method of treatment (mechanical, herbicide use or cultural such as pasture improvement or grazing);

- the rates of application methods of all herbicide treatments;
 - the primary control treatment to achieve a minimum 70% kill and a secondary control treatment to achieve a minimum 90% kill; and
 - the timing of all treatments.
- c. An annual weed maintenance programme indicating the methods to be implemented to maintain a weed-free site.
- d. Details of any methods of disposal of weed material.
- e. An inventory of all activities of pests identified on the site and proposed measures to eliminate the pests and prevent the recurrence of pest animals within the site.

Council may require a bond or bank guarantee to be held over the duration of the works for the control of weeds and pests in accordance with an approved Weed and Pest Eradication and Management Plan. Failure to control weeds in the manner specified may result in the forfeiting of all or part of the bond or bank guarantee for use by Council in environmental improvement works.

11.2 All primary treatment measures identified for the development in the Weed and Pest Eradication and Management Plan referred to in condition 11.1 shall be carried out prior to the release of any Subdivision Certificate for any lots to be used for residential development under this consent.

11.3 A certificate from a suitably qualified person that the initial treatment measures identified in the Weed and Pest Eradication and Management Plan is to be submitted to Council prior to the release of the Linen Plan of Subdivision. A certificate from a suitably qualified person that the follow up treatments identified in the Weed and Pest Eradication and Management Plan shall be provided to the Principal Certifying Authority (3) months after the release of the linen plan.

11.4 Submission to Council for approval of a bushland management plan that contains all of the information specified in section 6.4.2 of Council's Development Control Plan No. 56 – Wilton Park prior to the release of the construction certificate.

11.5 A management plan for koalas and koala habitat prepared by a suitably qualified and experienced ecologist shall be submitted to Council for approval prior to the release of the Construction Certificate.

11.6 Domestic pets shall have reasonable access under controlled conditions to nominated shared pathways, public roads, nominated areas of parklands and publicly accessible areas within Precincts 8 and 9.

11.7 Domestic pet shall not have access to environmentally significant land. This requirement shall be incorporated into the Neighbourhood Management Statements and shall be communicated to the residents/public through signage and education. A plan showing the wording and location of this signage shall be submitted with the Engineering Plans for approval of the Principal Certifying Authority with the Construction Certificate. The signage shall be installed prior to the release of any Subdivision Certificates under this consent.

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11.8 A salinity assessment is to be carried out for the site of the 8 holes of the golf course to which this consent refers prior to the issue of the Construction Certificate. The assessment shall be completed in accordance with "Site Investigations for Urban Salinity" published by the Department of Land and Water Conservation 2002. Electrical Conductivity levels of the soil are to be calculated using the EC (1:2) method. Recommendations from the assessment are to be incorporated into the development and identified in the Engineering Plans or Environmental Management Plan as appropriate.

11.9 Further Salinity investigations are to be undertaken in accordance with the recommendation outlined in the *Phase 1 Salinity Assessment Community Association Schemes Nos 1 and 2 Wilton Parklands*. The results of Phase 2 Salinity assessment are to be provided to Council prior to the issue of the Construction Certificate.

11.10 All construction measures recommended in either the Phase 1 Salinity Assessment or the Phase 2 Salinity Assessment shall be incorporated into Construction Activities for the development.

11.11 Sample site S3 identified in the Phase 1 Salinity Assessment requires ongoing monitoring. A monitoring program shall be submitted to the Principal Certifying Authority with the Engineering Plans.

11.12 Soil disturbance at a depth of 0.75 metres or greater should be minimised to reduce the potential for aluminium and magnesium to be transported to the surface.

11.13 A targeted survey of trees in the vicinity of works adjacent to environmentally significant land shall be undertaken prior to any construction works in that area to determine if Aboriginal scar trees are present. The survey shall be undertaken by an appropriately qualified person and the results provided to the Principal Certifying Authority prior to the commencement of works.

11.14 A targeted survey for *Grevillia Parviflora* shall be undertaken prior to the commencement of works within 200 metres of the environmentally significant land by an appropriately qualified person of the area of works. The results of the survey shall be provided to Council within 7 days of the survey. Should *Grevillea Parviflora* be found a Management Plan shall be prepared prior to the commencement of works in its vicinity.

11.15 A Waste Management Plan for Construction stage of the development shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

11.16 A targeted study is to be undertaken in the vicinity of Stringy Bark Creek near the southern boundary of the site for the Red Crowned Toadlet prior to the commencement of works within 200 metres of the study site. The results of this study are to be provided to Council within seven working days of receipt by the applicant and prior to the commencement of works within 200 metres of the study site. Should the Toadlet be identified, a Management Plan shall be prepared.

11.17 The development shall be completed and all works carried out in accordance with the approved Weed and Pest Eradication and Management Plan, Bushland Management Plan, Koala and Koala Habitat Management Plan and Bushfire Management Plan at all times.

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12. ABORIGINAL SITES

These conditions have been imposed to ensure that Aboriginal Sites are looked after in accordance with the requirements of the National Parks and Wildlife Act, and the Indigenous Heritage Conservation Management Plan prepared by Kayandel Archaeological Services.

12.1 The destruction, removal or relocation of an item or place of Aboriginal significance is only permitted with the approval of the National Parks and Wildlife Service under Section 90 to the National Parks and Wildlife Act, 1974. Should any items or places of Aboriginal significance not previously discovered be identified or uncovered during construction then all works in its vicinity are to cease immediately and the Director-General of the National Parks and Wildlife Service and the Local Aboriginal Land Council shall be notified immediately.

12.2 The locations of rock shelter sites, in particular those containing artwork and motifs shall not be publicised.

12.3 Selected plantings are required to be undertaken to deter casual visitation to the general vicinity of rock shelters and also to prevent easy identification of shelters sites, in particular from any elevated crossing to Stringy Bark Creek. Prior to the release of any subdivision certificate associated with this consent certification shall be provided from a person with appropriate qualifications in Aboriginal Heritage that such plantings have been installed where necessary. All plantings shall be of local indigenous species and should not be sited within the immediate confines of each shelter or its associated PAD.

12.4 A monitoring program for the Aboriginal sites shall be developed by an appropriately qualified person in consultation with local Aboriginal Community Representatives and submitted to Council for approval prior to the issue of the Construction Certificate. The program must identify the presence, nature and degree of deterioration of the Aboriginal sites over time. This program must be commenced by the developer prior to the release of any construction certificates under this consent. Prior to the release of the Subdivision Certificate for any lots to be used for residential development evidence must be provided that the future program will be co-ordinated and funded by the Wilton Parklands Environmental Trust.

12.5 At all time all contractors and other visitors onto the Wilton Parklands development area, during the preliminary phases of development, shall be made aware of the general locations of the Aboriginal sites in conjunction with the legislative protection afforded to these sites.

13. COMMUNITY SERVICES

These conditions are imposed to mitigate the potential social impacts from the development.

13.1 A Community Liaison Officer shall be engaged to provide assistance to potential new residents for at least 2 days per week prior to the release of the Occupation Certificate for any dwellings. The position shall be appointed by the Developer for a minimum of 3 years.

This officer shall consult with relevant government and non-government agencies in identifying areas for the provision of quality social infrastructure, through community development, cultural, social, educational and youth activity programs, particularly in relation to the provision of appropriate and accessible human and community services.

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The position shall also encourage the development of specific bodies and programmes to facilitate the integration of the incoming population within the existing community of Wilton. This position shall be accountable to the Developer and shall be generally consistent with the objectives and outcomes of the Wollondilly Shire Council's Community Social Plan.

The applicant may seek to satisfy the requirements of this condition by entering into a planning agreement in accordance with the Act on terms and conditions which are acceptable to Council, but there is no obligation to do so.

13.2 The Accessible Community Bus must provide links with all community services.

14. SERVICES

These conditions have been imposed to ensure that an adequate level of services are provided for the development:

14.1 Electricity supply is to be made available to all proposed lots in accordance with the requirements of Integral Energy. The service to all residential lots shall be underground. In this regard, written confirmation from Integral Energy that suitable arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Linen Plan for the Subdivision Certificate.

14.2 Provision is to be made for the supply of telephone services to all proposed lots in accordance with the requirements of Telstra. The service to all residential lots shall be underground. In this regard, written confirmation from Telstra Australia that arrangements have been made shall be submitted to the Principal Certifying Authority prior to the release of the Linen Plan for the Subdivision Certificate.

14.3 A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained.

Application must be made through an authorised Water Servicing Coordinator. Please refer to the "Your Business" section of the web site www.sydneywater.com.au then the "e-Developer" icon or telephone 13 20 92 for assistance.

Following application a "Notice of Requirements" will advise of water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.

The Section 73 Certificate must be submitted to the Principal Certifying Authority prior to release of the Linen Plan.

14.4 Every residential allotment approved in this consent must be serviced by the proposed reticulated sewerage system prior to the release of the Subdivision Certificate for that lot.

14.5 An approval to operate the sewage treatment plant under section 68 of the local Government Act shall be obtained from Council prior to the release of the Occupation Certificate for any dwellings or any other buildings to be serviced by this system and prior to the commissioning of the sewage treatment plant.

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14.6 Infrastructure, including sewerage, shall wherever possible be located outside the environmentally significant land and riparian areas.

15. SECTION 94 CONTRIBUTIONS

To ensure the adequate provision of public facilities required as a result of the development the following conditions apply:

15.1 Payment of a contribution for 215 additional lot in accordance with the Wollondilly Section 94 Contribution Plan 2000 the cost of which will be determined and payable at the time of the release of the Subdivision Certificate. These figures are reviewed quarterly.

The current amount payable is:

(i) Community Facilities	\$ 198,230
(ii) Library Facilities	\$ 65,145
(iii) Recreation Facilities	\$ 415,810
(iv) Bushfire Facilities	\$ 34,400
(v) Tree planting	\$ 16,985
(vi) Animal management	\$ 16,985
(vii) Roads and Traffic	\$1,472,105
(viii) S.94 Management	\$ 110,940
TOTAL	\$2,330,600

A partial payment proportional to the number of lots in each linen plan will be accepted at the time of release of the subdivision certificate.

The applicant may seek to satisfy the requirements of this condition by entering into a planning agreement in accordance with the Act on terms and conditions which are acceptable to Council, but there is no obligation to do so.

16. SUBDIVISION PLANS

(a) To outline the minimum development standards and provide design guidelines for the subdivision of the land in the Shire.

(b) To outline Council's requirements on work standards for the construction of land subdivision.

16.1 Submission to Council of the Linen Plan of Subdivision together with nine (9) copies suitable for certification by the General Manager and lodgement at the Land Titles Office. A fee for the release of the Subdivision Certificate applies.

16.2 Existing easements, natural watercourses and dams are to be marked on the Linen Plan of Subdivision.

16.3 The development shall be completed in accordance with the relevant plans and conditions of consent prior to the release of the Linen Plan.

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16.4 An 88B instrument shall accompany the linen plan of subdivision that relates to proposed lots 60, 61 and 62 that adjoin the environmentally significant land to require that dwellings must have living areas and private open space oriented towards the environmentally significant land unless this issue has been adequately addressed in the Neighbourhood Management Statement.

16.5 Subdivision to effect individual title to each allotment in the Community Title Scheme shall be undertaken in accordance with the Community Land Development Act, 1989 and Community Land Management Act, 1989.

16.6 Submission to Council of an approved Development Contract, Management Statement and associated documentation under the Community Land Development Act, 1989, and Community Land Management Act, 1989, for lodgement at the Land Titles Office.

16.7 Maintenance of the acoustic walls and associated landscaping constructed under Development Consent No. ID1556-04 shall be the responsibility of the Community Association for Wilton Parklands and is to be detailed in the Community Management Statement required to be submitted in accordance with condition 16.6.

16.8 The neighbourhood management statement must require that all dwellings must have access to the use of recycled water for toilet flushing.

16.9 The Community Association(s) created by the subdivision of the land the subject of this consent must:

- (a) become and remain a member of the umbrella organisation that governs landowning and non-landowning members of the greater Wilton Parklands community, on and from the date the umbrella organisation is formed; and
- (b) comply with the constitution of the umbrella organisation including the funding of the activities of the umbrella organisation.

16.10 The Applicant must, at the time of registration of the Community Plan(s) which subdivides the land the subject of this consent, create a positive covenant(s) under s88B of the Conveyancing Act 1919 on the title(s) for the community property of the Community Association(s) benefiting the Department of Planning and Wollondilly Shire Council which require continuing compliance by the Community Association(s) with the terms of this consent and in particular the terms of condition 16.9.

16.11 Asset protection zones are to be indicated in a Linen Plan of Subdivision and included in the Section 88B Instrument to be registered with affected lots. The NSW Rural Fire Service is to be noted as an interested party to the Section 88B instrument.

16.12 All gas extraction wells must be contained within allotments for parkland, the golf course or environmentally significant land.

16.13 All infrastructure (pipelines) connecting gas extraction wells shall be located within public road reserves and other publicly accessible land wherever practical.

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16.14 All purchasers shall be appropriately advised of the possible future implications for property ownership and use in proximity to mining infrastructure. *This shall be done through the creation of an instrument under section 88 of the Conveyancing Act.*

16.15 All intending purchasers shall be clearly advised in sales contracts and through the neighbourhood management statement that it is a requirement of Wollondilly Local Environmental Plan, 1991 that prior to Council approving any residential development on the land, Council must be provided with a report prepared by a suitably qualified and experienced coal geologist that examines the risk relating to geological anomaly within the coal resource under the land the subject of the proposed development.

16.16 All intending purchasers shall be clearly advised in sales contracts and through the neighbourhood management statement that it is a requirement of Wollondilly Local Environmental Plan, 1991 that all dwellings must be located at least 20 m from proposed drainage wells as set out in the Gas Post-drainage Layout Plan, Wilton Parklands November 2005. A copy of the Gas Post-drainage Layout Plan, Wilton Parklands November 2005 must be attached to every contract of sale.

16.17 The Neighbourhood Management Statement shall include words that encourage equitable representation on any Committees under the scheme including representation by the eight target groups in Wollondilly Council's Community Social Plan.

16.18 The Neighbourhood Management Statement must contain public by-laws in the interests of Wollondilly Council that enables public access (i.e. non-residents) to:

- shared pathways not on public roads
- parklands
- fire trails in environmentally significant land

17. GOLF COURSE

These conditions are imposed to ensure the golf course is safe and commenced within a timeframe acceptable to Council.

17.1 The golf course shall only be used for private recreation by the owners of the land until such time as a sealed access and car park, pro-shop and toilets have been approved and constructed for use by golfers.

17.2 Water quality in the on site water bodies shall be suitable for primary contact under National Health and Medical Research Council Guidelines.

17.3 An Operation and Maintenance Plan for the management of the constructed and natural water bodies associated with this development is to be approved prior to the use of the golf course.

17.4 All aspects of the golf course construction and operation shall comply with the requirements of the document *The Environmental Strategy for Australian Golf Course* (1998) and the document *Improving the Environmental Management of New South Wales Golf Courses*" (2003) published by the Australian Golf Course Superintendents Association and the NSW EPA.

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17.5 The preparation and implementation of an Environmental Management Plan for the proposed golf course outlining what measures will be taken to ensure that the golf course will be managed to current best environmental practice. This plan shall cover the issues raised in "Improving the Environmental Management of New South Wales Golf Course" published by the Australian Golf Course Superintendents Association, 2003 and shall include ongoing weed management. This Plan is to be completed prior to the release of the Construction Certificate for works relating to the golf course.

17.6 Details are to be provided with the Construction Certificate of alternative water supply sources for the construction phase and on going operation of the golf course if water usage for the site exceeds the volume of water captured and stored on the site.

17.7 Works are to progress on the golf course at the same time as works for the subdivision of the land. In this regard prior to the release of the subdivision certificate for more than 200 residential lots at least 9 holes of the golf course shall be constructed (but not necessarily suitable for public use).

17.8 If any external lighting is to be erected on the golf course and golf driving range it is to be subject to a separate application to Council.

17.9 Irrigation of treated effluent shall be undertaken with regard to the *Environmental Guidelines: Use of Effluent by Irrigation* (DEC, 2004), and the *NSW Guidelines for Urban and Residential Use of Reclaimed Water*. Spray from effluent application should not drift beyond the boundary of the effluent utilisation area to which it is applied. Effluent utilisation areas should effectively utilise the effluent applied to those areas. This includes the use of pasture or crop production, as well as ensuring the soil is able to absorb the nutrients, salts, hydraulic load and organic materials in the solids or liquids. Storage dams should be managed such that they will not overtop during periods of wet weather.

18. OCCUPATION AND USE

These conditions have been imposed to minimise the impact of the development on the environment and on adjoining properties and to ensure that the development is consistent with relevant legislation.

18.1 The golf course shall only be used during daylight hours unless otherwise approved by Council.

18.2 Construction works are only permitted between 7.00am to 6.00pm weekdays and between 8.00am and 1.00pm Saturdays. No works are permitted on Sundays and Public Holidays.

18.3 Prior to the issue of a Construction Certificate a Plan of Public Safety shall be prepared for the golf course, driving range and parklands and submitted to Council for approval.

18.4 Except for during construction works, whilst ever the golf course is only suitable for private use under condition 17.1, the site of the golf course shall continue to be used for grazing in conduction with the remainder of the property.

19. EARTH DAMS AND WATER FEATURES

These conditions are imposed to ensure dams are constructed to an acceptable standard.

19.1 All water bodies shall be designed and constructed to conform to DCP 21 "Earth Dams", Council's Design Code DCP & Construction Specification.

19.2 Engineering plans of the dams and water features shall be approved by the Principal Certifying Authority prior to the issue of a Construction Certificate.

19.3 All construction work shall be certified by a Geotechnical Engineer. This Certification shall be provided to the Principal Certifying Authority within 28 days of the completion of each water body.

20. FUTURE SITE DEVELOPMENT

These conditions are imposed to ensure that further and future development of the site will satisfy the requirements of Wollondilly Local Environmental Plan, 1991 and Development Control Plan No. 56 – Wilton Park.

20.1 Unless otherwise required by the Department of Education and Training the school site shall:

- be serviced by all available utilities
- have at least one frontage to a public road which is within the nominated public transport route
- have a shared pathway along at least one boundary which has a continuous link to the shared pathways in Section 6.11.3 of this DCP
- If located within the investigation area for the gas pipeline easement must be accompanied by a risk assessment
- have provision for an off carriageway bus bay and a separate off carriageway pick up / drop off area for cars

Note: Consideration should be given to the establishment of a secondary education facility on the school site.

20.2 The site for an electricity substation shall:

- be adequate to accommodate landscaping screening suitable to obscure the substation from view from the Hume Highway and nearby residential and rural residential allotments
- have a frontage to a public road constructed at least to the minimum standards of Council's Design Code Development Control Plan to cater for the typical vehicles required to access the site

20.3 Where infrastructure (being pipes, conduits, cables and other linear features) is required to cross environmentally significant land and riparian areas it is to be incorporated in a road or shared pathway structure where practicable. The road/pathway structure shall be designed in accordance with "Why do fish need to cross the road? Fish Passage Requirements for Waterway Crossings" (NSW Fisheries 2003). The removal of snags (rocks, branches etc.) from watercourses is a Key Threatening Process and requires the prior notification of NSW Fisheries.

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20.4 Prior to the release of the subdivision certificate for more than 585 residential lots all 18 holes of the golf course shall be completed and suitable for use by the public including the provision of car parking, clubhouse and amenities for staff and visitors.

20.5 All future dwellings must be located at least 20 metres from any proposed or existing drainage wells as set out in the Gas Post-drainage Layout Plan, Wilton Parklands November 2005.

20.6 All required noise barriers in the vicinity of the Hume Highway shall be designed in accordance with the requirements of section 6.9.3 of Development Control Plan No. 56 – Wilton Parklands. Plans detailing compliance with this requirement must be submitted with any application for subdivision to create lots for residential dwellings within the vicinity of the Hume Highway. All acoustic barriers must be located on privately owned land.

20.7 All parkland within Precinct 9 as identified in the concept plan for Development Control Plan No. 56 shall be suitable for uses typically associated with a village centre and shall include seating areas with suitable shade and shelter, civic space for functions and bicycle parking facilities.

20.8 All non-residential development shall comply with the controls listed in section 8.1.2 of Development Control Plan No. 56 – Wilton Parklands.

20.9 With each development application for future stages of the development, whether or not it includes residential development, shared pathways shall be provided off carriageway in accordance with the plan that indicates the proposed shareway network adopted as part of Development Control Plan No.56 – Wilton Park. A plan showing the location of these shared pathways shall be submitted with each development application and shall show each shareway and pedestrian pathway as 2.0 metres wide.

20.10 A risk assessment that examines the risk associated with unexploded ordinance shall be prepared by a suitably qualified person and submitted with any application for subdivision in the area identified by the Department of Defence (being generally in the vicinity of the Hume Highway) as being an area where unexploded ordinance could be present. This risk assessment shall also detail any required measures to be incorporated into construction activities for subdivision and for any dwelling to be erected on the lots created.

20.11 With the development application for Stage 2 a plan detailing the required break up of community floor space for the development having regard to any needs analysis adopted or placed on public exhibition by Council shall be submitted to Council and shall detail the appropriate time frame for floor space provision and type of floor space required.

20.12 The developer shall actively pursue potential providers of a childcare facility which shall be in close proximity of the commercial village centre and on a site convenient to public transport and pedestrian access and promote this potential business opportunity.

Ideally the childcare centre shall include before and after school care services.

20.13 All non-residential lots shall be within 50 metres of a shareway except in extenuating circumstances where compliance with this standard would be unreasonable.

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20.14 No lots to be used for residential development shall include land within the environmentally significant area.

20.15 Prior to the development application for the subdivision creating the 700th residential lot studies shall be undertaken to determine the level of upgrading required (if any) for Hornby Street West from the development site and Almond Street to Picton Road. The standard of any required upgrading shall be **determined** in conjunction with the development application for the 700th lot, in accordance with Council's Design Code and AUSTRROADS standards. This may include pavement strengthening and widening and intersection improvements.

20.16 Any community floor space provided in the proposed Golf clubhouse shall be accessible on an affordable and reasonable basis for all residents and local people of Wilton.

20.17 Prior to the construction of the 700th residential Lot, a full seagull treatment at the junction of Picton Road and Almond Street shall be constructed to RTA standards and shall be operational.

21. ERECTION OF SIGNS

To satisfy Section 80A (11) of the Environmental Planning & Assessment Act, the following conditions are imposed:

21.1 A sign must be erected in a prominent position on any site on which building work, subdivision work or demolition work is being carried out:

- (a) showing the name, address and telephone number of the Principal Certifying Authority for the work; and
- (b) showing the name of the principal contractor (if any) for any building work and a telephone number on which that person may be contacted outside working hours; and
- (c) stating that unauthorized entry to the work site is prohibited.

21.2 The sign is to be maintained while the building work, subdivision work or demolition work is being carried out. The sign must be removed when the work has been completed.

22.0 RECLAIMED WATER QUALITY

To ensure that reclaimed water is of acceptable quality for toilet flushing, garden irrigation and car washing.

22.1 The sewage management system shall be designed, installed and operated in accordance with the National Water Quality Management Strategy for Sewerage System – Use of Reclaimed Water, NSW Guidelines for Urban and Residential Use of Reclaimed Water and the most recent edition of the NSW Code of Practice: Plumbing & Drainage published by the Committee on Uniformity of Plumbing and Drainage Regulations in NSW.

22.2 Treated effluent shall only be reclaimed for toilet flushing and garden irrigation where the following testing criteria, monitoring requirements and water quality levels have been met.

Final Water Quality Criteria

Parameter	Compliance Value	Sampling Frequency	
		Validation Process	Ongoing
<i>E.coli</i> or Thermotolerant coliforms	<1/100 mL	Bi-weekly	Monthly
Total Coliform	<10/100 mL	Bi-weekly	Not required
Virus ¹	<2/50 L	Monthly	Not required
<i>Cryptosporidium</i>	<1/50 L	Weekly	Not required
<i>Giardia</i>	<1/50 L	Weekly	Not required
Turbidity	<2 NTU	Continuous on-line	Continuous on-line
Disinfection effectiveness	² 0.5 mg/L free chlorine	Continuous on-line	Continuous on-line
pH	6.5-8.0	Continuous on-line	Continuous on-line
Biochemical Oxygen Demand (BOD ₅)	<10mg/L	Weekly	Not required
Suspended Solids	<10mg/L	Weekly	Not required

¹Testing should include Enterovirus, Adenovirus, Reovirus, Hepatitis A, Norovirus and Rotavirus

²Sufficient to maintain a chlorine residual of 0.5 mg/L throughout the system

Monitoring of other parameters including those listed in Table 3-3 of the Statement of Environmental Effects dated November 2005 are to be addressed in the Environmental Management Plan required by condition 23.1.

22.3 The treatment process must be validated for a minimum of three (3) months before supply to the dwellings or garden irrigation is to commence. During the validation period, the treated wastewater is not to be used for toilet flushing, garden irrigation or car washing.

23. EFFLUENT DISPOSAL

To ensure effluent disposal occurs in an environmentally acceptable manner:

23.1 An Environmental Management Plan shall be submitted to Council after the issue of a Construction Certificate detailing, but not limited to, the following:

- The treatment process;
- Screenings/grit removal;
- Biosolids removal;
- Routine sampling program;
- Maintenance;
- Emergency contact details;
- System failure procedures;

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- Auditing procedures to detect cross-connections; and
- Contingency plans for the management of sewage and water requirements in the event of system failure.

23.2 Appropriate signage is to be erected on all tap outlets supplying reclaimed water.

23.3 All residents and visitors are to be made aware of the use of reclaimed water for the flushing of toilets, the irrigation of private and public land, or car washing.

24. ADVICE

24.1 At all times work is being undertaken with the public road, adequate precautions shall be taken to warn, instruct and guide road users safely around the work site with a minimum of disruption.

24.2 During the course of construction, care must be taken to prevent damage to any public utility or other service and the applicant will be held responsible for any damage caused by him or his agents, either directly or indirectly. Any mains, services, poles, surface fittings etc., that require alteration shall be altered at the applicants expense and to the satisfaction of Council and the authority concerned.

24.3 A defects liability period of twelve (12) months will apply from the date of issue of the Certificate of Practical Completion by Council. A 10% maintenance bond, or a minimum of \$1,000, whichever is greater, is to be lodged in accordance with Council's Construction Specification for all work that is to become the property of Council.

24.4 The developer and any contractor or sub-contractor used to carry out any work authorised by or out of this approval on Council owned or controlled land, is to carry the following insurance, copies of which are to be produced to Council upon request:

- Motor vehicle insurance (comprehensive or property damage) for all self propelled plant, as well as valid registration or RTA permit (Including CTP insurance). Primary producer's registration is not valid registration for use on Public Road construction work
- Workers Compensation Insurance
- Ten Million Dollar Public Liability Insurance

NOTE: This consent does not permit the commencement of construction unless a Construction Certificate has been issued. For details about obtaining a Construction Certificate contact Council's Development & Environment Division.

Therefore, should you wish to proceed on this basis, you are required to submit a Surveyor's Linen Plan and nine (9) helio copies thereof together with a Subdivider/Developer Certificate from Sydney Water.

Should you wish to discuss Council's decision or the conditions imposed you may contact Council's Development & Environment Division.

Should you feel aggrieved by Council's decision in this matter, or object to the conditions imposed, in accordance with Section 97(1) of the Act you are entitled to lodge an appeal with the Land and Environment Court of New South Wales within twelve (12) months of the date appearing above. Forms for such are obtainable from the Local Court at your request. .../28

Section 97 of the Environmental Planning and Assessment Act 1979 does not apply to the determination of a development application for State significant development or local designated development that has been the subject of a Commission of Inquiry.

You are further advised that this approval will expire if the development is not commenced within five (5) years of the determination date appearing above.

Yours faithfully



David Smith
Manager Development
LAND USE PLANNING & ENVIRONMENT

Encl.

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Should you require further information regarding the above matter, please contact David Smith on phone (02) 4677 1138 or Fax (02) 4677 1831 in Council's Development & Environment Division Monday to Friday between the hours 8.00am - 4.30pm. Please quote File No. ID993-05P6.



ATTACHMENT A

GENERAL TERMS OF APPROVAL

INTRODUCTION

These General Terms of Approval are specific to that part of the proposed development that relates to the construction and operation of the sewage treatment system (STS). These General Terms of Approval reflect the conditions that will be included in the environment protection licence for the STS. The proponent will need to make a separate application to the Department of Environment and Conservation (DEC) for the licence. Such application should be submitted to the DEC at least eight weeks prior to the commencement of construction activities. The licence will be issued in the name of the Environment Protection Authority (EPA). Construction activities for the STS must not commence until the licence has been issued.

The parts of the proposal related to the subdivision of land and the construction of the golf course, including the infrastructure, access, earthworks, landscaping and other works associated with these activities, and the storage and distribution of treated effluent beyond the boundary of the sewage treatment plant, for reuse in the golf course irrigation system and for domestic uses are not scheduled activities and accordingly are not subject to General Terms of Approval. However, construction works for, and operation of, those activities must be carried out in accordance with the provisions of the *Protection of the Environment Operations Act 1997*.

ADMINISTRATIVE CONDITIONS

A1 Information supplied to the DEC

A1.1 Except as expressly provided by these general terms of approval, works and activities must be carried out in accordance with the proposal contained in:

- the development application, DA N^o ID993-05, submitted to Wollondilly Shire Council on 8 November 2005;
- any environmental impact assessment relating to the development, including the document titled *Statement of Environmental Effects to Accompany A Staged Development Application for the Wilton Parklands Residential Community Concept plan and Stage 1 Works* (BBC Consulting and CH2MHill, November 2005); and
- all additional documents supplied to the DEC in relation to the development, including, but not limited to:
 - o *Wilton Parklands Development Applications Report on the Disposal of Treated Effluent from the Wilton Parklands Residential Development* (VKL Consulting Pty Ltd, November 2005, Version 2);
 - o *Wilton Parklands Development Application for First 215 Residential Lots, STP & Part Golf Course Engineering Report* (VKL Consulting Pty Ltd, November 2005); and
 - o *Wilton Parklands Community Plan of Subdivision Drawings*, numbered 23310 P12, 23310 P13 and 23310 P14 (Wallis & Moore Pty Ltd, November 2005).