

---

Stockland Development Pty Limited

---

Sunshine Coast Regional Council

---

# Infrastructure Agreement

**Twin Waters West Lake Infrastructure**

# Contents

<b>1</b>	<b>Commencement</b>	<b>5</b>
1.1	Commencement	5
1.2	Condition precedent	5
<b>2</b>	<b>Infrastructure agreement</b>	<b>6</b>
2.1	Purpose of this document	6
2.2	Application of Planning Act	6
2.3	Agreement to bind successors in title	6
2.4	No fetter	6
2.5	Release of Developed Lots	6
2.6	No conversion, offsets or refunds	6
2.7	No Appeal rights	7
<b>3</b>	<b>Parties' obligations</b>	<b>7</b>
3.1	Developer's obligations	7
3.2	Landowner's obligations	7
3.3	Council's obligations	7
<b>4</b>	<b>Infrastructure Contributions to comply</b>	<b>7</b>
4.1	Infrastructure Contributions to comply generally	7
4.2	Land Contributions to comply	8
4.3	Requirement to obtain Approvals	8
<b>5</b>	<b>Lake Management and Maintenance Plan</b>	<b>8</b>
<b>6</b>	<b>On Maintenance and Off Maintenance</b>	<b>9</b>
6.1	On Maintenance	9
6.2	Off Maintenance	10
<b>7</b>	<b>Security</b>	<b>12</b>
7.1	Provision of a Security	12
7.2	Adjustment of a Security	12
7.3	Release of a Security	13
7.4	Interest	14
<b>8</b>	<b>Release and indemnity</b>	<b>14</b>
8.1	Release	14
8.2	Indemnity	14
8.3	No merger on termination	15
<b>9</b>	<b>Right of access</b>	<b>15</b>
9.1	Access to the Developer's premises	15
9.2	Exercise of a right of access	16
9.3	No merger on termination	16
<b>10</b>	<b>Proposed transfers of land</b>	<b>16</b>
10.1	Restriction on the right to sell the Land	16
10.2	No unreasonable refusal of consent	16

10.3	Landowner to remain liable	16
10.4	Not to apply to Developed Lots or transfers from a Landowner to the Developer	17
<b>11</b>	<b>Default</b>	<b>17</b>
<hr/>		
<b>12</b>	<b>Termination</b>	<b>18</b>
<hr/>		
12.1	Process for termination	18
12.2	Consequences of termination	18
<b>13</b>	<b>Disputes</b>	<b>18</b>
<hr/>		
13.1	Application of clause	18
13.2	Dispute Notices	18
13.3	Disputes about Default Notices	19
13.4	Initial meeting or correspondence	19
13.5	Mediation	19
13.6	Determination	19
13.7	Court proceedings for unresolved dispute	20
13.8	Costs of dispute	20
<b>14</b>	<b>Notices</b>	<b>21</b>
<hr/>		
14.1	Giving Notices	21
14.2	Receiving Notices	21
14.3	Other matters	21
<b>15</b>	<b>GST</b>	<b>22</b>
<hr/>		
15.1	Construction	22
15.2	Consideration GST exclusive	22
15.3	Payment of GST	22
15.4	Timing of GST payment	22
15.5	Tax invoice	22
15.6	Adjustment event	23
15.7	Reimbursements	23
15.8	No merger	23
<b>16</b>	<b>General</b>	<b>23</b>
<hr/>		
16.1	Payment of costs	23
16.2	Duty	23
16.3	Amendment of this document	23
16.4	Waiver and exercise of rights	24
16.5	Rights cumulative	24
16.6	Consents	24
16.7	Further steps	24
16.8	Governing law and jurisdiction	24
16.9	Assignment	24
16.10	Liability	24
16.11	Entire understanding	24
16.12	Relationship of parties	25
16.13	Force Majeure	25
16.14	Effect of execution	25
16.15	Deed	25

<b>17</b>	<b>Definitions and construction</b>	<b>26</b>
17.1	Definitions	26
17.2	Construction	30
<b>Schedule 1</b>		<b>32</b>
<b>Schedule 2</b>		<b>35</b>
<b>Schedule 3</b>		<b>38</b>
<b>Schedule 4</b>		<b>400</b>

**Date**

## Parties

Stockland Development Pty Limited ACN 000 064 835 (**Developer**)

Sunshine Coast Regional Council (**Council**)

---

## Background

- A The Developer intends to carry out the Development on the Land.
  - B The Development includes the construction of a Lake (constructed water body).
  - C The Council has agreed to accept the Lake in public ownership in accordance with the terms of this document and all related approvals.
  - D The Owner (other than the Owners of Lot 10 on SP248472 and Lot 8 on RP812125) of the Land has consented to the responsibilities under this document being attached to the Land.
- 

## Agreed terms

### 1 Commencement

#### 1.1 Commencement

This document commences on the date when the last party executes this document, which is to be recorded by that party in **Item 1** at the time of execution.

#### 1.2 Condition precedent

Despite **clause 1.1**, the Developer is not required to comply with the Developer Obligations unless and until such time as:

- (a) the Development Approval has taken effect;
- (b) any public road which will be directly affected by the Works Contribution for the Lake has been closed; and
- (c) any sewerage mains which will be directly affected by the Works Contribution for the Lake have been relocated so that the Works Contribution for the Lake can be carried out.

## 2 Infrastructure agreement

### 2.1 Purpose of this document

The purpose of this document is to establish the parties' rights and obligations in relation to the Infrastructure Contributions identified in the ICS.

### 2.2 Application of Planning Act

This document is an infrastructure agreement under the Planning Act.

### 2.3 Agreement to bind successors in title

- (a) The Developer Obligations will not be affected by a change in the ownership of the whole or any part of the Land, other than in accordance with **clause 10**.
- (b) It is the intention of the parties that the Developer Obligations will attach to the Land and be binding on the Owner and the Owner's successors in title, in accordance with section 155 of the Planning Act.
- (c) The parties acknowledge that the Developer has obtained the written consent of each Owner (other than the Owners of Lot 10 on SP248472 and Lot 8 on RP812125) of the Land to the Developer Obligations attaching to each Owner's respective part of the Land, copies of which are included in **Schedule 4**.

### 2.4 No fetter

Nothing in this document fetters the rights, powers, authorities, functions or discretions of Council, any other Approval Authority or any other government agency under the provisions of any Law.

### 2.5 Release of Developed Lots

- (a) Despite any other provision of this document, a Developed Lot is released from the Developer Obligations from the time the Developed Lot is created.
- (b) If a Lot to which **clause 2.5(a)** applies ceases to be a Developed Lot, the Developer Obligations will apply to the Lot.

### 2.6 No conversion, offsets or refunds

- (a) The parties agree that the Infrastructure Contributions in the ICS may be imposed as a condition of the Development Approval subject to compliance with the Planning Act.
- (b) The Developer and the Landowner covenant and agree that, notwithstanding anything to the contrary in an Approval or any Infrastructure Charges Notice, they are not entitled to, or agree to forgo, as the case may be:
  - (i) an Offset (or similar) for the Infrastructure Contributions identified in the ICS;
  - (ii) a Refund (or similar) for the Infrastructure Contributions identified in the ICS;
  - (iii) an Application to Convert any Infrastructure Contribution identified in the ICS from non-trunk infrastructure to trunk infrastructure,

and covenant and agree not to make a Claim or take any other action under this document, the Planning Act or any other document or law in that regard.

- (c) The Developer and the Landowner acknowledge and agree that Council can plead this document as a bar in the event the Developer or the Landowner makes a Claim or takes an action for a matter stated in this **clause 2.6**.
- (d) This **clause 2.6** does not merge on termination of this document and continues in effect until Council gives the other parties a Notice waiving the benefit of this **clause 2.6**.

## **2.7 No Appeal rights**

The parties must not commence any Claim in relation to a condition of a development approval requiring compliance with this document.

# **3 Parties' obligations**

## **3.1 Developer's obligations**

The Developer must:

- (a) provide the Infrastructure Contributions in accordance with the ICS; and
- (b) otherwise comply with the terms of this document.

## **3.2 Landowner's obligations**

- (a) Subject to **clause 2.5**, the Landowner must comply with the Developer Obligations (including all obligations in **clause 3.1**).
- (b) The obligations of the Landowner under this document continue and remain in force and effect, even if the Landowner ceases to be the Owner of the Land, unless and until **clause 10** is satisfied.
- (c) For the avoidance of doubt, if there are multiple Landowners, a reference in this document to the Landowner is a reference to each Landowner jointly and severally.

## **3.3 Council's obligations**

Council must:

- (a) accept any Infrastructure Contribution provided to it in accordance with this document; and
- (b) otherwise comply with the terms of this document.

# **4 Infrastructure Contributions to comply**

## **4.1 Infrastructure Contributions to comply generally**

An Infrastructure Contribution must be provided in accordance with the ICS.

## 4.2 Land Contributions to comply

A Land Contribution must be provided in a state fit for the purpose the Land Contribution is being given and to the satisfaction of the Council.

## 4.3 Requirement to obtain Approvals

The Developer must, in providing any Infrastructure Contribution:

- (a) apply for and obtain from an Approval Authority any and all necessary Approvals to provide the Infrastructure Contribution; and
- (b) subject to section 157 of the Planning Act, to the extent that it applies, comply with, and provide the Infrastructure Contribution in accordance with, any and all relevant Approvals.

# 5 Lake Management and Maintenance Plan

- (a) The Developer must prepare and provide to the Council in accordance with **clause 6** a document for the management and maintenance of the Lake (**Lake Management and Maintenance Plan**) prepared by a suitably qualified and experienced person agreed to by Council, which includes, but is not limited to, the following:
  - (i) management strategies to ensure the ongoing sustainability of the lake system, including:
    - (A) key purposes of the Lake (for example, recreation, amenity, flood retention);
    - (B) key objectives for management of the Lake;
    - (C) performance indicators for the lake management and a program for water quality monitoring and testing;
    - (D) corrective actions that are likely to be required for the management of the Lake; and
    - (E) performance objectives for the Lake to satisfy during the Maintenance Period including, but not limited to, water quality;
  - (ii) “as constructed” plans (both hard and electronic copies) showing relevant details and levels for all components of the Lake;
  - (iii) a summary of water quality monitoring and test results obtained for the Lake;
  - (iv) briefing notes suitable for maintenance personnel, sufficient to identify any known occupational health and safety issues related to the ongoing management of the Lake;
  - (v) a summary checklist, including a timetable, for the routine inspection and maintenance of the Lake;
  - (vi) an asset management plan including a summary of staff, plant, minor and special equipment and costing information associated with the previous operation and maintenance of the water body to inform the future maintenance and management of the Lake including, but not limited to, pump maintenance, renewal info etc,



- previous asset maintenance data and any other related asset equipment or data (standby pump, access keys, telemetry details, log ins etc;
  - (vii) an operating and maintenance manual;
  - (viii) a description that includes costings of capital and operational investments necessary to provide an 80 year life cycle of the Lake;
  - (ix) identification of agreed sampling locations for the purposes of water quality monitoring.
- (b) The Lake Management and Maintenance Plan must be approved by Council and be consistent with the conditions of any relevant Approval in relation to the Works Contribution.

## 6 On Maintenance and Off Maintenance

### 6.1 On Maintenance

- (a) When the Developer is satisfied that the construction of a Works Contribution has reached Completion, the Developer must provide a Notice to Council which requests that the Works Contribution be accepted as On Maintenance and include:
- (i) a statement that construction of the Works Contribution has reached Completion;
  - (ii) a certificate from a Registered Professional Engineer Queensland stating that the Works Contribution has been constructed in accordance with the Developer Obligations and any relevant Approval;
  - (iii) submission of a Lake Management and Maintenance Plan, prepared by a suitably qualified and experienced person agreed to by Council;
  - (iv) confirmation that all stormwater infrastructure in the Lake's sub-catchment is on maintenance or has completed its Maintenance Period;
  - (v) a receipt showing payment of the required Financial Contribution for maintenance of the lake as per **item 2.1** of the ICS in **Schedule 3**; and
  - (vi) a receipt showing payment of the required Maintenance Security.
- (b) Following receipt of the Notice referred to in **clause 6.1(a)**, Council may undertake an inspection of the Works Contribution for the purpose of determining whether the Works Contribution should be accepted as On Maintenance.
- (c) Within 30 Business Days of receipt of the Notice referred to in **clause 6.1(a)**, Council must:
- (i) Consider the Notice; and
  - (ii) Either confirm in writing to the Developer:

- (A) that the Works Contribution is accepted as On Maintenance;  
or
  - (B) the reasons that Council does not consider that the Works Contribution should be accepted as On Maintenance
- (d) If the Developer is notified in accordance with **clause 6.1(c)(ii)(B)** above:
  - (i) The Developer must:
    - (A) remedy any relevant defect; and
    - (B) once remedied, resubmit the Notice under **clause 6.1(a)**; and
  - (ii) Within 15 Business Days of receiving the re-submitted Notice under **clause 6.1(a)**, Council must:
    - (A) consider the re-submitted Notice; and
    - (B) either confirm in writing to the Developer:
      - (1) that it is satisfied that the Works Contribution should be accepted as On Maintenance; or
      - (2) that it is not satisfied that the Works Contribution is On Maintenance along with the reasons as to why the action taken to remedy the defect is unsatisfactory.
- (e) If the Developer is notified in accordance with **clause 6.1(d)(ii)(B)(2)**, any party may give a Dispute Notice for the purposes of **clause 13**.
- (f) The Works Contribution will have reached On Maintenance on the date that Council confirms that the Works Contribution is On Maintenance or, if a Dispute Notice is given, once it is determined that the Works Contribution is On Maintenance through the dispute resolution process in **clause 13**.
- (g) Council's consideration of the Notice given under **clause 6.1(a)** is limited to a consideration of whether the Works Contribution has been completed in accordance with the Developer Obligations and any relevant Approval.
- (h) Any Works Contribution provided by the Developer is to be maintained by the Developer, at its own cost, for the relevant Maintenance Period and in accordance with the Lake Management and Maintenance Plan after the Works Contribution is On Maintenance including rectification of any defects arising from the design or construction of the Works Contribution.
- (i) Despite any other provision of this **clause 6**, a Works Contribution is not On Maintenance unless the Maintenance Security and the Financial Contribution in **item 2.1** of the ICS in **Schedule 3** for that Works Contribution has been given to Council as required.

## 6.2 Off Maintenance

- (a) At the end of the Maintenance Period for a Works Contribution, the Developer must provide to Council a Notice which requests that that the Works Contribution has been accepted Off Maintenance, and must include:

- (i) a certificate from a Registered Professional Engineer Queensland stating that all known defects have been remedied;
  - (ii) a report detailing any rectification activities undertaken during the Maintenance Period, supported by photographs and costs;
  - (iii) provision of a recent hydrographic survey, completed within 3 months of this Notice, certified by a suitably qualified and experienced person agreed to by Council;
  - (iv) a revised Lake Management and Maintenance Plan, informed by learnings and data from the Maintenance Period;
  - (v) a statement from a suitably qualified and experienced person agreed to by Council that the performance objectives for the Lake documented in the Lake Management and Maintenance Plan have been satisfied during the Maintenance Period; and
  - (vi) a statement from a suitably qualified and experienced person agreed to by Council stating that all maintenance has been undertaken in accordance with the Lake Management and Maintenance Plan.
- (b) Following receipt of the Notice referred to in **clause 6.2(a)**, Council may undertake an inspection of the Works Contribution for the purpose of determining whether the Works Contribution should be accepted as Off Maintenance.
- (c) Within 30 Business Days of receipt of the Notice referred to in **clause 6.2(a)**, Council must:
- (i) Consider the Notice; and
  - (ii) Confirm in writing to the Developer either:
    - (A) that the Works Contribution is Off Maintenance; or
    - (B) the reasons that Council does not consider that the Works Contribution is Off Maintenance.
- (d) If the Developer is notified in accordance with **clause 6.2(c)(ii)(B)**:
- (i) the Developer must:
    - (A) remedy any relevant defect; and
    - (B) once remedied, resubmit the Notice; and
  - (ii) Within 15 Business Days of receiving the re-submitted Notice, Council must:
    - (A) consider the re-submitted Notice; and
    - (B) either confirm in writing to the Developer:
      - (1) That it is satisfied that the Works Contribution is Off Maintenance; or
      - (2) That it is not satisfied that the Works Contribution is Off Maintenance along with the reasons why.

- (e) If the Developer is notified in accordance with **clause 6.2(d)(ii)(B)(2)**, the Notice provided by Council will be a Dispute Notice for the purposes of **clause 13**.
- (f) If Council does not respond to the Notice provided by the Developer in accordance with **clause 6.2(a)** or **6.2(d)(i)(B)**, a party may give a Dispute Notice for the purposes of **clause 13**.
- (g) The Works Contribution will be Off Maintenance on the date that Council confirms that the Works Contribution is Off Maintenance or, if a Dispute Notice is given, once it is determined that the Works Contribution is Off Maintenance through the dispute resolution process in **clause 13**.

## 7 Security

### 7.1 Provision of a Security

- (a) The Developer must provide to the Council:
  - (i) a Performance Security, 10 Business Days prior to undertaking any works on the Land in connection with this document;
  - (ii) a Contribution Security, 10 Business Days prior to undertaking any works on the Land in connection with this document; and
  - (iii) a Maintenance Security in accordance with **clause 6.1(a)**.
- (b) The Council may:
  - (i) where the Security is not cash, convert the Security to cash at any time; and
  - (ii) use the proceeds of the Security:
    - (A) to satisfy any amount Council asserts is payable by the Developer to Council in connection with this document;
    - (B) to pay for any cost, loss, liability or expense the Council has incurred as a consequence of any breach of this document by the Developer, including, but not limited to, a failure by the Developer to provide the Works Contribution, or the Developer's negligent act or omission.
- (c) This **clause 7.1** does not merge on termination of this document and continues in effect until the Council gives to the other parties a Notice waiving the benefit of this **clause 7.1**.

### 7.2 Adjustment of a Security

- (a) On each anniversary of the date on which the Developer provides a Security to the Council (**Adjustment Date**) the amount of a Security (**Security Amount**) is adjusted (**Revised Security Amount**) by applying the following formula;

$$RSA = \frac{SA \times A}{B}$$

where:

RSA is the Revised Security Amount.

- SA is the Security Amount on the day immediately preceding the relevant Adjustment Date.
- A is the index number for the PPI immediately preceding the relevant Adjustment Date.
- B is the index number for the PPI immediately preceding:
- (i) the date on which the Developer provides a Security to the Council, for the first Adjustment Date; or
  - (ii) the date which is one year before the relevant Adjustment Date, for each subsequent Adjustment Date.
- (b) The Council may give the Developer a Notice specifying the Revised Security Amount determined under **clause 7.2(a)**;
- (c) The Developer must give to the Council a replacement or further Security so that the Council holds a Security for an amount equal to the Revised Security Amount no later than:
- (i) 20 Business Days after the date of a Notice issued under **clause 7.2(b)**;
  - (ii) 40 Business Days after the relevant Adjustment Date if no Notice has been issued under **clause 7.2(b)**.
- (d) The Council will release and return to the Developer an existing Security upon the receipt of a replacement Security for the Revised Security Amount under **clause 7.2(c)**.

### **7.3 Release of a Security**

- (a) The Developer may give to the Council a Notice requesting that the Council release and return to the Developer:
- (i) a Performance Security, only if the Developer has performed and fulfilled the Land Contribution, Works Contribution and Financial Contribution in items 1.1, 1.2 and 2.1 of **Schedule 3**;
  - (ii) a Contribution Security, only if the Developer has performed and fulfilled the Financial Contribution in item 2.1 of **Schedule 3**;
  - (iii) a Maintenance Security, only if the Works Contribution has been accepted Off Maintenance in accordance with **clause 6.2**.
- (b) The Council must, no later than 20 Business Days after receiving a Notice under **clause 7.3(a)**, give to the Developer a Notice stating whether the Council is satisfied:
- (i) for a Performance Security:
    - (A) that the Developer has fully performed and fulfilled the Developer Obligations secured by the Performance Security; and
    - (B) that the Council has no actual or contingent liability arising as a result of the Developer's full performance and fulfilment of the Developer Obligations;

- (ii) for a Contribution Security, that the Developer has fully performed and fulfilled the Developer Obligations secured by the Contribution Security;
  - (iii) for a Maintenance Security, that the Works Contribution is Off Maintenance.
- (c) The Council will release and return the Security to the Developer no later than 20 Business Days after the Council gives the Developer a Notice under **clause 7.3(b)** expressing the satisfaction of the Council to the matter stated in **clause 7.3(b)**.

#### **7.4 Interest**

The interest earned on a Security belongs to the Council.

## **8 Release and indemnity**

### **8.1 Release**

- (a) The Developer covenants and agrees that the following are at the risk of the Developer:
- (i) the Land and the Lake;
  - (ii) the Development of the Land and the Lake;
  - (iii) a Developer Obligation.
- (b) The Developer releases the Council from a Claim or the costs for the following:
- (i) the Land and the Lake;
  - (ii) the Development of the Land and the Lake;
  - (iii) a Developer Obligation.
- (c) However, **clause 8.1(a)** does not apply to the extent that any risk is caused or contributed to by the following:
- (i) an error, omission or a negligent or wilful act or omission of the Council;
  - (ii) non-compliance with a law by the Council;
  - (iii) a Claim to the validity, legality or enforcement of an Approval or the Planning Scheme brought or commenced by or on behalf of a person other than the Developer.

### **8.2 Indemnity**

- (a) The Developer indemnifies the Council against a Claim or the costs arising directly or indirectly from the following:
- (i) the Council enforcing a Developer Obligation of the Developer;
  - (ii) the Council exercising a right as a result of a default by the Developer;
  - (iii) a matter applicable to the Developer including the following:

- (A) the Land and the Lake;
- (B) the Development of the Land and the Lake;
- (C) a Developer Obligation;
- (iv) any Claim from a related or unrelated third party including the following:
  - (A) the Land and the Lake;
  - (B) the Development of the Land and the Lake;
  - (C) a Developer Obligation;
- (v) a matter under a document for an Infrastructure Contribution of the Developer;
- (vi) a matter under a document provided for under this document which is applicable to the Developer.
- (b) However the indemnity of the Developer to the Council under **clause 8.2(a)** is only to the extent that a Claim or the costs are not caused or contributed to by the following:
  - (i) an error, omission or a negligent or wilful act or omission of the Council;
  - (ii) non-compliance with a law by the Council;
  - (iii) a Claim to the validity, legality or enforcement of an Approval or the Planning Scheme brought or commenced by or on behalf of a person other than the Developer.
- (c) For **clause 8.2(a)**, the Developer indemnifies the Council for all the costs of a Claim paid or payable by the Council including legal costs on a full indemnity basis.
- (d) The Council is not required to incur a cost before enforcing a right of indemnity under this clause.
- (e) The Developer is to pay on demand by a Notice given by the Council to the Developer an amount which it is to pay under the Developer's indemnity.

### **8.3 No merger on termination**

This **clause 8** does not merge on termination of this document and continues in effect until the Council gives to the other parties a Notice waiving the benefit of this **clause 8**.

## **9 Right of access**

### **9.1 Access to the Developer's premises**

The Developer or Landowner is to, upon the receipt of a Notice given by the Council to the Developer or Landowner which states that access is required to premises of which the Developer or Landowner is the owner or which is under the control of the Developer or Landowner, permit the Council to have access to the premises for the following:

- (a) determining whether a Developer Obligation has been performed and fulfilled;
- (b) making good a breach of a Developer Obligation;
- (c) the performance and fulfilment of a responsibility of the Council;
- (d) the exercise by the Council of a right.

## **9.2 Exercise of a right of access**

- (a) A right of access includes the following:
  - (i) a right to bring machinery, equipment and materials onto the relevant premises;
  - (ii) a right to effect and install work which is required and authorised to be performed and fulfilled.
- (b) A person exercising a right of access is:
  - (i) to exercise reasonable care so as not to cause damage or injury to property or a person;
  - (ii) to comply with the owner's reasonable directions and requirements for health and safety;
  - (iii) taken to be an invitee of the owner and the occupier of the relevant premises; and
  - (iv) to promptly rectify any damage cause to property.

## **9.3 No merger on termination**

This **clause 9** does not merge on termination of this document and continues in effect until the Council gives to each other party a Notice waiving the benefit of this **clause 9**.

# **10 Proposed transfers of land**

## **10.1 Restriction on the right to sell the Land**

A Landowner must not sell or transfer the whole or any part of the Land unless the Landowner has first obtained:

- (a) written consent from the Proposed Transferee that this agreement will continue to attach to the relevant part of the Land; and
- (b) written consent from Council to the Proposed Transferee becoming subject to the Landowner's obligations under **clause 3.2**.

## **10.2 No unreasonable refusal of consent**

Council must not refuse to give its consent under **clause 10.1** unless Council has a reasonable concern that the Proposed Transferee will not, or will be unable to, comply with the Landowner's obligations under **clause 3.2**.

## **10.3 Landowner to remain liable**

In the event of the whole or any part of the Land being sold or transferred other than in accordance with **clause 10.1**, the Landowner (immediately prior to the sale or transfer) must perform and fulfil each of its obligations under this



document that have not been performed and fulfilled immediately or at such other time as Council stipulates in a Notice, even if the time otherwise appointed for the performance and fulfilment of that obligation has not yet then arrived.

#### **10.4 Not to apply to Developed Lots or transfers from a Landowner to the Developer**

This **clause 10** does not apply to the sale or transfer of Developed Lots or the transfer of any part of the Land from a Landowner to the Developer.

### **11 Default**

- (a) If a party considers that another party has defaulted in respect of an obligation under this document, that party (ie the non-defaulting party) may give a Default Notice to the party considered to be in default:
  - (i) specifying the default in reasonable detail; and
  - (ii) requesting the defaulting party to rectify the default within a reasonable period specified in the Default Notice.
- (b) If a party receives a Default Notice and fails to comply with the Default Notice, the party that gave the Default Notice may (without limiting any of its rights) recover from the defaulting party as a liquidated debt the money it expends in giving the Default Notice.
- (c) Without limiting any other right of the Council, if the party giving the Default Notice is the Council and the party receiving the Default Notice fails to comply, the Council may without further recourse to the party:
  - (i) do anything reasonably necessary to ensure the Default Notice is complied with;
  - (ii) recover any reasonable costs and expenses incurred in doing so as a debt owing by the recipient of the Default Notice;
  - (iii) call on a Security under **clause 7.1** to ensure the Default Notice is complied with.
- (d) If a Dispute Notice is given in relation to a default the subject of a Default Notice, there is no obligation to comply with the Default Notice until the dispute is resolved under **clause 13** or finally decided by a Court.
- (e) The giving of a Default Notice does not stay the effect of this document.
- (f) A default by one party does not prevent the other party from continuing to exercise any rights, or comply with any obligations, under this document.
- (g) A default in relation to a joint obligation of the parties does not prevent any party from continuing to exercise any rights or comply with any obligations under this document.

## 12 Termination

### 12.1 Process for termination

This document terminates where:

- (a) either:
  - (i) the Development Approval does not have effect or ceases to have effect under the Planning Act;
  - (ii) the Development has been completed and the responsibilities under this document have been performed and fulfilled; or
  - (iii) the parties agree:
    - (A) that the performance and fulfilment of this document has been frustrated by an event outside of the control of the parties; and
    - (B) to terminate this document;
- (b) a party gives a Notice to each other party stating that an event specified in **clause 12.1(a)** has occurred and that the party giving the Notice proposes to terminate this document; and
- (c) at a date which is 15 Business Days after the giving of the Notice specified in **clause 12.1(b)**, the party giving the Notice gives a further Notice to each other party which states that this document is terminated.

### 12.2 Consequences of termination

- (a) The termination of this document does not affect a right which has accrued to a party before the termination of this document.
- (b) A clause of this document merges on the termination of this document unless a clause is expressed not to merge on the termination of this document, in which case the clause continues in effect until the occurrence of the event stated in the clause.

## 13 Disputes

### 13.1 Application of clause

This **clause 13** applies to any dispute between the parties to this document (including in relation to prior conduct of the parties or the interpretation of this document) but does not:

- (a) apply to disputes over debts; or
- (b) prevent a party from applying to a court for urgent injunctive or declaratory relief.

### 13.2 Dispute Notices

If a dispute arises between the parties to this document, a party may give a Dispute Notice to the other party:

- (a) identifying the dispute and the facts relied on in relation to the dispute; and

- (b) stating either that:
  - (i) the parties are required to meet within 5 Business Days; or
  - (ii) a written response to the Dispute Notice is required from the other party within 10 Business Days.

### **13.3 Disputes about Default Notices**

If a dispute relates to the issuing of a Default Notice, the resolution of the dispute must determine:

- (a) whether the Default Notice must be complied with; and
- (b) if the Default Notice must be complied with, the timeframe in which the Default Notice must be complied with; and

### **13.4 Initial meeting or correspondence**

- (a) If a Dispute Notice is given under **clause 13.2(b)(i)**, the parties must meet, within 5 Business Days after the date the Dispute Notice is given, at the Council offices, Queensland at least once to discuss the dispute including the possible resolution of the dispute.
- (b) If a Dispute Notice is given under **clause 13.2(b)(ii)**, the recipient party must respond in writing to the Dispute Notice within 10 Business Days.

### **13.5 Mediation**

- (a) If a meeting or written response under **clause 13.4** fails to resolve the dispute, the parties may agree to refer the dispute to mediation.
- (b) If the parties agree to refer the dispute to mediation, then the parties must either:
  - (i) appoint a mediator by agreement; or
  - (ii) if the parties are unable, within 5 Business Days of agreeing to refer the dispute to mediation, agree on a mediator to be appointed, request the President of the Queensland Law Society to make the appointment.

### **13.6 Determination**

- (a) If any dispute notified under **clause 13.2** is not resolved within the following periods, the parties may agree, within 5 Business Days after that time period ends, to refer the dispute to an independent, appropriately qualified referee for determination:
  - (i) if the dispute was not referred to mediation – within 15 Business Days after the date the Dispute Notice was given; or
  - (ii) if the dispute was referred to mediation – within 30 Business Days after the date the Dispute Notice was given.
- (b) If the parties agree to refer the dispute to a referee determination, then the parties must either:
  - (i) appoint a referee by agreement; or
  - (ii) if the parties are unable, within 5 Business Days of agreeing to refer the dispute to a referee determination, agree on a referee to

be appointed, request the President of the Queensland Law Society to make the appointment.

- (c) In determining the dispute, the referee must:
  - (i) determine the process for resolution of the dispute, including whether a conference must be held and whether written submissions must be provided;
  - (ii) act fairly and impartially, and conduct the process in accordance with the requirements of procedural fairness;
  - (iii) act as an expert, not an arbitrator;
  - (iv) act expeditiously to attempt to achieve a resolution for the parties in the most cost effective manner; and
  - (v) make the determination according to law and to reflect the intent of this document.
- (d) The determination of a referee must:
  - (i) be in writing;
  - (ii) be given to both parties; and
  - (iii) contain a full statement of the reasons for the determination.
- (e) If a referee has not provided a determination within 50 Business Days of the date the Dispute Notice was given, a party may do either or both of the following:
  - (i) apply to a court for resolution of the dispute; or
  - (ii) notify the other party that it will not be bound by the referee's determination.
- (f) If a party does not, within 20 Business Days after a referee's determination is given, apply to a court to overturn or vary the determination, the determination will be final and binding on the parties.

### **13.7 Court proceedings for unresolved dispute**

A party must not apply to a court for the resolution of a dispute unless the dispute is not resolved within:

- (a) if the dispute is not referred to mediation – 15 Business Days after the date the Dispute Notice is given;
- (b) if the dispute is referred to mediation, and is not referred to determination – 30 Business Days after the date the Dispute Notice is given; or
- (c) if the dispute is referred to determination – in accordance with **clause 13.6(e)**.

### **13.8 Costs of dispute**

- (a) The parties must share equally all costs of any mediator or referee appointed in relation to a dispute.
- (b) However, each party must pay its own costs in connection with resolving the dispute.

## 14 Notices

### 14.1 Giving Notices

- (a) A Notice relating to this document:
  - (i) may be given by an Authorised Person of, or the solicitors for, the relevant party;
  - (ii) must be in writing; and
  - (iii) must, subject to **clause 14.1(b)**, be:
    - (A) left at the address of the addressee in Australia stated in **Schedule 1**;
    - (B) sent by prepaid ordinary post to the address of the addressee in Australia stated in the **Schedule 1**;
    - (C) sent by facsimile to the facsimile number of the addressee in Australia stated in the **Schedule 1**; or
    - (D) sent by email to the email address of the addressee stated in the **Schedule 1**.
- (b) A party may change their address, facsimile number or email address for the giving of Notices at any time by giving Notice to the other parties.

### 14.2 Receiving Notices

- (a) Unless a later time is specified in it, a Notice takes effect from the earlier of the time that it is actually received, or that it is taken to be received.
- (b) A Notice delivered by hand is taken to be received:
  - (i) if delivered by 5.00pm on a Business Day – on that Business Day; or
  - (ii) otherwise – on the next Business Day.
- (c) A Notice delivered by post is taken to be received on the day when, in the ordinary course of post, it would have been delivered.
- (d) A Notice sent by facsimile is taken to be received:
  - (i) if the transmission report produced by the machine from which the facsimile was sent indicates that the facsimile was sent in its entirety to the recipient's facsimile number by 5.00pm on a Business Day – on that Business Day; or
  - (ii) otherwise – on the next Business Day.
- (e) A Notice sent by email is taken to be received:
  - (i) if the email is sent by 5.00pm on a Business Day, and the sender does not receive a computer-generated report indicating that the email was not successfully sent – on that Business Day; or
  - (ii) otherwise – on the next Business Day.

### 14.3 Other matters

- (a) This **clause 14** is in addition to the methods of service of notices set out in the *Property Law Act 1974* (Qld).

- (b) A party who receives a Notice is not obliged to enquire as to the authority of a person who purports to sign the Notice on behalf of a party.

## 15 GST

### 15.1 Construction

In this **clause 15**:

- (a) unless there is a contrary indication, words and expressions which are not defined in this document but which have a defined meaning in the GST Law have the same meaning as in the GST Law;
- (b) **GST Law** has the same meaning given to that expression in the *A New Tax System (Goods and Services Tax) Act 1999* (Cth) or, if that Act does not exist for any reason, means any Act imposing or relating to the imposition or administration of a goods and services tax in Australia and any regulation made under that Act; and
- (c) references to GST payable and input tax credit entitlements include:
  - (i) notional GST payable by, and notional input tax credit entitlements of the Commonwealth, a State or a Territory (including a government, government body, authority, agency or instrumentality of the Commonwealth, a State or a Territory); and
  - (ii) GST payable by, and the input tax credit entitlements of, the representative member of a GST group of which the entity is a member.

### 15.2 Consideration GST exclusive

Unless otherwise expressly stated, all consideration, whether monetary or non-monetary, payable or to be provided under or in connection with this document is exclusive of GST (**GST-exclusive consideration**).

### 15.3 Payment of GST

If GST is payable on any supply made by:

- (a) a party; or
- (b) an entity that is taken under the GST Law to make the supply by reason of the capacity in which a party acts,

(**Supplier**) under or in connection with this document, the recipient of the supply, or the party providing the consideration for the supply, must pay to the Supplier an amount equal to the GST payable on the supply.

### 15.4 Timing of GST payment

The amount referred to in **clause 15.3** must be paid in addition to and at the same time and in the same manner (without any set-off or deduction) that the GST-exclusive consideration for the supply is payable or to be provided.

### 15.5 Tax invoice

The Supplier must deliver a tax invoice or an adjustment note to the recipient of a taxable supply before the Supplier is entitled to payment of an amount under **clause 15.3**.

## **15.6 Adjustment event**

If an adjustment event arises in respect of a supply made by a Supplier under or in connection with this document, any amount that is payable under **clause 15.3** will be calculated or recalculated to reflect the adjustment event and a payment will be made by the recipient to the Supplier or by the Supplier to the recipient as the case requires.

## **15.7 Reimbursements**

- (a) Where a party is required under or in connection with this document to pay for, reimburse or contribute to any expense, loss, liability or outgoing suffered or incurred by another party or indemnify another party in relation to such an expense, loss, liability or outgoing (**Reimbursable Expense**), the amount required to be paid, reimbursed or contributed by the first party will be reduced by the amount of any input tax credits to which the other party is entitled in respect of the Reimbursable Expense.
- (b) This **clause 15.7** does not limit the application of **clause 15.3**, if appropriate, to the Reimbursable Expense as reduced in accordance with **clause 15.7(a)**.

## **15.8 No merger**

This **clause 15** does not merge on the completion, rescission or other termination of this document or on the transfer of any property supplied under this document.

# **16 General**

## **16.1 Payment of costs**

- (a) The Developer will pay the Council's legal and other costs and expenses of negotiating, preparing and executing this document capped in the amount of \$5,000 (excl GST) within 7 Business Days of the Commencement Date;
- (b) The Developer will pay the Council's reasonable legal and other costs and expenses of negotiating, preparing and executing a deed of variation, novation or assignment of this document in accordance with **clauses 10.1, 16.3 and 16.9**.

## **16.2 Duty**

All duty and registration fees payable on this document, or on any instruments of transfer, agreements or other documents referred to in or contemplated by this document, must be paid by the Developer.

## **16.3 Amendment of this document**

- (a) The parties may at any time agree to vary the terms of this document except this clause.
- (b) No modification, variation or amendment of this document is of any force or effect unless it:
  - (i) is in the form of a deed executed by the parties; and

- (ii) complies with the requirements of the Planning Act.

#### **16.4 Waiver and exercise of rights**

A single or partial exercise or waiver by a party of a right relating to this document does not prevent any other exercise of that right or the exercise of any other right.

#### **16.5 Rights cumulative**

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

#### **16.6 Consents**

Except as expressly stated otherwise in this document, a party may conditionally or unconditionally give or withhold any consent to be given under this document and is not obliged to give its reasons for doing so.

#### **16.7 Further steps**

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

#### **16.8 Governing law and jurisdiction**

- (a) This document is governed by and is to be construed in accordance with the laws applicable in Queensland.
- (b) Each party irrevocably and unconditionally submits to the non-exclusive jurisdiction of the courts exercising jurisdiction in Queensland and any courts which have jurisdiction to hear appeals from any of those courts and waives any right to object to any proceedings being brought in those courts.

#### **16.9 Assignment**

- (a) A party must not assign or deal with any right under this document without the prior written consent of the other parties.
- (b) Any purported dealing in breach of this clause is of no effect.

#### **16.10 Liability**

An obligation of two or more persons binds them separately and together.

#### **16.11 Entire understanding**

- (a) This document contains the entire understanding between the parties as to the subject matter of this document.
- (b) All previous negotiations, understandings, representations, warranties, memoranda or commitments concerning the subject matter of this document are merged in and superseded by this document and are of no effect. No party is liable to any other party in respect of those matters.
- (c) No oral explanation or information provided by any party to another:
  - (i) affects the meaning or interpretation of this document; or
  - (ii) constitutes any collateral agreement, warranty or understanding between any of the parties.



## **16.12 Relationship of parties**

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

## **16.13 Force Majeure**

- (a) If a party is unable, by reason of any event of Force Majeure, to carry out its obligations under this document (other than obligation to pay any monetary amount), that party must give a Notice to the other parties advising of the event of Force Majeure under as soon as reasonably practicable after the event of Force Majeure.
- (b) A Notice under **clause 16.13(a)** must:
  - (i) specify the obligations that the party is unable to perform;
  - (ii) fully describe the event of Force Majeure;
  - (iii) include an estimate of the time during which the event of Force Majeure will continue; and
  - (iv) specify the measures proposed to be adopted to remedy or abate the event of Force Majeure.
- (c) If a party gives a Notice advising of an event of Force Majeure, that party's obligations that cannot be performed will be suspended during the period for which the event of Force Majeure or its effect extends, provided the party has taken all reasonable steps to remove the Force Majeure or ameliorate its effects.
- (d) If an obligation is suspended by reason of Force Majeure under this **clause 16.13**, any obligations that are contingent on that obligation are also suspended during the period for which the event of Force Majeure or its effects extends, provided the party has taken all reasonable steps to remove the Force Majeure or ameliorate its effects.

## **16.14 Effect of execution**

This document is not binding on any party unless it has been duly executed by each person named as a party to this document.

## **16.15 Deed**

This document is a deed. Factors which might suggest otherwise are to be disregarded.

## 17 Definitions and construction

### 17.1 Definitions

In this document these terms have the following meanings:

Term	Definition
<b>Approval</b>	A consent, permit, licence, certificate, authorisation, notice or approval under a law, or that is required under or in relation to this document.
<b>Application to Convert</b>	An application to convert non-trunk infrastructure to trunk infrastructure in Chapter 4, Division 4 of the Planning Act.
<b>Approval Authority</b>	An entity or body with relevant power or authority to issue an Approval.
<b>Authorised Person</b>	The following: <ul style="list-style-type: none"><li>(a) for the Developer – any person Notified in writing as an authorised person by the Developer;</li><li>(b) for Council – Council’s chief executive officer and any lawful delegate thereof.</li></ul>
<b>Bank Guarantee</b>	An unconditional, irrevocable bank guarantee from a Financial Institution in favour of Council to the amount of the Performance Security, Contribution Security, and Maintenance Security.
<b>Business Day</b>	The meaning given to “business day” in the <i>Acts Interpretation Act 1954</i> (Qld), for Council’s local government area.
<b>Claim</b>	An allegation, debt, cause of action, liability claim, proceeding, appeal, suit or demand of any nature at law or otherwise, whether present or future, fixed or unascertained, actual or contingent. This includes any legal proceeding in the Planning and Environment Court or Supreme Court of Queensland.
<b>Commencement Date</b>	The date the last party executes this document, which is to be recorded in <b>Item 1</b> .

<b>Completion</b>	<p>The provision of the Works Contribution by the Developer when the Works Contribution is complete, other than for a minor omission or minor defect which:</p> <ul style="list-style-type: none"> <li>(a) is not essential;</li> <li>(b) does not prevent the Works Contribution from being reasonably capable of being used for its intended purpose; and</li> <li>(c) the rectification of which will not prejudice the convenient use of the Works Contribution.</li> </ul>
<b>Contribution Security</b>	<p>A Bank Guarantee or an Insurance Bond to a value that is equal to the Financial Contribution stated in item 2.1 of <b>Schedule 3</b>.</p>
<b>Developed Lot</b>	<p>A Lot that is:</p> <ul style="list-style-type: none"> <li>(a) created from the Land by the registration of a Plan of Subdivision approved by Council under section 50 of the <i>Land Title Act 1994</i> (Qld);</li> <li>(b) in its intended ultimate form for use in accordance with the Development Approval;</li> <li>(c) not intended to be the subject of a further development application for a material change of use of premises (other than for a “Dwelling house” as defined in the Planning Scheme) or for reconfiguring a lot;</li> <li>(d) not intended to remain in the ownership of the Developer.</li> </ul>
<b>Developer</b>	<p>The person described in <b>Item 2</b>.</p>
<b>Developer Obligations</b>	<p>The obligations of the Developer under this document.</p>
<b>Development</b>	<p>The proposed development of the Land generally as proposed in the Development Application.</p>

<b>Development Application</b>	<p>The development application made to the Council on 19 December 2018 for:</p> <ul style="list-style-type: none"> <li>• Preliminary approval for material change of use of premises (including a variation request to vary the effect of the Sunshine Coast Planning Scheme 2014) for Residential, Business, Community and Sport and Recreation uses; and</li> <li>• Development permit to reconfigure a lot (4 lots into 171 lots, new road, park and balance lot, over 2 stages).</li> </ul>
<b>Development Approval</b>	A development approval of the Development Application.
<b>Development Entitlements</b>	The development entitlements under the Development Approval.
<b>Dispute Notice</b>	A Notice given by one party to the other under <b>Clause 8.2</b> .
<b>Council</b>	The entity described in <b>Item 3</b> .
<b>Financial Contribution</b>	The payment of a monetary amount for infrastructure.
<b>Financial Institution</b>	An authorised deposit-taking institution within the meaning of the <i>Banking Act 1959</i> (Cth).
<b>Force majeure</b>	<p>Any of the following:</p> <ul style="list-style-type: none"> <li>(a) damage by fire, explosion, earthquake, lightning, storm, war, flood, civil commotion or act of God;</li> <li>(b) legal proceedings (actual or threatened);</li> <li>(c) industrial disputes; or</li> <li>(d) a combination of these or any other cause, matter or thing beyond the control of the affected party.</li> </ul>
<b>Insurance Bond</b>	An unconditional, irrevocable insurance policy obtained by the Developer from an Insurance Company to the value of the Performance Security, Contribution Security and Maintenance Security in favour of Council.
<b>Insurance Company</b>	An insurance company authorised under the <i>Insurance Act 1973</i> (Cth) to carry on insurance business and registered by the Australian Prudential Regulatory Authority.

<b>ICS</b>	The infrastructure contribution schedule in <b>Schedule 3</b> .
<b>Infrastructure Charges Notice</b>	An infrastructure charges notice issued under section 119 of the Planning Act.
<b>Infrastructure Contribution</b>	A contribution for infrastructure, including: <ul style="list-style-type: none"> <li>(a) a Financial Contribution;</li> <li>(b) a Land Contribution; and</li> <li>(c) a Works Contribution.</li> </ul>
<b>Item</b>	An item in <b>Schedule 1</b> .
<b>Lake</b>	The lake created by the Land Contribution and Works Contribution identified in <b>Schedule 3</b> .
<b>Lake Management and Maintenance Plan</b>	The document identified in <b>clause 5</b> .
<b>Land</b>	The land described in <b>Item 4</b> .
<b>Land Contribution</b>	The provision of land (including any interest in, or licence over, land) for infrastructure.
<b>Landowner</b>	The Owner of the Land as at the Commencement Date and any successors in title for the Land or any part of the Land.
<b>Law</b>	Any statute, regulation or subordinate legislation of the Commonwealth, the State of Queensland, or any local or other government in force in the State of Queensland, irrespective of where enacted.
<b>Lot</b>	The meaning given in the <i>Land Title Act 1994</i> (Qld).
<b>Maintenance Period</b>	A period of 36 months after a Works Contribution reaches On Maintenance.
<b>Maintenance Security</b>	A Bank Guarantee or an Insurance Bond to a value that is 5% of the value of the Works Contribution stated in <b>Schedule 3</b> .
<b>Map</b>	A map or plan in <b>Schedule 2</b> .
<b>Notice</b>	Any certificate, demand or notice to be given by a party under this document.
<b>Off Maintenance</b>	The date that a Works Contribution is confirmed to reach Off Maintenance in accordance with <b>clause 6.2</b> .
<b>Offset</b>	An offset identified in an Infrastructure Charges Notice under section 121 of the Planning Act.
<b>On Maintenance</b>	The date that a Works Contribution is accepted as On Maintenance in accordance with <b>clause 6.1</b> .

<b>Owner</b>	The meaning given in the Planning Act, for an owner of land.
<b>Performance Security</b>	A Bank Guarantee or an Insurance Bond agreed to be a value of \$1,850,000.00 to secure the uncompleted Works Contribution stated in <b>Schedule 3</b> .
<b>Plan</b>	A plan in <b>Schedule 2</b> .
<b>Planning Act</b>	The <i>Planning Act 2016</i> (Qld).
<b>Planning Scheme</b>	The Sunshine Coast Council Planning Scheme 2014 (as amended from time to time).
<b>Plan of Subdivision</b>	The meaning given in the <i>Land Title Act 1994</i> (Qld).
<b>PPI</b>	The Producer Price Index: General Construction Index for Road and Bridge Construction (4121) Queensland Series ID: A2333727L, published by the Australian Bureau of Statistics or if that index is no longer published, then an index which in the Council's reasonable opinion is a similar index
<b>Proposed Transferee</b>	A person to whom any part of the Land is proposed to be sold or transferred.
<b>Refund</b>	A refund identified in an Infrastructure Charges Notice under section 121 of the Planning Act.
<b>Registered Professional Engineer Queensland</b>	An engineer registered as a Registered Professional Engineer of Queensland with the Board of Professional Engineers in accordance with the <i>Professional Engineers Act 2002</i> (Qld).
<b>Security</b>	A Performance Security, a Contribution Security and a Maintenance Security.
<b>Works Contribution</b>	The undertaking of works for infrastructure, including any materials or services required for that infrastructure.

## 17.2 Construction

Unless expressed to the contrary, in this document:

- (a) words in the singular include the plural and vice versa;
- (b) any gender includes the other genders;
- (c) if a word or phrase is defined, its other grammatical forms have corresponding meanings;
- (d) "includes" means includes without limitation;
- (e) no rule of construction will apply to the disadvantage of a party because that party drafted, put forward or would benefit from any term;

- (f) a reference to:
  - (i) a person includes a partnership, joint venture, unincorporated association, corporation, entity and a Governmental Agency;
  - (ii) a person includes the person's legal personal representatives, successors, assigns and persons substituted by novation;
  - (iii) any legislation includes subordinate legislation under it and includes that legislation and subordinate legislation as modified or replaced;
  - (iv) an obligation includes a warranty or representation and a reference to a failure to comply with an obligation includes a breach of warranty or representation;
  - (v) a right includes a benefit, remedy, discretion or power;
  - (vi) time is to local time in the Sunshine Coast Region;
  - (vii) "\$" or "dollars" is a reference to Australian currency;
  - (viii) this or any other document includes the document as novated, varied or replaced and despite any change in the identity of the parties;
  - (ix) writing includes:
    - (A) any mode of representing or reproducing words in tangible and permanently visible form, including fax transmission; and
    - (B) words created or stored in any electronic medium and retrievable in perceivable form.
  - (x) this document includes all schedules and annexures to it;
  - (xi) a clause, schedule or annexure is a reference to a clause, schedule or annexure, as the case may be, of this document; and
  - (xii) in the ICS, an "item" is to an item in the ICS;
- (g) a term that is used, but not defined in, this document, will, unless the context otherwise requires, have the meaning given to it by (in the following descending order):
  - (i) the Planning Act; or
  - (ii) its ordinary meaning;
- (h) if the date on or by which any act must be done under this document is not a Business Day, the act must be done on or by the next Business Day; and
- (i) headings do not affect the interpretation of this document.

# Schedule 1

## Agreement Details

Item	Description	Details
<b>1 Commencement Date</b>		
	<b>Date</b>	<hr/> <i>[to be inserted above by the last party to execute this document]</i>
<b>2 Developer</b>		
	<b>Name</b>	Stockland Development Pty Limited ACN 000 064 835
	<b>Address</b>	Level 4, 99 Melbourne Street, South Brisbane QLD 4101
	<b>Postal address</b>	PO Box 10160, Adelaide Street, Brisbane QLD 4000
	<b>Phone</b>	(07) 3305 8600
	<b>Fax</b>	(07) 3305 8702
	<b>Email</b>	geninfo@stockland.com.au
<b>3 Council</b>		
	<b>Name</b>	Sunshine Coast Regional Council
	<b>Address</b>	10 First Avenue, Maroochydore Qld 4558
	<b>Postal address</b>	Locked Bag 72 Sunshine Coast Mail Centre Qld 4560
	<b>Phone</b>	07 5475 7272
	<b>Email</b>	mail@sunshinecoast.qld.gov.au
<b>4 Land</b>		
4.1	<b>Address</b>	Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 3 SP 248471
4.2	<b>Address</b>	581-593 David Low Way Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 1 RP 811523



<b>4.3</b>	<b>Address</b>	284 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 1 RP 103117
<b>4.4</b>	<b>Address</b>	Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 2 RP 103117
<b>4.5</b>	<b>Address</b>	238 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 2 RP 842858
<b>4.6</b>	<b>Address</b>	232 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 3 RP 842858
<b>4.7</b>	<b>Address</b>	252 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 4 RP 98356
<b>4.8</b>	<b>Address</b>	258 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 5 RP 98356
<b>4.9</b>	<b>Address</b>	266 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 6 RP 98356
<b>4.10</b>	<b>Address</b>	274 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 7 RP 98356
<b>4.11</b>	<b>Address</b>	282 Godfreys Road Pacific Paradise, Qld
	<b>Lot and plan description</b>	Lot 8 RP 98356
<b>4.12</b>	<b>Address</b>	23 Stillwater Drive Twin Waters, Qld
	<b>Lot and plan description</b>	Lot 261 SP 124274

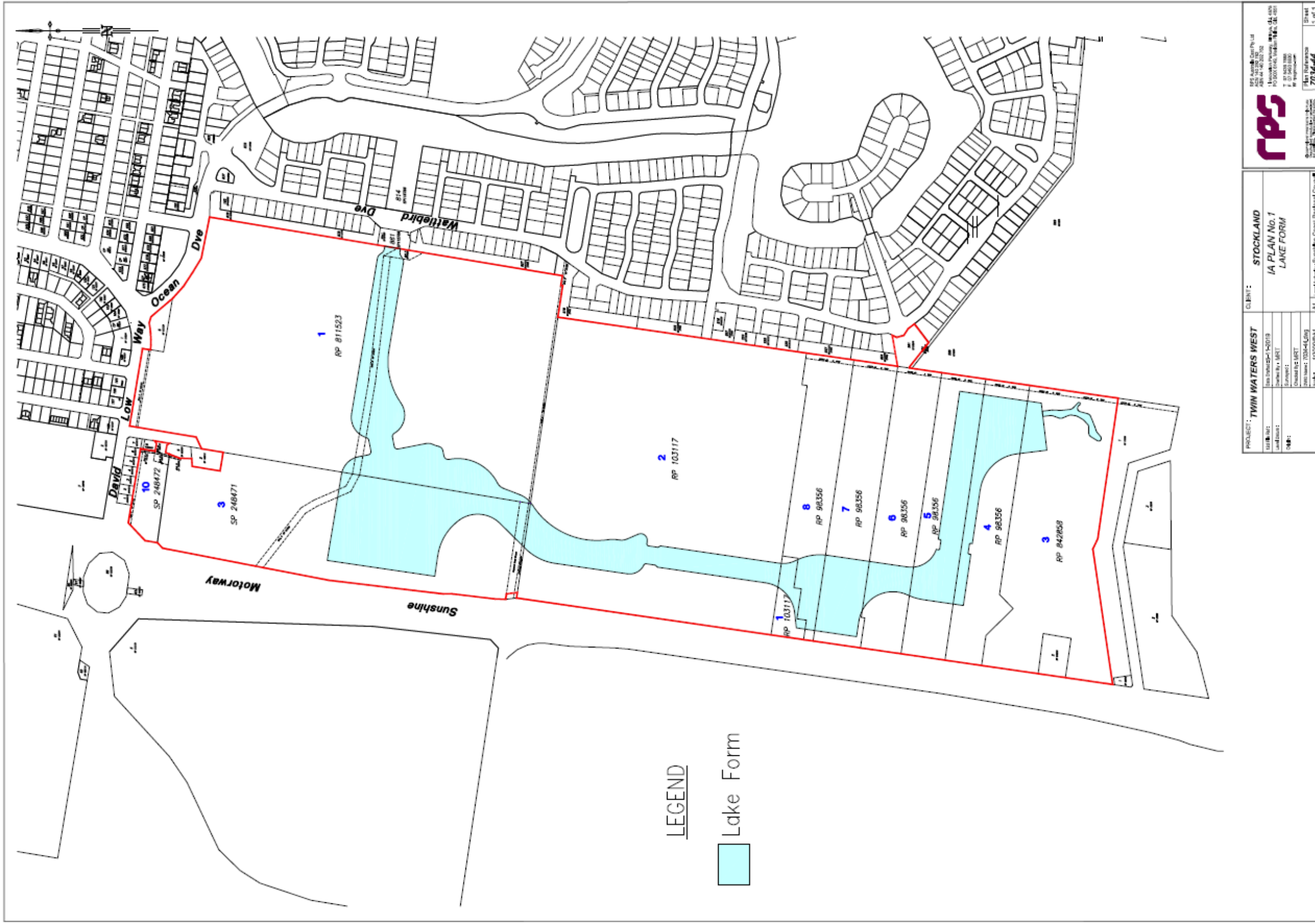
<b>4.13 Address</b>	6 Devere Road Pacific Paradise, Qld
<b>Lot and plan description</b>	Lot 10 SP 248472
<b>4.14 Address</b>	Ocean Drive Pacific Paradise, QLD
<b>Lot and plan description</b>	Lot 8 RP 812125
<b>4.15 Address</b>	Unformed east-west road reserve of Godfreys Road, Pacific Paradise, Qld (east of the Sunshine Motorway)
<b>Lot and plan description</b>	Not applicable (to be closed by the Developer)

# Schedule 2

## Plans

No.	Description
1	Infrastructure Plan - Lake form prepared by RPS





<b>PROJECT: TWIN WATERS WEST</b>		<b>CLIENT: STOCKLAND</b>	
<b>DATE: 17/05/2018</b>		<b>IA PLAN No. 1</b>	
<b>ISSUE: 1</b>		<b>LAKE FORM</b>	
<b>DESIGNER: MRS</b>			
<b>CHECKED: MRS</b>			
<b>DATE: 17/05/2018</b>			
<b>SCALE: 1:2000</b>		<b>Plan Reference: 7034-44</b>	
		<b>Sheet 1 of 1</b>	



**RPS**  
 105 North St Ph 1st  
 Adelaide SA 5000  
 PO BOX 1046, Toorak VIC 3142  
 T 08 8294 1888  
 F 08 8294 1889  
 www.rps.com.au

## Schedule 3

### Infrastructure Contribution Schedule (ICS)

Column 1 Item	Column 2 Infrastructure Contribution	Column 3 Description of Infrastructure Contribution	Column 4 Timing of provision of Infrastructure Contribution	Column 5 Provider of Infrastructure Contribution	Column 6 Recipient of Infrastructure Contribution
<b>1</b>	<b>Lake Creation</b>				
1.1	Land Contribution for Lake	<p>Provision of a Land Contribution:</p> <ul style="list-style-type: none"> <li>(a) at no cost to Council;</li> <li>(b) in fee simple; and</li> <li>(c) including the Work Contribution in item 1.2.</li> </ul>	<p>The Land Contribution must be provided:</p> <ul style="list-style-type: none"> <li>(a) within 3 months after the Works Contribution in item 1.2 is accepted On Maintenance; or</li> <li>(b) as agreed between the parties.</li> </ul>	Developer	Council
1.2	Works Contribution for Lake	<p>Provision of a Works Contribution:</p> <ul style="list-style-type: none"> <li>(a) at no cost to Council;</li> <li>(b) located on the Land Contribution in item 1.1;</li> <li>(c) for the purpose of a Lake which will perform the following functions: <ul style="list-style-type: none"> <li>(i) conveyance of flood flows and to provide flood storage for the ultimate development proposed on the Land;</li> </ul> </li> <li>(d) generally in the shape and location shown as "Lake" on <b>Plan 1</b>;</li> <li>(e) constructed in stages (running from north to south on the Land) and provided to Council once all stages have been completed;</li> <li>(f) including the infrastructure items identified within the Lake Management and Maintenance Plan;</li> <li>(g) in accordance with an Approval ;</li> <li>(h) including two easements benefitting Unitywater for sewerage infrastructure; and</li> <li>(i) including an easement benefitting the owner of the Twin Water Golf Course for treated sewerage effluent (if required).</li> </ul> <p>For the avoidance of any doubt, this Works Contribution is to be provided to Council as one entire lake generally in the shape and location as "Lake" on <b>Plan 1</b> and including all matters listed above.</p>	<p>The Works Contribution must be provided:</p> <ul style="list-style-type: none"> <li>(a) by 30 December 2032; or</li> <li>(b) as agreed between the parties.</li> </ul> <p>For clarity, the parties agree that this timing provision does not preclude the earlier delivery of this Infrastructure Contribution if the ultimate development proposed on the Land is completed earlier.</p>	Developer	Council

Column 1 Item	Column 2 Infrastructure Contribution	Column 3 Description of Infrastructure Contribution	Column 4 Timing of provision of Infrastructure Contribution	Column 5 Provider of Infrastructure Contribution	Column 6 Recipient of Infrastructure Contribution
<b>2</b>	<b>Lake Maintenance</b>				
2.1	Financial Contribution for maintenance of the Lake	Provision of a Financial Contribution: (a) in the amount of \$ 3,034,487.00; (b) for the maintenance of the Works Contribution in item 1.2; and (c) to be increased consistently with upward movement of the PPI during the period beginning upon the Commencement Date and ending upon the day the Financial Contribution is provided to the Council.	The Financial Contribution must be provided: (a) at the same time as item 1.1; or (b) as agreed between the parties.	Developer	Council
<b>3.</b>	<b>Infrastructure charges</b>				
3.1	Financial Contribution for infrastructure charges	Provision of a Financial Contribution in accordance with an Infrastructure Charges Notice.	In accordance with the timing stated in the Infrastructure Charges Notice.	Developer	Council

# Schedule 4

## Owner's consents

No.	Description
1	The Queensland Department of Natural Resources, Mines and Energy for Godfreys Road
2	Stockland Development Pty Limited for all other lots.





Department of  
Natural Resources,  
Mines and Energy

Author: Mark Sharpe  
File / Ref number: 2018/001977  
Directorate / Unit: State Land Asset Management  
Phone: (07) 5451 2231 Facsimile: (07) 5451 2260  
Email: SLAM-nambour@dnrm.qld.gov.au

5 February 2020

**Attention: Ben Heaton**  
The Planning Manager  
RPS Australia East Pty Ltd  
PO Box 6149  
**MERIDAN PLAINS Q 4551**

Dear Ben,

**APPLICATION FOR PERMANENT ROAD CLOSURE  
ROAD ADJACENT TO LOT 3 ON SP248471, PACIFIC PARADISE  
YOUR CLIENT: STOCKLAND DEVELOPMENT PTY LTD  
YOUR REF: P167034-1:1001MT:jh**

Reference is made to your recent email requesting consent from DNRME to the execution of the Infrastructure Agreement – Twin Waters West Lake Infrastructure (in accordance with section 155 of the *Planning Act 2016*), given the State is presently the land owner of the unformed road.

All offer requirements have now been satisfied in relation to your clients application 2018/001977 to purchase the area of unformed road. The application is now being finalised by DNRME and the road area will be closed and included into the adjoining lot, as shown on survey plan SP310860.

The department offers no objection, as landowner of the area of unformed road, to the execution of this Infrastructure Agreement relating to the proposed Twin Waters West Infrastructure, as the unformed road will form part of Lot 3 on SP310860 on finalization of the closure.

Please quote reference number 2018/001977 in any future correspondence.

Yours sincerely,

**Cameron Scott**  
**Acting Senior Land Officer**  
**Land Services, South Region**

Office :  
DNRME  
Level 1, 9-13 Mill Street  
Nambour Q 4560

Postal :  
DNRME  
PO Box 573  
Nambour Q 4560

Telephone: (07) 5451 2231  
Fax: 5(07) 5451 2260

**From:** PETCHELL Blake [<mailto:Blake.Petchell@dnrme.qld.gov.au>]  
**Sent:** Thursday, 6 February 2020 4:31 PM  
**To:** Marc Cornell <[Marc.Cornell@sunshinecoast.qld.gov.au](mailto:Marc.Cornell@sunshinecoast.qld.gov.au)>  
**Cc:** CROSS Debbie <[Debbie.Cross@dnrme.qld.gov.au](mailto:Debbie.Cross@dnrme.qld.gov.au)>; SCOTT Cameron <[Cameron.Scott@dnrme.qld.gov.au](mailto:Cameron.Scott@dnrme.qld.gov.au)>; SHARPE Mark <[Mark.Sharpe@dnrme.qld.gov.au](mailto:Mark.Sharpe@dnrme.qld.gov.au)>; Ben Heaton <[ben.heaton@rpsgroup.com.au](mailto:ben.heaton@rpsgroup.com.au)>  
**Subject:** FW: State Ref - 2018/001977 - Consent for IA associated with Twin Waters West

**[SCC External Email: Use caution with links and attachments]**

Hi Marc,

Cameron and Mark are busy this afternoon so I am responding on their behalf given the urgent nature of this request.

The department reviewed version 6 (31 January 2020) of the Infrastructure Agreement. I can confirm that the letter is intended to consent to the responsibilities under the agreement being attached to the premises.

Regards,



**Blake Petchell**  
**Senior Land Officer, Land Services, South Region**  
**Natural Resources**  
Department of Natural Resources, Mines and Energy

---

**P:** 5451 2408    **M:** 0436 601 730  
**E:** [Blake.Petchell@dnrme.qld.gov.au](mailto:Blake.Petchell@dnrme.qld.gov.au)  
**A:** Level 1, 9-13 Mill Street, Nambour 4560  
**W:** [www.dnrme.qld.gov.au](http://www.dnrme.qld.gov.au)

**From:** Marc Cornell <[Marc.Cornell@sunshinecoast.qld.gov.au](mailto:Marc.Cornell@sunshinecoast.qld.gov.au)>  
**Sent:** Thursday, 6 February 2020 12:49 PM  
**To:** SLAM - Nambour  
**Cc:** Tegan Johnson  
**Subject:** State Ref - 2018/001977 - Consent for IA associated with Twin Waters West

Attention – Mark Sharpe/Cameron Scott

Hi Mark and Cameron,

Council received a letter from your office regarding the execution of an IA regarding the Twin Waters West site.

S155 of the Planning Act 2016 refers to an owner that "*consents to the responsibilities under the agreement being attached to the premises*".

The attached letter does not explicitly say that, but offers no objection (as landowner) to the execution of the IA, and that statement is qualified as it is subject to the road being closed.

Can you

1. confirm that a copy of the draft IA was provided to DNRME to review to acknowledge any obligations as landowner?

2. advise if this letter is intended to consent to the responsibilities under the agreement being attached to the premises?

Please contact me if you have any questions.

Cheers,  
Marc

**Marc Cornell** | Principal Development Planner  
Planning Assessment | Development Services  
Customer Engagement and Planning Services | Sunshine Coast Council

Phone: 07 5475 9821

Mailcode: MC41

Email: [marc.cornell@sunshinecoast.qld.gov.au](mailto:marc.cornell@sunshinecoast.qld.gov.au)

Website: [www.sunshinecoast.qld.gov.au](http://www.sunshinecoast.qld.gov.au)


Mail: Locked Bag 72 Sunshine Coast Mail Centre Qld 4560


Please consider the environment before printing this email

# Execution

**Executed** as a deed

**Executed by Stockland Development** )  
**Pty Ltd** by the party's attorney  
pursuant to power of attorney Dealing No. 718751806  
No. .... who states that no notice of  
revocation of the power of attorney has  
been received in the presence of:

  
.....  
Witness  
*Amanda Baleija*  
.....  
Name of Witness (print)

  
.....  
Attorney  
*Andrew Whitson*  
.....  
Name of Attorney (print)

**Executed** for and on behalf of the )  
**Council** in the presence of: )  
..... )

.....  
Authorised officer  
.....  
Name of authorised officer (print)

.....  
Witness  
.....  
Name of witness (print)