



Local Government (Robina Central Planning Agreement) Act 1992

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Queensland

Local Government (Robina Central Planning Agreement) Act 1992

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Local Government (Robina Central Planning Agreement) Act 1992

An Act to provide for the approval of an agreement relating to the planning and development of certain land at Robina in the Shire of Albert, and for other purposes

1 Short title

This Act may be cited as the *Local Government (Robina Central Planning Agreement) Act 1992*.

2 Definitions

In this Act—

drawing no. 8951 B means the zoning plan—

- (a) identified as drawing no. 8951 B and held at the office of the Council of the City of Gold Coast; and

Editor's note—

The plan may be inspected at the office of the Council of the City of Gold Coast by members of the public during office hours on business days.

- (b) reproduced in the planning agreement, first schedule in a modified form.

existing planning scheme means the scheme that, for the purposes of the *Local Government (Planning and Environment) Act 1990*, was the planning scheme for the Shire of Albert immediately before the commencement of this Act.

first amending Act means the *Local Government (Robina Town Centre Planning Agreement) Amendment Act 1996*.

first amending agreement means an agreement in the form of the agreement set out in schedule 2 and made by the parties named in the agreement.

further agreement means an amending agreement, other than the first amending agreement or the second amending agreement, the proposed form of which is approved under an Act.

modified planning scheme means the planning scheme applying to the site under section 5.

1995 planning scheme means the scheme that, for the *Local Government (Planning and Environment) Act 1990*, was the planning scheme for the former Shire of Albert immediately before the commencement of the first amending Act.

planning agreement means—

- (a) the Robina Town Centre Planning Agreement; and
- (b) if the agreement is amended by the first amending agreement, the second amending agreement or a further agreement—the agreement as so amended.

Robina means Robina Land Corporation Pty Ltd ACN 010 159 387.

Robina Properties means Robina Properties Pty Ltd ACN 010 147 038.

Robina Town Centre Planning Agreement means the agreement made between Robina, Robina Properties and the Council of the Shire of Albert on 18 September 1992, a copy of which is set out in schedule 1 (other than drawing no. 8951 B).

second amending Act means the *Local Government (Robina Central Planning Agreement) Amendment Act 2003*.

second amending agreement means an agreement in the form of the agreement set out in schedule 3 and made by the parties named in the agreement.

site means—

- (a) before the making of the first amending agreement—the land described in the planning agreement, first schedule, parts 1 and 2; and
- (b) after the making of the first amending agreement and before the making of the second amending

agreement—the land described in the planning agreement, first schedule, parts 1, 2, 7 (section 2) and 10; and

- (c) after the making of the second amending agreement—the land described in the planning agreement, first schedule, parts 1, 2, 7 (section 2), 10, 11 and 12.

3 Rezoning of land

The land referred to in the first schedule, part 1 of the planning agreement is—

- (a) excluded from its zoning under the existing planning scheme; and
- (b) included in the zones referred to in the first schedule, part 4 of the planning agreement, as provided for in that part.

3A Rezoning of land for first amending agreement

- (1) This section applies despite section 3 and only when the first amending agreement is made.
- (2) Category A land is excluded from its zoning, mentioned in column 2 for the land, under the 1995 planning scheme, and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.
- (3) Category B land is excluded from its zoning, mentioned in column 2 for the land, under the existing planning scheme, and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.
- (4) Category C land is excluded from its zoning, mentioned in column 2 for the land, under the existing planning scheme, and included, for the 1995 planning scheme, in the zone mentioned in column 3 for the land.
- (5) Category D land is excluded from its zoning, mentioned in column 2 for the land, under the modified planning scheme,

and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.

(6) In this section—

category A land means the land described in the planning agreement, first schedule, parts 7 (section 2) and 10, column 1.

category B land means the land described in the planning agreement, first schedule, parts 7 (section 1) and 9 (items 3 and 8), column 1.

category C land means the land described in the planning agreement, first schedule, part 8, column 1.

category D land means the land described in the planning agreement, first schedule, part 9 (other than items 3 and 8), column 1.

column means a column shown in the planning agreement, first schedule, parts 7 to 10.

item, for land described in the planning agreement, first schedule, parts 7 to 10, means the provision relating to the land having regard to the order in which the provision occurs.

3AA Rezoning of land for second amending agreement

- (1) This section applies despite sections 3 and 3A and only when the second amending agreement is made.
- (2) Category E land is included, for the modified planning scheme, in the zone mentioned in column 3 for the land.
- (3) Category F land is excluded from its zoning, mentioned in column 2 for the land, under the 1995 planning scheme and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.
- (4) Category G land is excluded from its zoning, mentioned in column 2 for the land, under the modified planning scheme and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.

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- (5) Category H land is excluded from its zoning, mentioned in column 2 for the land, under the existing planning scheme and included, for the modified planning scheme, in the zone mentioned in column 3 for the land.
- (6) In this section—
- category E land* means the land described in the planning agreement, first schedule, part 11, column 1.
- category F land* means the land described in the planning agreement, first schedule, part 12, column 1.
- category G land* means the land described in the planning agreement, first schedule, part 13, column 1.
- category H land* means the land described in the planning agreement, first schedule, part 14, column 1.
- column* means a column shown in the planning agreement, first schedule, parts 11 to 14.

4 The planning agreement

- (1) Each party to the planning agreement, so far as the planning agreement applies to the site—
- (a) is taken to have been authorised to enter into the planning agreement; and
 - (b) may do anything the planning agreement authorises it to do; and
 - (c) must do everything that it is required to do under the planning agreement.
- (2) On and after 15 March 2008, if a local government is permitted or required under the planning agreement to seal a plan of subdivision, it is enough that the local government endorses its approval of the plan of subdivision on the plan.

4A Notice of making of amending agreements

The Council of the City of Gold Coast must, by gazette notice, notify the day of the making of the first amending agreement, the second amending agreement and any further agreement.

5 Status of planning agreement

- (1) The planning agreement, so far as it applies to the site, has the force of law.
- (2) From the commencement of this Act, the planning scheme applying to the site consists of—
 - (a) subject to subsection (3), the existing planning scheme; and
 - (b) the planning agreement.
- (3) If there is an inconsistency between the planning agreement and—
 - (a) the existing planning scheme; or
 - (b) a local law of the Council of the City of Gold Coast (whether made before or after the commencement of this Act); or
 - (c) the *Local Government (Planning and Environment) Act 1990*; or
 - (d) the *Building Act 1975*;the planning agreement prevails to the extent of the inconsistency.
- (4) To remove any doubt, it is declared that, if the existing planning scheme is amended or superseded after the commencement of this Act, the amendment or the superseding scheme does not apply to the site.

6 Amendment of planning agreement

Before a further agreement may be made—

- (a) firstly, the *Planning Act 2016*, section 18 must be complied with for the proposed agreement as if it were a proposed planning scheme amendment under that Act; and
- (b) secondly, the form of the proposed agreement must be approved under an Act.

7 Transfer of land

- (1) A person who becomes the registered proprietor of land in the site is, with respect to the land, bound by the planning agreement as if the person had become a party to the agreement instead of Robina and Robina Properties.
- (2) Subsection (1) does not affect the operation of a provision of the planning agreement that applies only to a person who becomes the registered proprietor of land in the site.

Example—

Subsection (1) does not affect the operation of a provision of the planning agreement that requires a subsequent purchaser of land in the site to lodge security additional to that which would have been required from Robina or Robina Properties.

8 Crown and constructing authorities not bound

Nothing in this Act or the planning agreement binds—

- (a) the Crown; or
- (b) a constructing authority (within the meaning of the *Acquisition of Land Act 1967*) in relation to its acquisition and use of land in the site.

9 Regulation-making power

The Governor in Council may make regulations under this Act.

10 Savings and transitional provisions for first amending agreement

- (1) This section applies only when the first amending agreement is made.
- (2) Any purpose for which premises in the saved site are being lawfully used immediately before the making of the first amending agreement is taken to be a lawful use of the premises under the modified planning scheme.

- (3) Despite the making of the first amending agreement, the modified planning scheme as in force before the making continues to apply to each final development approval granted, for land in the saved site, by a local government before the making.
- (4) Each approval (other than a final development approval), consent, permission or notification of conditions granted, for land in the saved site, by a local government before the making of the first amending agreement continues to have effect as if it were granted under the planning agreement after the making.
- (5) However, if an approval, consent or permission granted before the making of the first amending agreement (the *original grant*) and mentioned in subsection (4) is subject to a time constraint, the time constraint must be measured from the day of the original grant.
- (6) A consent mentioned in subsection (4) does not lapse under the *Local Government (Planning and Environment) Act 1990*, section 4.13(18) until 4 years after the making of the first amending agreement.
- (7) In this section—
saved site means the land contained in the site before the making of the first amending agreement, other than the land described in proposed part 8 set out in clause 2.1.7(b) of the form of agreement in schedule 2.

11 Savings and transitional provisions for second amending agreement

- (1) This section applies only when the second amending agreement is made.
- (2) A use of premises in the site that was lawful immediately before the making of the second amending agreement is taken to be a lawful use of the premises under the modified planning scheme.
- (3) Each prescribed approval granted by the Council of the City of Gold Coast before the making of the second amending

agreement continues to have effect as if it were granted under the modified planning scheme after the making.

- (4) However, if a prescribed approval granted by the Council of the City of Gold Coast before the making of the second amending agreement is subject to a time constraint, the time constraint must be measured from the day the approval was granted.
- (5) In this section—
prescribed approval means an approval, consent or permission granted for land in the site.

12 Transitional provision for Planning (Consequential) and Other Legislation Amendment Act 2016

- (1) This section applies if, immediately before the commencement, the process for making a further agreement under former section 6(a) and (b) had started but not finished.
- (2) The process may be continued as if the *Planning Act 2016* and the *Planning (Consequential) and Other Legislation Amendment Act 2016* had not been enacted.
- (3) In this section—
former section 6(a) and (b) means section 6(a) and (b) as in force immediately before the commencement.

Schedule 1 Robina Town Centre Planning Agreement

section 2

Editor's note—

Consistent with the provisions of the Act, this schedule only contains the proposed agreement authorised to be entered into by the Act as originally enacted. It does not purport to be either the agreement actually entered into or that agreement as amended from time to time.

THIS AGREEMENT is made the 18th day of September 1992

BETWEEN

PARTIES

ROBINA LAND CORPORATION PTY. LTD. ACN 010 159 387 a company incorporated in the State of Queensland and having its registered office at 34 Glenferrie Drive Robina in the State of Queensland (hereinafter called “Robina”)

AND

ROBINA PROPERTIES PTY. LTD. ACN 010 147 038 a company incorporated in the State of Queensland and having its registered office at 34 Glenferrie Drive Robina in the State of Queensland (hereinafter called “Robina Properties”)

AND

COUNCIL OF THE SHIRE OF ALBERT of Nerang-Southport Road Nerang in the State of Queensland (hereinafter called “the Council”)

SECTION 1

STRUCTURE OF AGREEMENT

1. This Agreement is divided into the following sections and parts:—

Section 1	(Cl. 1)	Structure of Agreement
Section 2	(Cl. 2)	Recitals
Section 3	(Cl. 3–9)	Obligations of Parties
Section 4	(Cl. 10–27)	Bonding, Security and Release of Plans
Section 5	(Cl. 28–37)	Default by Robina
Section 6	(Cl. 38–39)	Release of Robina and Robina Properties
Section 7	(Cl. 40–61)	Sale and Transfer of Land
Section 8	(Cl. 62–68)	Specification and Maintenance of Works
Section 9	(Cl. 69)	Inspection of Works by the Council
Section 10	(Cl. 70–78)	Settlement of Disputes
Section 11	(Cl. 79–82)	Subsequent Approvals to be Consistent with this Agreement
Section 12	(Cl. 83)	Transfers of Land to the Crown or the Council
Section 13	(Cl. 84–92)	General
Section 14	(Cl. 93–99)	Interpretation

THE FIRST SCHEDULE

Part 1	Description of the subject land
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Schedule 1

- Part 2 Description of the Kerrydale Land
- Part 3 Present Zone
- Part 4 Proposed Zone
- Part 5 Description of Robina Town Centre Core
- Part 6 Plan of Combined Site

THE SECOND SCHEDULE

- Part 1 Introduction
- Part 2 Planning Intentions
- Part 3 Roads and Roadworks
- Part 4 Water Supply
- Part 5 Sewerage Reticulation
- Part 6 Parks, Open Space, Pathways, Bikeways and Landscaping
- Part 7 Waterways and Weirs
- Part 8 Community Facilities
- Part 9 Plan of Development—Robina Town Centre Core
- Part 10 Development requirements—Special Business Zone
- Part 11 Development requirements—Kerrydale Land
- Part 12 General
- Part 13 Obligations of Council

SECTION 2

RECITALS

2. WHEREAS:—

- 2.1 Robina and Robina Properties are between them the registered proprietors of an estate in fee simple in all that land more particularly described in Part 1 of the First Schedule (“the subject land”) and Part 2 of the First Schedule (“the Kerrydale land”);
- 2.2 Robina proposes to develop the subject land as a regional business, commercial and community centre over an extended period estimated at 25 years;
- 2.3 The Kerrydale land is zoned to permit its development as a golf course, hotel, accommodation units and public open space and Robina proposes, at the Council’s request, to integrate its development with the development of the subject land;
- 2.4 It is Robina’s intention that substantial elements of the final development on both parcels of land (“the combined site”) be carried out by others on allotments subdivided from the combined site and acquired from Robina;
- 2.5 The nature of Robina’s proposal is such that while the major infrastructure requirements to service it can be particularised and specified with the required level of detail and certainty, the details of the final form of the development are not able to be specified except in terms of:—
 - 2.5.1 statements of planning intent describing the proposed development in terms of uses to be undertaken, facilities to be provided, objectives to be achieved and the planning and social character of the final development;

- 2.5.2 concept plans containing illustrations or examples of how the statements of intent might be implemented;
- 2.6 The proposal has been the subject of a public notice process and the public has had the opportunity to comment on or object to the development;
- 2.7 Following that process, the Council considers that, in the public interest, the development ought to be supported;
- 2.8 The timing, order of development and final form of each part of the development (and hence the development as a whole) will depend upon market demand and related commercial and financial factors;
- 2.9 Accordingly, the approval and development control process required to allow the development to proceed while safeguarding the public interest in securing orderly and properly serviced development involves:—
- 2.9.1 the imposition of legally enforceable obligations securing provision by Robina of the necessary infrastructure;
- 2.9.2 the provision of certainty to Robina as to the scope and limit of those obligations;
- 2.9.3 ensuring that, in exchange for assuming those obligations, Robina is given a legally effective approval to carry out the whole of the development;
- 2.9.4 implementing a secondary planning approval process for each part of the final development by which the Council can ensure, in the public interest, that each final development proposal is serviced by the necessary infrastructure and is consistent with the statements of intent;
- 2.10 The Local Government (Planning and Environment) Act 1990 does not provide a means or framework by which that process may be implemented (though the mechanisms under that Act for exclusion of land from its existing zone and including it in another zone

appropriate to a development proposal, for obtaining the consent of the Council to use land for particular purposes, for notification of conditions of permitted development and for obtaining approval to subdivide land are relevant to the proposed development and have a role to play in the overall process);

- 2.11 The parties have accordingly determined to enter into an Agreement for the purpose of establishing the required process in contemplation the legal power so to do being conferred on them by enabling legislation and in contemplation of that legislation excluding the subject land from the present zone and including it in the proposed zone,

the parties therefore now enter into this Agreement for the purposes aforesaid and acknowledge, undertake and agree as follows.

SECTION 3

OBLIGATIONS OF PARTIES

Obligations of Council

3. Upon the subject land being excluded from the present zone and included in the proposed zone and this Agreement having the force of law, the Council must do all things which by this Agreement it has undertaken to do within the period or periods set forth in this Agreement.

Obligations of Robina and Robina Properties

4. Upon the subject land being excluded from the present zone and included in the proposed zone and this Agreement having the force of law, Robina and Robina Properties must do all things which by this Agreement each has undertaken to do within the period or periods set forth in this Agreement.

Timing of Certain Obligations

5. Without limiting the generality or plain meaning of clause 4, it is acknowledged by the Council that, except to the extent (if any) otherwise specifically and unequivocally set forth in this Agreement:—
 - 5.1 obligations to carry out works which are to be provided in conjunction with or by the commencement of the use of Stage 1 are not required to be completed any earlier than the time of completion of Stage 1;
 - 5.2 if Robina commences development in any Service District other than the Service District/s which contain/s Stage 1, Robina's only obligations hereunder are to perform the relevant obligations (Service District) associated with that Service District.

To avoid any doubt, this clause does not operate to bring forward the time for completion of any obligations in respect of which a later date or time for performance has been specified or which are contemplated to be completed subsequent to completion of Stage 1.

Modification of Obligations—Reduction in Shops

6. If the major shopping development in Stage 1 is proposed to have a net lettable shop floor area of less than 40,000 square metres at the time a certificate of classification for the first shop building is issued, then the Council must determine the extent to which the obligations otherwise required to be performed by the completion of Stage 1 should be modified or postponed as a consequence of the proposed reduction in the net lettable shop floor area of the major shopping development.

Suspension of Obligations

7. Where any of Robina's obligations cannot be performed until the occurrence of another event or act to be performed by the Council or third parties, then notwithstanding any other requirement as to time for performance of the obligation, but subject to any specific provision to the contrary elsewhere herein:—
 - 7.1 the obligation is not required to be performed until the occurrence of that event or act;
 - 7.2 where performance of the obligation is a precondition of Robina being entitled to a right or benefit under this Agreement, the performance of the obligation by that time is no longer a precondition of that right or benefit; and
 - 7.3 the obligation must be performed by Robina upon the occurrence of the event or act.

Kerrydale Land

8. It is agreed that:—
 - 8.1 the provisions of this Agreement extend to and apply to the Kerrydale land;
 - 8.2 the requirements which would otherwise apply to the development of the Kerrydale land by virtue of its rezoning pursuant to the Council's approval of Rezoning Application 2061 are modified by this Agreement in that:—

- 8.2.1 the requirements set out in Part 11 of the Second Schedule are those which must be performed specifically in relation to development of the Kerrydale land in consequence of its rezoning pursuant to Rezoning Application 2061 (in lieu of the conditions originally imposed by the Council on its approval of that application);
- 8.2.2 the other obligations and requirements in relation to development of the Kerrydale land for the purposes permitted by its rezoning are those contained in this Agreement which relate or are capable of relating to the Kerrydale land.

Particular Obligations of Robina Properties

- 9. Upon the subject land being excluded from the present zone and included in the proposed zone and this Agreement having the force of law, Robina Properties must:—
 - 9.1 at all times thereafter allow Robina and the Council full, free and uninterrupted right and liberty to enter upon all parts of the combined site owned by it for the purpose of enabling either of those parties to undertake, carry out, provide and do or cause to be undertaken, carried out, provided and done any work matter or thing which either may be required or authorised so to do under this Agreement or otherwise under any approval or law relating to the proposed development in accordance with or as contemplated by this Agreement; and
 - 9.2 thereafter be bound by the provisions of Section 7 hereof in respect of any transfer of land owned by it.

SECTION 4

BONDING, SECURITY AND RELEASE OF PLANS

Statement of Intent—Security

10. It is acknowledged to be the common intent of the parties with respect to the provision of security for performance by Robina of its obligations hereunder that:—
 - 10.1 Robina must lodge and maintain a security (to the initial value of \$750,000.00) as a general and continuing security for the performance of all its obligations and the obligations of Robina Properties hereunder;
 - 10.2 given that Robina and Robina Properties intend to sell parts of the combined site as separate parcels to third parties, the Council regards its ability under this Agreement and otherwise at law to withhold sealing and/or release of plans of subdivision until performance of relevant obligations by Robina and Robina Properties as being (with the said security) a sufficient means by which to secure performance of those obligations;
 - 10.3 accordingly, Robina will not generally be required to lodge further security for performance of its obligations;
 - 10.4 the Council holds the view set out in clause 10.2 only while Robina remains solely responsible for performance of those obligations and will not necessarily hold the same view once ownership of the combined site is fragmented and the Council is dealing with a multiplicity of obligated persons. Accordingly, other parties may be required to lodge further security upon a transfer of obligations in accordance with Section 7.

General Bond

11. To give effect to clause 10.1 and to secure to the Council the due performance and fulfilment by Robina of its obligations

under this Agreement and under subsequent applications, Robina will obtain at Robina's own cost and expense in favour of the Council and deposit with it on the execution hereof a bond in a form approved by the Council ("the General Bond") granted by a bank or financial institution ("the obligor") approved in writing by the Council providing for the payment to the Council by the obligor of the sum of \$750,000.00 or so much thereof as shall be owing or payable by Robina under this Agreement.

Form of Security

12. The General Bond must:—

12.1 provide for the payment of the bonded amount or part thereof at any time or times forthwith upon receipt by the obligor of a certificate signed by the Shire Clerk that a sum of money to be set out therein is payable by Robina to the Council pursuant to the provisions of this Agreement; and

12.2 otherwise contain such terms and conditions as are reasonable and relevant.

Review of Security Amount

13. The amount for which the General Bond is security may, at the election of the Council, be adjusted at intervals of not less than five years commencing from the date of this Agreement. The adjusted bond amount shall be that amount which bears the same proportion to \$750,000.00 as the Consumer Price Index figure (All Groups—City of Brisbane) for the December quarter prior to the adjustment date bears to 213.8 being that figure for the December quarter 1991. Robina must cause the amount of the General Bond to be adjusted within thirty (30) days of the Council exercising its rights under this clause.

Restoration of Security

14. In the event that any part of the General Bond is estreated by the Council hereunder, Robina will, if required by the Council and within thirty (30) days of receipt of notice in that behalf, take such action as is necessary to restore the amount for which it is effective as security to the sum of SEVEN

HUNDRED AND FIFTY THOUSAND DOLLARS (\$750,000.00) or such other sum as is required having regard to any application of clause 13 and/or clause 16.

Release of Security

15. Upon Robina performing and fulfilling its obligations under this Agreement, the Council must within fourteen (14) days thereafter release and discharge the obligor(s) from any bonds.

Partial Release of Security

16. In the event that at any time the Engineer's estimate of the fair estimated cost of completing the works remaining to be performed or completed by Robina (including 5% of the value of any works in respect of which a defects liability period is current) is less than the amount for which the General Bond is effective as security, the Council must within fourteen (14) days after a request by Robina in that behalf certify in writing to that effect and immediately thereupon the amount for which the General Bond is effective as security is reduced to the amount of the Engineer's estimate.

Statement of Intent—Mode of Development

17. Robina may from time to time elect to:—
 - 17.1 carry out the proposed development on a single Service District by single Service District basis in which event it is entitled to the sealing and release of plans of subdivision within the one Service District under development upon request and at any time but is obliged to fully complete construction of all subdivision works and infrastructure to service the Service District before being entitled to release of any plans in another Service District proposed to be developed (“Single Service District basis”); or
 - 17.2 carry out the proposed development by commencing and carrying out work in more than one Service District at the same time, with development in those Service Districts not necessarily being sequential to previously completed Service Districts or other Service Districts under development, in which event plans of subdivision

will not be sealed and released until Robina has substantially completed all subdivision works and infrastructure relevant to the subdivision concerned (“Multiple Service District basis”).

Having made an election, Robina may at any time and from time to time elect the other alternative. If it elects to proceed on a Single Service District basis at a time when there are Service Districts not then completed, its election is not effective until such time as all then outstanding relevant obligations (Service District) have been completed.

Sealing of Plans—Single Service District Basis

18. If Robina elects to carry out the proposed development on a Single Service District basis, then, while such election is extant, plans of subdivision (except the last plan of subdivision) comprising land within a single Service District will be sealed and released by the Council upon request by Robina prior to the relevant obligations (Service District) being performed (but otherwise subject to compliance with all relevant legislation and by-laws), and without any further security being provided, but:—

18.1 the last plan of subdivision will not be sealed and released until all relevant obligations (Service District) for the Service District under development have been completed;

18.2 no plans of subdivision (other than those containing only management lots) will be sealed and released in respect of any other Service District until those relevant obligations (Service District) have been completed.

Completion of Relevant Obligations

19. If Robina carries out development on a Single Service District basis, it must carry out development of that Service District progressively and continuously and must complete the relevant obligations (subdivision) in respect of all land contained within a plan of subdivision which has been sealed and released within a reasonable time after release of the plan.

Sealing of Plans—Multiple Service District Basis

20. If Robina elects to carry out the proposed development on a Multiple Service District basis, then, while such election is extant, plans of subdivision will be sealed and released by the Council prior to performance of the relevant obligations (subdivision) being complete (but otherwise subject to compliance with all relevant legislation and by-laws) and without any further security being provided, but only where:—
- 20.1 the land comprised in the plans:—
- 20.1.1 has, or will upon completion of those obligations have, constructed access to a dedicated and constructed arterial and/or collector road; and
 - 20.1.2 is within the catchment area of completed waterworks and completed sewerage works (as defined in Parts 4 and 5 of the Second Schedule);
- 20.2 performance of those obligations has reached the stage where:—
- 20.2.1 major earthworks have been completed;
 - 20.2.2 sewers, water mains, and stormwater drains are installed; and
 - 20.2.3 roads have been boxed out,
all in accordance with drawings approved under Section 8;
- 20.3 a registered surveyor or appropriate consultant has certified that:—
- 20.3.1 works then completed are in accordance with approved drawings;
 - 20.3.2 contracts for the work necessary to complete the relevant obligations (subdivision) have been let; and

20.3.3 all works are contracted to be completed by a nominated date within not more than three (3) months;

and

20.4 Robina has paid headworks contributions (if any) or other moneys payable hereunder in respect of that subdivision.

Default in completion

21. In the event that plans of subdivision are sealed and released pursuant to clause 20 and the relevant obligations (subdivision) in respect of land included in such plans of subdivision are not completed by the nominated date then:—

21.1 the Council may give Robina notice requiring the works to be completed within twenty-one days from the date of issue of the notice;

21.2 subject to clause 22, in the event that the requirements of that notice are not complied with within the specified period:—

21.2.1 Robina is deemed for all purposes to be in default with respect to the completion of the relevant works and the provisions of Section 5 may be applied by the Council accordingly as though the notice contemplated by clause 28 had been given; and

21.2.2 the Council is not obliged to release any further plans of subdivision relating to any part of the combined site prior to completion of the relevant obligations (subdivision) in respect of which default was made.

Extensions of Time

22. Despite clauses 20 and 21, in the event that Robina is unable to complete the relevant obligations (subdivision) within the time referred to in clause 20.3.3 or, as the case requires, clause 21.1, due to circumstances beyond its control, Robina may apply to the Council for an extension of either of those periods of time and the Council must, if it is satisfied on the balance

of probabilities that the failure to complete within the specified time was due to circumstances beyond the control of Robina, grant an extension of time at least equal to the period of delay caused by those circumstances.

Sealing of Plans—Robina Town Centre Core

23. Clauses 17 to 22 (other than 21.2.2) do not apply to the sealing and release of plans of subdivision of land in the Robina Town Centre Core. The following provisions apply to the sealing and release of such plans:—
- 23.1 despite section 5.8(1) of the Act, but subject to clause 23.2 and to compliance with all (other) relevant legislation and by-laws, the Council will seal and release plans of subdivision of land within the Robina Town Centre Core prepared for the purpose of defining sites for particular components of the proposed development, prior to performance of all works required by this Agreement to be completed prior to the completion of Stage 1 and prior to the performance of all relevant obligations (Service District) within the Service District of which the land comprised in that plan of subdivision forms part, without any further security being provided;
- 23.2 a plan must not be sealed and released pursuant to clause 23.1 if it provides for the dedication of any land comprised therein as road, other than a major infrastructure road shown on Plan 2/3/1;
- 23.3 a plan may be sealed and released if it shows land intended as a road as a lot or lots (or as a balance area) but only if an access restriction strip is provided along the full frontage of that lot or lots (or balance area) to any existing road with which it or they will ultimately connect;
- 23.4 an access restriction strip referred to in clause 23.3 must be transferred to the Council on trust for town planning purposes to be dedicated as a road upon completion of the relevant obligations (Service District) for each of the Service Districts comprising Stage 1.

Development Control—Robina Town Centre Core

24. The Council is not obliged to:—
- 24.1 issue a certificate of classification for any building erected within the Robina Town Centre Core; or
 - 24.2 consent to, seal or release:—
 - 24.2.1 a plan of subdivision containing a dedication of land within the Robina Town Centre Core as road; or
 - 24.2.2 a request to register a road dedication in respect of land within the Robina Town Centre Core, other than for a major infrastructure road as shown on Plan 2/3/1; or
 - 24.3 dedicate as road an access restriction strip referred to in clause 23.3,
- until Robina has completed the relevant obligations (Service District) for each of the Service Districts comprising Stage 1.

Sealing of Plans—Management Lots

25. Clauses 17 to 22 do not apply to the sealing and release of plans of subdivision creating only management lots. The following provisions apply to the sealing and release of such plans:—
- 25.1 subject to clause 21.2.2, the Council must upon request by Robina seal and release plans of subdivision creating only management lots without requiring the relevant obligations in relation to the land therein to have been performed or fulfilled;
 - 25.2 if a management lot is contained within a plan of subdivision consisting of more than one allotment, then the Council will not require the performance of relevant obligations in relation to the land comprising the management lot.

Restriction on Transfer of Management Lots

26. A management lot must not be transferred by Robina without the consent of Council, which consent may be withheld until

all relevant obligations (subdivision) with respect to the land contained within that lot have been performed, except in respect of a management lot which is to be transferred to the Crown or to the Council as required by this Agreement.

Earlier Sealing of Plans—Additional Security

27. Despite anything in this Section, Robina may request the Council to seal and release a plan of subdivision at a time or stage earlier than contemplated under this Agreement and so long as:—
- 27.1 the Council is satisfied that it holds sufficient security (whether under the General Bond or by reason of the provision of additional security by Robina) for the performance of the relevant obligations (subdivision) in respect of the land comprised in such plan;
 - 27.2 a time for performance of the relevant obligations (subdivision) is specified in this Agreement, fixed by law or otherwise agreed; and
 - 27.3 Robina is not in default in the performance of any obligation under this Agreement then due for performance,
- then the Council may comply with Robina's request.

SECTION 5

DEFAULT BY ROBINA

Notice of Default

28. In the event that the Council considers that Robina has failed to perform and fulfil an obligation under this Agreement, it may give notice in writing to Robina, 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 21 days.

Reasonable Time

29. 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, 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.

Suspension of Time—Dispute

30. If Robina, as it is entitled to do, refers the notice to the Expert or the Court under Section 10, Robina's obligation to comply with such a notice is suspended and the Council is not in respect thereof entitled to take any further action or to estreat the General Bond or any other security. The time for compliance (if any) with such notice does not commence to run until Robina has received notice in writing of the Expert's or Court's decision.

Council May Act in Public Interest

31. Despite a suspension of Robina's obligations pursuant to clause 30, the Council may, if in its reasonable opinion circumstances involving a significant threat to or interference with public safety or convenience so warrant, carry out (at its initial cost) such of the work as it alleges is Robina's responsibility and as is necessary to remedy the threat or interference in which event such of the costs incurred by the Council (if not the whole) as relate to work which is

ultimately found by the Expert or the Court to be Robina's responsibility in accordance with the Council's notice:—

31.1 may be recovered from the obligor under the General Bond; and/or

31.2 may be recovered from Robina as a liquidated debt.

Council's Remedies

32. Should Robina fail to perform and fulfil its obligations as specified in any notice (or any notice amended after reference to the Expert or the Court), the Council may, at its option, forthwith recover from Robina as a liquidated debt or forthwith recover from the obligor pursuant to the General Bond or recover partly from one and partly from the other, the following amounts:—

32.1 the whole of the moneys then due to the Council and not paid by Robina;

32.2 such sum as the Engineer certifies as representing the fair estimated cost of:—

32.2.1 completing works not performed or completed by Robina (including any works performed or to be performed by the Council, the cost of which is payable by Robina) or altering or amending any completed work not constructed in a good and workmanlike manner, all of which are referred to as "incomplete works"; or

32.2.2 carrying out such other work or development (including any addition or extension to any work or development being carried out by Robina) whether within or outside or partly within and partly outside the perimeter of the combined site as the Council may reasonably consider necessary to mitigate the effects of any incomplete works or to make any incomplete works, in the opinion of the Engineer, more effective or useful; and

32.2.3 the Council's charges for supervision, interest, administration costs, legal costs on a solicitor and own client basis, overheads and such

reasonable contingency sum as may in the discretion of the Engineer be determined.

Application of Monies Received

33. The Council must apply any sums received by it pursuant to clause 32 as far as the same may extend to or towards all or any one or more of those matters which are referred to in clause 32 as are relevant to remedy or mitigate the default in respect of which payment was claimed and any excess of moneys must be paid to Robina.

Council's Rights of Recovery

34. If the sum or sums at any time or times received or recovered by the Council pursuant to clause 32 are insufficient to complete the carrying out or altering or amending the work required by this Agreement, the Council may at its election:—
- 34.1 carry out, alter or amend such work at its discretion so far as the moneys received by it will, in the opinion of the Engineer, reasonably allow; or
- 34.2 complete the carrying out, altering or amending of such work as required by this Agreement and recover the difference between the costs actually incurred by it in so doing and the sums received or recovered by it under clause 32 from Robina as a liquidated debt.

Alternate Remedy—Direct Action

35. Instead of making recovery from Robina or the obligor in accordance with clause 32, the Council may, after expiration of the time for performance and fulfilment by Robina of its obligations specified in a notice, enter upon the combined site to perform and fulfil the requirements of the notice which Robina has failed to perform or fulfil in which event the Council's actual costs incurred in that regard:—
- 35.1 may be recovered from the obligor under the General Bond; and/or
- 35.2 may be recovered from Robina as a liquidated debt.

Council's Right to Enter Upon Land

36. For the purpose of exercising its rights under clauses 33, 34 and 35, the Council and its agents, servants, employees, contractors and subcontractors and others whether of the class aforementioned or not, authorised by the Council, have the full and free right and liberty to enter upon the combined site with all necessary vehicles plant and equipment.

Time for Rectification by Council

37. If the Council exercises any rights under this Section, it must complete the obligations not performed or fulfilled by Robina and which have been specified in the notice to Robina within the same time period after commencement of the exercise of those rights as was stipulated by the Council in the notice given to Robina in respect of those obligations unless prevented from doing so by reasons beyond its reasonable control in which event those obligations must be completed by the Council as soon as is practicable in all the circumstances.

SECTION 6

RELEASE OF ROBINA AND ROBINA PROPERTIES

Completion of Obligations

38. When Robina has performed and fulfilled its obligations under this Agreement then Robina and Robina Properties are released and discharged from any further obligation in respect of the proposed development and the Council must deliver a written release and discharge to Robina and Robina Properties accordingly.

Release in Other Circumstances

39. If before Robina or Robina Properties have performed and fulfilled their obligations hereunder, the last plan of subdivision in the last Service District (not being a plan creating only a management lot) has been sealed and released and there are at the time of release no outstanding obligations then due to be performed, then Robina and Robina Properties have no further obligations hereunder, each is released and discharged from any further performance hereunder, and the Council must deliver a written release and discharge to Robina and Robina Properties accordingly.

SECTION 7

SALE AND TRANSFER OF LAND

Statement of Intent—General

40. The Council acknowledges that it is Robina's and Robina Properties' intention to subdivide and sell parts of the combined site to third parties. The parties acknowledge that their common understanding and intent with respect to allowing Robina and Robina Properties to so proceed while securing to the Council performance of Robina's obligations hereunder, particularly major infrastructure obligations, is set out in this Section.

Statement of Intent—Major and Minor Obligations

41. Robina's obligations hereunder may be considered under two categories as follows:—
- 41.1 obligations with respect to the provision of the major infrastructure necessary to accommodate the proposed development being:—
- 41.1.1 the construction of the roads and the payment of the contributions referred to in clauses 24, 25 and 26 of the Second Schedule and Table 2/3/2 (except item 20 thereof);
- 41.1.2 the construction of the works shown on Plan 2/4/1 and Plan 2/5/1;
- 41.1.3 the dedication of land and the construction of works pursuant to clauses 81.1, 83, 84, 86 and 87 of the Second Schedule; and
- 41.1.4 the carrying out of earthworks referred to in clause 101 of the Second Schedule, (“major infrastructure obligations”); and
- 41.2 obligations with respect to the provision of local roads, parks and individual water supply, sewerage services, lakes, waterways and community facilities together with

obligations relating to the details and final form of individual components of the proposed development all as described or referred to at various places in Part 6 (other than clauses 81.1, 83, 84, 86 and 87), Part 7 (other than clause 101) and Parts 8 to 12 of the Second Schedule, but not being obligations which the Council may impose on a subsequent application (“minor obligations”).

Statement of Intent—Performance of Major Infrastructure Obligations

42. The major infrastructure obligations must be performed in a co-ordinated and planned manner having regard to regional considerations as well as the sequence of the proposed development and cannot be performed piecemeal or otherwise than in a logical and orderly sequence.

Statement of Intent—Performance of Minor Obligations

43. The minor obligations are not required to be performed until the particular development to which they relate is undertaken and do not ordinarily need to be co-ordinated with similar work being performed in relation to other particular developments.

Statement of Intent—Council’s Approach

44. For the reasons set out in clauses 42 and 43, the Council would prefer Robina to be and remain solely responsible to perform all major infrastructure obligations but does not necessarily take that view in relation to minor obligations. In those circumstances, it is the intent of this Section that:—
- 44.1 Robina or Robina Properties may only include as part of a transfer of land a transfer of major infrastructure obligations if it demonstrates to the Council (on the balance of probabilities) that the transfer of those obligations (and the release of Robina from responsibility therefor) will not prejudice the orderly provision of the major infrastructure required for the proposed development;
- 44.2 Robina or Robina Properties may transfer land and associated relevant minor obligations without having to

demonstrate to the Council anything other than the fact that the transferee is bound by an enforceable agreement to which the Council is a party to perform those obligations.

Sale and Transfer—Major Infrastructure Obligations

45. If Robina or Robina Properties desires to transfer the whole or any part of the combined site subject to the transferee assuming responsibility for performance of some or all of the major infrastructure obligations then all contracts entered into by Robina or Robina Properties must be made conditional upon the consent of the Council to the transfer and the execution by the proposed transferee of the deed contemplated by clause 48 hereof.

Robina to Apply for Consent

46. Robina or Robina Properties must make application in writing to the Council for its consent to the transfer within 7 days of entering into a contract of sale referred to in clause 45.

Application for Consent

47. An application made pursuant to clause 46 must:—
- 47.1 contain full details of the proposed transferee;
 - 47.2 specify the land proposed to be transferred to the transferee;
 - 47.3 specify full details of the major infrastructure obligations for which it is proposed that the transferee assume responsibility instead of Robina;
 - 47.4 demonstrate (on the balance of probabilities) to the Council:—
 - 47.4.1 that the transferee is willing to become contractually bound to the Council to perform those obligations in accordance in all respects with this Agreement and within the time:—
 - 47.4.1.1 specified by this Agreement; or
 - 47.4.1.2 otherwise previously agreed between the Council and Robina; or

- 47.4.1.3 if neither of the foregoing apply, reasonably determined by the Council having regard to work already completed, work due to be completed in accordance with the current construction program and the general co-ordination of infrastructure provision within the land and the surrounding region;
- 47.4.2 that the transferee is or will be financially able to perform those obligations (including demonstration that the transferee is able to effect dedication of all lands which may be required to be dedicated to the Crown or transferred to the Council pursuant to those obligations);
- 47.4.3 that the transfer of those obligations (and the release of Robina from responsibility therefore) will not prejudice the orderly provision of the major infrastructure required for the proposed development (having regard, inter alia, to the time fixed for performance of any obligations transferred to other parties under agreements entered into with those other parties pursuant to clause 48.1);

and

47.5 be decided by the Council within fourteen (14) days of its receipt.

The Council in deciding the application may consent to it, refuse it, or consent to it subject to the conditions set out in clause 48.

Decision on Application

48. The Council's consent to such a transfer may be withheld if the Council is not satisfied of any matter required to be demonstrated to it pursuant to clause 47 but the Council must otherwise grant consent subject to:—
- 48.1 the transferee entering into a deed with the Council whereby it becomes contractually bound to perform the

relevant major infrastructure obligations within the relevant time referred to in clause 47.4.1 and otherwise in accordance in all respects with this Agreement;

- 48.2 if required by the Council in any particular case, the transferee providing such security as the Council reasonably requires in respect of the performance of those major infrastructure obligations.

Sale and Transfer—Minor Obligations

49. If Robina or Robina Properties desire to transfer the whole or any part of the combined site, subject to the transferee assuming responsibility for performance of some or all of the minor obligations, then Robina or Robina Properties must make application in writing to the Council for its consent to the transfer before completing any Contract of Sale in that regard.

Application for Consent

50. An application made pursuant to clause 49 must:—
- 50.1 contain full details of the proposed transferee;
 - 50.2 specify the land proposed to be transferred to the transferee;
 - 50.3 specify full details of the minor obligations in respect of which it is proposed the transferee assume responsibility instead of Robina; and
 - 50.4 be decided by the Council within fourteen (14) days of its receipt.

Consent if Deed Submitted

51. If the application is accompanied by a deed in favour of the Council executed by the transferee whereby:—
- 51.1 the transferee becomes contractually bound to perform the relevant minor obligations; and
 - 51.2 the transferee, if required by the Council, agrees to provide such security as the Council reasonably requires in respect of the performance of those minor obligations,

the Council must consent to the application.

Consent in Other Cases

52. If the application is not accompanied by a deed as described in clause 51 then the Council must grant consent subject to:—
- 52.1 the transferee entering into a deed with the Council whereby it becomes contractually bound to perform the relevant minor obligations in accordance in all respects with this Agreement;
- 52.2 if required by the Council in any particular case, the transferee providing such security as the Council reasonably requires in respect of the performance of those minor obligations.

Consent to Sale of Last Allotment

53. Despite the foregoing and in any event, Robina or Robina Properties must not sell the last allotment in the last plan of subdivision in any Service District without the consent of the Council to that sale. In the event that there is at that time any unremedied default in the performance of the relevant obligations (Service District), the Council may refuse consent until the default is remedied. If, for any other reason, all relevant obligations (Service District) have not been fully performed then, unless the Council is already secured in a manner contemplated by this Agreement in respect of the performance of those obligations, it may, as a condition of its consent, subject such sale to a requirement that:—
- 53.1 the transferee enter into a deed with the Council whereby it becomes contractually bound to perform the outstanding relevant obligations (Service District);
- 53.2 the transferee provide such security as the Council reasonably requires in respect of the performance of those obligations.

Conditions on Consent to Transfers

54. The Council must not impose any additional conditions or restrictions upon the development of land transferred in accordance with the requirements of this Section beyond those contained in this Agreement.

Certificate as to Completion of Obligations

55. To assist in the easy administration of the requirements of this Section, the Council must within fourteen (14) days of being so requested by Robina issue a certificate/s upon which a person proposing to acquire an interest in the land to which the certificate relates can rely:—
- 55.1 setting out details of the obligations under this Agreement which continue to be binding on that land; or, as the case requires,
- 55.2 stating that there are no obligations under this Agreement which continue to be binding on that land and that all such obligations which did bind the land have been satisfied.

Consent Not Required Where Obligations Satisfied

56. Despite clauses 45 and 49, the consent of the Council is not required to a transfer of land in respect of which a certificate under clause 55.2 has been issued or to any transfer from Robina to Robina Properties or from Robina Properties to Robina, whilst they remain related companies under the Corporations Law.

Definition of Transfer

57. In this Section, transfer includes a sale or alienation but does not include a mortgage, lease (other than a lease for a term, including options, exceeding 5 years and granted for the express purpose of permitting development by the lessee pursuant to this Agreement) or grant of easement.

Single Deed Only Required

58. In any case where Robina proposes to transfer both major infrastructure obligations and minor obligations, a deed prepared pursuant to clause 48 is to deal with all obligations so that only one deed is prepared in connection with the transfer.

No Cost to Council

59. Every deed referred to in this Section is to be prepared at no cost to the Council.

Continuing Liability of Robina

60. Until the proposed transferee executes the required deed and furnishes the required security, or in the event of a transfer being made otherwise than in compliance with this Section, Robina remains liable for the performance of its obligations under this Agreement as though no transfer had taken place.

Release from Liability

61. Upon a deed referred to in this Section being delivered to the Council, executed by all other parties and stamped (where required), together with any security required to be lodged pursuant to the relevant deed, Robina and, where applicable, Robina Properties are released from all obligations under this Agreement in relation to that land or, as the case requires, such of those obligations as are the subject of the deed, and any security given by Robina specifically in respect of that land or those obligations is discharged.

SECTION 8

SPECIFICATION AND MAINTENANCE OF WORKS

Approval of Specification

62. All designs and specifications for those works which Robina is obliged to do by this Agreement (including, without limiting the generality, the specification of all filling, excavation and other earthworks and the final design and specification for all works referred to in the Second Schedule) must be prepared by Robina at its own cost and submitted to the Engineer for the Council's approval and, when required by law, the approval of any other authority or instrumentality. Robina must not commence any such work before it has obtained approval.

Final Specification of Works

63. All works which Robina is obliged to do by this Agreement must be done to the reasonable specification, reasonable satisfaction and under the supervision of the Engineer and of any other authority or instrumentality having jurisdiction in relation thereto. In the interpretation and application of this clause:—
- 63.1 it is recognised that some provisions of the Second Schedule do provide a particular specification for certain works and obligations;
 - 63.2 that specification has been determined on the basis of present knowledge and expectation as to circumstances which will prevail at the time the works are to be carried out or the obligations performed;
 - 63.3 the circumstances actually prevailing at the relevant time may result in it being necessary or appropriate to adopt a different specification for the final design or performance of such works or obligations;
 - 63.4 accordingly, the inclusion of a particular specification in the Second Schedule does not prevent Robina from seeking approval to an altered specification and does not

prevent the Engineer from giving such approval where an alteration is necessary or appropriate having regard to the circumstances prevailing at the relevant time.

Time for Approval

64. The Council must determine its approval or otherwise under clause 62 within a reasonable time. If Robina considers that a reasonable time has elapsed after submission and it has received no response from the Council then it may by notice in writing, hand delivered to the office of the Shire Clerk and stating it is delivered pursuant to this clause, require a response within fourteen (14) days of the date of delivery of the notice and in the event that Robina does not receive a notice of approval or refusal within that time, the designs and specifications submitted are deemed approved.

Notice of Completion

65. Upon effective completion of the works covered by every approved design and specification, Robina must either:—
- 65.1 provide the Council with a certificate of satisfactory completion in accordance with the approved design and specification prepared by an engineer or other appropriate professional person competent to issue it; or
 - 65.2 require inspection and approval of the works by the Council by giving written notice in that regard.

Maintenance Period

66. Upon the Council being satisfied that effective completion of the works has been achieved, it must issue a certificate of practical completion (being, where applicable, the certificate required by Section 5.2(9) of the Act) and notify Robina accordingly that the works are accepted as being “on maintenance”. A defects liability period of 6 months commences to run from the date of the certificate issued under clause 65.1 or from the date of inspection pursuant to clause 65.2. Any defect or want of maintenance in the works advised in writing to Robina by the Council during the defects liability period must be corrected within a reasonable time, such time to be stated in the notice given by the Council to Robina.

Council to Assume Responsibility

67. At the end of the period of 6 months referred to in clause 66, the works are taken to be “off maintenance” and in the case of works which are to pass to or come under the control of the Council, the Council will thereafter assume responsibility for future maintenance and repair thereof.

No Release of Duty of Care

68. Nothing in this Section operates to:—
- 68.1 limit any relevant duty of care which Robina would otherwise owe to the Council (in tort or contract);
 - 68.2 relieve or release Robina from any relevant duty of care owed by it to the Council,
- in respect of or relating to the design and construction of any works referred to in this Section.

SECTION 9

INSPECTION OF WORKS BY THE COUNCIL

Right of Entry

69. So long as reasonable notice in writing is given of the Council's intention to exercise the powers in this clause, Robina and/or Robina Properties must permit the Council and its officers agents servants contractors and subcontractors and agents and servants of its contractors and subcontractors and others (whether of the class, aforementioned or not), authorised by the Council at all times during the operation of this Agreement to enter into and upon the combined site for the purpose of:—
- 69.1 examining and inspecting the state and condition of the land and any works, including preparation for work and the work site on the combined site or on land adjacent thereto;
 - 69.2 ascertaining whether the obligations of Robina are being observed performed and fulfilled; or
 - 69.3 performing any works which the Council has agreed or is empowered to perform.

SECTION 10

SETTLEMENT OF DISPUTES

Statement of Intent

70. The intent of this Section is to provide a mechanism for:—
- 70.1 ensuring that there is no want of certainty in this Agreement having regard to the necessity to facilitate and expedite the recording of the agreement between the parties without being able to incorporate herein full engineering specifications of the acts and works agreed to be performed undertaken carried out executed provided or done by either party to satisfy the obligations of Robina and/or the Council hereunder;
 - 70.2 resolving, in a speedy and cost-effective manner, any dispute between the parties in relation to the meaning of any provision hereof or the scope, content or extent of their respective obligations hereunder, including disputes as to matters which of necessity cannot be agreed or specified at the present time and must be left to be agreed between the parties at a later time and disputes about decisions of the Council or its officers; and
 - 70.3 referring those matters to the Court for determination or, where the parties prefer an alternate means of dispute resolution, dealing with those matters in accordance with an appropriate non-judicial process.

Reference to Expert

71. It is agreed that if:—
- 71.1 either party alleges or contends that the meaning or effect of any provision of this Agreement is uncertain and therefore to any extent void or of no effect or unenforceable;
 - 71.2 any other dispute arises between the parties relating in anyway to the meaning and effect of any provision of

this Agreement or the scope, content or extent of the respective obligations of either party hereunder; or

71.3 a dispute arises in relation to any other matter by under or in connection with this Agreement including decisions made by the Council or its officers,

then, unless either or both of the parties wish the matter to be determined by the Court in the first instance and make application to the Court accordingly, that matter may be referred to the final decision of a person (hereinafter called “the Expert”) appointed in accordance with clause 72 who must give a decision in writing on the matter. A party who wishes to refer a matter to the Expert must serve on the other party a written reference giving full particulars of the matter and thereupon the parties must attempt to reach agreement on the appointment of the Expert.

Default of Joint Appointment

72. If after fourteen (14) days from service of the written reference:—

72.1 the parties are unable to agree upon the appointment of the Expert; and

72.2 the party on whom the reference was served has not made application to the Court for determination of the matter in dispute,

the party seeking the reference may request the President for the time being of the Institute of Engineers Australia, Queensland Division to nominate a person having the qualifications set out in clause 73. Robina and the Council must together appoint the person agreed upon by them or the person nominated by the President to be the Expert for the purpose of this clause within seven (7) days of agreement by them on the identity of the Expert or a nomination by the President. If either party refuses to join in the appointment then the other party is hereby irrevocably authorised to appoint the Expert.

Qualifications of Expert

73. The Expert referred to in clause 71 must be a professional person in the discipline most appropriate to the character of

the dispute and must be an individual member, or a director of a corporate member, of the Expert's professional body with not less than ten (10) years continuous professional experience in his discipline and with such experience being substantially related to conditions and requirements for new developments.

Function and Powers of Expert

74. By the consent to act, the function of the Expert when determining a matter referred to the Expert is to make certain by the terms of his or her decision what is contended to be uncertain or to resolve any dispute and in considering and giving a decision, the Expert:—
- 74.1 acts as an expert and not as an arbitrator; and
- 74.2 may, without limiting in any way the discharge of his or her function hereunder and the utilisation of expert knowledge skill and experience, refer to and use knowledge and experience of:—
- 74.2.1 the Act, the ected variation of requirements or standards adopted from time to time in relation to or applicable to lands in the Shire of Albert and the development and use of such lands;
- 74.3 must recognise that the development is innovative, unusual and one not generally contemplated by the standard development approval and control process and that what might be appropriate in the case of a conventional development application or approval may not necessarily be appropriate to the proposed development or the unique development control process created for it;
- 74.4 may seek submissions on the matter in dispute orally or in writing from both parties;
- 74.5 may award costs including the Expert's own costs against either party if the Expert is of the opinion that such party acted frivolously or vexatiously or unreasonably (but not otherwise);
- 74.6 must act in accordance with the principles of natural justice and fairness;

74.7 despite clauses 86 and 87, must have regard to past conduct and practice of the parties and ensure consistency of such conduct and practice unless there has been a material change of circumstances or unless the same is contrary to an express provision of this Agreement;

74.8 should he or she consider that they are not qualified to act as the Expert in the matter referred, may appoint a person so qualified in his or her place to be the Expert or may consult a person having the appropriate qualifications for advice;

74.9 must give a decision in writing.

Effect of Expert's Decision

75. The Expert's decision:—

75.1 where it makes certain a provision of this Agreement, is deemed for all purposes to form part of and be incorporated in this Agreement from the date of this Agreement;

75.2 where it resolves a dispute between the parties, is substituted for any decision made by Council or its officers;

75.3 does not in any circumstances create or impose any further liability on Robina in respect of any obligations completed hereunder and accepted by the Council.

Application to Court

76. In the event that either party:—

76.1 does not agree with the wish of the other that a matter be referred to the Expert for determination;

76.2 is not satisfied with a decision of the Expert,
it shall be at liberty to apply to the Court for its determination upon the matter. Unless the parties agree to waive time limits, an application to the Court must be made:—

76.3 under clause 76.1, not later than 14 days after the service of a written reference on that party under clause 71;

76.4 under clause 76.2, not later than 30 days after that party receives the written decision of the Expert.

Powers of the Court

77. On an application made under clause 71 or clause 76, the Court has, to the extent relevant, the powers given to it by Part 7 of the Act as well as:—

77.1 the power to interpret this Agreement and make findings as to the planning intent evinced by this Agreement;

77.2 the power to determine conditions to be performed or complied with pursuant to or in accordance with this Agreement (either as a matter of interpretation or as a matter of determining what is relevant and reasonably required in a particular case within the parameters laid down by this Agreement).

Where a determination of the Court amends or alters a decision of the Expert or the Council, the determination of the Court supersedes the decision of the Expert or, as the case requires, the Council.

Agreement that Expert's Decision Final

78. Nothing in this section shall be construed to prevent the parties from agreeing that the Expert's decision is final and binding in respect of a particular matter and, except in a case of error of law, any such agreement has effect according to its terms.

SECTION 11

SUBSEQUENT APPROVALS TO BE CONSISTENT WITH THIS AGREEMENT

Scope of Conditions

79. It is acknowledged and agreed by the parties that the conditions and obligations imposed upon and to be undertaken by Robina by and under Parts 3 to 8, clause 160 of Part 11, and Part 12 of the Second Schedule specify the obligations of Robina in respect of the proposed development of the whole of the combined site in relation to those classes of conditions:—
- 79.1 which relate to the infrastructure necessary or appropriate to service the proposed development as a whole and regardless of its final specific form; and
 - 79.2 which cannot sensibly, practicably and equitably be imposed on a subsequent application.

Limit on Power to Impose Further Conditions

80. The conditions and obligations contained in Parts 3 to 8, clause 160 of Part 11 and Part 12 of the Second Schedule are exhaustive as to the subject matter with which they deal and in imposing conditions on any subsequent application, the Council must not impose as a condition of approval of that subsequent application a condition relating to a subject matter dealt with in those Parts or clause 160 which imposes a greater or different obligation than is therein specified in respect of that particular subject matter.

No Other Fetter on Subsequent Applications

81. Subject to clause 80, this Agreement does not derogate from the Council's discretion to impose upon subsequent applications conditions:—
- 81.1 authorised by, contemplated by or consistent with any provision of the Second Schedule (including Part 9, Part 10 or, as applicable, Part 11); or

81.2 otherwise authorised by law from time to time which relate to matters other than those dealt with by Parts 3 to 8, clause 160 of Part 11 and Part 12 of the Second Schedule.

Other Approvals to be Consistent

82. The Council is not obliged to approve any subsequent application or issue any building approval or other approval or licence in respect of a development, subdivision, building or structure or other matter or thing which forms part of the proposed development and which is controlled or regulated in any way by this Agreement if the relevant application or proposal does not conform to the requirements or intent of this Agreement.

SECTION 12

TRANSFERS OF LAND TO THE CROWN OR THE COUNCIL

Required Procedures

83. All transfers to the Council or dedications to the Crown of land or any interest therein (whether by way of fee simple transfer, easement, lease or otherwise) must be carried out in accordance with the following provisions:—
- 83.1 if registration of a plan of survey is necessary to effect the dealing, the required plan of survey must be prepared by Robina's surveyor on instructions supplied to the surveyor by the Council;
- 83.2 the Council may require that the required documents must be prepared by the Council or its Solicitors and submitted to Robina and/or Robina Properties for execution but otherwise the relevant documents must be prepared by Robina or its Solicitors and submitted to the Council executed by Robina and/or Robina Properties;
- 83.3 Robina must sign and return such of the documents prepared by the Council or its Solicitor as require execution by it or Robina Properties within seven (7) days of their submission and vice versa;
- 83.4 Robina and/or Robina Properties must upon request by the Council or its Solicitors produce the instrument of title for the property affected by the transfer at the Department of Freehold Land Titles in Brisbane and will at that time produce any necessary mortgagee's or other consents stamped (where required) and otherwise in registrable form.

SECTION 13

GENERAL

Payment of Moneys

84. All moneys payable to the Council in pursuance of this Agreement must be paid at the office of the Shire Clerk.

Correspondence

85. All correspondence initiated by the Council in respect of any matters relating to or arising from this Agreement must be signed by the Shire Clerk or the Engineer.

Waiver by Council

86. No waiver by the Council of any breach by Robina or Robina Properties of any of the provisions of this Agreement is to be implied against the Council or be otherwise effective unless it is in writing under the hand of the Shire Clerk or the Engineer and no laches or delays by the Council at any time or times in enforcing any of its rights powers and the like hereunder prejudices or affects those rights or powers.

Waiver by Robina

87. No waiver by Robina or Robina Properties of any breach by the Council of any of the provisions of this Agreement is to be implied against Robina or Robina Properties or be otherwise effective unless it is in writing under the common seal of Robina or Robina Properties and no laches or delays by Robina or Robina Properties at any time or times in enforcing any of their rights powers and the like hereunder prejudices or affects those rights or powers.

Service

88. Any certificate demand or notice by or from the Council to or upon Robina is sufficiently made given or served if left at or forwarded by prepaid post in an envelope addressed to Robina at the address shown in the Council's rate book and such certificate demand or notice if sent by post is deemed to have been made given or served at the time when in the due course

of post it would be delivered at the address to which it is directed whether or not it is actually received. In proving such service by post it is only necessary for the Council to certify to that effect under the hand of the Shire Clerk.

Notice of Default

89. Despite clause 88, a notice of default or notice of intention to estreat a bond must be personally served on an officer of Robina at the registered office of Robina.

Robina Project Officer

90. Upon receiving notice from the Council that it has appointed an officer to act as the Co-ordinator between the Council and Robina in relation to the proposed development, Robina must thereafter address all correspondence in relation to this Agreement or the proposed development to the Shire Clerk for the attention of the "Robina Project Officer" or such other title as the Council shall from time to time advise.

Time of the Essence

91. Time is in all cases of the essence of this Agreement.

Costs

92. Robina must pay to the Council its legal costs of and incidental to the preparation and execution of this Agreement including any stamp duty payable hereon.

SECTION 14

INTERPRETATION

Relevant Law

93. This Agreement must in all respects be interpreted in accordance with the law of the State of Queensland.

Statements of Intent

94. All provisions in this Agreement headed “Statement of Intent” are designed to explain the background to and intent of the substantive provisions which follow in the relevant Section. Such provisions must be used as an aid to interpretation of substantive provisions and an interpretation of a substantive provision which furthers the stated intent of any Section must be preferred to one which does not.

Other Laws Apply Except where Inconsistent

95. Subject to clause 80 and except to the extent of any inconsistency with this Agreement, nothing herein contained shall affect prejudice or derogate from the requirements of:—
- 95.1 the Town Plan and the Council’s subdivision of land by-laws;
- 95.2 any other statute, proclamation, Order in Council, rule, regulation, ordinance or by-law,
- or from the rights powers and authorities of the Council under the provisions of any such enactment or under any declared lawful policy of the Council.

Schedules Part of Agreement

96. The Schedules take that form for convenience only and form part of this Agreement as though set forth in the body hereof.

Plans, Tables, Drawings and Documents—Identification

97. A reference to a plan, table, drawing or document identified by a particular number is a reference to the plan, table, drawing or document bearing that number held at the public

office of the Council and certified under seal by both the Council and Robina as being the plan, table, drawing or document of that number referred to in this Agreement.

Plans, Tables, Drawings and Documents—Open to Inspection

98. The Council must make the plans, tables, drawings and documents referred to in clause 97 (or a full colour photographic reproduction of the same) available free of charge at its public office during its hours of conduct of public business to any person for the purpose of perusal by that person.

Definitions

99. In this Agreement (including the Schedules), unless the context otherwise requires:—

“access restriction strip” means a 0.5 metre wide strip of land along the full frontage of any allotment to a road, held in fee simple by the Director-General, Department of Transport or the Council as trustee for town planning purposes related to the temporary, conditional or indefinite limitation of access to and from the road;

“the Act” means the Local Government (Planning and Environment) Act 1990 and all Regulations made under the Act;

“this Agreement” means this Agreement and includes the Schedules and the plans, tables, drawing and documents identified herein;

“approved building plans” means the drawings and specifications of a proposed building with evidence of the building approval stamped or endorsed on them;

“Area” means a part of the subject land delineated for usage as shown on Plan 2/2/2, i.e., Northern Flood Plain, the Core, The Inner Frame, The Southern Frame;

“Brisbane to Gold Coast Urban Corridor” means the area more or less south of Brisbane and north of Coolangatta bounded on the east by the water and on the west by the range of hills and mountains;

“building application” means an application for approval to the carrying out of building work made under the Building Act 1975;

“building approval” means the approval under the Building Act 1975 of a building application;

“certificate of classification” means a certificate issued under the Standard Building By-laws 1991;

“combined site” means the subject land and the Kerrydale land;

“completion of Stage 1” means the substantial completion of the building comprising Stage 1 or, if there are more than one, buildings comprising a substantial part of Stage 1;

“the Council” means the Council of the Shire of Albert and its successors and assigns or the local authority within which area the combined site may from time to time be included;

“Court” means the Planning and Environment Court constituted under the Act;

“detailed development approval” means approval of the details of development on the Kerrydale land under Part 11 of the Second Schedule;

“development” means the use of any land or the erection or use of any building or other structure or the carrying out of building, mining or engineering operations in, on over or under land, or the making of material changes to any premises;

“development site” when used in relation to any application seeking approval for any aspect of development, means the land in respect of which the application is made;

“Development Deed” means the Deed entered into between Robina and the Council dated the 7th day of February 1986 as varied by Deeds dated the 5th day of July 1988 and the 28th day of October 1988 and the date hereof;

“DOT” means the Department of Transport (Roads Division);

“Earthworks Zone” means a zone delineated on a map prepared by Robina;

“the Engineer” means the officer of the Council who heads the department or branch of the Council having responsibility for the subject matter in relation to which the term is used

“external road network” means all roads or part thereof which are not contained in the combined site;

“final development approval” means approval of an application under Section 5 of Part 9 of the Second Schedule;

“the Kerrydale land” means the land described in Part 2 of the First Schedule;

“last plan of subdivision” means the plan of subdivision which subdivides the last 5% (more or less) of the area of land comprised within a Service District. Robina may declare any plan of subdivision containing a greater percentage of area to be the last plan of subdivision and the Council may declare a plan to be the last plan of subdivision if the remaining (unsubdivided) land within the Service District is not or does not appear to be intended for development (other than as a reserve or for some similar purpose);

“major shopping development” has the same meaning as that term has in the Act;

“management lot” means an allotment on a plan of subdivision not intended for final development or sale for final development and identified as such by Robina when lodging a plan of subdivision for approval with the Council and includes but is not limited to:—

- (a) an allotment intended for future road reserve;
- (b) an allotment for later transfer to the Crown or the Council;
- (c) an allotment shown on a plan of a type accepted by the Registrar of Titles for registration for lease purposes only;
- (d) an allotment to define a balance area; and
- (e) an allotment intended for further subdivision (other than building units subdivision);

“Merrimac Regional Open Space Corridor” means the area shown on Plan 2/2/1;

“the Minister” means the Minister of the Crown for the time being responsible for administration of the Act;

“mixed use development” means a development which contains a combination of office, commercial and residential uses in a high density form together with supporting public facilities and services, parks and public spaces;

“Multiple Service District basis” means a method of development by which two or more Service Districts are provided with services and subdivided simultaneously for the purpose of development as contemplated by this Agreement;

“open space” means any land used or intended to be used for:—

- (a) acoustic sound buffer zones
- (b) enlarged areas of roadways used for open space
- (c) golf course
- (d) landscaped areas including landscaping for visual or acoustic screening
- (e) playing fields and parks, if provided within the combined site
- (f) tennis courts
- (g) waterways
- (h) bowling greens
- (i) lakes
- (j) pathways - pedestrian or bicycle
- (k) swimming pools
- (l) walkways
- (m) visual buffer zones

“Precinct” means part of an Area pertaining to land use shown on a plan referred to in clause 174 of the Second Schedule;

“the present zone” means the zones in which the subject land is presently located as set out in Part 3 of the First Schedule;

“the proposed development” means the use of the combined site for a Regional Business Centre more or less in accordance with the concepts and statements of intent and objectives contained in Parts 1 and 2 of the Second Schedule and otherwise subject to this Agreement;

“the proposed zone” means the zones in which the subject land is proposed to be included as set out in Part 4 of the First Schedule;

“relevant obligations” means relevant obligations (Service District) and relevant obligations (subdivision);

“relevant obligations (Service District)”, in relation to a particular Service District, means:—

- (a) all works to be carried out pursuant to this Agreement within the Service District
- (b) all works to be carried out pursuant to this Agreement outside the Service District and which are required to provide services (including at least one dedicated and constructed connection to an arterial and/or collector road) to that Service District;
- (c) all works to be carried out pursuant to this Agreement outside the Service District, the time for performance of which is by this Agreement related to the development of the Service District
- (d) all works to be carried out pursuant to conditions of any subdivision approval relating to land within the Service District;

“relevant obligations (subdivision)”, in relation to land forming part of a Service District and which is proposed to be subdivided, means such of the relevant obligations (Service District):—

- (a) as are to be performed within the land to be subdivided;
or
- (b) as are to be performed outside the land to be subdivided and which must be completed prior to the sealing and

release of a plan of subdivision of that land (other than one creating a management lot);

“RL” means Reduced Level at Australian Height Datum;

“Robina” means Robina Land Corporation Pty. Ltd. and its successors and permitted assigns;

“Robina Properties” means Robina Properties Pty. Ltd. and its successors and permitted assigns;

“Robina Town Centre” means the combined site and, where the context admits, the proposed development;

“Robina Town Centre Core” or “Core” means the land described in Part 5 of the First Schedule and, where the context admits, that part of the proposed development to be carried out on that land;

“sealed” when used in relation to a plan of subdivision means endorsed with the approval of the Council given under Section 5.3 of the Act;

“Service District” means a district delineated on a map prepared by Robina pursuant to clause 179 in Part 12 of the Second Schedule;

“shop” premises used or intended for use for the purpose of displaying or offering of goods for sale by retail. The term includes:—

- (a) the ancillary storage of goods;
- (b) a food barn;
- (c) administration activities carried out in connection with the use;
- (d) where part of a major shopping development, the fitting of motor vehicle accessories and parts or the rendering of minor services or minor running repairs to motor vehicles,

but does not include commercial premises, a general store, a hotel, an industry, a service station, a showroom, a stall or a warehouse as those terms are defined in the Town Plan;

“Single Service District basis” means a method of development by which only one Service District at a time is provided with services and subdivided for the purpose of development as contemplated by this Agreement, by which plans of subdivision are sealed and released upon request by Robina independently of the stage of performance of relevant obligations and by which no other Service District can be subdivided or developed until completion of relevant obligations in the current Service District;

“the Shire Clerk” means the Shire Clerk of the Council and includes the person (if any) for the time being acting as Shire Clerk;

“Stage 1” means development of that stage, Service District or Service Districts of the proposed development which includes a major shopping development in the Robina Town Centre Core;

“Strategic Plan” means the Strategic Plan forming part of the Town Plan;

“the subject land” means the land described in Part 1 of the First Schedule;

“subsequent application” means any application to the Council for:—

- (a) final development approval;
- (b) notification under the Town Plan of conditions on a permitted use;
- (c) consent under the Town Plan to use land or erect or use a building;
- (d) detailed development approval; or
- (e) approval to subdivide any part of the combined site;

“the Town Plan” means the Town Planning Scheme for the Shire of Albert published in the Queensland Government Gazette dated 19 March 1988 and the Council’s by-laws relating to town planning;

“vessel” includes every ship, boat, and every other description of vessel used or designed for use for any purpose on the sea

or in navigation: Without limiting the generality of the foregoing, the term includes any dinghy, lighter, barge, punt, hulk, raft, pontoon, or like vessel;

“works” means the works set out and contemplated to be undertaken as described in the Second Schedule;

Words importing the singular number include the plural number and vice versa and words importing any gender include the other genders and words importing only persons include corporations and/or associations and/or bodies and vice versa in each respective case.

FIRST SCHEDULE

PART 1

THE SUBJECT LAND

Lot 1 on Registered Plan No. 68799, Lot 852 and part of Lot 853 on Registered Plan No. 226788, part of Lots 1 and 2 on Registered Plan No. 225573, part of Lot 823 on Registered Plan No. 226764, part of Lot 888 on Registered Plan No. 229613, Lot 889 on Registered Plan No. 229613, part of Lot 866 on Registered Plan No. 228559, Lot 917 on Registered Plan No. 800193 and part of Lot 2 on Registered Plan No. 225584 all in the County of Ward Parish of Gilston containing an area of 253.2176 hectares situated at Pacific Highway, Lavers & Gabriels Roads, Robina Parkway, Kidman Street & Priddeys Road, Christine Avenue & Geraldton Drive, Kerrydale in the State of Queensland being the land shaded and hatched on Drawing No. 8951B and as more particularly described by metes and bounds in Document 1/1/1.

PART 2

THE KERRYDALE LAND

Lot 891 on Registered Plan No. 229616, part of Lots 1 and 2 on Registered Plan No. 225573, part of Lot 823 on Registered Plan No. 226764 and part of Lot 853 on Registered Plan No. 226788 all in the County of Ward Parish of Gilston, being the land cross-hatched on Drawing No. 8951B and as more particularly described by metes and bounds in Document 1/1/2.

PART 3

PRESENT ZONE

Future Urban Rural B
Residential A

PART 4

PROPOSED ZONE

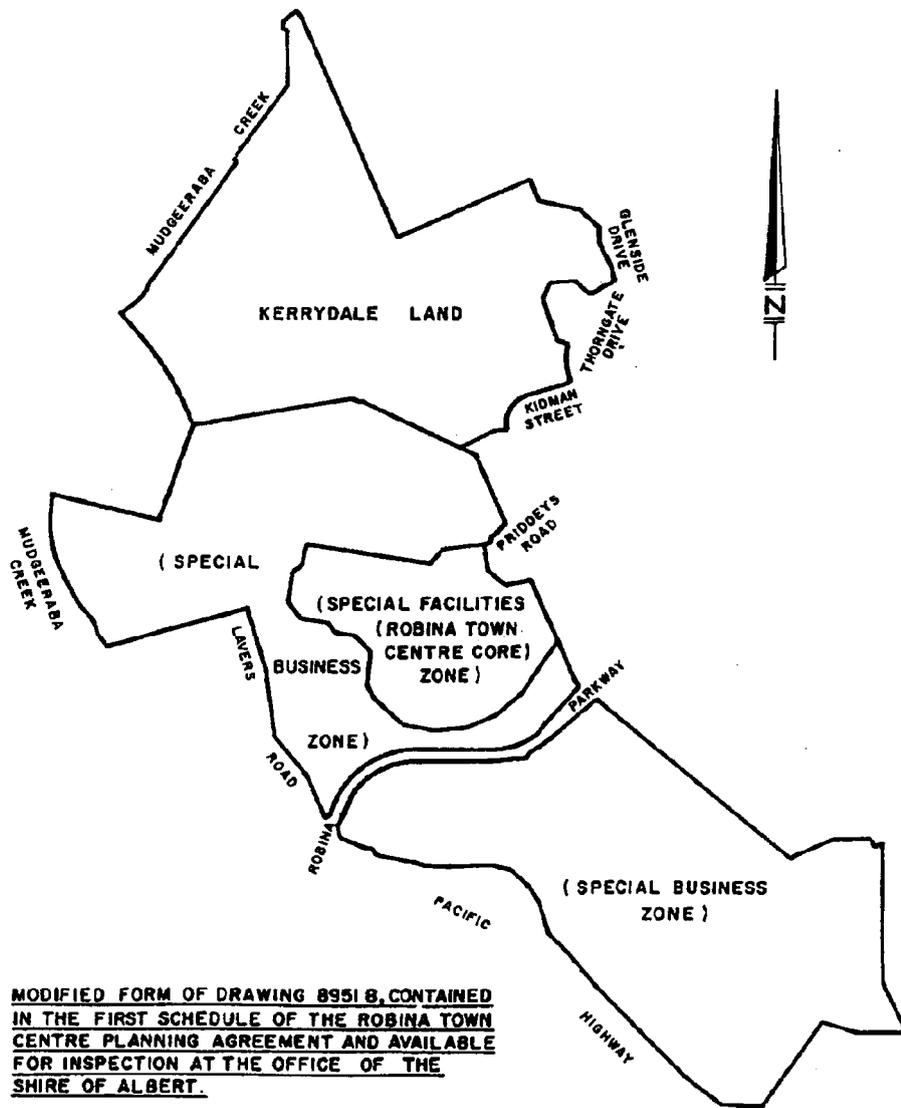
As to that part of the subject land shaded on Drawing No. 8951B and as more particularly described by metes and bounds in Document 1/1/3—Special Business zone.

As to that part of the subject land hatched on Drawing No. 8951B and as more particularly described by metes and bounds in Document 1/1/4—Special Facilities (Robina Town Centre Core) zone [*previously described as Special Facilities (Robina Town Centre Core in accordance with Plan of Development No. 2270) zone*].

PART 5

DESCRIPTION OF ROBINA TOWN CENTRE CORE

Part of Lot 888 on Registered Plan 229613 in the County of Ward Parish of Gilston being that part of the subject land hatched on Drawing No. 8951B and as more particularly described by metes and bounds in Document 1/1/4.



SECOND SCHEDULE

PART 1

INTRODUCTION

Rezoning Application

1. Robina applied to the Council by Rezoning Application No. 2270 dated 10 July 1990 to exclude the subject land from the present zone and include it in the proposed zone.

Master Planning

2. As discussions and negotiations in relation to that rezoning application proceeded it became apparent that the development proposed by Robina pursuant to the application involved the master planning of a new mixed use community rather than a specific development application and that the existing legislation did not provide an adequate framework within which to implement the proposal.

Deficiencies in Existing Legislation

3. The reasons why the existing legislation was inadequate may be summarised as follows:—
 - 3.1 the inclusion of part of the land in the Special Facilities (Robina Town Centre Core) zone is intended to confer a legal right to use any part of that land for any of the purposes set out in clauses 120 and 121 of Part 9 of the Second Schedule (subject to the Council's approval of the details of the final development and, in the latter case, subject to obtaining town planning consent);
 - 3.2 the land to be included in the Special Business zone may be used for any of the purposes set out for the zone under Columns 3 and 4 of the Table of Zones in the Town Plan subject to the notification of conditions or to obtaining the Council's consent where required;

- 3.3 the infrastructure requirements for the development as a whole can be determined with certainty on the basis of maximum equivalent population fixed by prescription of limits on building heights and site coverage for commercial buildings and by prescription of maximum populations for residential buildings;
- 3.4 it is nevertheless not possible to determine the proportion or extent that each of the permitted or permissible uses will assume;
- 3.5 it is similarly not possible to determine or specify the precise form and sequence of development;
- 3.6 the matters referred to in clauses 3.4 and 3.5 are capable of description but only in a conceptual way by means of:-
 - 3.6.1 statements of planning intent describing the proposed development in terms of uses to be undertaken, facilities to be provided, objectives to be achieved and the planning and social character of the final development; and
 - 3.6.2 concept plans containing illustrations or examples of how the statements of intent might be implemented;
- 3.7 part of the land considered to form part of the Robina Town Centre concept (the Kerrydale land) had already been rezoned and there was no adequate mechanism available to integrate this approval with the rest of the proposal.

Required Method of Development Control

4. The matters referred to in clauses 3.4 and 3.5 will evolve gradually over a period of years. A flexible method of controlling development is accordingly required so that:—
 - 4.1 infrastructure including roads, drainage, water supply, sewerage, transport and open space can be properly provided for, not just for immediate development needs, but for what is envisaged to be the future population living and working in the subject land and surrounding regions; and

- 4.2 final development proposals can be assessed for consistency with the statements of planning intent to ensure that the development actually carried out is within the spirit and intent of this Agreement.

Areas and Precincts

5. Development will take place on a stage-by-stage basis in no readily or accurately predictable pattern or timing. To facilitate an understanding of the methodology adopted, the subject land has been divided into the following categories:—

- 5.1 **Land Use Areas**, being
- Northern Flood Plain
 - The Core
 - The Inner Frame
 - The Southern Frame

These areas are shown on Plan 2/2/2 and a more detailed explanation of their characterisation is contained in Part 2.

- 5.2 **Precincts**, being parts of each of those land use Areas identified for different uses.

In the Core, shops, offices and associated service and recreation activities will, together with car parking, open space and the waterways, dominate the Area and identification of particular Precincts within the Core may be unnecessary or, if done, may relate simply to breaking down the Core into physically smaller areas within which detailed development planning can be done (rather than into areas of different land use character).

In the Inner Frame, some Precincts have already been identified, as can be seen from Part 2.

In the other Areas, planning has not yet reached the stage where Precincts can be identified, though Plan 2/11/1 is a de facto Precinct plan for most of the Northern Flood Plain.

It is intended, when land uses are being considered, that Precincts will be delineated by the use or uses intended

for them. Whilst uses in Precincts will emerge from time to time, it is not expected that this will in any way have a bearing on where actual physical construction will take place or that their boundaries will be inflexible.

Stages of Construction

6. Construction can be thought of as occurring in three stages:—
 - 6.1 the first stage being earthworks when the land is shaped and roads, waterways, parks, etc. are formed;
 - 6.2 the second stage when services such as roads, water supply, sewerage, electricity and telephone are constructed; and
 - 6.3 the third is when construction of buildings occurs.

Purpose of Agreement

7. The purpose of this Agreement is to:—
 - 7.1 specify with the necessary certainty and enforceability Robina's obligations in relation to those matters referred to in clauses 6.1 and 6.2 which cannot be adequately regulated by application of existing legislation to the proposed development; and
 - 7.2 provide a mechanism and a process whereby Robina's planning obligations in relation to the matters referred to in clause 6.3 can be determined, within certain parameters and subject to a fair and effective dispute resolution process where necessary.

Earthworks Zones and Service Districts

8. Earthworks contracts will usually be undertaken over a larger area than that for which services are to be provided. Accordingly, for ease of administration and understanding, the combined site will be categorised by:—
 - 8.1 "Earthworks Zones" within which earthworks will be carried out in accordance with an approved plan or plans; and
 - 8.2 "Service Districts" within which services will be constructed or provided in accordance with an approved plan or plans.

PART 2

PLANNING INTENTIONS

Regional Context

10. The intention of this Agreement is to enable the development of Robina Town Centre as a major comprehensively planned Regional Business Centre accommodating the highest order of retailing, business, administration, entertainment, cultural, recreational and other community facilities.

Given its strategic location and the opportunity for comprehensively planning a “green field” site, Robina Town Centre will play a major role in serving central place needs of not just adjacent districts, but also the area included in the Gold Coast Statistical District and southern parts of the wider Brisbane to Gold Coast Urban Corridor as well as parts of Northern New South Wales, as demonstrated by Plan 2/2/1.

As the first major Regional Business Centre to be located inland from the coastal strip, it is well placed to service the needs of the growing hinterland population and its strategic location at the intersection of major arterial roads with the Pacific Highway as well as at the terminus of the proposed Brisbane to Robina/Gold Coast railway will ensure high levels of accessibility from/to both the local and wider regions.

The opportunity this location offers for Robina Town Centre to become a major public transport focus with a transit network radiating from the proposed rail terminus, will enable its development as a major office employment centre for both the public and private sectors as well as a major centre for the provision of government/community services, cultural and recreational facilities.

The high employment potential is further enhanced by the Robina Town Centre’s location close to the Bond University and its Research Park as well as by its attractive water enhanced landscape setting at the edge of the Merrimac regional open space corridor.

The continuing development of this Merrimac regional open space corridor for golf and recreation resort facilities, the increasing tourist traffic on the national Pacific Highway and the proximity to both hinterland and coastal tourist and recreation attractions will also ensure a major tourism and recreation role for the Robina Town Centre for hotel/motel accommodation, shopping and support facilities.

In view of these opportunities, it is recognised that Robina Town Centre may eventually develop as a major central place anchor for the Brisbane to Gold Coast Urban Corridor as well as one of the major regional business districts for the Gold Coast Statistical District. The possibility of the Robina Town Centre becoming the dominant central business district for the region is neither disregarded nor discouraged and the Council recognises that the matters referred to in this section give the Robina Town Centre a potential advantage in that regard. The Council, however, views the Robina Town Centre in accordance with the Strategic Plan as one of the regional business centres referred to in Objective 7(a) within clause 5 of Division 3 of the Strategic Plan.

Planning Concepts and Intentions—Structure Plan

11. Plan 2/2/2 is a structure plan to guide in general terms the planning and development of the subject land, which may be varied by Robina from time to time. It should not be regarded as defining the final nature or location of specific land uses but should be regarded as conceptual with its intent and purpose being to indicate the goals and aims to be pursued and the predominant components of the final development.

This plan sets down a framework of roads, pathways, open space within which the Robina Town Centre can continue to develop over time and that framework is fixed with some certainty by other Parts of this Second Schedule. The key land uses shown are indicative only and the plan therefore purposely has flexibility to accommodate needs which cannot be properly foreseen at this time. This framework creates a series of land use Areas with different characteristics in terms of landscape setting and accessibility against which actual site needs can be matched in a continuing process.

There is a physical constraint on the ultimate development in that the infrastructure for which this Agreement provides is designed to service an equivalent population of 23,000 persons (more or less). The planning for the ultimate development (and for each Area and Precinct) must take this constraint into account. Development which would generate an equivalent population significantly exceeding 23,000 persons is not permitted.

Planning Concepts and Intentions—Master Plan

12. Plan 2/2/4, described as the Robina Town Centre Master Plan, is the current interpretation of the structure plan. It is an illustration of one form of final development which gives effect to the planning intent contained in this Part. It is recognised that the proposed rail terminus within the subject land and the proposed high school and hospital adjacent to the subject land depend upon anticipated State Government commitments in respect of which a final decision is not yet made.

Intent of the Structure Plan

13. The structure plan identifies four broad Areas:
 - Northern Flood Plain
 - The Core
 - The Inner Frame
 - The Southern Frame

The planning intent for those areas is as follows:—

13.1 The Northern Flood Plain

This Area forms part of the wider Merrimac flood plain open space system to the north and west and provides an important regional landscape setting for the Robina Town Centre. Its development for waterways, golf courses and major recreation facilities will provide an attractive water-themed landscape identity and orientation as well as providing valuable recreational facilities in close association with the core of the Robina Town Centre.

The extension of the waterways into the heart of the Robina Town Centre may allow this landscape theme and enhancement to continue as a framework within the Core and Inner Frame as well as providing efficient drainage of the flood plain re-entrants and will allow access by vessels from the wider waterway system to the Robina Town Centre. Tourist, commercial and pleasure vessels are envisaged operating from the Nerang River system to the Robina Town Centre via the Boobegan and Mudgeeraba Creeks.

13.2 The Core

This is the central Area and is intended as the area of maximum pedestrian activity within which the major regional shopping Precinct will be located together with personal and community services, professional offices, restaurants, cultural, civic and recreational facilities, hotel and studio apartments.

The Core is focused on an ornamental lake and major town centre plaza which together form a celebration place, accessible to the public 24 hours per day, where the community can come together with a sense of pride and belonging to partake of urban activities such as eating, dining, shopping, promenading and cultural events.

13.3 The Inner Frame

The Area surrounding the Core to the north of the Robina Parkway ridge is intended as an intensive mixed use area containing offices, business premises, residential apartments, hotels, cultural, recreational and entertainment facilities in close proximity to allow easy pedestrian connections and convenient access by public transport.

Within this frame the main Precincts envisaged are:

- a traditional “main street” styled *business services Precinct* along the important pedestrian link from the Core to the anticipated railway terminus/public transport interchange.
- a *Government Precinct* on sites adjacent to the anticipated rail interchange and the anticipated Hospital

and High School for predominantly Federal and State administrative offices and their agencies.

- the ***rail interchange Precinct*** where convenience shopping and offices are intended associated with the public areas of the interchange and a regional indoor sports entertainment centre is envisaged adjoining the interchange to take advantage of the high level of accessibility by regional public transport.
- the ***medical Precinct*** immediately east of the hospital and south of the interchange, where priority is to be given to the location of medical uses associated with the hospital. These uses could also extend into adjacent mixed use areas.
- the ***peninsular and west lakeshore Precincts*** which are intended for prime office, hotel, restaurant and residential mixed use development.
- the ***east lakeshore Precinct*** which is intended predominantly for high density residential uses.
- the ***riverwalk Precinct*** linking south from the lake to the main highway gateway entry is intended as an alternative linear river-like park setting for further mixed use development.
- the ***gateway Precincts*** flanking the main road entry to the Robina Town Centre from the Pacific Highway which offer prime sites for major large private office development at the southern end of the riverwalk but which also contains the proposed route for the southern railway extension which may be a constraint on development.
- the ***parkway Precincts*** between the Core and the Robina Parkway, one for service stations and fast food outlets and the other for the beginnings of showroom development, which then links via roads and paths under the Parkway to similar development to the south.

13.4 The Southern Frame

This Area to the south of the Robina Parkway ridge is intended as a less intensive area for activities requiring easier

motor vehicle access such as an auto mall, showrooms, service trades, service authority facilities, office parks as well as for medium density residential development and higher education facilities. The Area forms an important link from the Core and Inner Frame to the Bond University to the south with its associated Research Park, recreational facilities and high and medium density residential Precincts as well as to the industrial development zones at the Reedy Creek Highway interchange and along the Burleigh Connection Road.

Public Transport

14. As the proposed rail is likely to be essentially inter-urban rather than intra-urban it will function primarily as a commuter service within the Brisbane to Gold Coast corridor. Its location therefore favours office employment, and particularly government offices, to encourage maximum benefit to the Robina Town Centre and maximum rail usage.

Shoppers and workers from the more local Gold Coast region will be served by a public transit distribution network, which it is anticipated will initially be provided by bus, but may later include other forms of public transport, focused on the rail terminus. The network will be planned to meet broad community needs, including distribution to other employment, educational, tourist and entertainment nodes, as well as internal movements within the Robina Town Centre. Links from the interchange and Core through the Southern Frame to the Bond University and environs are also envisaged.

Open Space and Pathways

15. The open space system together with the roads provides a basic framework to shape and link the total development.

The open space system proposed provides for two major north-south linear park connections linking from the extensive floodplain open space in the north to the University Lake open space system in the south—one linking along the Robina Town Centre lakeshore, riverwalk and highway buffer and the other along the eastern power easement. A further spine along the Mudgeeraba Creek has potential to link through adjoining

properties north to Carrara and south-west to Mudgeeraba and Bonogin.

A series of sports fields are located along these spines and, together with the proposed golf and water based recreational facilities, they provide a strong recreational and leisure lifestyle orientation for the Robina Town Centre for both resident and worker populations.

A network of major pedestrian/bicycle paths is proposed along these open space corridors as an important part of the transportation system linking Precincts within the Robina Town Centre to each other and to the surrounding districts.

Residential

16. The concept of locating medium and high density residential uses immediately adjoining focal points for commercial and community activity has long been a principle of contemporary town planning and is seen as an important objective for the Robina Town Centre.

The advantage of such a concept is best summarised as follows:—

16.1 Increased Choice of Residential Stock

An increased variety of residential accommodation can be provided to better meet the particular lifestyle needs of different population segments. For example, there are those with children in small households who wish to live close to work and facilities in a more urban environment. These can include the young, the middle-aged, the elderly and people in a variety of economic situations, from service industry workers or shop assistants to professionals and executives.

16.2 A More Active and Diverse Environment

The addition of a residential population increases the “people” activity, particularly after normal working hours when offices are empty. This has a civilising influence and helps create a safer and more diverse and urbane environment to the benefit of all users of the Robina Town Centre.

16.3 Extended Use of Facilities

An immediate residential population allows for the extended use and more economical provision of all types of facilities.

16.4 Contribution to Urban Consolidation

The provision of housing at higher densities in the Robina Town Centre allows for a more efficient and balanced use of regional infrastructure, e.g., roads, public transport, utility and community services, as well as landscape enhancement, and contributes to overall regional urban consolidation. Population successfully accommodated in the Robina Town Centre reduces the need for residential land at the edge of urban areas.

For these advantages to be realised, a more flexible approach is required towards planning and design than currently applies to development in Residential B and C zonings which have been developed for suburban situations where segregation of residential uses and compatibility with surrounding lower density development are desirable.

As a result, the combined site is designated for a target population of 5,000 persons to be accommodated in development designed under controls based on performance criteria developed from first principles for each situation.

Landscape/Townscape Design and Siting Controls

17. It is recognised that a major objective will be to create an attractive and environmentally sensitive development characterised by a distinctive landscape and townscape and high levels of architectural and landscape design. To achieve this, appropriate design and siting controls are envisaged for the various Precincts.

In general terms, the townscape character of the area north of the Robina Parkway ridge is envisaged as more compact and urban in character with generally higher rise buildings, while the southern area will be lower rise and more office-park in character.

A landscaped buffer zone is proposed along the Pacific Highway frontage to ensure a consistent landscape image is

maintained along this important edge. View corridors are proposed at selected locations to allow motorists an awareness of the proximity and scale of the Robina Town Centre. Plan 2/2/3 is a conceptual plan of the buffer zone and view corridors.

Innovative Developments

18. In view of the long term nature of the development being undertaken, it is recognised that a flexible approach will be required in relation to innovative development standards and practices to take account of technological developments and changing patterns in our society. Indeed, to ensure the continued vitality of the Robina Town Centre, it will be important to keep abreast of the latest developments in all areas affecting its development and operations.

PART 3

ROADS AND ROADWORKS

Road Network

19. The Council and DOT have agreed that the road network shown on Plan 2/3/1 is an appropriate traffic network for the region in which the combined site is located.

Acceptance by Robina

20. Robina accepts and acknowledges that the road network shown on Plan 2/3/1 is an appropriate traffic network for the region in which the combined site is located.

Reliance on Network by Robina

21. The Council acknowledges that Robina has planned the proposed development on the basis that, so far as relates to the land external to the combined site:—
- 21.1 the road network shown on Plan 2/3/1 will be adhered to as closely as possible by the Council (and DOT where relevant) in acquiring and constructing regional roads;
 - 21.2 the Council will, when approving applications for development in the region by others, recognise and support the road network by ensuring (so far as permissible under the law which applies to its determination of those applications):—
 - 21.2.1 that the approved plans for such development are consistent with the network; and
 - 21.2.2 that each developer makes any dedication and/or contribution to the network which is reasonably required by its particular application.

The Council also acknowledges that Robina will be proceeding with the proposed development in reliance on the road network in the region being substantially in accordance with Plan 2/3/1.

Acquisition of External Road Reserves

22. So far as relates to land external to the combined site (other than land already dedicated as a road), and despite clause 21, the road network shown on Plan 2/3/1 is indicative only based upon existing and anticipated development approvals and discussions with the relevant landowners.

The Council acknowledges that there are unlikely to be significant variations from Plan 2/3/1 having regard to the fact that location of the Pacific Highway interchanges is fixed already and the fact that the network within the combined site is fixed by this Agreement.

Robina nevertheless acknowledges and accepts that:-

- 22.1 acquisition of land external to the combined site which is required for the road network is a matter under the sole control and within sole discretion of the Council (and DOT where relevant);
- 22.2 the Council and/or DOT will be attempting to negotiate the required acquisitions with the affected landowners;
- 22.3 the Council may, in its discretion, enforce any rights which it may have pursuant to development approvals or exercise any other powers of acquisition which it is entitled to exercise for the purpose of acquiring the required land, but that it can only do so in accordance with the law which regulates those rights and powers;
- 22.4 any acquisitions by the Council (or DOT) otherwise than by agreement accordingly depend upon the Council's (or DOT's) legal powers at any relevant time and, possibly, upon availability of funds and the Council gives no undertaking to Robina that such land (or any part thereof) will be acquired at any particular time.

Robina Not Responsible for Additional Costs

23. Should any section of the road network ultimately put in place by dedication of land external to the combined site be on a substantially different alignment from that shown on Plan 2/3/1, then to the extent that the cost of construction of any section of the network which Robina is to construct is increased by such change, that cost, as certified by a

consultant with appropriate knowledge and expertise and as accepted by the Engineer, must (as between Robina and the Council) be paid by the Council.

Robina's Obligations

24. Subject to clause 26, Robina must contribute to the implementation of the road network by:—
- 24.1 carrying out the roadworks specified to be its responsibility in Table 2/3/2, to the standards and at the times set out therein; and
- 24.2 paying the contributions specified to be payable by it in Table 2/3/2 as and when specified therein.

Interpretation of Time for Performance

25. Where the time for construction of a road section is specified in Table 2/3/2 as being prior to sealing and release of the plan of subdivision which creates the first or last allotment(s) for sale in an adjoining Service District, and that road section adjoins or passes through more than one Service District, then the road section is to be constructed in segments along the frontage of or within each Service District and:—
- 25.1 Robina's obligation when developing a Service District is to construct only the segment having frontage to or passing through that Service District; and
- 25.2 that obligation is to be performed prior to sealing and release of the plan of subdivision which creates the first allotment(s) for sale in that Service District or, as the case requires, the last plan of subdivision of that Service District.

Special Provision—Mudgeeraba Interchange Connection

26. If Robina gives notice that it is ready to commence the work specified in Item 8(a) in Table 2/3/2 so as to be able to complete that work by the completion of Stage 1, and the relevant land is not dedicated or controlled by the Council or DOT within 120 days after the date of giving of that notice, then Robina is no longer obliged to construct that section but instead must contribute to the cost of construction thereof an amount not exceeding the estimated cost of construction.

This contribution must be paid progressively in accordance with certificates by the Engineer as to the value of work completed as and when that section is constructed.

To secure the obligation of Robina under this clause, it must provide, in addition to the General Bond, a further Bond in an amount equal to the estimated cost of construction as at the date of Robina's notice. The further bond:—

26.1 must be lodged within 30 days of demand by the Council made after Robina's obligation to contribute arises; and

26.2 may be called upon by the Council if the contribution or any part thereof is not paid within 14 days of demand therefor accompanied by the Engineer's certificate.

In this clause, "estimated cost of construction" is the amount at which Robina could have constructed that section by the completion of Stage 1 having regard to the rates actually paid by Robina for earth and road works constructed or under construction in connection with Stage 1.

Suspension of Certain External Obligations

27. So far as relates to land external to the combined site (other than land already dedicated as a road and the land referred to in clause 26), and notwithstanding the times for performance specified in Table 2/3/2, Robina's obligations to carry out work on such land:—

27.1 are suspended if the land is not dedicated as a road or otherwise controlled by the Council or DOT at the time the work would otherwise be required to be performed;

27.2 must be performed as soon as practicable after the land becomes so dedicated or controlled.

Suspension of Certain Internal Obligations

28. Where a road to be constructed on the combined site is planned to connect to a road external to the combined site which is to be constructed by others then, notwithstanding the times for performance specified in Table 2/3/2 in respect of that road, Robina's obligations to construct that road:—

28.1 are suspended if the external road has not been so constructed at the time the road would otherwise be required to be constructed; and

28.2 must be performed as soon as practicable after the external road is constructed to the boundary of the combined site.

Planning for Additional Interchange

29. Robina acknowledges the desire of the Council and DOT, having regard to the long term development of the region, to preserve the opportunity of an additional partial interchange between the Reedy Creek Interchange and the Robina Parkway Interchange as shown at intersection V on Plan 2/3/1. Such an interchange would have, as a primary objective, the provision of a right-turn movement for northbound traffic into the lands east of the Pacific Highway, more specifically into the subject land and the present Bond University lands. Such an interchange could also provide for a cross-connection to the area west of the highway.

Robina must accordingly make provision in its planning for this potential future connection by allocating a road reserve corridor with one end at the Pacific Highway and the other joining the proposed Christine Avenue, that is from V-W-Q as shown on Plan 2/3/1. Robina must not alienate any part of the land so reserved prior to 30 June, 2006, and no buildings or structures may be erected thereon.

Robina will dedicate the land within the corridor as a road without compensation when called upon by the Council so to do at any time on or prior to 30 June, 2006, and the Council must thereupon immediately construct the roadworks forming the connection. If the Council does not require the dedication by 30 June, 2006, Robina is thereafter free to deal with the land reserved without regard to this clause.

General Construction Requirements

30. Robina must, when creating the new roads shown on Plan 2/3/1, dedicate sufficient land for the full proposed width of the road requirements as shown on Plan 2/3/3. The dedication must include sufficient land to accommodate any cut or fill

requirements and must also provide sufficient land in relevant road reserves for anticipated interchanges at intersections B and D on Plan 2/3/1.

No Other External Obligations

31. Unless otherwise specifically stated in this Agreement, and only to such extent, Robina is not liable to construct or contribute to the cost of any roadworks external to the combined site.

Integrated Roadside Landscaping

32. Robina must, when it submits engineering drawings for roadworks within a road reserve to the Council for approval, also submit for approval a landscape concept plan for that part of the road reserve. Robina must carry out the landscaping generally in accordance with the approved concept plan in conjunction with the construction of the relevant roadworks.

Provision for Signalisation

33. If reasonably so determined by the Engineer at the time of approval of engineering drawings for an intersection, having regard to the volume of future traffic movements and the probability of signalisation of the intersection within 10 years of its construction, Robina must, when constructing that intersection, install as part of that construction and at its cost underground conduits for traffic signalisation of that intersection. Upon constructing those conduits, Robina has no further liability for any costs of traffic signalisation of that intersection.

Interpretation

34. In this Part (including Table 2/3/2):—
- “cost of construction” means the sum agreed to be paid to the contractor/s carrying out the road construction;
- “Limitation of Access” means restriction of access to an existing or proposed road by means of an access restriction strip along the frontage of the road to any property or, in the case of a declared road, by any other means specified in Section 3.8 of the Transport Infrastructure (Roads) Act 1991;

Where the word “full” is used under the column headed “Limitation of Access in Table 2/3/2 it means that access to the road section to which it refers is prohibited from either alignment and that appropriate Limitation of Access must be implemented along the entire road section;

Where the word “partial” is used under the column headed “Limitation of Access” in Table 2/3/2 it means that access will be permitted to the road section to which it refers from either or both sides of the alignment but that access points may be restricted and/or specifically determined by DOT or the Council and that appropriate Limitation of Access must be implemented at those parts of the road section where access is not permitted.

PART 4

WATER SUPPLY

Statement of Intent

35. The intent of this Part is to prescribe a special method for the calculation and payment of water headworks charges in relation to commercial and residential development other than the proposed golf course facilities. This Part also provides for administration of credits arising from actual construction of headworks by Robina.

It is recognised that while the nature of the use to which an allotment will be put will be known at the time of its creation, the final form of development thereon will not necessarily be fixed with certainty at that time. It is also recognised that headworks charges should be paid according to the actual level of service demand created by a final development. Nevertheless, payment of headworks at the time of creation of an allotment allows a purchaser to have certainty that headworks obligations are fulfilled which facilitates the development process. The intent of this Part is to reconcile these objectives and concerns in the following manner:—

- 35.1 water headworks charges calculated in accordance with an agreed fixed formula must be paid at the time an allotment is created;
- 35.2 payment of those charges confers the right (subject to this Agreement generally) to develop to a certain intensity without the imposition of further water headworks charges;
- 35.3 if development at a greater intensity is proposed (and is otherwise permitted or permissible under this Agreement), additional water headworks charges must be paid by the party undertaking the development so that the total paid reflects the actual service demand;
- 35.4 because water headworks charges will be allocated by the Council to the carrying out of works and spent on

those works at any time after payment, the Council cannot make and will not be obliged to make a refund of water headworks charges if the development actually carried out is of a lesser intensity.

Ordinary Rates of Headworks Charge Applicable

36. Robina must pay to the Council contributions towards the provision of water supply headworks to service the proposed development (“water headworks charges”). Charges must be paid at the rates per equivalent person specified by the relevant planning policy adopted by the Council pursuant to section 6.2 of the Act (“relevant planning policy”) in force at the time payment is made, but must be calculated in the manner and paid at the times specified in this Part.

Time for Payment

37. Water headworks charges must be paid in respect of any allotment other than a management lot not later than the time of release of, and in exchange for, the sealed plan of subdivision creating the allotment. Robina may elect to pay the water headworks charges at an earlier date so long as the allotment or proposed allotment to which they relate is ascertainable with sufficient certainty. Water headworks charges are not payable upon the creation of a management lot.

Application of Headworks Policy to Golf Course

38. Contributions towards water supply headworks in respect of the Golf Course and all associated buildings to be constructed on the Kerrydale land (excluding the hotel and all residential units) must be calculated and paid in all respects in accordance with the relevant planning policy as in force from time to time and clauses 39 to 45 have no application to that part of the proposed development.

Calculation of Equivalent Population (non-residential)

39. Subject to clause 38, the Equivalent Population (number of equivalent persons) for an allotment intended for non-residential uses is calculated by multiplying the surveyed area (in hectares) of the allotment by 60, that is to say by the following formula:—

$$EP = NA \times 60$$

where

- (1) EP is the Equivalent Population for the purpose of calculating the water headworks charges in respect of the allotment; and
- (2) NA is the area in hectares of the allotment in respect of which the water headworks charges are being calculated.

Development Entitlement (non-residential)

40. Upon payment of the water headworks charges calculated by reference to the Equivalent Population determined in accordance with clause 39, the Council must not impose further water headworks charges in respect of development on that allotment that does not exceed 4 occupied storeys.

In calculating an occupied storey, car parks, plant rooms and other non-habitable floors or floors not able to be occupied are not counted as an occupied storey.

Where a floor or floors are less in area than the largest floor of a building then, for the purpose of calculating the number of storeys, the gross floor area of the building able to be occupied is divided by the area of the largest floor of the building able to be occupied and, if the resulting number is 4 or less the building does not, for the purpose of this clause, exceed 4 occupied stories.

Additional Headworks (non-residential)

41. In the event that it is proposed to construct a building exceeding 4 occupied stories on an allotment for which water headworks charges have been paid on the basis of the calculation in clause 39, additional water headworks charges must be paid in respect of the floor area in excess of 4 occupied stories in accordance with the provisions following:—

- 41.1 the amount of the additional water headworks charges is the number of equivalent persons represented by the excess floor area (determined in accordance with the relevant planning policy) multiplied by the applicable

rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building;

- 41.2 the additional water headworks charges must be paid by the person proposing to undertake the development permitted by the relevant building approval (despite the fact that this person may not have made or may not be required to make any further or other application of a planning nature under the Act or this Agreement);
- 41.3 the Council is not obliged to release approved building plans to any person until any additional water headworks charges payable in respect of the building have been paid.

Calculation of Equivalent Population (residential)

42. Subject to clause 38, the Equivalent Population (number of equivalent persons) for an allotment intended for residential uses is calculated by multiplying the number of proposed residential units nominated by Robina for the allotment by 2.4, that is to say by the following formula:—

$$EP = NOU \times 2.4$$

where

- (1) EP is the Equivalent Population for the purpose of calculating the water headworks charges in respect of the allotment
- (2) NOU is the number of residential units nominated by Robina as intended to be constructed on each allotment.

To give effect to this clause, Robina must, at the time of lodging a plan of subdivision creating allotments intended for residential development, nominate the number of residential units intended to be constructed on each allotment shown on that plan. If a concept plan for the development of any allotment has been approved by the Council as part of an approval referred to in Parts 9, 10 or 11 of the Second Schedule, the number of units so nominated must accord with the approved concept plan.

Development Entitlement (residential)

43. Upon payment of the water headworks charges calculated by reference to the Equivalent Population determined in accordance with clause 42, the Council must not impose further water headworks charges in respect of development on that allotment containing not more than the number of residential units nominated.

Additional Headworks (residential)

44. In the event that it is proposed to construct on an allotment for which water headworks charges have been paid on the basis of the calculation in clause 42, more than the number of residential units nominated for the purposes of that calculation, additional water headworks charges must be paid. The additional charges must be calculated and paid in accordance with the provisions following:—
- 44.1 the total water headworks charges will not in any event be less than the amount already paid;
- 44.2 if the Equivalent Population calculated for the residential units (applying clause 42 to the actual number of residential units proposed) exceeds the Equivalent Population originally calculated in accordance with clause 42, additional water headworks charges are payable in respect of the Equivalent Population represented by the difference between the two calculations;
- 44.3 the amount of the additional water headworks charges is that difference (in equivalent persons) multiplied by the applicable rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building or buildings containing the residential units;
- 44.4 the additional water headworks charges must be paid by the person proposing to undertake the development permitted by the relevant building approval (despite the fact that this person may not have made or may not be required to make any further or other application of a planning nature under the Act or this Agreement);

44.5 the Council is not obliged to deliver the approved building plans to any person until any additional water headworks charges payable in respect of the building or buildings have been paid.

No Refund of Contributions Paid

45. Regardless of the nature, size or scale of any final development actually carried out, the Council is not under any circumstances obliged to repay or refund any water headworks charges calculated and paid in accordance with clauses 39 or 42.

Regional Context—Water Supply

46. Robina Town Centre forms an integral part of the area serviced by the Reedy Creek District Water Supply Scheme in the South Albert Shire Water Supply System as defined and costed in the document “Albert Shire—Schedule of Headworks Contributions—July 1991 to June 1992” forming part of the Council’s relevant planning policy. That Scheme provides for the water supply headworks necessary to service, inter alia, the proposed development. The internal trunk water mains forming part of that Scheme which are shown on Plan 2/4/1 (“the waterworks”) are accordingly works the cost of which will be defrayed from water headworks charges if those works are constructed by the Council.

Construction by Robina

47. If the waterworks (or any part) are not constructed by the Council, Robina intends during the course of the development, at its own cost and in stages related to Service Districts, to construct the waterworks so as to provide water supply to the proposed development. Any such construction will be carried out by Robina at its election and for its own benefit and Robina assumes no obligation to any person to carry out any construction at any time.

No Plans to be Sealed until Water Available

48. Subject to clause 18 in the body of this Agreement, the Council is not obliged to seal and release any plan of subdivision (other than one creating only management lots or only lots in the Robina Town Centre Core) unless the Service

District in which the land is contained is within the catchment able to be serviced by completed waterworks.

Mode of Construction

49. In the event that Robina undertakes construction of the waterworks, it must do so to suit the rate and location of development. Where practicable, mains having a diameter of 375 millimetres or less must be constructed in association with roads in Service Districts.

Specific Timing of Certain Construction

50. Despite clauses 47 and 49, if:—
- 50.1 Robina commences to construct waterworks; and
 - 50.2 the Council is concurrently constructing or has constructed the balance of line 1560–1561 (600mm) not included in Table 2/4/3,
- Robina must construct line 1552–1553 (450mm) not later than 30 June 1994 and line 1552–1560 (450mm) and the part of line 1560–1561 (600mm) included in Table 2/4/3 by not later than 30 December 1998.

Headworks Credits for Construction

51. If Robina constructs all or some of the waterworks then it is entitled to set off the cost of that construction against the water headworks charges otherwise payable by it in accordance with the provisions following:—
- 51.1 the set off is by way of an Equivalent Population Credit (“EPC”) and is measured in numbers of equivalent persons;
 - 51.2 Robina is entitled to an EPC for each stage of the waterworks constructed by it;
 - 51.3 Table 2/4/3 sets out the stages of the waterworks which give rise to an EPC (under the column headed “Trunk Main/Stage”) and the EPC for each stage (opposite each stage under the column headed “EPC”);
 - 51.4 a credit to which Robina has become entitled must be allowed against any calculation of water headworks charges which would otherwise be payable on the

sealing and release of a plan of subdivision by deducting the EPC from the Equivalent Population in respect of which charges would otherwise be calculated, that is to say by the following formula:—

$$\text{HWEP} - \text{EPC} = \text{HWEP Due}$$

where

- (1) HWEP is the Equivalent Population which would be used to calculate water headworks charges but for this clause; and
- (2) EPC is the Equivalent Population Credit; and
- (3) HWEP due is the Equivalent Population which is actually used to calculate water headworks charges after application of this clause.

Credits Carried Forward

52. In the event that the EPC exceeds HWEP when water headworks charges are calculated in respect of any plan, no water headworks charges are payable in exchange for sealing and release of the plan and:—

52.1 the EPC is reduced by HWEP;

52.2 the (reduced) EPC is carried forward to be applied in accordance with clause 51 the next time water headworks charges are otherwise payable by Robina.

Administration of Moneys Payable and EPC

53. For the purpose of administration of the moneys paid/payable by Robina and the EPC to which it is from time to time entitled, Robina and the Council must maintain a statement of account in the form contained in Drawing 2/4/2. Robina and the Engineer must at the completion of each Service District (and at least once every six months in any event) verify the statement of account for the preceding period and on agreement being reached as to the balance, the statement must be certified by Robina and the Engineer as being correct.

When Credit Arises

54. Robina is entitled to the EPC set out in Table 2/4/3 on completion of construction of the Trunk/Main Stage to which

the EPC is related. Where only part of a Trunk/Main Stage is completed, the EPC to which Robina is entitled at any given time in respect of that stage is calculated pro rata, having regard to the length of line constructed at that time.

Population Distribution Indicative Only

55. Plan 2/4/4 shows a distribution of total equivalent population, which distribution is indicative and prepared for water supply planning purposes only. The distribution of the ultimate population of the proposed development is not known and will evolve over time but the total ultimate equivalent population must not exceed the total shown on Plan 2/4/4.

Alternate Schemes

56. The EPC calculation in Table 2/4/3 is based upon the scheme shown in Plan 2/4/1. In the event that the parties agree to substantially alter the scheme shown on Plan 2/4/1, they must prepare a new table in the form of Table 2/4/3 showing the estimated cost of construction in 1991 dollars of the altered scheme and that Table must then be substituted for Table 2/4/3. The EPC for the revised scheme must be calculated by dividing the estimated cost shown in the substituted table by 934.

In this clause, “cost in 1991 dollars” means at the same rate or rates as were used by the consulting engineers to Robina and the Council in calculating the amounts shown under the column “Estimated Cost of Construction” in Table 2/4/3.

Grant of Easements

57. If any part of the waterworks are constructed within the combined site on land which is not and is not to become a dedicated road or public lands, Robina or, as the case requires, Robina Properties must at its cost grant to the Council a water supply easement on the Council’s usual terms over the land upon which the waterworks are constructed.

PART 5

SEWERAGE

Statement of Intent

58. The intent of this Part is to prescribe a special method for the calculation and payment of sewerage headworks charges in relation to commercial and residential development other than the proposed golf course facilities. This Part also provides for administration of credits arising from actual construction of headworks by Robina.

It is recognised that while the nature of the use to which an allotment will be put will be known at the time of its creation, the final form of development thereon will not necessarily be fixed with certainty at that time. It is also recognised that headworks charges should be paid according to the actual level of service demand created by a final development. Nevertheless, payment of headworks at the time of creation of an allotment allows a purchaser to have certainty that headworks obligations are fulfilled which facilitates the development process. The intent of this Part is to reconcile these objectives and concerns in the following manner:—

- 58.1 sewerage headworks charges calculated in accordance with an agreed fixed formula must be paid at the time an allotment is created;
- 58.2 payment of those charges confers the right (subject to this Agreement generally) to develop to a certain intensity without the imposition of further sewerage headworks charges;
- 58.3 if development at a greater intensity is proposed (and is otherwise permitted or permissible under this Agreement), additional sewerage headworks charges must be paid by the party undertaking the development so that the total paid reflects the actual service demand;
- 58.4 because sewerage headworks charges will be allocated by the Council to the carrying out of works and spent on

those works at any time after payment, the Council cannot make and will not be obliged to make a refund of sewerage headworks charges if the development actually carried out is of a lesser intensity.

Ordinary Rates of Headworks Charge Applicable

59. Robina must pay to the Council contributions towards the provision of sewerage headworks to service the proposed development (“sewerage headworks charges”). Charges must be paid at the rates per equivalent person specified by the relevant planning policy adopted by the Council pursuant to section 6.2 of the Act current at the time payment is made, but must be calculated in the manner and paid at the times specified in this Part.

Time for Payment

60. Sewerage headworks charges must be paid in respect of any allotment other than a management lot not later than the time of release of, and in exchange for, the sealed plan of subdivision creating the allotment. Robina may elect to pay the sewerage headworks charges at an earlier date so long as the allotment or proposed allotment to which they relate is ascertainable with sufficient certainty. Sewerage headworks charges are not payable upon the creation of a management lot.

Application of Headworks Policy to Golf Course

61. Contributions towards sewerage headworks in respect of the Golf Course and all associated buildings to be constructed on the Kerrydale land (excluding the hotel and all residential units) must be calculated and paid in all respects in accordance with the relevant planning policy as in force from time to time and clauses 62 to 68 have no application to that part of the proposed development.

Calculation of Equivalent Population (non-residential)

62. Subject to clause 61, the Equivalent Population (number of equivalent persons) for an allotment intended for non-residential uses is calculated by multiplying the surveyed area (in hectares) of the allotment by 60, that is to say by the following formula:—

$$EP = NA \times 60$$

where

- (1) EP is the Equivalent Population for the purpose of calculating the sewerage headworks charges in respect of the allotment; and
- (2) NA is the area in hectares of the allotment in respect of which the sewerage headworks charges are being calculated.

Development Entitlement (non-residential)

63. Upon payment of the sewerage headworks charges calculated by reference to the Equivalent Population determined in accordance with clause 62, the Council must not impose further sewerage headworks charges in respect of development on that allotment which does not exceed 4 occupied storeys.

In calculating an occupied storey, car parks, plant rooms and other non-habitable floors or floors not able to be occupied are not counted as an occupied storey.

Where a floor or floors are less in area than the largest floor of a building then, for the purpose of calculating the number of storeys, the gross floor area of the building able to be occupied is divided by the area of the largest floor of the building able to be occupied and, if the resulting number is 4 or less the building does not, for the purpose of this clause, exceed 4 occupied stories.

Additional Headworks (non-residential)

64. In the event that it is proposed to construct a building exceeding 4 occupied stories on an allotment for which sewerage headworks charges have been paid on the basis of the calculation in clause 62, additional sewerage headworks charges must be paid in respect of the floor area in excess of 4 occupied stories in accordance with the provisions following:—

64.1 the amount of the additional sewerage headworks charges is the number of equivalent persons represented by the excess floor area (determined in accordance with

the relevant planning policy) multiplied by the applicable rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building;

- 64.2 the additional sewerage headworks charges must be paid by the person proposing to undertake the development permitted by the relevant building approval (despite the fact that this person may not have made or may not be required to make any further or other application of a planning nature under the Act or this Agreement);
- 64.3 the Council is not obliged to release approved building plans to any person until any additional sewerage headworks charges payable in respect of the building have been paid.

Calculation of Equivalent Population (residential)

65. Subject to clause 61, the Equivalent Population (number of equivalent persons) for an allotment intended for residential uses is calculated by multiplying the number of proposed residential units nominated by Robina for the allotment by 2.4, that is to say by the following formula:—

$$EP = NOU \times 2.4$$

where

- (1) EP is the Equivalent Population for the purpose of calculating the sewerage headworks charges in respect of the allotment
- (2) NOU is the number of residential units nominated by Robina as intended to be constructed on each allotment.

To give effect to this clause, Robina must, at the time of lodging a plan of subdivision creating allotments intended for residential development, nominate the number of residential units intended to be constructed on each allotment shown on that plan. If a concept plan for the development of any allotment has been approved by the Council pursuant to Parts 9, 10 or 11 of the Second Schedule, the number of units so nominated must accord with the approved concept plan.

Development Entitlement (residential)

66. Upon payment of the sewerage headworks charges calculated by reference to the Equivalent Population determined in accordance with clause 65, the Council must not impose further sewerage headworks charges in respect of development on that allotment containing not more than the number of residential units nominated.

Additional Headworks (residential)

67. In the event that it is proposed to construct on an allotment for which sewerage headworks charges have been paid on the basis of the calculation in clause 65, more than the number of residential units nominated for the purposes of that calculation, additional sewerage headworks charges must be paid. The additional charges must be calculated and paid in accordance with the provisions following:—
- 67.1 the total sewerage headworks charges will not in any event be less than the amount already paid;
- 67.2 if the Equivalent Population calculated for the residential units (applying clause 65 to the actual number of residential units proposed) exceeds the Equivalent Population originally calculated in accordance with clause 65, additional water headworks charges are payable in respect of the Equivalent Population represented by the difference between the two calculations;
- 67.3 the amount of the additional sewerage headworks charges is that difference (in equivalent persons) multiplied by the applicable rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building or buildings containing the residential units;
- 67.4 the additional sewerage headworks charges must be paid by the person proposing to undertake the development permitted by the relevant building approval (despite the fact that this person may not have made or may not be required to make any further or other application of a planning nature under the Act or this Agreement);

67.5 the Council is not obliged to deliver the approved building plans to any person until any additional sewerage headworks charges payable in respect of the building or buildings have been paid.

No Refund of Contributions Paid

68. Regardless of the nature, size or scale of any final development actually carried out, the Council is not under any circumstances obliged to repay or refund any sewerage headworks charges calculated and paid in accordance with clauses 62 or 65.

Regional Context—Sewerage

69. Robina Town Centre forms an integral part of the area serviced by the Merrimac Trunk Sewerage System in the South Albert Sewerage System as defined and costed in the document “Albert Shire—Schedule of Headworks Contributions—July 1991 to June 1992” forming part of the Council’s relevant planning policy. That Scheme provides for the sewerage headworks necessary to service, inter alia, the proposed development. The internal trunk sewer mains forming part of that Scheme which are shown on Plan 2/5/1 (“the sewerage works”) are accordingly works the cost of which will be defrayed from sewerage headworks charges if the works are constructed by the Council.

Construction by Robina

70. If the sewerage works (or any part) are not constructed by the Council, Robina intends during the course of the development, at its own cost and in stages related to Service Districts, to construct the sewerage works so as to provide sewerage to the proposed development. Any such construction will be carried out by Robina at its election and for its own benefit and Robina assumes no obligation to any person to carry out any construction at any time.

No Plans to be Sealed until Sewerage Available

71. Subject to clause 18 in the body of this Agreement, the Council is not obliged to seal and release any plan of subdivision (other than one creating only management lots or only lots in the Robina Town Centre Core) unless the Service

District in which the land is contained is within the catchment able to be serviced by completed sewerage works.

Mode of Construction

72. In the event that Robina undertakes construction of the sewerage works, it must do so to suit the rate and location of development.

Headworks Credits for Construction

73. If Robina constructs all or some of the sewerage works then it is entitled to set off the cost of that construction against the sewerage headworks charges otherwise payable by it in accordance with the provisions following:—

73.1 the set off is by way of an Equivalent Population Credit (“EPC”) and is measured in numbers of equivalent persons;

73.2 Robina is entitled to an EPC for each stage or component of the sewerage works constructed by it;

73.3 Table 2/5/2 sets out the stages or components of the sewerage works which give rise to an EPC (under the column headed “Stage”) and the EPC for each stage (opposite each stage under the column headed “EPC”);

a credit to which Robina has become entitled must be allowed against any calculation of sewerage headworks charges which would otherwise be payable on the sealing and release of a plan of subdivision by deducting the EPC from the Equivalent Population in respect of which charges would otherwise be calculated, that is to say by the following formula:—

$$\text{HWEP} - \text{EPC} = \text{HWEP Due}$$

where

- (1) HWEP is the Equivalent Population which would be used to calculate sewerage headworks charges but for this clause; and
- (2) EPC is the Equivalent Population Credit; and

- (3) HWEP Due is the Equivalent Population which is actually used to calculate sewerage headworks charges after application of this clause.

Credits Carried Forward

74. In the event that the EPC exceeds HWEP when sewerage headworks charges are calculated in respect of any plan, no sewerage headworks charges are payable in exchange for sealing and release of the plan and:—
- 74.1 the EPC is reduced by HWEP;
- 74.2 the (reduced) EPC is carried forward to be applied in accordance with clause 73 the next time sewerage headworks charges are otherwise payable by Robina.

Administration of Moneys Payable and EPC

75. For the purpose of administration of the moneys paid/payable by Robina and the EPC to which it is from time to time entitled, Robina and the Council must maintain a statement of account in the form contained in Drawing 2/5/3. Robina and the Engineer must at the completion of each Service District (and at least once every six months in any event) verify the statement of account for the preceding period and on agreement being reached as to the balance, the statement must be certified by Robina and the Engineer as being correct.

When Credit Arises

76. Robina is entitled to the EPC set out in Table 2/5/2 on completion of construction of the stage or component to which the EPC is related. Where only part of a stage is completed, the EPC to which Robina is entitled at any given time in respect of that stage is calculated pro rata, having regard to the length of line constructed at that time.

Population Distribution Indicative Only

77. Plan 2/5/4 shows a distribution of total equivalent population, which distribution is indicative and prepared for sewerage planning purposes only. The distribution of the ultimate population of the proposed development is not known and will evolve over time but the total ultimate equivalent population must not exceed the total shown on Plan 2/5/4.

Alternate Schemes

78. The EPC calculation in Table 2/5/2 is based upon the scheme shown in Plan 2/5/1. In the event that the parties agree to substantially alter the scheme shown on Plan 2/5/1, they must prepare a new table in the form of Table 2/5/2 showing the estimated cost of construction in 1991 dollars of the altered scheme and that Table must then be substituted for Table 2/5/2. The EPC for the revised scheme must be calculated by dividing the estimated cost shown in the substituted table by 636.

In this clause, “cost in 1991 dollars” means at the same rate or rates as were used by the consulting engineers to Robina and the Council in calculating the amounts shown under the column “Estimated Cost of Construction” in Table 2/5/2.

Grant of Easements

79. If any part of the sewerage works are constructed within the combined site on land which is not and is not to become a dedicated road or public lands, Robina or, as the case requires, Robina Properties must at its cost grant to the Council a sewerage easement on the Council’s usual terms over the land upon which the sewerage works are constructed.

PART 6

PARKS—OPEN SPACE—PATHWAYS/BIKEWAYS AND LANDSCAPING

Statement of Intent

80. It is the intent of this Part to prescribe exhaustively Robina's obligations to provide land for open space in connection with the proposed development and also in connection with the balance of its development of the land referred to in the Development Deed. The requirements contained in this Part, taken with open space previously provided by Robina, ensure the well-planned, orderly, sensible and practical provision of open space for the whole of the development contemplated by the Development Deed.

If the requirements of this Part are performed, the provision of open space will not be a matter which the Council will have to consider when determining subsequent applications (except for the purpose of giving effect to this Part). It is accordingly provided by this Part that conditions relating to the provision of open space must not be imposed upon subsequent applications except as specifically contemplated by this Part.

Provision of Open Space

81. Robina must transfer to or cause to revert to the Crown for use as open space:—
- 81.1 those parcels of land outlined in red on Plan 2/6/1; and
 - 81.2 an additional six hectares of land within the combined site.

Partial Satisfaction by Certain Required Transfers

82. The requirement in clause 81.2:—
- 82.1 is satisfied in part by the transfer of land for the buffer zone pursuant to clause 86 but only if a pedestrian/bikeway is constructed in it;

82.2 is satisfied in part by the transfer of the land required by clause 87,

and the balance of the requirement must be satisfied in accordance with clauses 88 to 90.

Development of Open Space

83. Robina must develop the parcels referred to in clause 81.1 to the extent and at the times specified in Table 2/6/2 and in accordance with Plans 2/6/3 to 2/6/6.

Pedestrian/Bikeway Network

84. Robina must provide a pedestrian/bikeway network which gives effect to the concepts and intent illustrated by Plan 2/6/7.

Plan 2/6/7 is not necessarily the only appropriate layout and Robina may propose a substituted plan to suit the circumstances from time to time existing. If the Council is satisfied that any such plan gives effect to the concepts and intent illustrated by Plan 2/6/7, it must approve that plan which is thereafter substituted for Plan 2/6/7.

The network must be constructed substantially in accordance with the approved plan from time to time (or Plan 2/6/7 if no other plan is approved).

Pedestrian Bikeway Construction Requirements

85. The pedestrian/bikeway network must be constructed as follows:

85.1 the time at which construction must be carried out is:—

85.1.1 where a network section is located within a road reserve, at the time of construction of the road;

85.1.2 where a network section is located within open space/park on which other construction work is to be carried out, at the time of construction of the open space/park; and

85.1.3 in other cases, prior to dedication of the land to the Crown.

85.2 the pavement for pedestrian/bikeways must be a minimum of 2 metres wide and the continuous pedestrian access pavements must be a minimum of 1.2 metres wide.

Highway Buffer

86. Robina must, prior to the completion of Stage 1, transfer to the Crown the land outlined in black on Plan 2/6/1 as open space for use as a highway buffer. Robina must:—

86.1 if DOT plans to carry out works within or affecting that buffer, after completion of those works; or

86.2 by the completion of Stage 1,

whichever is the later, carry out planting of the buffer in accordance with Plan 2/2/3.

Any bikeway or path way contained in the buffer must be constructed in conjunction with development of the nearest adjoining Service District.

Community Site

87. Robina must, when requested by Council, transfer to the Crown the land outlined in red on Plan 2/6/9 for Local Government purposes (Community Centre).

Plan of Balance Open Space Requirement

88. Robina must from time to time lodge with the Council for approval an Open Space Master Plan showing Robina's current proposals for provision of the balance of the six hectares of open space referred to in clause 81.2 remaining to be provided after taking into account the transfers pursuant to clause 87 and, if applicable, clause 86. The first such plan must be lodged with the Council within three months of the date of this Agreement having the force of law.

Amendment of Plan

89. The Open Space Master Plan may be amended from time to time by agreement but:—

89.1 the Open Space Master Plan must always show land dedicated and to be dedicated as open space which makes up the balance of the six hectares referred to in

clause 81.2, and which is reasonably comparable in terms of character as open space to that shown on the first plan;

89.2 the Open Space Master Plan may show a greater provision or proposed provision but need not do so and, if it does, may be amended at any time to reduce the land dedicated and to be dedicated as open space to the balance of the six hectares (without a requirement to substitute other land).

Dedication of Balance Open Space Requirement

90. Where Robina proposes to make an application to subdivide land which adjoins land shown as proposed open space on the Open Space Master Plan, it must include that proposed open space in that application. The Council is authorised to impose as a condition of approval of such an application that the open space included in the application be dedicated as open space.

Open Space Not to be Dealt With

91. Robina must not deal with land which is shown on the current Open Space Master Plan as being proposed open space in any manner whatsoever except to transfer that land to the Council or dedicate the same to the Crown as open space.

Requirements Exhaustive

92. Upon Robina complying with the foregoing requirements of this Part, its obligations to make provision for open space in respect of the proposed development and under the Development Deed are satisfied in full.

Prohibition on Further Requirements

93. The Council must not impose a condition or other obligation relating in any way to the provision of open space on any subsequent application except as specifically provided in clause 90.

PART 7

WATERWAYS AND WEIRS

Merrimac Drainage Plan

94. The Council has adopted a comprehensive Drainage Scheme for the Merrimac Flood Plain known as the Merrimac Drainage Plan more particularly shown on Plan 2/7/1. The works required to be undertaken by Robina pursuant to this Part form part of the Merrimac Drainage Plan.

Definitions and Specification of Works

95. In this Part:—

“Mudgeeraba Creek Flood Flow Improvement Works” mean widening Mudgeeraba Creek to a maximum width of 28.5 metres on each side of its centre line; excavating the widening at its deepest point to a maximum depth of RL-3.0 AHD; and constructing bank treatment along each of the banks of the widened creek. The widening and excavation must be constructed in accordance with the indicative cross-section on Plan 2/7/3 so far as the circumstances shall permit and allow. The method of construction may be by dry excavation effected by bunding of the creek, to be undertaken only during periods of the year when the expectation of rainfall is low, i.e., April–December. Edge treatment must be in accordance with any of the designs set out in Plan 2/7/4, which the Council acknowledges are appropriate and acceptable designs;

“Mudgeeraba Creek land” means every parcel of land having a frontage to or boundary with Mudgeeraba Creek along that part of Mudgeeraba Creek downstream from its intersection with the Pacific Highway to its intersection with Robina Parkway;

“the weir works” means a weir and lock in Boobegan Creek and a bridge on Robina Parkway over Mudgeeraba Creek together with necessary raising of the water main on the Broadbeach-Nerang Road where it crosses Boobegan Creek to allow boating access to the Merrimac waterways system.

Widening of Mudgeeraba Creek

96. Subject to and conditional upon:—

96.1 the weir works being completed by the completion of Stage 1;

96.2 the surrender of all easements over or in favour of the Mudgeeraba Creek land, or the securing of other legally effective arrangements whereby Robina's obligations under this Part may be carried out without:—

96.2.1 adversely affecting Robina's ability to lawfully discharge drainage from the proposed development; or

96.2.2 otherwise exposing Robina to any actual or potential liability to other persons or to any expense additional to the cost of carrying out the works specified in this Part,

Robina must, in conjunction with the development of the land shaded blue on Plan 2/7/2, or by 31 December 2000 (whichever is the earlier), at its cost either:—

96.3 if the legal right for Robina to carry out Mudgeeraba Creek Flood Flow Improvement Works on land not owned by Robina or Robina Properties has been secured by the Council, carry out such works from Point A on Plan 2/7/2 upstream along Mudgeeraba Creek to Point B on Plan 2/7/2; or

96.4 if that right is not secured, carry out half of Mudgeeraba Creek Flood Flow Improvement Works (that is, widening along the southern side only of Mudgeeraba Creek) from Point A on Plan 2/7/2 upstream along Mudgeeraba Creek to Point D on Plan 2/7/2.

Despite clause 95, if Mudgeeraba Creek upstream of Point D on Plan 2/7/2 has been widened or is planned (at the time Robina commences work) to be widened, to less than 28.5 metres from the centre line of Mudgeeraba Creek or to a depth less than RL-3.0 AHD, then Robina's obligation to widen and excavate Mudgeeraba Creek from Point D to Point C is reduced to the same width and depth.

Disposal of Spoil

97. Robina is permitted to dispose of spoil resulting from such widening and excavation on the land shaded in blue on Plan 2/7/2 as part of its fill entitlement referred to in clause 181.

Land Transfer and Easement Surrender

98. Robina must transfer to the Council (subject to any encumbrance easements), without compensation, any land of which it is the registered proprietor required for Mudgeeraba Creek Flood Flow Improvement Works and must, if required by the Council and when requested by the Council, surrender the benefit of all relevant downstream easements.

Despite the foregoing, Robina is not obliged to surrender any easement if the surrender will:—

- 98.1 adversely affect Robina's ability to lawfully discharge drainage from the proposed development; or
- 98.2 otherwise expose Robina to any actual or potential liability to other persons or to any expense additional to the cost of carrying out the works specified in this Part.

Resumption of Waterways Reserve

99. It is acknowledged by Robina and the Council that the Council intends to use its best endeavours to create a Waterways Reserve for the widening of Mudgeeraba Creek and that it may be necessary for the Council to exercise powers of compulsory acquisition for this purpose. If the Council compulsorily acquires for that purpose any of the combined site which Robina is required to transfer to the Council under clause 98, then Robina undertakes not to claim any compensation therefor and releases the Council from, and indemnifies it against, any such claim accordingly.

Specifications—Waterways and Water Bodies

100. The designs for water body edge treatments and revetment walls as set out in Plan 2/7/4 are appropriate and acceptable designs for lakes and waterways within the combined site including Mudgeeraba Creek. Robina may choose from these

designs the design or designs appropriate to the development adjacent to and/or the likely use on/of and/or the function of the water body.

Despite the foregoing, Robina may from time to time submit alternative designs to the Engineer for approval which, if approved, shall be deemed to form part of or, as the case requires, replace Plan 2/7/4.

Design and construction requirements for waterways and water bodies are as follows:—

- 100.1 the nominal standing water level for the general lake and waterways system is to be a minimum of RL 0.6 AHD;
- 100.2 water body edge treatments Type A and B shown on Plan 2/7/4 are permissible treatments in passive recreation locations only;
- 100.3 waterways must be excavated such that a minimum depth of 2.6 metres of water exists from the nominal standing water level in each waterway, except over batter profiles and beaches.

Timing and Staging of Earthworks

101. Earthworks Zone ED on Plan 2/11/3 and that part of Earthworks Zone EF on Plan 2/11/3 which covers the connection from the proposed Town Centre lake to Mudgeeraba Creek must be completed by the completion of Stage 1.

Earthworks for the lakes and waterways must otherwise be carried out in stages and must be carried out in conjunction with the development of the Earthworks Zone in which they are situated. Robina is not required to carry out earthworks in any zone in advance of the development of that zone (but may elect to do so).

Standards of Construction

102. The overriding requirement for the standard of works carried out by Robina under this Part is that it be consistent with other work carried out by the Council or other persons in connection with the Merrimac Drainage Plan. Accordingly,

and despite anything in this Part, the standard of construction of any works to be carried out by Robina under this Part is the lesser of:—

- 102.1 the standards specified in this Part;
- 102.2 the standards specified in the Merrimac Drainage Plan; or
- 102.3 the standards actually specified for other works of a similar nature pursuant to the Merrimac Drainage Plan or to which such works are actually constructed.

Control of Erosion/Siltation

103. Robina must use and conform to such good and workmanlike construction practices which are reasonably necessary to control erosion or siltation of waterways on the combined site and in adjoining areas, including installation of silt traps in accordance with accepted soil conservation practices and to the requirements of the Engineer.

Bridge, Weir and Lock Construction

104. Robina acknowledges that the Council is undertaking the co-ordination of agreements between all owners of Mudgeeraba Creek Land (who are set out in Table 2/7/6) and Sun Lakelands Pty. Ltd. (ACN 010 907 561) by which:—
 - 104.1 Sun Lakelands Pty. Ltd. will construct the weir works under contract with the Council;
 - 104.2 the Council will construct the weir works (or the balance thereof) if Sun Lakelands has not completed construction of the weir works by 30 June, 1993; and
 - 104.3 the Council will be reimbursed by those landowners for part of the cost to it under that contract or in carrying out the construction in the amounts set out beside their names in Table 2/7/6.

The weir works are to be constructed for the purpose of improving drainage and flood control in the Merrimac flood plain and providing access by vessels to those lands from the existing navigable waterways. The location of the weir works are shown on Plan 2/7/5 and the present navigable water is marked thereon in blue.

Clause 104.2 does not, of itself, create a legal relationship between the Council and parties (other than Robina) who may benefit from the weir works.

Robina Contribution

105. In accordance with that proposal, Robina has contributed the sum of \$550,000.00 to the cost of the weir works, which sum was paid to the Council on 30 December 1991 and is being held by the Council in its trust account.

The Council may use the monies contributed by Robina to defray the cost of construction of the bridge on Robina Parkway over Mudgeeraba Creek (being part of the weir works). The monies may be paid for that purpose to Sun Lakelands Pty Ltd (or any other party who has carried out or completed the work in lieu of Sun Lakelands Pty Ltd, including the Council itself) upon issue of the Engineer's certificate of practical completion of the bridge and associated works referred to in the agreement between the Council and Sun Lakelands Pty Ltd dated 16 June, 1992.

In any event, no further contribution to the weir works is payable by Robina.

If substantial progress has not been made towards completion of the whole of the weir works by 31 December, 1993, or if clause 106 is not satisfied, then the Council must refund the sum of \$550,000.00 to Robina together with interest thereon at the rate or rates which would have been earned had the moneys been invested and re-invested from time to time with Westpac Banking Corporation on 90 day call commencing on 31 December, 1991. Aside from the obligation to make that refund, and despite clause 104.2:—

105.1 the Council has no liability to Robina on any account (including economic loss) in damages or otherwise; and

105.2 Robina has no other remedy against the Council, in the event that substantial progress has not been made towards completion of the whole of the weir works by 31 December, 1993.

Height of Mudgeeraba Creek Bridge

106. It is acknowledged as a fundamental term in relation to Robina's obligation under clause 105 that the underside of the bridge on Robina Parkway over Mudgeeraba Creek must be at least RL 4.783 AHD.

Robina To Carry Out Additional Work in Certain Circumstances

107. If at the completion of Stage 1 or 31 December 1995, whichever is the later:—
- 107.1 the deepening of that section of Mudgeeraba Creek from Robina Parkway upstream to Point A on Plan 2/7/4 (being part of the Mudgeeraba Creek Flood Flow Improvement Works) has not been undertaken by others; and
- 107.2 the Council has the appropriate right and authority over the area of Mudgeeraba Creek to be excavated in that regard,

Robina agrees to remove at its cost 40,000 cubic metres of soil along and from that section of Mudgeeraba Creek and in doing so it is permitted to dispose of the soil on the combined site as part of its fill entitlement referred to in clause 181.

Despite the aforesaid specification as to time, if that section of Mudgeeraba Creek has been dewatered by Sun Lakelands Pty Ltd (or a successor in title) before Robina's obligations would otherwise arise, and Sun Lakelands Pty Ltd or its successor does not wish to retain or use the material to be excavated, then the Council may require Robina to carry out its obligations under this clause upon the section being dewatered.

PART 8

COMMUNITY FACILITIES

Lease of Public Library

108. Robina must, upon the completion of Stage 1, grant to the Council (and the Council must take) a lease of 1000 square metres of floor space which is accessible to all members of the public, including disabled persons, in a building to be nominated by Robina and which is reasonably satisfactory to the Council and which is within the major shopping development in the Robina Town Centre Core for use as a public library.

Terms of Public Library Lease

109. The lease referred to in clause 108 must be on the following terms and conditions:—
- 109.1 the annual rental in the first year of the lease shall be \$100.00 per square metre and the Council will not be required to pay any additional monies in respect of outgoings or similar expenses of the lessor;
 - 109.2 the rental for each subsequent year of the lease and the first and subsequent years of any further term or terms granted consequent upon the exercise of an option will be subject to increase in proportion to the increase in the Consumer Price Index (All Groups—Brisbane) each year over and above the Consumer Price Index (All Groups—Brisbane) for the quarter ended immediately before the commencement of the term, but under no circumstances shall the rental ever be less than that being paid in the preceding year;
 - 109.3 the term is for ten years with two options for the lessee to renew each for a further ten years;
 - 109.4 commencing date is the date of completion of Stage 1;

- 109.5 the premises must be used for the purpose of a public library (including reading and meeting rooms and book storage);
- 109.6 facilities must be provided within the premises to a standard of furnishing and amenity not less than that normally provided by Council in other areas of the Shire;
- 109.7 the other terms and conditions of the lease must be the same as in other leases in that building adapted to the extent necessary to take account of the fact that the lessee is a public authority rather than a commercial tenant.

Lease of Community Centre—Council's Notice

110. The Council:—

110.1 must on 30 June, 2001 if it has not by that date provided a community centre on the land outlined in red on Plan 2/6/9; and

110.2 may, prior to 30 June, 2001 if it so wishes,

notify Robina that it wishes to take a lease from Robina of not more than 1000 square metres of floor space which is accessible to all members of the public, including disabled persons, in a building to be nominated by Robina and which is in the major shopping development in the Robina Town Centre Core for use as a community centre (including provision of meeting rooms).

Upon that notice being given, Robina must use its best endeavours to allocate or otherwise provide floor space in a building in the Robina Town Centre Core over which the requested lease can be granted.

Lease of Community Centre—Robina's Notice

- 111. Whenever Robina proposes to construct a building forming part of the major shopping development within the Robina Town Centre Core which will contain 1000 square metres of floor space which will be accessible to all members of the public, including disabled persons, and which will otherwise be suitable for use as a community centre (including provision

of meeting rooms), Robina may give the Council notice of the fact that suitable space will be available in the building (which notice must contain as much detail of the location, shape and dimensions of the space as can practicably be given). The Council may within 90 days after receipt of that notice give Robina notice that it wishes to take a lease from Robina of the whole or specified part of that floor space.

Terms of Community Centre Lease

112. If:—

112.1 the Council gives a notice to Robina under clause 110 and Robina is able to allocate or provide the required space; or

112.2 the Council gives a notice to Robina under clause 111,

the Council and Robina must thereupon negotiate in good faith with a view to reaching agreement on the terms of the lease other than the rental. The commencing annual rental must be the same rental per square metre as is being paid under the public library lease as at the date of commencement of the community centre lease and the provision for increase of rental must be the same as in the public library lease.

Failure to Agree

113. If:—

113.1 the Council gives a notice to Robina under clause 110 and Robina determines in good faith that it is impossible to allocate or provide the required space or impracticable to allocate or provide the required space in any reasonable manner; or

113.2 despite negotiating in good faith pursuant to clause 112, the parties are unable to reach agreement on the terms of the lease other than rental,

the matter of the lease is at an end and neither party has any further obligation in respect of that matter. A dispute in relation to Robina's determination under clause 113.1 may be the subject of proceedings under Section 10 of this Agreement but, as it is not the intention of the parties that they be bound

by lease terms unless actually agreed, a failure by the parties, acting in good faith, to agree on the terms of the lease other than rental may not be the subject of proceedings under Section 10 of this Agreement.

Operation of Community Centre/Library

114. The Council must provide, maintain and operate:—

114.1 a public library on the premises leased pursuant to clause 108 on and from the date of commencement of the lease;

114.2 if a lease is entered into pursuant to clause 112, a community centre (including provision of meeting rooms) on the premises so leased on and from the date of commencement of the lease until it has provided a community centre on the land outlined in red on Plan 2/6/9, at which time the Council may surrender the lease subject to it having given 12 months prior notice in writing to Robina.

PART 9**PLAN OF DEVELOPMENT—ROBINA TOWN CENTRE CORE***Statement of Intent*

115. This Part contains the Plan of Development for the Robina Town Centre Core. It is the development code which defines the terms of the Special Facilities (Robina Town Centre Core) zone and controls:—

115.1 the final form of development in the Robina Town Centre Core; and

115.2 the procedures to be followed to obtain final development approval in the Robina Town Centre Core.

Apart from shops exceeding 100,000 square metres net lettable shop floor area and certain ancillary uses, no town planning consent is required for uses permitted in the Robina Town Centre Core. An application for final development approval must however be made in respect of the final form of development proposed for any allotment. The Council must approve the application if it is consistent with the planning intent for the proposed development set out in Part 2 and the planning intent for the Robina Town Centre Core contained in this Part and otherwise complies with all relevant requirements of this Agreement.

The Council may impose conditions contemplated by or consistent with this Agreement and other relevant and reasonably required conditions which relate to subject matter not specifically covered by this Agreement and which are not inconsistent with this Agreement.

Structure

116. This Plan of Development is divided into the following sections:—

1. Intent of the Plan of Development;
2. Land uses;

3. Vehicle Parking;
4. General Development Guidelines;
5. Final Development Approval
6. Variation of Plan of Development;

Definitions

117. In this Plan of Development, unless otherwise stipulated herein, the terms used have the meanings designated in the Town Plan.

SECTION 1

INTENT OF THE PLAN OF DEVELOPMENT

Relation to Strategic Plan

118. The Strategic Plan envisages the creation of a number of Regional Business Centres within the Shire for the provision of high order retailing and other commercial facilities and which will accommodate significant business, employment and cultural facilities, Government services and entertainment and to which significant concentrations of employment and future public transport systems will be orientated.

Robina Town Centre which is encompassed by the land the subject of this Agreement is one of the areas identified in the Strategic Plan as the site of a Regional Business Centre.

Role of Robina Town Centre Core

119. The Robina Town Centre Core forms the central core of the Regional Business Centre.

The Robina Town Centre Core will contain the core or central uses associated with the Robina Town Centre, including the highest range of retailing and other commercial facilities and will accommodate significant business, employment and cultural facilities, Government services and entertainment.

The intent of this Plan of Development is therefore to provide a basis for the overall development and orderly control of the Robina Town Centre Core as the core of the Robina Town Centre in accordance generally with the goals, objectives and intent of the Strategic Plan and the Town Plan.

SECTION 2

LAND USES

Permitted Uses

120. The purposes for which development may be carried out without the consent of the Council in the Robina Town Centre Core are:—
- accommodation units
 - car parks
 - catering businesses
 - child care centres
 - commercial premises
 - hotels
 - medical centres
 - offices
 - parks
 - places of worship
 - private recreation
 - professional offices
 - public recreations
 - service industries
 - service stations
 - shops not forming part of a major shopping development
 - shops forming part of a major shopping development having a net
 - lettable shop floor area not exceeding 100,000 square metres
 - showrooms
 - tourist facilities.

Permissible Uses

121. The purposes for which development may be carried out only with the consent of the Council on the Robina Town Centre Core are:—

shops forming part of a major shopping development where, if the application is approved, the development (including existing shops in a major shopping development) will have a net lettable shop floor area greater than 100,000 square metres

those purposes which, when carried out in conjunction with a purpose referred to in clause 120, are in the opinion of the Council considered to be ancillary to that particular purpose even though they do not form part of that purpose as a matter of planning law.

Prohibited Uses

122. Development must not be carried out in the Robina Town Centre Core for any purposes other than those referred to in clauses 120 and 121.

Environmental Impact Assessment Required

123. An application for the consent of the Council to use land for shops forming part of a major shopping development where, if the application is approved, the development (including existing shops in a major shopping development) will have a net lettable shop floor area greater than 100,000 square metres must be accompanied by an Environmental Impact Assessment, and is otherwise made in all respects in accordance with the law relating to applications for the consent of the Council under the Town Plan.

SECTION 3

VEHICLE PARKING

Principles, Guidelines and Planning Requirements

124. Vehicle parking spaces must be provided for each development in accordance with the principles, guidelines and planning requirements following:—

-
- 124.1 the integrated and overall planning of the development of the Robina Town Centre Core (which is possible due to the scale of the proposed development) means that car parking can be provided in an overall orderly and planned basis which will provide adequate car parking spaces within easy walking distance of each development which will thereby avoid a proliferation of unsightly car parking areas and a general wastage of land;
- 124.2 the Council presently has special requirements for provision of car parking for particular developments as set out in clause 20 of the Town Plan;
- 124.3 the car parking space requirements in clause 20 of the Town Plan were calculated on the basis of stand-alone developments of relatively small size and therefore such tables represent only indicative levels of car parking provisions which are not necessarily appropriate to the proposed development of the Robina Town Centre Core because of the scale, complexity, mass and relationship of the developments proposed;
- 124.4 not all car parking generated by a development need be provided on the site of that development and parking requirements for each development may wholly or in part be provided off-site;
- 124.5 as it is not possible to be specific about car parking provisions at the date of this Agreement, it is appropriate for car parking needs to be assessed at the beginning of the development of each Precinct (or the Core as a whole if there are no Precincts), or at least each proposed development site;
- 124.6 this assessment must be carried out by a traffic engineer whose qualifications and experience are acceptable to Council taking into account some or all of the following circumstances as appropriate:—
- 124.6.1 the level of provision of public transport facilities;

- 124.6.2 the likelihood of a generation of greater or less than normal peak parking demand, including requirements for staff;
- 124.6.3 the location of the Precinct (or Core) or site in relation to existing or proposed public car parking areas and other parking areas;
- 124.6.4 the level of pedestrian/cycle accessibility;
- 124.6.5 the nature of the proposed use including hours of operation and anticipated intensity;
- 124.6.6 the existing uses in the Precinct (or Core) or on the site;
- 124.6.7 the levels and depth of the allotment or allotments;
- 124.6.8 the convenience and safety of vehicle access;
- 124.6.9 the proposed layout and size of parking spaces;
- 124.6.10 the provisions of any Development Control Plan affecting the Precinct (or Core) or site;
- 124.6.11 the integration, overall planning, the inter-relationship and compatibility of proposed development;
- 124.6.12 avoidance of proliferation of unsightly car parks;
- 124.6.13 avoidance of over-provision of car parking space;
- 124.6.14 the need to encourage the use of public transport;
- 124.6.15 the amount of off-site parking spaces, including kerbside parking spaces; and

124.6.16 such other factors as may seem to be relevant and reasonable.

In this clause:—

“off-site parking spaces” means parking spaces provided on land other than the site, the development of which requires the provision of parking spaces but which are within the Precinct in which the development is situated (or the Core if there are no Precincts) or, if not within that Precinct (or Core), within 400 metres of the development. Off-site parking spaces need not necessarily be on land owned by the person undertaking the development to which they relate.

“on-site parking spaces” means parking spaces provided within the curtilage of the development site to which they relate.

Parking Need Assessment for each Precinct

125. Before development in any Precinct (or, if there are no Precincts, any part of the Core) takes place, Robina must furnish to the Council an assessment described in clause 124.6 in relation to car parking needs for the Precinct (or Core as a whole), which assessment must be considered by the Council in determining the number of parking spaces to be provided in that Precinct (or Core) for the uses and developments planned and as set out in that assessment.

If application is made for final development approval in respect of a use or development substantially different (in nature or scale) from what is contemplated by the assessment, the Council may refuse to deal with that application until an amended assessment which takes the particular site and the relevant development into account is furnished.

Off-Site Parking Spaces

126. Developments within a Precinct (or the Core) may satisfy parking space requirements by the provision of on-site or off-site parking spaces or by a combination of both.

Where off-site parking spaces are to be provided, the Council may require the applicant for final development approval to furnish a certificate from the owner of any land that the

required number of parking spaces within the curtilage of that land as identified in that certificate:—

- 126.1 are provided or will be provided on that land; and
- 126.2 are available or will be available to the applicant and persons having resort to the applicant's proposed development.

A certificate must not be furnished (and must be refused by the Council) if it relates to parking spaces which are or have been the subject of a previous certificate.

Acceptance of Certificate

127. Before accepting any such certificate, the Council must satisfy itself that the parking spaces and the parking arrangements the subject of the certificate, are adequate and, if the parking spaces have not been physically constructed, the Council must also satisfy itself that construction of such parking spaces will be completed not later than completion of construction of the development to which it relates and will be available for use as represented in the certificate. Upon the Council being satisfied of those matters, it may proceed to consider the application for final development approval.

Building Not to be Used Unless Spaces Provided

128. A person must not use or occupy, and the Council must not issue a certificate of classification in respect of, a building forming part of a development in respect of which off-site parking spaces are to be provided unless the spaces referred to in the relevant certificate furnished under clause 126 (or equivalent spaces) are constructed and available for use.

Off-site Spaces must be Maintained

129. Off-site parking spaces provided in respect of any development must continue to be available for use while that development remains in existence and no redevelopment or other use of land containing such parking spaces may be undertaken unless off-site parking spaces, comparable in character and convenience to those lost, are provided to replace those lost.

Commercial Parking Operations

130. Nothing in this Agreement prevents Robina or other persons from providing off-site parking for monetary reward but, where a certificate furnished under clause 126 refers to spaces provided or to be provided in a commercially operated car park, the Council must take into account the commercial terms and arrangements applying to such parking in determining whether or not it is satisfied of the matters referred to in clause 127.

Development of Car Parks

131. The Council, in assessing applications for final development approval to use land as a car park, may take into consideration the desirability of concentrating vehicle parking in separate and distinct places and of assisting to create a multiplicity of owners of vehicle parking stations so as to offer a choice for vehicle park users and avoid undue concentration of ownership and control of car parks in the Robina Town Centre Core.

SECTION 4

GENERAL DEVELOPMENT GUIDELINES

Exclusion of clause 55

132. The provisions of clause 55 of the Town Plan do not apply to development in the Robina Town Centre Core.

Development Requirements

133. The following requirements must be met, performed or carried out in respect of every development in the Robina Town Centre Core:—

133.1 a person who undertakes development involving the erection of a building on land within the Robina Town Centre Core must, as part of that development:—

133.1.1 construct a pedestrian pavement full width in accordance with Urban Design Guidelines, or, if there are no such Guidelines, in accordance with the Council's specification, for the full length

- of each road frontage to the development site;
- 133.1.2 construct concrete kerb and channelling to the Council's specification for the full length of each road frontage to the development site;
- 133.1.3 construct reinforced concrete industrial crossings to the Council's specification from the kerb and channelling to the property alignment at approved locations where vehicular access to the property is required, and provide vehicle barriers along the remainder of the frontage of the site to the specification of the Council;
- 133.1.4 provide drainage work specified by the Council as necessary in connection with the works set out above including debris traps where drainage discharges directly or indirectly to the lake and/or waterway system;
- 133.1.5 provide adequate reticulated sewerage and water supply to development by connection to the Council's services in accordance with the requirements of the Council.
- 133.2 the person carrying out the development must bear the cost of any alteration necessary to public utility, mains, services or installations involved in the construction of the works referred to in clause 133.1;
- 133.3 the materials used in and the execution of the works referred to in clause 133.1 must be to the requirements and satisfaction of the Council;
- 133.4 the development must incorporate cantilevered or other awnings unless the final development approval specifies otherwise;
- 133.5 provision must be made within the curtilage of the development site for bitumen sealed loading and

- unloading areas located separate from car parking areas and readily accessible from all tenancies in the site so designed that vehicles can enter and leave in forward gear;
- 133.6 the building or buildings must be set back from any road frontages in accordance with the Urban Design Guidelines or otherwise in accordance with the approved concept plan;
- 133.7 if buildings are to be constructed on sites fronting any lake or waterway, the setback from the boundary adjoining such waterway must be in accordance with the Urban Design Guidelines or, if there are no such Guidelines, the Council's current planning policy or any other relevant law in relation to setback from water bodies. Where appropriate, cantilevered awnings must be provided along any walkway or access way provided across such frontage;
- 133.8 where a development site is proposed to be developed with high rise business uses, the maximum ratio of floor area to site area is generally four to one but the Council may approve of a higher density if it is satisfied that the proposal will not:-
- 133.8.1 impose traffic loads beyond desirable limits;
- 133.8.2 otherwise create a traffic hazard; or
- 133.8.3 lead to the maximum equivalent population for the proposed development contemplated by this Agreement being exceeded.
- 133.9 arcades must be provided, if required by the Council at the time of final development approval, for the free and unobstructed movement of pedestrian traffic.

Relaxation Power

134. Despite clause 133, the Council may with the consent of Robina dispense with or modify any of the requirements or conditions therein if it considers a dispensation or modification is justified, having regard to:—

- 134.1 the existing development in the area;
- 134.2 the existing and likely future amenity of the area;
- 134.3 the nature of the proposed use;
- 134.4 the provisions of the Strategic Plan.

Toilet Facilities/Parent's Rooms

135. Where it is proposed to erect a building having a gross floor area exceeding 500 square metres, other than one for purposes not involving business or commercial activity, and the Council forms the view at the time application is made for final development approval that there is insufficient access to toilet facilities and/or parents' rooms for members of the public provided within the development, the Council may require as a condition of final development approval that such toilet facilities and parents' rooms for the public as it considers reasonable be provided.

Where it is proposed to erect such a building having a lesser floor area, the Council may require, as a condition of final development approval, that the party undertaking the development pay a monetary contribution towards the provision of such facilities in adjacent or nearby areas. Any contributions received by the Council must be expended, at the Council's discretion, for the purpose for which received.

Design of Buildings

136. All buildings must be designed by a registered architect and a building must not, by reason of its design, orientation or construction materials, have a detrimental effect on the amenity of the Robina Town Centre Core, area or adjoining development or likely future development in the Robina Town Centre Core.

Building Heights

137. The heights of office or commercial buildings will vary from time to time depending upon the requirements for office space both in terms of demand for floor areas as well as the need to accommodate like users in the same building, for example, the need for Government Departments or a large single tenant to be housed in one building. The height of any building in the

Robina Town Centre Core must not exceed eight storeys above average finished ground level unless the Council otherwise approves upon being satisfied that a particular proposal for a higher building will not:—

- 137.1 contravene clause 136;
- 137.2 impose traffic loads beyond desirable limits;
- 137.3 otherwise create a traffic hazard; or
- 137.4 lead to the maximum equivalent population for the proposed development contemplated by this Agreement being exceeded.

Urban Design Guidelines

138. The Council may make Urban Design Guidelines for the Robina Town Centre dealing with the matters in this Section. To the extent of any inconsistency with a provision of this Section, the Guidelines supersede the relevant provision.

SECTION 5

FINAL DEVELOPMENT APPROVAL

Final Approval Required

139. Prior to lodging a building application in respect of any proposed development within the Robina Town Centre Core, the person proposing to undertake the development must make application to the Council for final development approval in respect of the development.

Requirements for Application

140. An application for final development approval must be made in accordance with the law generally applicable to applications in respect of a permitted use but must include concept plans of the proposed development.

Requirements for Concept Plans

141. Concept plans forming part of an application for final development approval must include the following information:—
- 141.1 siting and configuration;

- 141.2 height and bulk;
- 141.3 relationship to adjoining buildings;
- 141.4 materials and colours;
- 141.5 relationship of building, land and water;
- 141.6 identification of climate and energy efficiency measures;
- 141.7 architectural perspectives;
- 141.8 a landscape plan which indicates the extent of soft and hard landscaping elements.

Consideration of Application

- 142. In considering an application for final development approval, the Council must have regard to the following:—
 - 142.1 external appearance, including selection of materials, building form and orientation;
 - 142.2 the relationship between the proposed development and adjoining developments or likely future developments and overall siting within the area;
 - 142.3 protection of amenity in terms of provision of light, privacy, ventilation and isolation of potential sources of noise, vibrations, smells, fumes, smoke, vapour, steam, soot, dust, water products, excessive light or glare or other hazards likely to cause undue disturbance to persons or property not connected with the use;
 - 142.4 integration of the building form with the principal elements of the Robina Town Centre;
 - 142.5 the adequacy of climate and energy efficiency proposals in terms of alignment, window apertures, pollution controls, energy efficiencies and measures to prevent adverse impacts upon and to enhance the environment;
 - 142.6 acceptability of landscape in terms of:—
 - 142.6.1 compatibility of hard landscape elements with adjoining similar elements;

142.6.2 appropriateness of plant species;

142.6.3 provision for maintenance.

Decision on Application

143. In deciding an application for final development approval, the Council must:—

143.1 approve the application;

143.2 approve the application, subject to conditions; or

143.3 refuse the application.

Ground for Refusal

144. An application for final development approval must not be refused except on the ground that the development proposed by the application does not accord with this Agreement in that it, or some feature of it:—

144.1 conflicts with the planning intent contained in Part 2 of the Second Schedule and this Part or evinced by Area and Precinct plans (if any) which include the land to which the application relates, and there are not sufficient planning grounds to justify proceeding with the development proposed despite the conflict; or

144.2 does not comply with or make provision for compliance with a requirement of this Part.

Conditions of Approval

145. The only conditions to which approval of an application for final development approval can be subjected are:—

145.1 conditions specifically authorised by, contemplated by or consistent with this Agreement; and

145.2 conditions relevant to and reasonably required by the proposed development or otherwise authorised by law from time to time which relate to matters other than those dealt with in Parts 3 to 8 and 12 of the Second Schedule.

Conditions Run with Land

146. Conditions to which approval of an application for final development approval is subject attach to the development site and are binding on successors in title.

Consideration of Building Application

147. The Council is not required to consider an application for building approval in respect of a proposed building in the Robina Town Centre Core:—
- 147.1 in respect of which there is no final development approval; or
- 147.2 which does not conform in all material respects to a final development approval relevant to the proposed building.

Where a final development approval relevant to a proposed building is subject to conditions, a building application does not conform to that approval unless it indicates compliance with, or adequate provision for compliance with, every such condition.

Certificate of Classification

148. The Council must not issue a certificate of classification for any building in the Robina Town Centre Core unless it conforms in all material respects with the final development approval relevant to the building.

Where the final development approval relevant to a proposed building is subject to conditions, the building does not conform to that approval unless there is compliance with every such condition.

SECTION 6

VARIATION OF PLAN OF DEVELOPMENT

Power to Vary

149. The Council may at any time at the request of and with the consent of Robina modify or vary the terms of this Plan of Development having regard to:—
- 149.1 the existing development in the area;

- 149.2 the existing and likely future amenity of the area;
- 149.3 the provisions of the Strategic Plan;
- 149.4 any Urban Design Guidelines approved by the Council for the Robina Town Centre.

PART 10

DEVELOPMENT REQUIREMENTS—SPECIAL BUSINESS ZONE

Statement of Intent

150. This Part is a supplementary development code to be applied to that part of the subject land to be included in the Special Business zone. Most of the uses intended to be established in that zone are permitted development subject to conditions or permissible with the consent of the Council under the Town Plan and it is not intended that this Part supplant the Town Plan in that regard except that an application for notification of conditions may be refused in particular limited circumstances where the proposal conflicts with this Agreement. That aside, this Part contains provisions to be applied by the Council when deciding applications for notification of conditions or consent to carry out development. It is to that extent a modification of clauses 20 and 55 of the Town Plan for all purposes relating to development in the Special Business zone.

Vehicle Parking

151. Section 3 of Part 9 applies to control and regulate the provision of vehicle parking in the Special Business zone and is incorporated by reference into this Part as though each reference to “Robina Town Centre Core” were a reference to land in the Special Business zone and each reference to “final development approval” were a reference to notification of conditions of permitted development under the Town Plan or, as the case requires, consent under the Town Plan and the provisions of clause 20 of the Town Plan do not apply to the land in the Special Business zone.

General Development Guidelines

152. Section 4 of Part 9 applies to control and regulate requirements for development in the Special Business zone and is incorporated by reference into this Part as though each reference to “Robina Town Centre Core” were a reference to land in the Special Business zone and each reference to “final

development approval” were a reference to notification of conditions of permitted development under the Town Plan or, as the case requires, consent under the Town Plan and the provisions of clause 55 of the Town Plan do not apply to the land in the Special Business zone.

Concept Plans to Form Part of Application

153. Every application under the Town Plan for the consent of the Council to carry out development and every application under the Town Plan for notification of conditions on a permitted development must include concept plans for each proposed building complying with clause 141.

Additional Matters for Consideration

154. When considering an application referred to in clause 153, the Council must, in addition to all other matters required by the relevant law, have regard to:—
- 154.1 all provisions of this Agreement relating to the planning intent or to development requirements for the land to which the application relates;
 - 154.2 the planning intent evinced by Area and Precinct plans (if any) which include the land to which the application relates; and
 - 154.3 the matters referred to in clause 142 so far as they are relevant to the application.

Power and Ground of Refusal

155. Without otherwise affecting the Council’s powers under the relevant law, the Council may refuse an application under the Town Plan for the consent of the Council to carry out development or, despite clause 5(1)(b) of the Town Plan and clause 5 of Division 3 of Part 2 of By-law 24, an application under the Town Plan for notification of conditions of permitted development in respect of land in the Special Business zone if the development proposed:—
- 155.1 conflicts with the planning intent contained in Part 2 of the Second Schedule or evinced by Area and Precinct plans (if any) which include the land to which the application relates and there are not

sufficient planning grounds to justify proceeding with the development proposed despite the conflict; or

- 155.2 does not comply with or make provision for compliance with a requirement contained in or incorporated by reference into this Part.

Conditions of Approval

156. Approval of an application referred to in clause 153 may be given subject to:—

156.1 conditions specifically authorised by, contemplated by or consistent with this Agreement; and

156.2 conditions otherwise authorised by the relevant law except conditions relating to a matter dealt with in Parts 3 to 8 and 12 of the Second Schedule.

Building Approvals to be Consistent

157. Clauses 147 and 148 apply to control and regulate the consideration of building applications and the issue of certificates of classification for buildings forming part of development in the Special Business zone and are incorporated by reference into this Part as though each reference to “Robina Town Centre Core” were a reference to land in the Special Business zone and each reference to “final development approval” were a reference to notification of conditions of permitted development under the Town Plan or, as the case requires, consent to carry out development under the Town Plan.

PART 11

DEVELOPMENT REQUIREMENTS—KERRYDALE LAND

Statement of Intent

158. This Part is a supplementary development code to integrate the development of the Kerrydale land with that of the rest of Robina Town Centre. The Kerrydale land is zoned Special Facilities (Golf Course, Hotel, Accommodation Units and Public Open Space) consequent upon the approval and gazettal of Rezoning Application No. 2061 and may be used for those purposes without the consent of the Council but subject to compliance with relevant and reasonably required conditions. The conditions originally imposed on approval of that application overlap to a large degree with provisions of this Agreement and have largely been rendered redundant by inclusion of the Kerrydale land in the combined site to be developed in accordance with this Agreement. This Part accordingly:—

- 158.1 specifies development requirements, derived from those conditions, which have operation specifically in relation to the Kerrydale land; and
- 158.2 ensures that the development control process applying to the Kerrydale land is consistent with the process applying to the rest of Robina Town Centre.

Kerrydale Plan of Development

159. Development of the Kerrydale land must be carried out substantially in accordance with plan 2/11/1.

Kerrydale Development Requirements

160. The following requirements must be met, performed or carried out in respect of development of the Kerrydale land in accordance with Plan 2/11/1:—

- 160.1 buildings must be constructed only in materials of construction approved by the Council;

- 160.2 the site of each detached dwelling, duplex dwelling or building containing residential units must be filled to a minimum level of RL 4.4 metres AHD. A report from a qualified engineer as to the extent and nature of fill proposed must be submitted for the approval of the Council prior to filling operations commencing and filling must be carried out in accordance with the approved report;
- 160.3 provision must be made for all site drainage and stormwater run-off to be channelled to the road or drainage outlet designated by Council;
- 160.4 no access is to be provided to the golf course and its associated facilities off Thorngate Drive;
- 160.5 all services and utilities along any road frontage of the Kerrydale land which are affected by the development must be relocated or otherwise adjusted by and at the cost of the party undertaking development;
- 160.6 each component of the development must be connected to Council's reticulated sewerage scheme at a point nominated by Council by and at the cost of the party undertaking development;
- 160.7 each component of the development must be connected to Council's water supply system by and at the cost of the party undertaking development;
- 160.8 access must not be provided to the golf course and its associated residential areas to or from Kidman Street;
- 160.9 watering of the site or other means must be used to prevent dust from affecting adjoining properties;
- 160.10 site works, construction works or the like may be conducted only between the hours of 7.00am and 6.00pm Monday to Friday inclusive. Work must not be carried out outside these hours or on Saturday, Sunday or public holidays unless specifically approved by Council;

- 160.11 provision must be made within the development for a wheelie bin or industrial bin service, in accordance with Council policy at full cost to the applicant;
- 160.12 maximum height of residential units is four storeys;
- 160.13 maximum height of the resort hotel building is eight storeys.

Detailed Approval Required

161. Prior to lodging a building application in respect of any building shown on Plan 2/11/1, other than a detached dwelling house or duplex dwelling, the person proposing to undertake the development must make application to the Council for detailed development approval in respect of the development.

Requirements for Application

162. An application for detailed development approval must be made in accordance with the law generally applicable to applications in respect of a permitted use but must include concept plans of the proposed building.

Requirements for Concept Plans

163. Concept plans forming part of an application for detailed development approval must include the following information:—
- 163.1 siting and configuration;
 - 163.2 height and bulk;
 - 163.3 relationship to adjoining buildings;
 - 163.4 materials and colours;
 - 163.5 relationship of building, land and water;
 - 163.6 identification of climate and energy efficiency measures;
 - 163.7 architectural perspectives;
 - 163.8 a landscape plan which indicates the extent of soft and hard landscaping elements.

Consideration of Application

164. In considering an application for detailed development approval, the Council must have regard to the following:—
- 164.1 external appearance, including selection of materials, building form and orientation;
 - 164.2 protection of amenity in terms of provision of light, privacy, ventilation and isolation of potential sources of noise, vibrations, smells, fumes, smoke, vapour, steam, soot, dust, water products, excessive light or glare or other hazards likely to cause undue disturbance to persons or property not connected with the use;
 - 164.3 the adequacy of climate and energy efficiency proposals in terms of alignment, window apertures, pollution controls, energy efficiencies and measures to prevent adverse impacts upon and to enhance the environment;
 - 164.4 the extent to which the application including road and access provision, landscaping provision and all other associated matters is consistent with Plan 2/11/1.

Decision on Application

165. In deciding an application for detailed development approval, the Council must:—
- 165.1 approve the application;
 - 165.2 approve the application, subject to conditions; or
 - 165.3 refuse the application.

Ground for Refusal

166. An application for detailed development approval must not be refused except on the ground that the development proposed by the application does not accord with this Part in that it, or some feature of it, is contrary to or inconsistent with Plan 2/11/1 or some other provision of this Agreement applying to the development site.

Conditions of Approval

167. The only conditions to which approval of an application for detailed development approval can be subjected are conditions which are relevant and reasonably required in order to ensure that the development is consistent with Plan 2/11/1 and other provisions of this Agreement applying to the development site.

Conditions Run with Land

168. Conditions to which approval of an application for detailed development approval is subject attach to the development site and are binding on successors in title.

Consideration of Building Application

169. The Council is not required to consider an application for building approval in respect of a proposed building on the Kerrydale Land:—
- 169.1 in respect of which there is no detailed development approval; or
 - 169.2 which does not conform in all material respects to a detailed development approval relevant to the proposed building.

Where a detailed development approval relevant to a proposed building is subject to conditions, a building application does not conform to that approval unless it indicates compliance with, or adequate provision for compliance with, every such condition.

Certificate of Classification

170. The Council must not issue a certificate of classification for any building on the Kerrydale land unless it conforms in all material respects with the detailed development approval relevant to the building.

Where the detailed development approval relevant to a proposed building is subject to conditions, the building does not conform to that approval unless there is compliance with every such condition.

PART 12

GENERAL

Public Transport

171. Robina acknowledges that the Queensland Department of Transport has requested that Robina liaise with its Passenger Transport Division to obtain advice on the provision of public transport facilities described in a letter from the Queensland Department of Transport to the Council dated 28 August 1990 (Document 2/12/1) and undertakes to do so at the appropriate time in its planning. It is acknowledged that Robina has been conducting negotiations with the Department of Transport and it is understood at the date of this Agreement that the Department of Transport will acquire that part of the subject land necessary for the construction of the rail link to Robina Town Centre and construction and provision of the necessary station and passenger transport terminal. Provision has been made in the plans of Robina for road access to the terminal to and from arterial roads. Robina must incorporate into its planning, any agreements reached with the Department for the provision of public transport and in relation to the proposed route of the future southern rail extension.

Street Lighting

172. Robina must provide street lighting to all roads, paths and bikeways as part of the construction thereof in accordance with Table 2/12/2.

Construction Program

173. Robina must provide to the Council, within 30 days of this Agreement having the force of law, an indicative timetable of all works to be carried out pursuant to this Agreement in the following five year period and must on or before the 30th of June in each year provide to the Council a revision of such timetable.

So as to co-ordinate the construction of those works with the Council's own works program, the Council may on or before

the 1st of June in each year notify Robina in writing of any works to be carried out pursuant to this Agreement which the Council would prefer be carried out in the year commencing on the 1st of July next. Robina must give due consideration and use its best endeavours to incorporate any work so notified by the Council into its indicative timetable for that year.

Precincts

174. Robina must from time to time or when requested by the Council provide to the Council a plan on which is delineated the current land use Areas and their Precincts. A plan referred to in this clause must be consistent with the planning intent contained in Part 2 of the Second Schedule and otherwise consistent with this Agreement.

Earthworks

175. Earthworks must be carried out by stages which will correspond to each Earthworks Zone. Robina is not be required to carry out earthworks in any zone in advance of its plan to develop that zone (though it may do so).

Earthworks Zones are defined on Plan 2/12/3 and may be constructed in any order chosen by Robina. Earthworks Zones may be redefined by Robina from time to time by lodging with the Council a plan of the redefined Earthworks Zones. Robina may not redefine an Earthworks Zone wherein earthworks have been commenced.

This clause does not relate to the earthworks shown on Plan 2/6/8 which will be carried out at the time specified in and in accordance with Table 2/6/2.

Removal of Vegetation

176. The proposed development will necessitate extensive reshaping of the land surface and profile and removal of vegetation.

Robina must, prior to commencing any clearing and/or earthworks in an Earthworks Zone, submit to the Council for the approval of the Engineer a report prepared by a professional engineer detailing the nature and extent of the clearing and/or works proposed and a plan for the

regeneration/restoration of vegetation. In granting approval to the report the Engineer may impose requirements for the carrying out of the work including a requirement for pit burning or chipping of timber.

Preservation of Historic Trees

177. Robina must not remove or destroy the three Bunya Pine Trees or any of them growing on the land shown in Plan 2/6/10. Robina must make provision for the preservation of the trees in its design for development of the site which contains them and will design that development so that there is no impediment to persons otherwise lawfully on that site obtaining access to the trees. Robina agrees to erect an historical marker in an appropriate position near the trees at the time the site containing the trees is developed.

Downstream Drainage

178. Waterways must be constructed in a sequential manner such that drainage discharge paths are available downstream of land proposed for development before final development of such land commences.

Service Districts

179. Services must be constructed generally on a Service District by Service District basis and each Service District must form part of an Earthworks Zone or Zones.

The Service Districts as presently defined are shown on Plan 2/12/7. Service Districts may be redefined by Robina from time to time by lodging with the Council a plan of the redefined Service Districts. Robina must not redefine a Service District wherein works (other than earthworks) have been commenced and must not redefine Service Districts such that the average area thereof is substantially increased or decreased as compared to the average area of the Service Districts defined on Plan 2/12/7.

Environmental Considerations

180. All plans for development of any part of the combined site, or for the carrying out of any other work under this Agreement, must have regard to and, so far as possible, conform with the following environmental guidelines:—

- 180.1 prohibition of planting of lantana for revegetation;
- 180.2 promotion of the breeding of water fowl and migrating birds along the waterways systems to be created;
- 180.3 continuation of the present policy of Robina of creation of a network of corridors and planting those corridors with native species of vegetation;
- 180.4 where revegetation of cleared areas is required, continuation of replanting those areas with appropriate species of vegetation; and
- 180.5 employment of revegetation techniques as previously employed in the Robina Development.

Reclamation

181. So far as concerns the Council's jurisdiction and powers:—

- 181.1 Robina presently has a credit or right to reclaim 800,000 cubic metres (which includes the 420,000 cubic metres permitted under the original conditions of rezoning of the Kerrydale land) of the Mudgeeraba Creek floodplain ("the floodplain") to the north and west of Robina Parkway in the area shown on Plan 2/12/4 without any corresponding further obligation by it to excavate any part of the floodplain;
- 181.2 Robina may undertake that reclamation substantially in accordance with Plan 2/12/5 which has been approved by the Council;
- 181.3 earthworks for the construction of roads within the area outlined by a broken line on Plan 2/12/5 which involve filling of the floodplain form part of that reclamation.

Robina is not bound to reclaim the floodplain in accordance with Plan 2/12/5 so long as any alternative reclamation scheme has no greater impact on flood levels within the floodplain than the scheme shown on Plan 2/12/5.

Robina may accordingly propose a substituted plan from time to time. If the Council is satisfied that any such plan gives effect to the intent on which Plan 2/12/5 is premised, it must

approve that plan which is thereafter substituted for Plan 2/12/5.

Filling must be carried out substantially in accordance with the approved plan from time to time (or Plan 2/12/5 if no other plan is approved).

Record of Reclamation Rights

182. For the purpose of administration of the reclamation rights to which Robina is from time to time entitled, Robina and the Council must maintain a balance sheet in the form contained in Drawing 2/12/6.

Robina and the Engineer must at the conclusion of any filling or excavation work in the floodplain (and at least once every six months in any event) verify the balance sheet for the preceding period and on agreement being reached as to the balance, the balance sheet must be certified by Robina and the Engineer as being correct.

Calculation of Reclamation Rights

183. For the purposes of clauses 181 and 182:—

- 183.1 a reclamation debit is calculated by multiplying:
the area (in square metres) of land filled
by
(the RL of that filled area or RL 4.43 AHD, ***whichever is the lesser***) minus the RL of Natural Ground Level before filling commenced,
and the resultant answer is expressed in cubic metres.
- 183.2 a reclamation credit is calculated by multiplying:
the area (in square metres) of land which has been excavated
by
(the RL of Natural Ground Level before excavation or RL 4.43 AHD whichever is the lesser)
minus

(the RL after excavation has been completed or RL 0.6 AHD *whichever is the higher*)

and the resultant answer is expressed in cubic metres.

EXAMPLES OF CALCULATION OF DEBIT

(Assume area of filling = 20m² and RL of Natural Ground = RL 1.2 AHD)

Example A

WHERE RL OF FILLED AREA IS LESS THAN RL 4.43 AHD:—

RL 4.43 AHD_____	
RL 3.00 AHD_____	Height of ground after filling
RL 1.20 AHD_____	RL of Natural Ground before filling

$$\begin{aligned}
 \text{Debit} &= \text{Area in m}^2 \text{ of filled area} \times (\text{RL after fill} - \text{RL at Natural Ground}) \\
 &= 20\text{m}^2 \times (3.0 - 1.2) \\
 &= 20 \times 1.8 \\
 &= 36.0\text{m}^3
 \end{aligned}$$

Example B

WHERE RL OF FILLED AREA EXCEEDS RL 4.43 AHD:—

RL 5.00 AHD_____	Height of ground after filling
RL 1.20 AHD_____	RL of Natural Ground before filling

$$\begin{aligned}
 \text{Debit} &= \text{Area in m}^2 \text{ of filled area} \times (\text{RL after fill (to max of 4.43)} - \text{RL at Natural Ground}) \\
 &= 20\text{m}^2 \times (4.43 \text{ (since fill is above 4.43)} - 1.2) \\
 &= 20 \times 3.23
 \end{aligned}$$

$$= 64.6\text{m}^3$$

EXAMPLES OF CALCULATION OF CREDIT

(Assume area of excavation = 20m²)

Example C

WHERE EXCAVATED AREA WAS ABOVE RL 4.43 AHD
AND EXCAVATED BELOW RL 0.6 AHD

RL 5.00 AHD _____ RL of Natural
Ground before
Excavation

RL 4.43 AHD _____

RL 1.00 AHD _____

RL 0.60 AHD _____

RL 0.10 AHD _____ Excavated Depth

Credit = Area of land excavated in m² x (RL of Natural
Ground or RL 4.43 AHD *whichever is lower* –
RL after excavation or 0.6 *whichever is higher*)

$$= 20\text{m}^2 \times (4.43 - 0.6)$$

$$= 20 \times 3.83$$

$$= 76.6\text{m}^3$$

Example D

WHERE EXCAVATED AREA WAS RL 4.0 AHD AND
EXCAVATED TO 0.7

RL 4.0 AHD _____ RL of Natural
Ground before
Excavation

RL 0.7 AHD _____ Excavated Depth

Credit = Area of land excavated in m² x (RL of Natural
Ground – RL after excavation)

$$= 20\text{m}^2 \times (4.0 - 0.7)$$

$$= 20 \times 3.3$$

$$= 66\text{m}^3$$

PART 13

OBLIGATIONS OF COUNCIL

Support for Elements and Objectives of Agreement

184. The Council acknowledges that the proposed development is a desirable one and agrees that the elements and objectives of the Agreement should be protected and agrees to give those elements and objectives and the other contents of this Agreement such due weight as is permitted by law when considering applications made to it by any person in connection with development of land in the region other than the combined site.

Support for Innovation

185. The Council acknowledges that Robina, during the course of developing the combined site, plans to introduce innovative and experimental forms and types of development in the public interest and must, consistent with its duties and obligations under the Act and any other law governing its conduct and activities, support and assist Robina in fulfilling its initiatives in this respect.

Best Endeavours to Secure Contributions

186. The Council must endeavour to ensure that appropriate and reasonable contributions towards the cost of providing or constructing the roadworks set out in Table 2/13/1 are obtained from developers carrying out development which has any traffic impact upon the roads or intersections referred to in Table 2/13/1 or would, if those roadworks were not provided by Robina, have required roadworks at those locations

Performance of Work by Others

187. The Council must where Robina has paid for or is required to pay contributions to the cost of roadworks as shown in Table 2/3/2 use all reasonable endeavours to ensure that those roadworks are constructed within a reasonable time.

Council's Liability

188. The Council is not liable to Robina in damages or otherwise in respect of a failure to achieve the objectives of clauses 186 or 187 except in the case of a wilful refusal to comply with its obligations unrelated to any proper reasons or considerations connected with the Council's overall responsibility for the carrying out of the functions of Local Government within the Shire of Albert.

Performance of Work by Council

189. Except in respect of item 1 (ii) in Table 2/3/2 (for performance of which the Council assumes contractual liability), the Council's obligation in relation to the things which are stated to be the responsibility of the Council in Table 2/3/2 is to use all reasonable endeavours to do all those things within the times therein set out if funds are available.

Securing Road Reserves

190. The Council must dedicate as a road (without compensation) such of the land required for the Christine Avenue extension as shown on Plan 2/13/2 as is owned by it.

Water

191. The Council must provide operate and maintain at its own expense those parts of the Reedy Creek Water Supply Scheme required to provide the combined site with water supply flows at sufficient head commensurate with the design of the Water Works and at a time to coincide with the completion of the water works (as defined in Part 4 of the Second Schedule) or any part thereof within the combined site.

Sewerage

192. The Council must provide operate and maintain at its own expense those parts of the Merrimac Trunk Sewerage System required to service the combined site to the same standard as generally provided by the Council elsewhere in the Shire at a time to coincide with the completion of the sewerage works (as defined in Part 5 of the Second Schedule) or any part thereof within the combined site.

Mudgeeraba Creek

193. The Council must use its best endeavours, as part of the implementation of the Merrimac Drainage Plan, to create a Waterways Reserve more or less along the present course of Mudgeeraba Creek from the Pacific Highway to Robina Parkway and, in doing so, to:—
- 193.1 clarify the right title and ownership to the creek and adjoining lands; and
- 193.2 extinguish the existing multitudinous and outdated drainage easements in that vicinity.

Surrender of Easements etc.

194. The Council must use its best endeavours to procure agreements from owners along Mudgeeraba Creek to the construction of the Mudgeeraba Creek Flood Flow Improvements Works referred to in Part 7, the dedication of any lands required in that regard and the surrender of existing drainage easements affecting those lands.

Enforcement of Agreement

195. The Council must ensure that all development carried out by any person within the subject land is carried out in accordance with the spirit, intent and legal effect of this Agreement and so as to preserve the integrity of the proposed development.

Community Facilities

196. The Council must continuously provide, maintain and operate at a level of service not less than that normally provided in the Shire and at its own expense:—
- 196.1 on and from the date of commencement of the lease, a public library from the premises provided by Robina pursuant to clause 108; and
- 196.2 on any from the date of any lease entered into pursuant to clause 112 and, in any event, by not later than 30 June, 2001, a community centre (including provision of meeting rooms) from either the premises so leased (if any) or, if there is no lease, from the land referred to in clause 87.

Provision of Services and Facilities

197. Subject to its overriding legal responsibility to perform the functions of local government in the manner best calculated to serve the interests of all inhabitants of the Shire of Albert as a whole, the Council must provide Council services, facilities and amenities to Robina Town Centre and maintain, manage and upkeep amenities, facilities, roads, parks, and public open space provided by Robina to the same standard as generally provided by the Council elsewhere in the Shire.

Use of Parks

198. The Council agrees not to intensify or permit intensification of development of parks and open space without consultation with and consideration of community views.

Road Opening and Closure—Christine Avenue

199. As the existing Christine Avenue delineated on Plan 2/13/2 is no longer required and is to be replaced by Robina dedicating the proposed Christine Avenue extension as delineated on Plan 2/13/2, the Council must, subject to clause 200, effect a closure of and a transfer to Robina of the existing Christine Avenue road reserve to be carried out by the Council in conjunction with the dedication by Robina of the land required for the proposed new Christine Avenue extension.

Negotiations with Department of Lands

200. The Council agrees to use its best endeavours to negotiate the required road closure and opening on the basis that no consideration or purchase price is payable by either party in relation to the transaction.

If the Council is successful in that regard, the Council and Robina must bear the costs necessarily incurred in documenting and giving effect to the transaction equally.

If the Council is unsuccessful in that regard, the parties' respective obligations under clause 199 and this clause shall cease and the parties must negotiate in good faith with a view to reaching an alternate agreement to give effect to the required road closure and opening.

Robina recognises that the Council has not previously received any payment in connection with this matter and that there is accordingly no reason why the Council should be responsible for the payment of any compensation or purchase moneys required by the Department of Lands as a condition of road closure and transfer.

The Council recognises in this regard that the land which now comprises the existing and proposed X to Y Christine Avenue road reserve was dedicated by Robina free of compensation and accordingly it is recognised that the road opening and closure (which is effectively a land exchange) should be free of any consideration payable by Robina.

Change of Place Name of Combined Site

201. The Council agrees to co-operate with Robina to bring about a change of boundaries and, if necessary, the names of suburbs, so that the place name of the suburb in which Robina Town Centre is located is “Robina”.

IN WITNESS WHEREOF the parties have executed this agreement on the day and year first hereinbefore written.

The Common Seal of Robina Land Corporation Pty Ltd A.C.N. 010 159 387 was hereunto affixed in accordance with its Memorandum and Articles of Association in the presence of Robert Keith Hill a Director and Robert John Slag the Secretary and in the presence of:

R.K. HILL

Director

R.J. SLAG

Secretary

B. REASON

Witness:

The Common Seal of Robina Properties Pty Ltd A.C.N. 010 147 038 was hereunto affixed in accordance with its Memorandum and Articles of Association in the presence of Robert Keith Hill a Director and Robert John Slag the Secretary and in the presence of:

R.K. HILL

Director

R.J. SLAG

Secretary

B. REASON

Witness:

The Corporate Seal of Council of the Shire of Albert was hereunto affixed in the presence of William Maurice Laver the Chairman and Terrence Robert Leslie Moore the General Manager/Shire Clerk and in the presence of:

W.M. LAVER

Chairman

T.R.L. MOORE

General Manager/Shire Clerk

Witness: Valerie TITE J.P.

Schedule 2 Robina Central Planning Agreement Amendment Agreement

section 2

THIS AMENDMENT AGREEMENT is made the day of 1996
BETWEEN

PARTIES

ROBINA LAND CORPORATION PTY. LTD. ACN 010 159 387 a company incorporated in the State of Queensland and having its registered office at 34 Glenferrie Drive Robina in the State of Queensland (in this Amendment Agreement called “Robina”)

AND

ROBINA PROPERTIES PTY. LTD. ACN 010 147 038 a company incorporated in the State of Queensland and having its registered office at 34 Glenferrie Drive Robina in the State of Queensland (in this Amendment Agreement called “Robina Properties”)

AND

COUNCIL OF THE CITY OF GOLD COAST of Nerang-Southport Road Nerang in the State of Queensland (in this Amendment Agreement called “the Council”)

RECITALS

1. WHEREAS:—
 - 1.1 Robina, Robina Properties and the Council (formerly the Albert Shire Council) entered into the Robina Central Planning Agreement on 18 September 1992.
 - 1.2 The Robina Central Planning Agreement was given the force of law by the Local Government (Robina Central Planning Agreement) Act 1992.
 - 1.3 The Local Government (Robina Central Planning Agreement) Act 1992 provided for the Robina Central Planning Agreement to be amended by a further agreement approved by the Governor in Council by regulation.
 - 1.4 Robina, Robina Properties and the Council have agreed to amend the Robina Central Planning Agreement as provided by this Amendment Agreement and to undertake the lawful procedures and actions necessary to seek the approval of the Amendment Agreement by the Governor in Council by regulation as provided by the Act and the Local Government (Robina Central Planning Agreement) Act 1992.
 - 1.5 Robina, Robina Properties and Council entered into an Amendment Agreement dated 21 March 1996 and Council sought the approval of that Amendment Agreement by the Governor in Council by regulation as required and the Department of Local Government & Planning on behalf of the State of Queensland has requested amendments to the Amendment Agreement to implement proposed changes to the area of the site and the zoning of some land.
 - 1.6 It was the intention of the parties that the Amendment Agreement dated the 21st March 1996 was not to be effective unless it was approved by the Governor in Council by regulation made under the Local Government (Robina Town Centre Planning Agreement) Act 1992.

- 1.7 Robina, Robina Properties and Council will execute this Amendment Agreement after the commencement of the Local Government (Robina Town Centre Planning Agreement) Amendment Act 1996.
2. The parties now enter into this Amendment Agreement and undertake and agree as follows:—
- 2.1 The parties agree that the Robina Central Planning Agreement be amended as follows:—
- 2.1.1 Clause 1:—
- by deleting the First Schedule and inserting the following:—
- “THE FIRST SCHEDULE**
- Part 1 Description of the subject land
- Part 2 Description of the Kerrydale Land
- Part 3 Present Zone
- Part 4 Proposed Zone
- Part 5 Description of Robina Town Centre Core
- Part 6 Drawing 8951B
- Part 7 Railway land
- Part 8 Exclusion land
- Part 9 Development adjustment land
- Part 10 Adjustment land
- Part 11 Drawing RC-NZD-01—combined site and zonings”
- by adding after the words “Part 2 Planning Intentions” the words “and Implementation”.
- 2.1.2 by deleting the words “Kerrydale Land” wherever they appear and substituting in their place the words “the Northern Frame”.

- 2.1.3 by deleting the words “Robina Town Centre” wherever they appear (except when used in the phrase “Robina Town Centre Core”) and substituting in their place the words “Robina Central”.
- 2.1.4 by deleting the words “Shire of Albert” wherever they appear and substituting in their place the words “Council of the City of Gold Coast”.
- 2.1.5 Clause 2 by inserting after recital 2.11 the following recitals:—
- “2.12 To facilitate the location of the railway to the Gold Coast certain land dealings are proposed between the State of Queensland and Robina. These require that so much of the railway land which is not presently part of this Agreement being the land described in Section 2 of Part 7 of the First Schedule be subject to this Agreement and further that so much of the railway land which is not in the Special Business Zone being that land described in Column 1 of Section 1 and 2 of Part 7 of the First Schedule be excluded from its existing zones as shown in Column 2 of Section 1 and 2 of Part 7 of the First Schedule and included in the zone shown in Column 3 of Part 7 of the First Schedule.
- 2.13 As part of these land dealings the land described in Part 8 is excluded from the operation of this Agreement and is excluded from the zone shown in Column 2 of Part 8 in the First Schedule and included in the zone shown in Column 3 of Part 8 of the First Schedule.
- 2.14 During the course of development of the combined site, boundaries of some allotments which have been created have not coincided with zoning boundaries. In order to rectify this, the Council, Robina and Robina Properties have agreed that:—

- 2.14.1 the land described in Column 1 of Part 9 of the First Schedule be excluded from the zone in Column 2 of Part 9 of the First Schedule and be included in the zone shown in Column 3 of Part 9 of the First Schedule; and
- 2.14.2 the land described in Column 1 of Part 10 of the First Schedule be subject to this Agreement and be excluded from the zone shown in Column 2 of Part 10 of the First Schedule and be included in the zone shown in Column 3 of Part 10 of the First Schedule.”

2.1.6 Clause 99 by:—

- (a) deleting from the definition “access restriction strip” the figure 0.5 and substituting the figure 0.2.
- (b) deleting the definition “this Agreement” and substituting the following definition:—
“this Agreement” means this Agreement and any amendment of this Agreement and includes the schedules, the plans, tables, drawings and documents identified herein.
- (c) deleting the definition “combined site” and substituting the following definition:—
“combined site” means the land described in this Agreement First Schedule Parts 1 (other than the land described in Part 8), 2, 7 (Section 2) and 10 and is depicted on the Drawing in Part 11.
- (d) deleting the definition “final development approval” and substituting the following definition:—
“final development approval” means approval of an application under Section 5 of Part 9 or Section 4 of Part 10 of the Second Schedule.

- (e) adding the following definitions:—
- “adjustment land” means the land described in Column 1 of Part 10 of the First Schedule
- “Development Section” means a Development Section created pursuant to Clause 18D of Part 2 of the Second Schedule
- “excluded land” means the land described in Column 1 of Part 8 of the First Schedule
- “Plan of Development” means a Plan of Development prepared pursuant to Clause 18D of Part 2 of the Second Schedule
- “railway land” means the land described in Column 1 of Sections 1 and 2 of Part 7 of the First Schedule

2.1.7 First Schedule as follows:—

- (a) by adding before the Plan of the combined site the words “Part 6”; and
- (b) by adding the following Parts:—

PART 7

RAILWAY LAND

Section 1

Column 1	Column 2	Column 3
Description of Land	Existing Zoning	New Zoning
That part of Lot 883 on RP 892174, part of Lot 201 on RP 815555 and part of Lot 703 on RP 815583 identified as Parcel A on Brown & Pluthero Drawing No. 11302D, and more particularly described in the metes and bounds description both of which are Document 1/1/5	Special Facilities (Golf Course, Hotel, Accommodation Units and Public Open Space)	Special Business
That part of Lot 703 on RP 815583 identified as Parcel C on Brown & Pluthero Drawing No. 11304D, and more particularly described in the metes and bounds description both of which are Document 1/1/6	Special Facilities (Golf Course, Hotel, Accommodation Units and Public Open Space)	Special Business

Section 2

Column 1	Column 2	Column 3
Description of Land	Existing Zoning	New Zoning
That part of Lot 201 on RP 815555, part of Lot 703 on RP 815553 and part of Lot 822 on RP 226764 identified as Parcel B on Brown & Pluthero Drawing No. 11303D, and more particularly described in the metes and bounds description both of which are Document 1/1/7	Rural	Special Business
That part of Lot 822 on RP 226764 identified as Parcel D on Brown & Pluthero Drawing No. 11305D, and more particularly described in the metes and bounds description both of which are Document 1/1/8	Rural	Special Business

PART 8

EXCLUDED LAND

Column 1	Column 2	Column 3
Description of Land	Existing Zoning	New Zoning
That part of Lot 852 on RP 226788 identified as Parcel E on Brown & Pluthero Drawing No. 11344D, and more particularly described in the metes and bounds description both of which are Document 1/1/9	Special Business	Rural

PART 9

DEVELOPMENT ADJUSTMENT LAND

Column 1	Column 2	Column 3
Description of Land	Existing Zoning	New Zoning
That part of Lot 894 on RP 892161 identified as Parcel A on Brown & Pluthero Drawing No. 11306D, and more particularly described in the metes and bounds description both of which are Document 1/1/10	Special Facilities (Robina Town Centre Core)	Special Business

Schedule 2

That part of Lot 894 on RP 892161 identified as Parcel B on Brown & Pluthero Drawing No. 11307D, and more particularly described in the metes and bounds description both of which are Document 1/1/11	Special Facilities (Robina Town Centre Core)	Special Business
That part of Lot 896 on RP 892162 identified as Parcel I on Brown & Pluthero Drawing No. 11313D, and more particularly described in the metes and bounds description both of which are Document 1/1/12	Special Business	Special Facilities (Robina Town Centre Core)
That part of Lot 896 on RP 892162 identified as Parcel G on Brown & Pluthero Drawing No. 11311D, and more particularly described in the metes and bounds description both of which are Document 1/1/13	Special Facilities (Robina Town Centre Core)	Special Business
That part of Lot 896 on RP 892162 identified as Parcel H on Brown & Pluthero Drawing No. 11312D, and more particularly described in the metes and bounds description both of which are Document 1/1/14	Special Facilities (Robina Town Centre Core)	Special Business

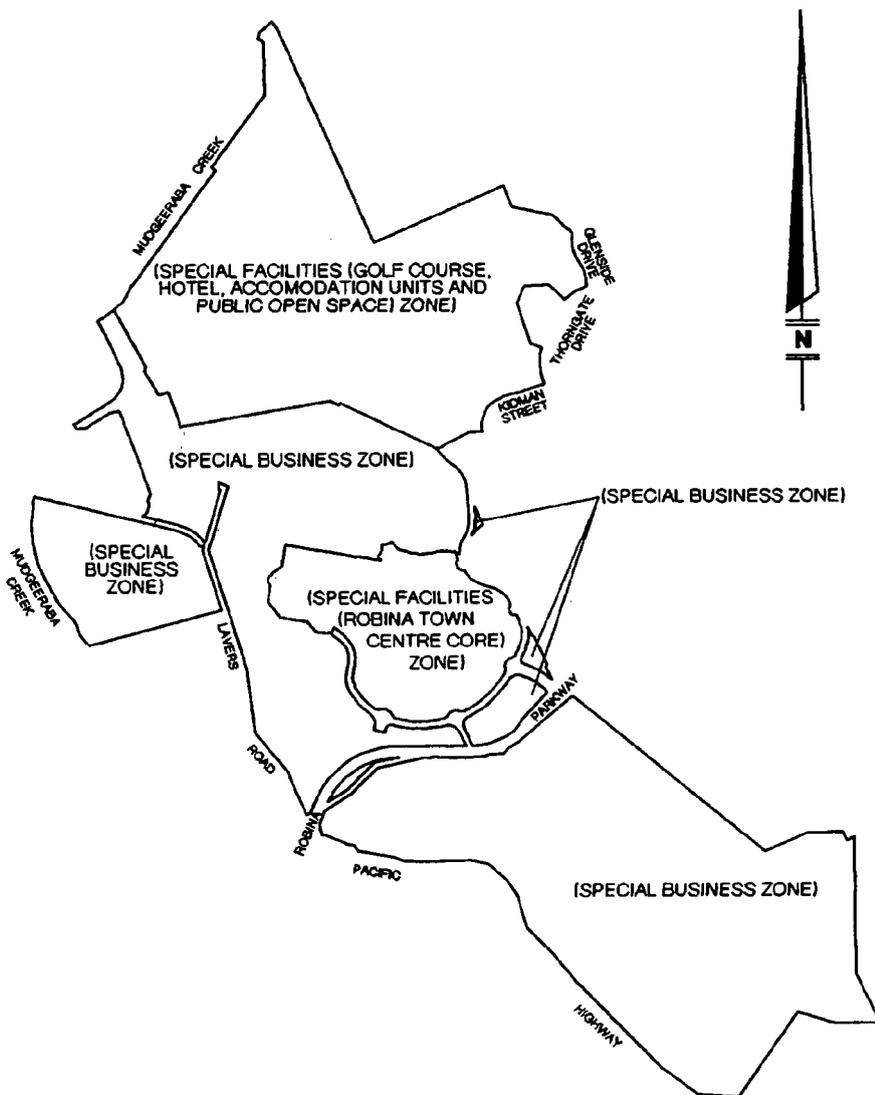
That part of Lot 104 on RP 815556 identified as Parcel E on Brown & Pluthero Drawing No. 11310D, and more particularly described in the metes and bounds description both of which are Document 1/1/15	Special Facilities (Robina Town Centre Core)	Special Business
That part of Lot 895 on RP 892159 identified as Parcel D on Brown & Pluthero Drawing No. 11309D, and more particularly described in the metes and bounds description both of which are Document 1/1/16	Special Facilities (Robina Town Centre Core)	Special Business
That part of Lot 140 on RP 886528 identified as Parcel C on Brown & Pluthero Drawing No. 11308D, and more particularly described in the metes and bounds description both of which are Document 1/1/17	Special Business	Special Facilities (Robina Town Centre Core)

PART 10

ADJUSTMENT LAND

Column 1	Column 2	Column 3
Description of Land	Existing Zoning	New Zoning
That part of Lot 104 on RP 815556 identified as Parcel F on Brown & Pluthero Drawing No. 11314D, and more particularly described in the metes and bounds description both of which are Document 1/1/18	Commercial Industry	Special Business
That part of Lot 895 on RP 892159 identified as Parcel J on Brown & Pluthero Drawing No. 11328D, and more particularly described in the metes and bounds description both of which are Document 1/1/19	Commercial Industry	Special Business
That part of Lot 895 on RP 892159 identified as Parcel K on Brown & Pluthero Drawing No. 11327D, and more particularly described in the metes and bounds description both of which are Document 1/1/20	Commercial Industry	Special Business

PART 11



DRAWING RC-NZD-01 – COMBINED SITE & ZONINGS

2.1.8 By deleting Part 1 of the Second Schedule and substituting the following:—

PART 1

INTRODUCTION

Development Background

1 *Rezoning Application*

1.1 Robina applied to the Council by Rezoning Application No. 2270 dated 10 July 1990 to exclude the subject land from the present zone and include it in the proposed zone.

Master Planning

1.2 As discussions and negotiations in relation to that rezoning application proceeded it became apparent that the development proposed by Robina pursuant to the application involved the master planning of a new mixed use community rather than a specific development application and that the existing legislation did not provide an adequate framework within which to implement the proposal.

Deficiencies in Existing Legislation

1.3 The reasons why the existing legislation was inadequate may be summarised as follows:—

1.3.1 the inclusion of part of the land in the Special Facilities (Robina Town Centre Core) zone is intended to confer a legal right to use any part of that land for any of the purposes set out in clauses 120 and 121 of Part 9, subject to the Council's approval of the details of the final development and, in the latter case, subject to obtaining town planning consent;

1.3.2 the land to be included in the Special Business zone may be used for any of the purposes set out in Clauses 151.1 and 151.2 of Part 10 of the

Second Schedule subject to the relevant Plan of Development and final development approval or to obtaining the Council's consent where required;

- 1.3.3 the infrastructure requirements for the development as a whole can be determined with certainty on the basis of maximum equivalent population fixed by prescription of limits on building heights and site coverage for commercial buildings and by prescription of maximum populations for residential buildings;
- 1.3.4 it is nevertheless not possible to determine the proportion or extent that each of the permitted or permissible uses will assume;
- 1.3.5 it is similarly not possible to determine or specify the precise form and sequence of development;
- 1.3.6 the matters referred to in Clauses 1.3.4 and 1.3.5 are capable of description but only in a conceptual way by means of:—
 - 1.3.6.1 statements of planning and Precinct intents describing the proposed development in terms of uses to be undertaken, facilities to be provided, objectives to be achieved and the form, character and intensity of the final development; and
 - 1.3.6.2 concept plans containing illustrations or examples of how the statements of intent might be implemented;
- 1.3.7 part of the land considered to form part of the Robina Central concept, being the Northern Frame land, had already been rezoned and there was no adequate mechanism available to integrate this approval with the rest of the proposal.

New Legislation

- 1.4 Because of these deficiencies in the existing legislation, it was agreed with Council that legislation would be necessary to specifically provide for the planning and development of the Robina Central site.

Purposes of the Agreement

2. The purposes of this Agreement are to:—
 - 2.1 describe and promote Robina Central's overall intent, concepts, form and implementation;
 - 2.2 provide an implementation process to govern the detailed planning, land use, development and landscaping requirements and guidelines for Robina Central on a continuing basis;
 - 2.3 obligations in relation to the construction of earthworks, roads and services which cannot be adequately regulated by application of existing legislation to the proposed development; and
 - 2.4 provide a mechanism and a process whereby Robina's planning obligations in relation to the construction of buildings can be determined, in accordance with specified development requirements and within certain parameters, and subject to a fair and effective dispute resolution process where necessary.

Structure of the Second Schedule

- 3 The Second Schedule of the Planning Agreement contains the development intentions, implementation strategy, construction obligations and development requirements for Robina Central. It is structured as follows:—
 - 3.1 Part 2 covers the regional context of the development, together with the planning intentions and the implementation process for development within Robina Central. This part defines a hierarchy of planning areas as the fundamental implementation mechanism and the basis of development control. It also identifies the need to provide flexibility for the development to meet market and community expectations over the long term,

while still ensuring sufficient certainty as to the nature, form and scale of the ultimate development.

- 3.2 Parts 3, 4, 5, 6 and 7 deal with Robina's obligations in relation to roads, water supply, sewerage, open space and pathways, and waterways and weirs. This includes details on the extent of works and their timing and the applicable headworks charges and other contributions by Robina.
- 3.3 Part 8 addresses Robina's and Council's obligations in regard to the establishment, leasing and operation of a public library and a community centre within the site.
- 3.4 Parts 9, 10 and 11 cover the land uses and development requirements and guidelines for the Core, Inner Frame, Southern Frame and the Northern Frame, respectively. These parts also address the requirements for applications in relation to specific development proposals in each of these areas.
- 3.5 Part 12 deals with a range of general issues associated with the overall development of Robina Central, including public transport, street lighting, earthworks, tree preservation and removal, environmental considerations and reclamation works.
- 3.6 Part 13 focuses on the obligations of Council in regard to Robina Central, including issues of roads, services, community facilities and commitments to supporting Robina's broad intentions and objectives for development.

Planning of Land Use

- 4 The planning approach to determine land usage has adopted a hierarchy of planning levels based on the concept of the combined site being divided into four (4) Areas:—
 - The Northern Frame
 - The Core
 - The Inner Frame
 - The Southern Frame

and permits each of those Areas where appropriate to be divided into Precincts. It also provides for each Precinct to be further divided into Development Sections. A more detailed explanation and the implementation of this approach is contained in Part 2.

Construction of Development

- 5 Construction of development will usually occur in three stages:—
- 5.1 the first stage being earthworks when the land is shaped and roads, waterways, parks, etc. are formed;
 - 5.2 the second stage when services such as roads, water supply, sewerage, electricity and telephone are constructed; and
 - 5.3 the third is when construction of buildings occurs.

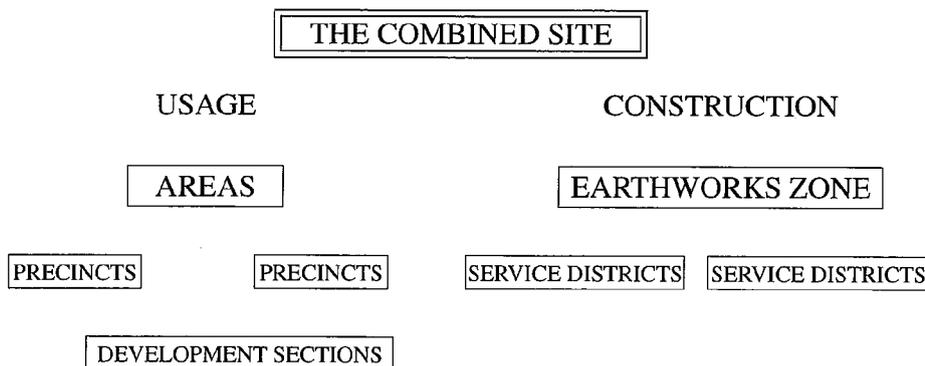
Earthworks Zones and Service Districts

- 6 Earthworks contracts will usually be undertaken over a larger area than that for which services are to be provided. Accordingly, for ease of administration and understanding, the combined site will be categorised by:—
- 6.1 “Earthworks Zones” within which earthworks will be carried out in accordance with an approved plan or plans; and
 - 6.2 “Service Districts” within which services will be constructed or provided in accordance with an approved plan or plans.

Adoption of Usage and Construction Scheme

- 7 This Agreement has therefore adopted the following scheme:—
- | | |
|----------------------------------|-----------------------------------|
| Areas (for usage) | Earthworks Zones (for earthworks) |
| Precincts (for usage) | Service Districts (for services) |
| Development Sections (for usage) | |

which may be shown diagrammatically as follows:—



Importance of Identifying Zones and Districts

- 8 Having regard to the foregoing scheme, the proper identification of Earthworks Zones and, more importantly, Service Districts is of fundamental importance from the point of view of development control. The usage to which the combined site may be put is already controlled by the terms of this Agreement and, subject thereto, the precise content and form of the final development are matters for Robina and other parties who ultimately take the benefit of this Agreement or the approval of subsequent applications.

Development to be Orderly & Controlled

- 9 The Council requires that development occur in an orderly and controlled manner and this is to be achieved by requiring Robina to complete, effectively secure and/or effectively co-ordinate the first two stages of construction (earthworks and services) in any given Service District before fragmentation of the landholding in that District is permitted. The provisions of Sections 4 (Bonding, Security & Release of Plans) and 7 (Sale and Transfer of Land) in this Agreement are designed to achieve this result.

- 2.1.9 By deleting Part 2 of the Second Schedule and substituting the following:—

PART 2

PLANNING INTENTIONS AND IMPLEMENTATION

Intent of Robina Central

- 10 Robina Central is intended to be developed as a major comprehensively planned Regional Business Centre accommodating the highest order of retailing, business, administration, entertainment, cultural, recreational and community facilities as well as a wide range of housing choices. This will be achieved by maximising the integration of this broad range of land uses in innovative and flexible forms of mixed use development which avoid incompatibility of uses.

Regional Context

- 11 Given its strategic location and the opportunity to comprehensively plan a “green field” site, Robina Central will play a major role in serving central place needs. This relates not just to adjacent districts, but also to the area included in the Gold Coast Statistical District and southern parts of the wider Brisbane to Gold Coast Urban Corridor together with parts of Northern New South Wales, as demonstrated by Plan 2/2/1.

As the first major Regional Business Centre to be located inland from the coastal strip, it is well placed to service the needs of the growing hinterland population. Its strategic location at the intersection of major arterial roads with the Pacific Highway and at the terminus of the proposed Brisbane to Robina railway will ensure high levels of accessibility to and from both the local and wider regions.

The opportunity this location offers for Robina Central to become a major public transport focus with a transit network radiating from the proposed rail terminus, will enable its development as a major office employment centre for both the

public and private sectors aswell as a major centre for the provision of government/community services, cultural and recreational facilities. Convenient access to public transport will also benefit the residents of Robina Central.

The high employment potential is enhanced by Robina Central's location close to the Bond University and its Research Park as well as by its attractive water enhanced landscape setting at the edge of the Merrimac regional open space corridor.

The continuing development of the Merrimac regional open space corridor for golf and recreation resort facilities, the increasing tourist traffic on the national Pacific Highway and the proximity to both hinterland and coastal tourist and recreation attractions will ensure a major tourism and recreation role for Robina Central for hotel/motel accommodation, shopping and support facilities.

In view of these opportunities, it is recognised that Robina Central may in time develop as a major central place anchor for the Brisbane to Gold Coast Urban Corridor as well as one of the major regional business districts for the Gold Coast Statistical District. The possibility of Robina Central becoming the dominant central business district for the region is neither disregarded nor discouraged and the Council recognises that the matters referred to in this section give Robina Central a potential advantage in that regard. The Council, however, views Robina Central as one of the regional business centres in its Strategic Plan.

Flexibility for Innovative Development

- 12 In view of the long term nature of the development being undertaken, it is recognised that a flexible approach will be required in relation to innovative development concepts, standards and practices to take account of technological advances, market variables and changing patterns in our society. Indeed, to ensure the continued vitality of Robina Central, it will be important to keep abreast of the latest developments in all areas affecting its development and operations.

This need for flexibility is inherent in the range of Planning Intentions and Implementation Plans that have been or will be prepared in relation to the development of Robina Central.

Planning Intentions and Implementation

- 13 The overall vision for development and the broad planning intentions for Robina Central are reflected in the structure plan and master plan. These plans enable a visualisation of the fundamental site layout and the inter-relationships of the broad mixture of land uses proposed.

A hierarchy of planning areas has been derived from the structure plan, as the basis for planning implementation and to guide the intensity and form of future development. The whole of the Robina Central area is divided into four land use Areas viz the Core and three Frames (Refer Plan 2/2/4A). These are in turn divided or to be divided into development Precincts each with their own statement of intent covering the desired type, form and intensity of development envisaged. Within these Precincts, Development Sections will be identified as the basis for preparing a Plan of Development for each Development Section that accords with the Precinct intents and contains the final land uses, planning principles and design and siting guidelines to control development.

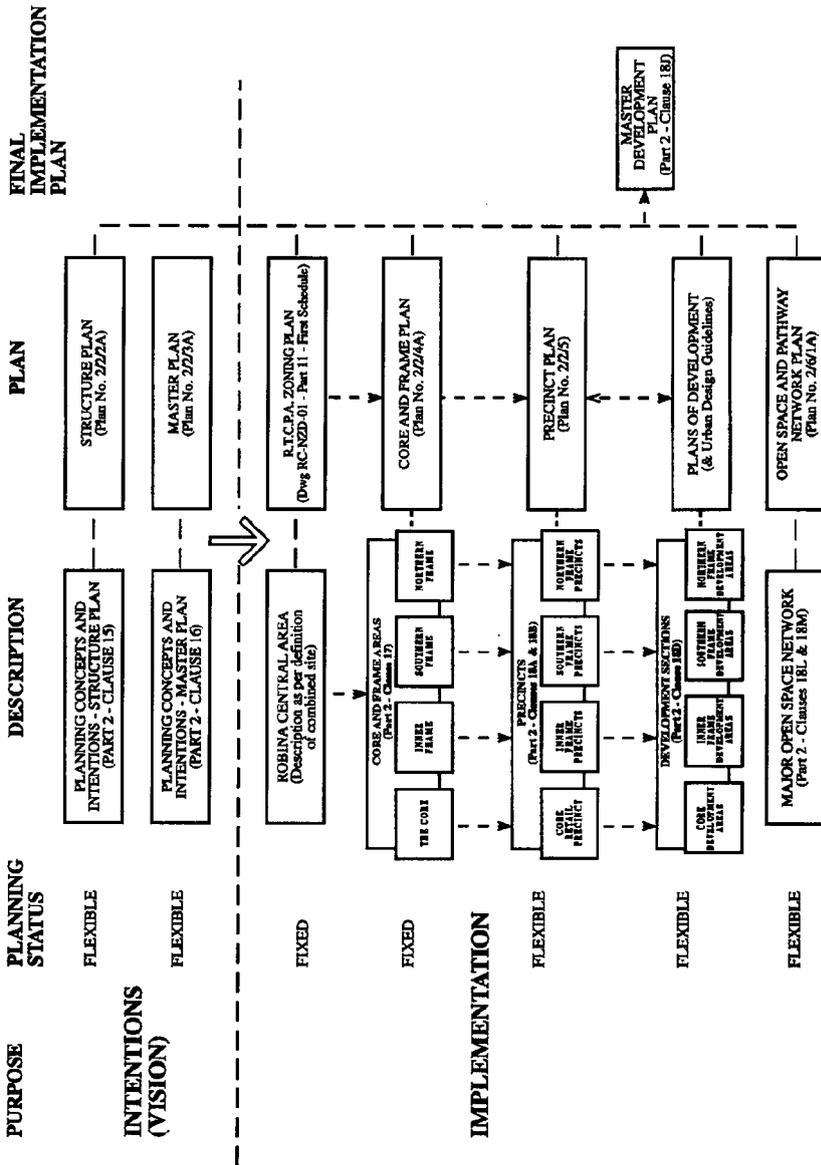
For the purpose of development unity, the major open space and access networks have been determined to integrate the development Precincts and complete the overall development configuration.

Finally, the master development plan is the means by which details from each of the above planning instruments will be drawn together to monitor the progress of Robina Central during development and to form a permanent statutory record of approvals and consents.

The following diagram summarises the planning intentions and implementation process for Robina Central. It is provided as a means of assisting readers of this Agreement to understand the relationship between the visionary concepts and intentions for the development of Robina Central and the process by which those visions will be translated and

implemented into reality, based upon best planning practices,
the provisions of this Agreement and need.

PLANNING INTENTIONS AND IMPLEMENTATION DIAGRAM



Revisions to Planning Intentions and Implementation Plans

- 14 Robina may, from time to time, with the approval of Council amend the structure plan, the master plan, the open space and pathway network plan, and the Precinct plans to reflect change, more detailed planning and market expectations. Robina must consult with Council on a proposed revision of a plan and must provide any relevant information in support of its proposed revision as may reasonably be required by Council. In revising a plan Robina must, to the extent possible, take into account Council's reasonable and relevant requirements. When Robina amends a plan, it must lodge the revised plan with Council which plan will replace and be substituted for the previous plan.

Planning Concepts and Intentions—Structure Plan

- 15 Plan 2/2/2A is the structure plan to guide in general terms the planning and development of Robina Central. It is broadly based on the combined site and contiguous areas that have direct land use interrelationships with the proposed town centre development.

The structure plan should not be regarded as defining the final nature or location of specific land uses. Rather, the plan should be viewed as a conceptual framework of transport networks and open spaces, and a distribution of predominant land uses and intensities. It is intended to serve three main purposes:—

- (a) to express the overall development intent, concepts and strategies;
- (b) to provide the broad conceptual basis for assessing the suitability of development proposals in a continuing process; and
- (c) to provide a reference plan for the ultimate development of the site.

While elements of the structure plan are fixed with some certainty by other Parts of this Second Schedule, it purposely has inherent flexibility to accommodate land use variations and development needs which cannot be properly foreseen at this time.

There is a physical constraint on the ultimate development in that the infrastructure for which this Agreement provides is designed to service an equivalent population of 23,000 persons (more or less) residing or working within Robina Central. The planning for the ultimate development (and for each Area and Precinct) must take this constraint into account. Development which would generate an equivalent population significantly exceeding 23,000 persons is not permitted.

Planning Concepts and Intentions—Master Plan

- 16 Plan 2/2/3A, described as the master plan, is the current development interpretation of the structure plan. The master plan is an illustration of one form of final development which gives effect to the structure plan and planning intents contained in this Part. It is recognised that the proposed rail terminus and South Coast Regional Health Authority development adjacent to the subject land depend upon anticipated State Government commitments in respect of which a final decision is not yet made.

Intent of the Land Use Areas

- 17 The Core and Frame plan Plan No 2/2/4A divides Robina Central into the following four broad land use Areas:—

- The Core
- The Inner Frame
- The Southern Frame
- The Northern Frame

The planning intent for each of those Areas is as follows:—

17.1 *The Core*

This is the central Area and is intended as the area of highest land use intensity and diversity of retail/commercial floor space, and maximum pedestrian activity. The Core will comprise major regional shopping facilities together with personal and community services, professional offices, restaurants, cultural, civic and recreational facilities, hotel and studio apartments.

The Core is focused on an ornamental lake (Waterfront Place) and major town centre plaza which together form a celebration place, accessible to the public 24 hours per day, where the community can come together with a sense of pride and belonging to partake of urban activities such as eating, dining, shopping, promenading and cultural events.

17.2 *The Inner Frame*

The Area surrounding the Core to the north of the Robina Parkway ridge is intended as an intensive, secondary mixed use area containing offices, business premises, residential apartments and dwellings, hotels, cultural, recreational, entertainment facilities, educational establishments and places of worship in close proximity to allow easy pedestrian connections and convenient access by public transport.

17.3 *The Southern Frame*

This Area to the south of the Robina Parkway ridge is intended as a less intensive area for activities requiring easier motor vehicle access such as an automall, showrooms, service trades, service authority facilities, business and office parks as well as for medium density residential development and higher education facilities. The Area forms an important link from the Core and Inner Frame to the Bond University to the south and with its associated Research Park, recreational facilities and high and medium density residential Precincts as well as to the industrial development zones at the Reedy Creek highway interchange and along the Burleigh Connection Road.

17.4 *The Northern Frame*

Covering the predominantly low lying land between the Inner Frame and Mudgeeraba Creek, the Northern Frame will, reflect a different character and the generally lower intensity of development to that of other areas. The emphasis will be on major public and private recreational and open space areas, with a mixture of land uses integrated mainly around the periphery of this

extensively landscaped environment. The current approval allows for public open space uses together with golf course, hotel accommodation and a range of residential development types.

Core and Frame Areas - Use and Development Control

18 The uses for which land may be developed in each Area and the guidelines for the manner in which development is to be carried out in each Area, despite the provisions of the Town Plan are as follows:—

18.1 the Core—as set out in Part 9;

18.2 the Inner Frame and the Southern Frame—as set out in Part 10.

18.3 the Northern Frame—as set out in Part 11.

Creation of Precincts

18A The Core and Frame Areas will each be divided into Precincts accommodating ranges of dominant land uses considered appropriate for those Precincts having regard to the intents for the Area in which the Precincts are created.

The Precincts into which each Core and Frame have so far been divided are shown on the Precinct plan Plan 2/2/5. Additional Precincts may be created as more detailed planning of the Core and Frame Areas is advanced.

A number of Precincts, including the Rail Interchange, Medical and Gateway West, are presently constrained by existing roads which roads are not included in the relevant Precincts on the Precinct plan. However, as a consequence of the proposed acquisition by Queensland Rail of land for the Robina rail line and transport interchange and Robina's obligation to construct roads giving access to the transport interchange, it is intended that these roads will be closed, included in appropriate zones in conformity with this Agreement and acquired by Robina. These areas of road will then form part of the Precincts in which they are located and be subject to the relevant planning intentions and provisions of this Agreement.

Intent for Development of Each Precinct

18B The intent for development of each Precinct shown on the Precinct plan is as follows:—

18B.1 *The Core Precincts*

The Core area is predominantly covered by the Core retail Precinct, comprising the major retail and mixed uses referred to in Clause 17.1 together with Waterfront Place and a number of peripheral future development sites. It is the dominant Precinct of the Robina Central community structure and will contain the most intensive mixture of land uses.

The overall development form will consist of multi-level buildings organised around a structure of outdoor pedestrianised streets stepping up the hillside from Waterfront Place. Major carparking areas, including multi-level structured car parks and on-grade parking, will be strategically placed around the Precinct, with close relationships to the anchor retail facilities and convenient access off the main circuit road. The Core retail Precinct will be characterised by the highest quality architectural and landscape finishes, to create a special identity and pedestrian friendly environment.

18B.2 *Inner Frame Precincts*

18B.2.1 HIGH SCHOOL PRECINCT

This Precinct located along the proposed Mudgeeraba Connection Road will accommodate the new Robina State High School.

18B.2.2 WEST ENTRY PRECINCT

West entry Precinct adjacent to the High School is primarily intended for a range of commercial premises accommodated in a grouping of low to medium rise buildings, and may be suitable for Government administration offices. Other convenience uses such as a service

station, and catering and business premises complementary to, and integrated with, the predominant commercial development are anticipated. It is further anticipated that emergency services authorities will locate in west entry, given that this location allows rapid access for emergency vehicles to Robina, Mudgeeraba and adjacent districts.

18B.2.3 MEDICAL PRECINCT

The medical Precinct is ideally located south of the rail interchange and east of land owned by the South Coast Regional Health Authority. Priority will be given to the development of a range of specialist medical facilities and medical uses associated with development by that Authority. These uses could also extend into nearby mixed use areas. Buildings will be predominantly low to medium rise and developed in context with development by the Authority and development in the rail interchange Precinct. The landscaping will be designed so as to create development unity across these Precincts.

18B.2.4 RAIL INTERCHANGE PRECINCT

This Precinct comprises land intended for acquisition by Queensland Rail in conjunction with other adjacent land external to the Robina Central area. It will accommodate the terminus of the new Brisbane to Gold Coast rail line, providing a regional public transport interchange when integrated with the bus network. Associated with the interchange will be a range of convenience shopping, commercial premises and offices developed in medium to high rise

buildings, including air rights development over the rail interchange. It is further anticipated that the Precinct will accommodate a regional indoor sports and entertainment centre. This centre will be a large scale development providing architectural emphasis as a landmark building.

18B.2.5 WEST LAKE, EAST LAKE AND
PENINSULA PRECINCTS
(WATERWAY PRECINCTS)

These Precincts are intended for intensive, mixed use development with an urban character which relates strongly to the Core retail Precinct and to their distinctive waterway landscape settings. The anticipated land uses include offices, business premises, hotel accommodation and entertainment facilities, and residential uses either situated above commercial premises or developed solely as residential buildings.

Building development is envisaged as being predominantly low to medium rise but with occasional high rise opportunities at appropriate locations. The desirable urban character of these Precincts will be achieved by designing the diverse forms of buildings and landscaping in a way that they combine to create attractive, pedestrian friendly frontages and spaces. This intensive urban development character will be further enhanced by providing the majority of car parking either in basement or in shared multi-level parking structures.

18B.2.6 RIVERWALK PRECINCT

Linking south from the lake to the main highway gateway entry, this Precinct is intended as an alternative, linear river-like park setting for mixed use development. A range of development forms and uses that enhance the serpentine river setting will be encouraged, including a broad mixture of commercial, residential, tourist and entertainment uses and restaurants, cafes, religious and cultural facilities. Other potential uses will include banking and personal services, limited shopping facilities, recreational uses, together with carparking facilities, outdoor plazas and parkland.

Low to medium rise and occasional high rise development will be permitted in this Precinct with buildings establishing strong axial relationships with the river, including the provision of vistas through/from the lower levels of development. Ample open spaces, landscaped areas and walkways will be provided along the pedestrianised river setting creating an important unifying element for the broad mixture of land uses and building types that will be accommodated.

18B.2.7 GATEWAY EAST AND GATEWAY WEST PRECINCTS (GATEWAY PRECINCTS)

These Precincts flank the main road entry to the Core and will offer prime sites on which major office and business developments and possibly medium to high density residential uses can locate with high accessibility and exposure. Buildings may range from low to high

rise, provided variations in the height and scale are visually and functionally appropriate. The incorporation of landmark features with building designs enhanced by attractive landscape treatments will be encouraged given the “gateway” importance of these Precincts.

18B.2.8 PARKWAY SERVICE PRECINCT

Located between the Robina Town Centre Core and the main road entry of Robina Parkway, this Precinct is intended to fulfil a complementary role to the Core retail facilities. Whilst it is anticipated that the Precinct will be predominantly developed for a service station, fast food outlets, restaurants and showrooms, compatible uses including commercial premises and various forms of entertainment, catering and service businesses will also be appropriate. A linear combination of low rise building development reflecting an “urban scale” is planned, although considerable variation is envisaged in the architectural design. Facilities that locate in the Parkway Service Precinct will benefit from the high accessibility and exposure to passing traffic offered by this strategic location.

18B.3 *Southern Frame Precincts*

18B.3.1 AUTOMALL PRECINCT

This Precinct is located immediately south of the Robina Parkway, offering excellent visibility and accessibility to the arterial road system of Robina Central. It is intended for development for an automall in which car and marine dealerships and associated uses will be grouped together to achieve the

convenience of 'one stop' shopping. Development is envisaged as low rise buildings with attractive landscape frontages presented as a unified whole and complemented by carefully controlled identity signage.

18B.3.2 MIXED USE PRECINCTS A, B AND C

These Precincts partly surround the automall and offer similar high level visibility and accessibility from the road system. They are intended for mixed use developments, including offices, commercial premises, service trades, showrooms, 'specialised home improvement' uses, a service station and limited retail uses such as shops and takeaway food outlets. Precinct 'B' in particular is primarily intended for car care uses and service trades associated with automobiles, trailered boats and caravans. Development is envisaged as being predominantly low rise with attractive landscaped and pedestrianised frontages.

18B.3.3 SOUTH HILL PRECINCT

This linear Precinct runs south along the Pacific Highway frontage from the Gateway East Precinct. Development will be physically separated from the highway by a densely planted landscape and pathway corridor. The Precinct is intended for predominantly low to medium rise office buildings integrated with other mixed uses, including service industries and showrooms. Development should reflect a strong integration between the architectural design and

landscape treatment to create impressive 'office park' environments.

18B.3.4 SOUTHERN VALE PRECINCT

Southern Vale is bounded by the arterial roads of Reedy Creek Link Road and the Christine Avenue extension, and located adjacent to the proposed southern sports fields. Much of the Precinct will be suitable for a range of quality housing types and densities, office showroom and business park development, mixed use developments or combinations of these land uses. Other uses that complement such development, including convenience shopping, child care centres and community facilities may also be accommodated. Generally, low to medium rise buildings are envisaged across the Precinct.

This Precinct has not been planned for immediate development and the particular mix of final land uses will largely depend upon market variables. Furthermore, it is likely that this expansive Precinct will be divided into a number of more manageable and land use specific Precincts at a later stage.

18B.4 *Northern Frame Precincts*

18B.4.1 PREAMBLE

The Precincts of the Northern Frame are controlled by the development code contained in Part 11 which is based upon an existing rezoning approval. As detailed planning takes place it may become desirable to consider other forms and intensities of development.

18B.4.5 NORTH VIEW PRECINCT

It is anticipated that this Precinct will be primarily developed for a range of choices in low to medium density residential development and may include resort hotel and/or other forms of tourist accommodation and associated facilities. Limited forms of complementary uses such as child care centres, convenience shops and recreation facilities will also be appropriate. Generally low to medium rise development with limited locations for high rise buildings will capitalise on the adjacent golf course outlook and desirable northerly orientation.

Creation of Development Sections - Statement of Intent

18C It is intended that the land within each Precinct will be divided by Robina into Development Sections. Determination of the area of each Development Section will be made during the final stage of the planning, development and marketing processes, at or about the same time the subdivision process commences and just prior to physical development of that land.

Until land is included in a Development Section the only plans of subdivision in respect of that land which Council must seal and release are those creating management lots or lots for transfer to Council or the Crown.

At the point in time at which a Development Section is determined by Robina, it will with the approval of Council determine the final planning principles, land uses and development requirements and guidelines for that section. Those principles, uses, requirements and guidelines will be contained in a Plan of Development for the Development Section to be prepared and lodged by Robina with Council for approval.

In addition, the Plan of Development for each Development Section will, where appropriate, address issues such as traffic circulation and parking, architectural form, streetscaping.

landscaping of private and public open spaces, signage (both private and public) and urban design.

Despite the provisions of a Plan of Development for a Development Section, it is intended that an application for town planning consent will continue to be required in respect of a permissible use.

Before an allotment can be developed in a Development Section other than for the uses set out in the following Table, an application for final development approval in respect of the final form of development for that allotment must be made whether the development is permitted subject to conditions or is a permissible use which has been approved by Council.

TABLE

duplex dwelling
dwelling house
family accommodation
home occupation
occasional markets
private recreation

Creation of a Development Section and preparation of a Plan of Development

18D A Development Section is created by Robina preparing a plan of the whole or part of the land within a Precinct or Precincts to form a Development Section and identifying it as such.

Upon creation of a Development Section, Robina must prepare and lodge with Council a Plan of Development for that Development Section which must contain, but is not limited to, the following:—

- 18D.1 a plan of the land comprised in the Development Section;
- 18D.2 the development intent for the Development Section;
- 18D.3 the development concept/s for the Development Section;

-
- 18D.4 the purposes for which land in the Development Section or parts of the Development Section may be used without consent of Council but subject to conditions. These purposes must be chosen from and may be one or more of those purposes which are permitted development subject to conditions in the Area of which the Development Section forms part;
- 18D.5 the development requirements and guidelines for that Development Section;
- 18D.6 an assessment by a traffic engineer as contemplated by clause 124.6 or 153.6.5;
- 18D.7 for information purposes the requirements of this Agreement which Robina has identified as requirements to be performed or provided relative to the land in the Development Section and if those requirements have previously been satisfied a statement to that effect.

The Plan of Development must be consistent with the concepts of:

- 18D.8 the planning intent for Robina Central, the relevant Area and the relevant Precinct;
- 18D.9 the structure plan;
- 18D.10 the master plan;
- 18D.11 the open space and pathway network plan; and
- 18D.12 the provisions of this Agreement.

Approval of Plan of Development by Council

- 18E Upon receipt of a Plan of Development for a Development Section:—
- 18E.1 The Council must, within 40 days of its receipt, approve the Plan of Development or refuse to approve the Plan of Development;
- 18E.2 Council may only refuse to approve a Plan of Development if it is satisfied that it is inconsistent with the provisions of this Agreement or does not

properly address the issues required to be included in a Plan of Development;

- 18E.3 If the Council does not notify Robina within 40 days of receipt of a Plan of Development for a Development Section that it has been approved or refused, Robina may by delivering by hand to the office of the Chief Executive Officer a written notice stating it is delivered pursuant to this Clause, require a response within 14 days of the date of delivery of the notice;
- 18E.4 In the event Robina does not receive a notice of approval or refusal of the Plan of Development within that time, the Plan of Development is deemed approved;
- 18E.5 In the event that Council gives notice to Robina that a Plan of Development for a Development Section is refused, it must specify those parts of the Plan of Development which are not acceptable and give reasons.

Variation of Plan of Development by Robina before Transfer of Land

- 18F A Plan of Development may be varied by Robina before it transfers any developable part of the land in that Development Section and before development in that Development Section has been completed. Upon Robina varying a Plan of Development it must lodge the varied Plan of Development with Council which replaces the previously approved Plan of Development.

Variation of Plan of Development after Robina Transfers Land

- 18G After Robina transfers a developable part of the land in a Development Section, the Plan of Development may be varied:—
- 18G.1 in the case of a minor variation, in respect of an allotment in that Development Section, by the owner of that allotment, lodging with Council the minor variation with the consent in writing of Robina (if it is not the Applicant):

18G.2 in the case of any other variation in respect of an allotment in that Development Section, by the owner of that allotment, in accordance with the provisions of this Agreement applicable to applications for consent in respect of a permissible use.

In clause 18F and this clause “developable part of the land” in a Development Section means land that is able to be used or developed for a lawful purpose and does not include land which is required to be dedicated for road or transferred for a local government purpose as a requirement or a condition of an approval.

Variation - Application of Provisions

18H The provisions of Clause 18E apply to a variation of a Plan of Development.

Minor Variation of a Plan of Development

18I A variation of a Plan of Development is a minor variation if:—

- 18I.1 it does not vary the proposed intent of development for the Development Section;
- 18I.2 it does not vary the permitted or permissible development for that Development Section;
- 18I.3 it does not increase the gross floor area of buildings or proposed buildings by more than 5%;
- 18I.4 it does not increase the site coverage of buildings or proposed buildings by more than 10%;
- 18I.5 it does not increase the number of storeys above ground level in buildings or proposed buildings or part of those buildings;
- 18I.6 in Development Sections for residential purposes, it does not increase the unit yield for housing development or proposed housing development by more than 5%;
- 18I.7 it does not substantially alter the locations of proposed ingress or egress from sites in the Development Section;

- 18I.8 it does not substantially decrease the provision and location of proposed carparking for each site in the Development Section;
- 18I.9 alterations to design and siting requirements pertaining to architecture, landscape, streetscape, signage and design elements (other than those requirements referred to above) do not adversely affect the amenity or the likely future amenity of the locality.

Master Development Plan

- 18J Robina must, from time to time, lodge with Council a master development plan.

The plan must show to the extent possible the consolidation of information shown on each Precinct plan, Plan of Development, structure plan and open space and pathway network plan.

Robina must deliver to Council an updated master development plan within fourteen (14) days of Council approving a Precinct plan, Plan of Development, structure plan or open space and pathway network plan.

Road and Public Transport Network

- 18K The structure plan shows the major transportation system proposed for Robina Central. This system incorporates a rail corridor and a bus-rail interchange at the terminus of the Brisbane to Gold Coast rail link. It also includes the major road network which is appropriate to meet the regional access needs and satisfies Robina's obligations for roadworks as detailed in Part 3.

Robina Central incorporates a clear, formal structure of major roads which will ensure convenient access and circulation of traffic. The major roads in this structure are Robina Parkway and proposed road D-I which follow a ridge that circles three sides of the Core. Major connection roads extend out from the Core to link externally at three interchanges along the Pacific Highway. Clear, axial circulation routes shaped by the dominant natural characteristics of the land lead from the Robina Parkway into each part of the Core. A network of

major and minor collector roads then extend throughout the combined site to service all Precincts of the Inner Frame, Southern Frame and Northern Frame.

The rail line and terminus has been located in conjunction with Queensland Rail on the western side of the Core. Furthermore a corridor for the future southern rail extension from Robina to Coolangatta has been planned, with the final location to be determined at a later time.

As the proposed rail line is likely to be essentially inter-urban rather than intra-urban, it will function primarily as a commuter service within the Brisbane to Gold Coast corridor. Its location therefore favours office employment, and particularly government offices, to encourage maximum benefit to Robina Central and maximum rail usage.

Shoppers and workers from the more local Gold Coast region will be served by a public transit distribution network, which it is anticipated will be initially provided by bus, but may later include other forms of public transport, focused on the rail terminus. The network will be planned to meet broad community needs, including distribution to other employment, educational, tourist and entertainment nodes, as well as internal movements within Robina Central. Links from the interchange and the Core through the Southern Frame to the Bond University and environs are also envisaged.

Open Space Network

18L Together with the road and public transport network, the major open space and pathway system shown on Plan 2/6/1A provides a basic framework to shape and link the total development.

The proposed open space system provides for two major north-south linear park connections linking from the extensive flood plain open space in the north to the University lake open space system in the south - one linking along Robina Central lakeshore, riverwalk and highway buffer and the other along the eastern power easement. A further spine along the Mudgeeraba Creek has potential to link through adjoining

properties north to Carrara and south-west to Mudgeeraba and Bonogin.

A series of sports fields are located along these spines and, together with the proposed golf and water based recreational facilities, they provide a strong recreational and leisure lifestyle orientation for Robina Central for both resident and worker populations.

A network of major pedestrian/bicycle paths is proposed along these open space corridors and major roads as an important part of the transportation system linking Precincts within Robina Central to each other and to the surrounding districts.

Open Space Network Plan

- 18M Major open space provisions highlighted on the open space and pathway network plan, Plan 2/6/1A, incorporate the land that satisfies Robina's obligations for parks, landscaping and pathway contributions, and will be provided and developed in accordance with Part 6.

Residential Uses

- 18N The concept of locating medium and high density residential uses immediately adjoining focal points for commercial and community activity has long been a principle of contemporary town planning and is seen as an important objective for Robina Central.

The advantage of such a concept is best summarised as follows:—

18N.1 Increased choice of residential stock

An increased variety of residential accommodation can be provided to better meet the particular lifestyle needs of different population segments. For example, there are those with children in small households, the young, the middle-aged, the elderly and people in a variety of economic situations, from service industry workers or shop assistants to professionals and executives who wish to live close to work and facilities in a more urban environment.

18N.2 A More Active and Diverse Environment

The addition of a residential population increases the “people” activity, particularly after normal working hours when offices are empty. This has a civilising influence and helps create a safer and more diverse and urbane environment to the benefit of all users of Robina Central.

18N.3 Extended Use of Facilities

An immediate residential population allows for the extended use and more economical provision of all types of facilities.

18N.4 Contribution to Urban Consolidation

The provision of housing at higher densities in Robina Central allows for a more efficient and balanced use of regional infrastructure, eg. roads, public transport, utility and community services, as well as landscape enhancement, and contributes to overall regional urban consolidation. Population successfully accommodated in Robina Central reduces the need for residential land at the edge of urban areas.

For these advantages to be realised, a more flexible approach is required towards planning and design than currently applies to development in multi-unit residential zonings which have been developed for suburban situations where segregation of residential uses and compatibility with surrounding lower density development have been traditionally considered desirable.

As a result, the combined site is designated for a target residential population of 5,000 persons to be accommodated in development designed under controls based on performance criteria developed from first principles for each situation.

Landscape/Townscape Design and Siting Controls

18O It is recognised that a major objective will be to create an attractive and environmentally sensitive development characterised by a distinctive landscape and townscape and

high levels of architectural and landscape design. To achieve this, appropriate design and siting controls will be determined for the various Precincts.

In general terms, the townscape character of the area north of the Robina Parkway ridge is envisaged as more compact and urban in character with generally higher rise buildings, while the southern area will be lower rise and more office-park in character.

A landscaped buffer zone is proposed along most of the Pacific Highway frontage to ensure a consistent landscape image is maintained along this important edge. View corridors are proposed at selected locations to allow motorists an awareness of the proximity and scale of Robina Central. Plan 2/2/6 is a conceptual plan of the buffer zone and view corridors.

Robina Central Plan Register

- 18P Council must maintain a separate register to be known as Robina Central Plan Register in which it keeps all plans, maps and Plans of Development approved by it under this Agreement which register is to be available to and open for inspection by the public at all reasonable times. Upon approval of a plan, map or Plan of Development the Council must immediately place it in the register. The Council may rely on the plans in the register for the purpose of issuing certificates under Clause 18Q.

Town Planning Certificates

18Q

- 18Q.1 An application may be made by any person to Council for a standard town planning certificate or a full town planning certificate.
- 18Q.2 An application under Clause 18Q.1 is to be accompanied by the appropriate fee.
- 18Q.3 A standard town planning certificate must set forth the following particulars in respect of the allotment in respect of which it is requested:—

-
- 18Q.3.1 the zone or zones in which the allotment is included;
- 18Q.3.2 that the allotment is subject to this Agreement;
- 18Q.3.3 the Precinct in which the allotment is included;
- 18Q.3.4 the Development Section (if any) in which the allotment is included and a statement to the effect that the allotment is subject to a Plan of Development for that Development Section;
- 18Q.3.5 the provisions of this Agreement relating to proposed roads or proposed road widenings which effect the allotment;
- 18Q.3.6 whether and if so how many certificates under clause 126 or clause 153.6 have been issued;
- 18Q.3.7 all consents, permissions and approvals including final development approval currently in force pursuant to this Agreement;
- 18Q.3.8 any amendments to this Agreement which effect the allotment agreed to by Council and Robina but which have not yet been approved by the Governor in Council by regulation.
- 18Q.4 A full town planning certificate, in addition to those particulars specified in Clause 18Q.3, is to set forth the following particulars in respect of the allotment in respect of which the certificate is requested.
- 18Q.4.1 a copy of the relevant Plan of Development (if any);
- 18Q.4.2 approvals or decisions in respect of application for consideration in principle, rezoning of land in stages, a staged subdivision plan and approval of

- engineering drawings for subdivision works;
- 18Q.4.3 details of any conditions attached to the consents, permissions, approvals or final development approvals referred to in 18Q.3.6 approved by Council;
- 18Q.4.4 details of any modification of approvals granted by Council;
- 18Q.4.5 a statement indicating the fulfilment or non-fulfilment of each condition set out in clause 18Q.4.3 which relates to the carrying out of work;
- 18Q.4.6 advice of any current revocation procedures relating to any approvals granted;
- 18Q.4.7 a copy of the judgment or consent order of the Court where an appeal in respect of an approval referred to in the certificate has been heard;
- 18Q.4.8 advice of any prosecution in respect of the current use;
- 18Q.4.9 details of the lodgment of any security and whether any payment requirement has been made;
- 18Q.4.10 details of major infrastructure obligations and minor obligations set out in this Agreement which must be performed before the allotment may be developed and if those obligations have been satisfied, a statement to that effect.
- 18Q.5 A town planning certificate is to be signed by the Chief Executive Officer or by an officer of the Council authorised by the Council.
- 18Q.6 The Council is to issue a town planning certificate applied for under Clause 18Q.1 within:—

18Q.6.1 in the case of a standard town planning certificate - fourteen (14) days;

18Q.6.2 in the case of a full town planning certificate - forty (40) days

of the date of the receipt by it of the application under Section 18Q.1.

18Q.7 A town planning certificate is admissible in evidence in any proceedings in which proof of any of the matters certified to it in the certificate are relevant and is proof of those matters and in the absence of evidence in rebuttal, is conclusive proof.

18Q.8 For avoidance of doubt this Clause 18Q applies in lieu of Section 3.3 of the Act.

Effect of Plan of Development

18R A Plan of Development does not constitute an amendment of this Agreement or a further Agreement and when approved by Council constitutes the development code for land in the Development Section to which it relates.

Savings

18S The registered owner from time to time of Lot 139 on Registered Plan No. 886257 and Lot 140 on Registered Plan No. 886258 is entitled to the same rights and entitlements and subject to the same duties and obligations under Clauses 18C to 18I (inclusive) of Part 2 of the Planning Agreement as if the name of the registered owner from time to time were substituted in those clauses for that of Robina and to the exclusion of Robina.

2.1.10 By deleting Clause 87 of the Second Schedule and substituting the following:—

“87 If before the 30th June 2001 Council wishes to establish a community centre on the land outlined in red on Plan 2/6/9 it may give Robina notice that it requires Robina to transfer to it the land outlined in red on Plan 2/6/9.

Robina must, when requested by Council in accordance with this Clause, transfer to the Crown the land outlined in red on Plan 2/6/9 for Local Government purposes (Community Centre).

If Council has not requested Robina to transfer the land outlined in red on Plan 2/6/9 before 30th June 2001, Robina will be under no further obligation to do so.”

2.1.11 Clauses 95 and 96 of the Second Schedule by deleting the figures and letters “-3.0 AHD” wherever they appear in each Clause and substituting the figures and letters “-2.4m AHD”.

2.1.12 By deleting Part 8 of the Second Schedule.

2.1.13 By deleting clause 120 of the Second Schedule and substituting the following:—

“Permitted Uses

120. The purposes for which development may be carried out without the consent of Council in the Robina Town Centre Core are:—

Accommodation Premises

Car Park

Catering Business

Child Care Centre

Cinema

Commercial Premises

Convention Centre

Cultural Facility

Educational Establishment

High Technology Entertainment Facility

Hotel

Licensed Club
Market Industry
Medical Centre
Minor Tourist Facility
Nightclub
Occasional Market
Office
Park
Place of Worship
Private Recreation
Professional Office
Public Recreation
Public Utility
Radio and Television Premises
Retail Nursery
Service Industry
Service Station
Shops not forming part of a major shopping development
Shops forming part of a major shopping development having a net lettable shop floor area not exceeding 100,000 square metres
Showroom
Special Use
Tavern
Tourist Facility
Welfare Premises.”

2.1.14 By adding to the opening words of Clause 133 the following words:—

“and where applicable must form part of a Plan of Development.”

2.1.15 By adding a new Clause 133.10 as follows:—

“133.10 Provide landscaping areas for recreational use, noise reduction, enhancement or to screen unwanted uses.”

2.1.16 By deleting Clause 138 and inserting the following:—

“Urban Design Guidelines

138 Clauses 153.4 and 153.5 apply to control and regulate Urban Design Guidelines for persons who undertake development or who use land in the Inner Frame and the Southern Frame and is incorporated by reference into this Part.”

2.1.17 By deleting Part 10 of the Second Schedule and substituting the following:—

PART 10

DEVELOPMENT CODE - INNER FRAME

AND SOUTHERN FRAME

SECTION 1

Introduction

150.1 This Part establishes the purposes for which development:—

150.1.1 may (subject to a Plan of Development) be permitted subject to conditions; or

150.1.2 may be permissible; or

150.1.3 is prohibited,

in Development Sections in the Inner Frame and Southern Frame and replaces Columns 3, 4 and 5 of Item 10 of Division 3 of Part 2 of the Town Plan. Column 2 of Item 10 of Division 3 of Part 2 of the Town Plan is amended to read “Light Purple

with red border and the words in red lettering (See Local Government (Robina Central Planning Agreement) Act 1992)”.

- 150.2 This Part also identifies the appropriate development requirements and guidelines to be included in Plans of Development for development of land in Development Sections in the Inner Frame and the Southern Frame.

Restrictions on development in the Frames

- 150.3 Subject to the provisions of the Plan of Development and this Agreement, the purpose for which development in a Development Section in the Inner Frame and Southern Frame:—

150.3.1 may be carried out without the consent of Council but only when lawful conditions as are considered appropriate by Council have been complied with are those purposes set out in the relevant Plan of Development under the heading “Permitted Development Subject to Conditions”;

150.3.2 may be carried out only with the consent of Council are the purposes set out in Clause 151.2 of this Part under the heading “Permissible Development”;

150.3.3 must not be carried out are the purposes set out in Clause 151.3 of this Part under the heading “Prohibited Development”.

- 150.4 Subject to the provisions of the Plan of Development, a person must not:—

150.4.1 without the consent of the Council carry out or permit to be carried out development in a Development Section for any purpose set out in clause 151.2 of this Part under the heading “Permissible Development”; or

150.4.2 without first complying with lawful conditions as Council considers appropriate, carry out or permit to be carried out development in a Development Section for a purpose set out in the relevant Plan of

Development under the heading “Permitted Development Subject to Conditions”; and

- 150.4.3 carry out or permit to be carried out development in a Development Section for any purpose set out in clause 151.3 of this Part under the heading “Prohibited Development”.
- 150.5 Despite that under this Part, development may be carried out in a Development Section with or without the consent of the Council that development is subject to:
- 150.5.1 those provisions contained in the Plan of Development applicable to the Development Section and the provisions of this Agreement; and
- 150.5.2 all relevant Local Laws.

Application of Provision

- 150.6 The inclusion of a particular use in clause 151.2 of this Part under the heading “Permissible Development” does not imply that an applicant is necessarily entitled to be granted consent for that use in respect of land in a Development Section. The question of whether or not consent will be granted and if so, the conditions to be imposed, if any, is to be determined by Council, having regard to the matters contained in Part 2 or in the Plan of Development for the Development Section in which the land the subject of the application is contained.
- 150.7 If premises in a Development Section are used or intended for use for more than one (1) purpose, those premises are deemed to be used or intended for use for each of those purposes unless, in the opinion of the Council, one or more of those purposes are considered to be ancillary development.

SECTION 2

LAND USES

Permitted Development Subject to Conditions

151.1 The purposes for which development may be carried out in a Development Section (subject to limitation by a Plan of Development) without the consent of Council but subject to conditions are:—

Accommodation Premises

Automotive and Marine Premises

Caretaker's Residence

Carpark

Car Wash

Catering Business

Central Fuelling Facility

Child Care Centre

Cinema

Commercial Premises

Display House

Dwelling House

Educational Establishment

Estate Sales Office

Family Accommodation

Funeral Parlour

Home Occupation

Hospital

Hotel

Kiosk

Laundromat
Market Industry
Medical Centre
Minor Tourist Facility
Motel
Occasional Market
Office
Park
Passenger Terminal
Place of Worship
Private Recreation
Professional Office
Public Recreation
Public Utility
Service Industry
Service Station
Showroom
Special Use
Surgery
Tavern
Tourist Facility
Veterinary Clinic
Veterinary Hospital
Warehouse
Waterfront Activity

Permissible Development

151.2 The purposes for which development may be carried out in a Development Section only with the consent of Council are:—

Bed and Breakfast
Bulk Garden Supplies
Casino
Cattery
Convention Centre
Cultural Facility
Duplex Dwelling
Factory Units
General Store
Helicopter Landing Site
High Technology Entertainment Facility
Integrated Housing
Institution
Kennels
Licensed Club
Night Club
Private Utility
Radio and Television Premises
Respite Care Centre
Retail Nursery
Retirement Community
Service Station Combination
Shop
Transport Terminal
Welfare Premises

Development for any purpose other than those included in Clauses 151.1 and 151.3 of this Part.

For the avoidance of doubt, a purpose included in clause 151.1 and not included in a Plan of Development as a Permitted

Development subject to conditions is thereafter Permissible Development.

Prohibited Development

151.3 The purposes for which development must not be carried out are:—

Agriculture
Animal Husbandry
Aquaculture
Caravan Park
Cemetery
Extractive Industry
Fuel Depot
Heavy Industry
Light Industry
Lot Feeding
Medium Industry
Milk Depot
Piggery
Relocatable Home Park
Rural Industry
Salvage Yard
Stable
Stall
Temporary Quarry
Waterfront Industry

SECTION 3

DEVELOPMENT REQUIREMENTS & GUIDELINES

Exclusion of Town Plan

- 152 The provisions of Part 6 and Part 7 of the Town Plan do not apply to development in the Inner Frame and Southern Frame.

Development Requirements and Guidelines

- 153.1 In respect of every development in a Development Section which involves the erection of a building (other than a dwelling house, duplex dwelling or family accommodation) the person who undertakes that development or uses the site must as part of that development or use:—
- 153.1.1 construct a full width pedestrian pavement to Council's specification for the full length of those road frontages required by Council to the development site;
 - 153.1.2 construct concrete kerb and channelling to the Council's specification for the full length of each road frontage to the development site;
 - 153.1.3 construct reinforced concrete industrial crossings to the Council's specification from the kerb and channelling to the property alignment of the development site at approved locations where vehicular access to the development site is required, and provide vehicle barriers along the remainder of the frontage of the development site to the specification of the Council;
 - 153.1.4 provide drainage work specified by the Council as necessary in connection with the works set out above including debris traps where drainage discharges directly or indirectly to the lake and/or waterway system;
 - 153.1.5 provide reticulated sewerage and water supply adequate for the purpose of the development by

- connection to the Council's services in accordance with the requirements of the Council;
- 153.1.6 bear the cost of any alteration necessary to public utility mains, services or installations involved in the construction of the works referred to in this clause;
- 153.1.7 provide materials and execute the works referred to in this clause to the requirements and satisfaction of the Council;
- 153.1.8 The requirements contained in this Clause 153.1 may be included in a Plan of Development. If these requirements are included in a Plan of Development and specify the work to be done, that specification is for the purpose of this Clause 153.1 to be taken to be Council's specification.
- 153.2 In respect of every development in a Development Section the person who undertakes that development or uses the site must:—
- 153.2.1 have all buildings designed by a registered architect and all landscaping designed by a qualified landscape architect;
- 153.2.2 not impose a load on any public utility undertaking including the disposal of wastes, greater than that which is contemplated by the provisions of this Agreement;
- 153.2.3 not cause interference with the amenity of the area by the operation of machinery or electrical equipment, or from light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, grit, oil, dust, waste water, waste products, electrical interference or otherwise;
- 153.2.4 prevent continuous or frequently occurring noise levels which when measured and assessed in accordance with the Environmental Protection Act 1994, at a boundary of the allotment:—

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- 153.2.4.1 exceed those prescribed by the Environmental Protection Act 1994;
or
- 153.2.4.2 cause a nuisance;
- 153.2.5 Provide reasonable toilet facilities and parents' rooms for the public if it is proposed to erect a building having a gross floor area exceeding 500 square metres, other than one for purposes not involving business or commercial activity, and if the Council forms the view at the time application is made for final development approval that there is insufficient access to toilet facilities and/or parents' rooms for members of the public provided within the Development Section or if it is proposed to erect a building having a lesser floor area, the Council may require, as a condition of final development approval, payment of a monetary contribution towards the provision of those facilities in adjacent or nearby areas. Any contributions received by the Council must be expended, at the Council's discretion, for the purpose for which it was received;
- 153.2.6 ensure that buildings do not by reason of design, orientation, siting, bulk, construction materials or colours, have a detrimental effect on the amenity of development in the Inner Frame and Southern Frame, adjoining development or likely future development of land in those Frames;
- 153.2.7 If the site is proposed to be developed for industrial purposes:—
- 153.2.7.1 not permit that development to exceed a maximum site coverage of seventy per cent (70%) unless the Council approves of a higher percentage;
- 153.2.7.2 construct the development of materials which are appropriate having regard to surrounding

- development and the landscape setting;
- 153.2.8 ensure where development involves filling, draining or changing the level of an allotment (except as otherwise permitted by this Agreement):—
- 153.2.8.1 that Council's requirements as to draining, filling or changing the level of that allotment for that development are ascertained and complied with; and
- 153.2.8.2 that adequate arrangements are made to prevent dust causing a nuisance;
- 153.2.9 comply with all provisions of the Plan of Development for that Development Section before commencement of the use and where appropriate during the continuation of the use;
- 153.2.10 The requirements contained in this Clause 153.2 may be included in a Plan of Development. If those requirements are included in a Plan of Development and specify the work to be done, that specification is to be taken to be Council's specification.
- 153.3 Each Plan of Development must take into account and where relevant make provision for:—
- 153.3.1 The minimum lot size and maximum number of allotments;
- 153.3.2 Prevention or limitation of access from public roads; location of ingress and egress points from public roads and adjoining sites; vehicular and pedestrian circulation within each site, adjoining sites and public roads;
- 153.3.3 Setback of buildings from road frontages side, rear and waterway boundaries;

- 153.3.4 Maximum site coverage, the orientation of buildings on the site, and that part of a site on which buildings may be erected;
- 153.3.5 The heights of office or commercial buildings which may vary from time to time depending upon the requirements for office space both in terms of demand for floor areas as well as the need to accommodate like uses in the same building, for example, the need for government departments or a large single tenant to be housed in one building. The height of buildings, must not in any event exceed eight storeys above average finished ground level unless the Council approves of a higher level if it is satisfied that a particular proposal for a higher building will not:
- 153.3.5.1 contravene clause 153.2.2;
 - 153.3.5.2 impose traffic loads beyond desirable limits;
 - 153.3.5.3 otherwise create a traffic hazard; or
 - 153.3.5.4 lead to the maximum equivalent population for the proposed development contemplated by this Agreement being significantly exceeded;
- 153.3.6 In the case of high rise business uses, a maximum plot ratio of four to one unless the Council approves of a higher gross floor area if it is satisfied that the proposal will not:—
- 153.3.6.1 impose loads beyond desirable limits;
 - 153.3.6.2 otherwise create a traffic hazard; or
 - 153.3.6.3 lead to the maximum equivalent population contemplated by this Agreement being significantly exceeded;
- 153.3.7 Loading and unloading areas within the curtilage of the development site, which are to be sealed,

- located separately from car parking areas and readily accessible from all tenancies in the site and designed so that vehicles can enter and leave in forward gear;
- 153.3.8 Landscaped areas for recreational use, noise reduction, enhancement or to screen unwanted uses;
- 153.3.9 Fencing for noise reduction, enhancement or to screen unwanted uses;
- 153.3.10 Pedestrian walkways or arcades for the free and unobstructed movement of pedestrian traffic;
- 153.3.11 Prevention of lighting likely to illuminate areas outside the boundary of the development site creating a nuisance;
- 153.3.12 Parking of motor vehicles in accordance with clause 153.6.
- 153.3.13 Incorporation where appropriate of cantilevered or other awnings along walkways or accessways;
- 153.3.14 Controls and guidelines for advertising or information signs within the Development Section whether within the curtilage of an allotment or not;
- 153.3.15 In the case of development for residential purposes either solely or in conjunction with other uses, developing objective and performance criteria from first principles as generally espoused in the AMCORD and AMCORD (Urban) documents but recognising that each of those principles may not be wholly appropriate for each residential use for example when a residential use forms part of a mixed use development.
- 153.4 Each Plan of Development may provide guidelines for any of the following and where so provided the guidelines must be observed and satisfied by the person who undertakes development or who uses land:—
- 153.4.1 In respect of buildings and fences:—

-
- the architectural design theme to be followed or achieved;
 - the materials, colours, standard, quality and type of external finishes to be used;
 - the responses required to ameliorate or take advantage of the effects of climate, wind and sun;
 - the building footprint;
 - the finished level of allotments;
 - the maximum height of development.
- 153.4.2 In respect of landscaping:—
- the landscape design philosophy to be achieved and maintained;
 - the general type, density and if appropriate the maturity of plantings required;
 - the type, quality and colour of hard surfaces e.g. roads, paths, carparking areas, retaining walls and the like;
 - the design and location of street and play furniture;
 - broad requirements for plant establishment and maintenance.
- 153.4.3 In respect of any other reasonable and relevant matters of a like nature to those referred to in clause 153.4.1 and 153.4.2.
- 153.5 The development requirements and guidelines may consist in whole or in part of plans or drawings.
- 153.6 Vehicle parking spaces must be provided for each development in a Development Section in accordance with the principles, guidelines and planning requirements following:—
- 153.6.1 the integrated and overall planning of the development of Robina Central (which is possible due to its large scale) means that car parking can be provided in an overall orderly and planned

basis. This will provide adequate car parking spaces within easy walking distance of each development which will thereby avoid a proliferation of unsightly car parking areas and a general wastage of land;

153.6.2 the Council's usual methods of determining its requirements for provision of car parking are determined by reference to tables which are calculated on the basis of stand-alone developments of relatively small size and therefore such tables represent only indicative levels of car parking provisions which are not necessarily appropriate to the proposed development of Robina Central because of the scale, complexity, mass and relationship of the developments proposed;

153.6.3 not all car parking generated by a development need be provided on the site of that development and parking requirements for each development may wholly or in part be provided off-site;

153.6.4 as it is not possible to be specific about car parking provisions at the date of this Agreement, it is appropriate for car parking needs to be assessed and included in the Plan of Development for each Development Section and to be finally determined by Council having regard to the Plan of Development and the proposed development when considering an application for final development approval;

153.6.5 the assessment for inclusion in the Plan of Development must be carried out by a traffic engineer whose qualifications and experience are acceptable to Council taking into account some or all of the following circumstances as appropriate:—

153.6.5.1 the level of provision of public transport facilities;

-
- 153.6.5.2 the likelihood of a generation of greater or less than normal peak parking demand, including requirements for staff;
 - 153.6.5.3 the location of the Development Section or site in relation to existing or proposed public car parking areas and other parking areas;
 - 153.6.5.4 the level of pedestrian/cycle accessibility;
 - 153.6.5.5 the nature of the proposed use including hours of operation and anticipated intensity;
 - 153.6.5.6 the existing uses in the Precinct;
 - 153.6.5.7 the levels and depth of the allotment or allotments;
 - 153.6.5.8 the convenience and safety of vehicle access;
 - 153.6.5.9 the proposed layout and size of parking spaces;
 - 153.6.5.10 the provisions of this Agreement affecting the Precinct, Development Section or site;
 - 153.6.5.11 the integration, overall planning, the inter-relationship and compatibility of proposed development;
 - 153.6.5.12 avoidance of proliferation of unsightly car parks;
 - 153.6.5.13 avoidance of over-provision of car parking space;
 - 153.6.5.14 the need to encourage the use of public transport;
 - 153.6.5.15 the amount of off-site parking spaces, including kerbside parking spaces; and

153.6.5.16 such other factors as may seem to be relevant and reasonable.

In this clause:—

“off-site parking spaces” means parking spaces provided on land other than the site, the development of which requires the provision of parking spaces but which are within the Precinct in which the development is situated or, if not within that Precinct, within 400 metres of the development. Off-site parking spaces need not necessarily be on land owned by the person undertaking the development to which they relate.

“on-site parking spaces” means parking spaces provided within the curtilage of the development site to which they relate.

153.6.6 When Robina delivers a Plan of Development to Council for approval, Robina must include in that Plan of Development an assessment described in clause 153.6.5 in relation to car parking needs for the Development Section, which assessment must be considered by the Council in determining the acceptability of the car parking provisions contained in the Plan of Development.

If application is made for final development approval in respect of a use or development substantially different (in nature or scale) from what is contemplated by the Plan of Development and by the assessment, the Council may refuse to deal with that application until an amended assessment is furnished by the applicant which takes the particular site and the relevant development into account. If an amended assessment is furnished the Council may vary the car parking provisions contained in the Plan of Development in respect of that development.

153.6.7 Developments may satisfy parking space requirements by the provision of on-site or off-site parking spaces or by a combination of both.

If the applicant for final development approval indicates in the application that some parking space requirements are to be provided by off-site parking spaces the Council may impose as a condition of granting final development approval that the applicant must furnish a certificate from the owner of any land that the required number of parking spaces within the curtilage of that land as identified in that certificate:—

- 153.6.7.1 are provided or will be provided on that land; and
 - 153.6.7.2 are available or will be available to the applicant and persons having resort to the applicant's proposed development.
- 153.6.8 Before accepting a certificate, the Council must satisfy itself that:—
- 153.6.8.1 the parking spaces and the parking arrangements the subject of the certificate, are adequate; and
 - 153.6.8.2 the relevant land is capable of providing the car parking spaces the subject of the certificate having regard to existing certificates and other car parking required to be provided on that land; and
 - 153.6.8.3 if the parking spaces have not been physically constructed, the Council must also satisfy itself that construction of these parking spaces will be completed not later than completion of construction of the development to which it relates and will be available for use as represented in the certificate.
- 153.6.9 A person must not use or occupy, and the Council must not issue a certificate of classification in respect of, a building forming part of a

development in respect of which off-site parking spaces are to be provided unless it has a certificate for the required number of off-site parking spaces and the spaces (or equivalent spaces) are constructed and available for use.

- 153.6.10 Off-site parking spaces provided in respect of a development must continue to be available for use while that development remains in existence and no redevelopment or other use of land containing those parking spaces in respect of which a certificate has been accepted by Council may be undertaken unless off-site parking spaces, either on that or other land which are comparable in character and convenience to those lost, are provided to replace those lost.
- 153.6.11 Nothing in this Agreement prevents Robina or other persons from providing off-site parking for monetary reward but, where a certificate is furnished which refers to spaces provided or to be provided in a commercially operated car park, the Council must take into account the commercial terms and arrangements applying to that parking in determining whether or not it is satisfied of the matters referred to in clause 153.6.8.
- 153.6.12 The Council, in assessing applications for final development approval to use land as a car park, may take into consideration the desirability of concentrating vehicle parking in separate and distinct places and of assisting to create a multiplicity of owners of vehicle parking stations so as to offer a choice for vehicle park users and avoid undue concentration of ownership and control of car parks in Robina Central.

Relaxation Power

- 154 The Council may with the consent of Robina dispense with or modify any of the requirements or guidelines in clause 153 if it considers a dispensation or modification is justified, having regard to:

- 154.1 the existing development in the area;
- 154.2 the existing and likely future amenity of the area;
- 154.3 the nature of the proposed use;
- 154.4 the provisions of the strategic plan;
- 154.5 the provisions of the relevant Plan of Development;
- 154.6 ameliorating design, siting, landscaping or construction factors of the proposed development.

SECTION 4

FINAL DEVELOPMENT APPROVAL

Final Approval Required

- 155 Prior to or at the same time as lodging a building application in respect of a proposed development within the Inner Frame and Southern Frame, the person proposing to undertake the development must make application to the Council for final development approval in respect of the development.

Requirements for Application

- 156 An application for final development approval must be made in accordance with the law generally applicable to applications for notification of conditions in respect of a permitted use subject to conditions but must include plans of the proposed development.

Requirements for Plans

- 157 Plans forming part of an application for final development approval must include the following detailed information:
- 157.1 vehicular and pedestrian access;
 - 157.2 siting and configuration of buildings and structures;

- 157.3 building height and bulk;
- 157.4 provisions for parking motor vehicles;
- 157.5 loading and unloading areas;
- 157.6 relationship to adjoining buildings;
- 157.7 materials and colours;
- 157.8 relationship of buildings, land and water;
- 157.9 identification of climate and energy efficiency measures;
- 157.10 architectural perspectives;
- 157.11 a landscape plan which indicates the extent of soft and hard landscaping elements;
- 157.12 advertising and information signs;
- 157.13 internal and boundary fencing;
- 157.14 external lighting;
- 157.15 information which is necessary to show how compliance with development requirements and guidelines will be satisfied.

Consideration of Application

- 157A In considering an application for final development approval, the Council must have regard to the following:
 - 157A.1 the means by which the provisions of the Plan of Development for the relevant Development Section will be complied with;
 - 157A.2 external appearance, including selection of materials, building form, orientation and colours of buildings;
 - 157A.3 the relationship between the proposed development and adjoining developments and open spaces or likely future developments and overall siting within the area;
 - 157A.4 protection of amenity in terms of provision of light, privacy, ventilation and isolation of potential

sources of noise, vibrations, smells, fumes, smoke, vapour, steam, soot, dust, water products, excessive light or glare or other hazards likely to cause undue disturbance to persons or property not connected to the use;

157A.5 the adequacy of climate and energy efficiency proposals in terms of alignment, window apertures, pollution controls, energy efficiencies and measures to prevent adverse impacts upon and to enhance the environment;

157A.6 acceptability of landscape in terms of:

157A.6.1 visual and acoustic amenity;

157A.6.2 compatibility of hard landscape elements with adjoining similar elements;

157A.6.3 provision for and appropriateness of fences and walls;

157A.6.4 appropriateness of plant species;

157A.6.5 appropriateness of lake edge treatments;

157A.6.6 provision for maintenance.

Decision on Application

157B In deciding an application for final development approval, the Council must:

157B.1 approve the application;

157B.2 approve the application, subject to conditions; or

157B.3 refuse the application.

Ground for Refusal

157C An application for final development approval must and may only be refused if the development proposed by the application does not accord with this Agreement in that it, or some feature of it:

- 157C.1 conflicts with the planning intent contained in Part 2 or evidenced by the structure plans, Precinct plans or the Plan of Development and there are not sufficient planning grounds to justify proceeding with the development proposed despite the conflict; or
- 157C.2 does not otherwise comply with the provisions of the Plan of Development for the relevant Development Section.

Conditions of Approval

- 157D The only conditions to which approval of an application for final development approval can be subjected are:
 - 157D.1 conditions specifically authorised by, contemplated by or consistent with this Agreement or the provisions of the Plan of Development for the relevant Development Section; and
 - 157D.2 conditions relevant to, and reasonably required by, the proposed development or otherwise authorised by law from time to time which relate to matters other than those dealt with in Parts 3 to 8 and 12 of the Second Schedule.

Conditions Run with Land

- 157E Conditions to which approval of an application for final development approval is subject, attach to the development site and are binding on successors in title.

Consideration of Building Application

- 157F The Council is not required to consider an application for building approval in respect of a proposed building in a Development Section other than for a dwelling house or duplex dwelling or a family accommodation:—
 - 157F.1 in respect of which there is no final development approval; or
 - 157F.2 which does not conform in all material respects to a final development approval relevant to the proposed building.

Where a final development approval relevant to a proposed building is subject to conditions, a building application does not conform to that approval unless it indicates compliance with, or adequate provision for compliance with, every condition.

Certificate of Classification

157G The Council must not issue a certificate of classification for a building unless it conforms in all material respects with the final development approval for that building.

Where the final development approval relevant to a proposed building is subject to conditions, the building does not conform to that approval unless there is compliance with each condition.

SECTION 5

APPLICATION FOR CONSENT

Application for Consent

157H If the consent of Council is required before development can be carried out a person who desires Council's consent must make application in accordance with the law generally applicable to applications in respect of a permissible use but must include concept plans of the proposed development which must include the information set out in clause 157.

Consideration of Application

157I In considering an application for consent the Council, in addition to the matters to be considered by law generally applicable to applications in respect of a permissible use, must have regard to the following:

- 157I.1 the provisions of this Agreement;
- 157I.2 the planning intents set forth in Part 2; and
- 157I.3 the provisions of the relevant Plan of Development.

The provisions set out in clauses 157I.1, 157I.2 and 157I.3 prevail to the extent of any inconsistency with the matters to be considered by law.

Decision on Application

157J In deciding an application for consent, the Council must:—

- 157J.1 approve the application;
- 157J.2 approve the application, subject to conditions; or
- 157J.3 refuse the application.

Ground for Refusal

157K An application for town planning consent must and may only be refused if the development proposed by the application does not accord with this Agreement in that it, or some feature of it:—

- 157K.1 conflicts with the planning intent contained in Part 2 or evidenced by the structure plans, Precinct Plans or the Plan of Development and there are not sufficient planning grounds to justify proceeding with the development proposed despite the conflict; or
- 157K.2 does not otherwise comply with the provisions of the Plan of Development for the relevant Development Section.

Conditions of Approval

157L The only conditions to which approval of an application for consent can be subjected are:—

- 157L.1 conditions specifically authorised by, contemplated by or consistent with this Agreement or the provisions of the Plan of Development for the relevant Development Section; and
- 157L.2 conditions relevant to, and reasonably required by, the proposed development or otherwise authorised by law from time to time which relate to matters other than those dealt with in Parts 3 to 8 and 12.

Conditions Run with Land

- 157M Conditions to which approval of an application for consent approval is subject, attach to the development site and are binding on successors in title.

SECTION 6

DEFINITIONS

Definitions

- 157N In this Part, Part 9 and Part 11 unless the context otherwise requires, the following terms have the meanings respectively assigned to them:

EXPLANATORY DEFINITIONS

“access”—Practical means of entry of persons and vehicles on to every proposed allotment from a constructed road which abuts the frontage, the allotment or where approved by the Council, means of entry by way of easement;

“advertising sign”—Any land building or other structure erected as an advertising device, where the device is visible from a road and, or a railway line or a waterway;

“alignment”—The line between any road and an allotment of land abutting the road;

“allotment”—A piece, parcel or subdivision of land where the boundaries are separately defined by metes and bounds on a plan of survey deposited in the Department of Natural Resources. In the case of land subdivided under the Land Title Act 1994, the term includes any and every subdivision of land where the boundaries of the land are separately defined by metes and bounds on the relevant plan of the land registered with the Registrar of Titles under and in accordance with the Land Titles Act 1994. The term does not include a lot registered under the provisions of the Building Units and Group Titles Act 1980;

“AMCORD”—Australian Model Code for Residential Development, Edition 2 - November, 1990, or any revisions;

“AMCORD (Urban)”—The Australian Model Code for Residential Development (Urban), Edition 1, October 1992, or any revisions;

“ancillary”—Associated with but incidental and subordinate to the predominant development;

“applicant”—A person who applies for an approval under this Agreement;

“building”—Any fixed structure that is wholly or partly enclosed by walls and is roofed and includes any part of a building;

“building height”—The distance measured vertically from ground level to the highest point of a building, including projections such as architectural features, advertising signs and vent pipes; where fill is required by Council, building height shall be measured vertically from the required fill level;

“body corporate”—A body corporate incorporated under the Building Units and Group Titles Act 1980;

“caravan”—A vehicle constructed, fitted, equipped or used for camping that is registered for road use pursuant to the Transport Infrastructure (Roads) Act 1994 and can be readily towed by a passenger motor vehicle. The term includes vehicles such as normally used by tourists and which could not be regarded as buildings under the Building Act 1975. The term does not include a relocatable home as defined in this Section;

“common property”—The land in a plan pursuant to the Building Units and Group Titles Act 1980 which is not comprised in any lot shown in the plan;

“constructed road”—A dedicated road which has been constructed pursuant to the provisions of this Agreement;

“construction”—In the case of any road, street, lane or pathway, includes provision for draining, levelling, paving, metalling, kerbing and channelling, and otherwise making and completing the road, street, lane or pathway. In any other circumstances, the term means the undertaking of any works associated with a development or subdivision;

“curtilage”—The area of land appurtenant to a building or other structure;

“development”—The use of any land or the erection or use of any building or other structure, or the carrying out of building, mining or engineering operations in, on, over or under land, or the making of material changes to the use of any premises;

“dwelling unit”—Any building or part thereof used or intended for use for the exclusive residential purpose of one family together with any land or outbuildings in its curtilage used for purposes ancillary to the use of the building for human habitation. The term includes family day care as defined in this Section and domestic animals keeping but does not include private recreation as defined in this clause;

“erect”—Includes:—

- (1) Erect or commence or continue to erect, or
- (2) Do, or commence or continue to do, any work in the course of or for the purpose of erecting; or
- (3) Perform any structural work or make any alteration, addition or rebuilding; or
- (4) Move from one position on an allotment to another position on or partly on the same allotment or another allotment; or
- (5) Re-erect with or without alteration on or partly on the same or another allotment; or
- (6) Where a building or other structure is located on more than one allotment—
 - (a) move to another position on the same allotments or any of them to another allotment or allotments;
 - (b) re-erect with or without alteration on another position on the same allotments or any of them or on another allotment or allotments;

“family”—Any one person maintaining a household, or two or more persons living together and maintaining a common household such that each person has access to all parts of the dwelling unit in which they reside;

“family day care”—The use of part of a dwelling house for the reception, and the minding or care of children for a day or part of a day for fee or reward by a person residing in the detached house; where conducted in accordance with “The Family Day Care Regulations”;

“floodplain”—The land lying below the 1 in 100 year modelled flood level or the area of land lying below the 1974 flood line, as defined on Council’s flood maps, whichever is the highest level, giving the maximum area of land inundated;

“gross floor area”—The sum of the areas (inclusive of all walls, columns and covered balconies) of all storeys of a building or buildings excluding any areas of the building situated below the natural ground level as measured at the perimeter of the building;

“gross residential density”—In relation to a residential development proposal, the residential density calculated on the basis of the parcel of land the subject of the proposal, before the exclusion of areas for roads, parks, other reserves, common property, conservation easements and the like; where specifically provided for in the plan, the parcel, for the purposes of calculation, may include land which is not contiguous;

“industry”—Includes:—

- (1) Any of the following operations—
 - (a) any manufacturing process whether or not the process results in the production of a finished article;
 - (b) the breaking up or dismantling of foods or articles for trade, sale or gain, or ancillary to any business;
 - (c) The extraction of sand, gravel, clay, turf, soil, rock, ore, stone, or similar substances from land;
 - (d) repairing and servicing of articles including machinery, buildings or other structures;
 - (e) any operation connected with the installation of equipment and services and the extermination of

pests but not including on-site work on buildings or other structures or land;

- (f) the dismantling of motor vehicles, whether the dismantling is carried out by one operation or by a series of operations for any purpose other than automotive and marine premises, service station or salvage yard as defined in this clause; and
- (2) Any of the following ancillary operations when conducted on land upon which any of the operations listed in (1) above are carried on—
- (a) the storage of goods used in connection with or resulting from any of the above operations;
 - (b) the provision of amenities for persons engaged in such operations;
 - (c) any work of administration or accounting in connection with such operations provided that the use does not exceed twenty percent of the total use area of any building or buildings so used;
- (3) Without limiting the generality of the foregoing, any industry or class of industry particularly defined in this Section but does not include a home occupation as defined in this clause;

“landscaping”—Means the treatment of land for the purpose of enhancing or protecting the amenity of a site and the locality in which it is situated. Works may include the following—

- (1) screening by fences, walls or other means;
- (2) planting of trees, hedges, shrubs or grass;
- (3) formation of banks, terraces or other earthworks;
- (4) laying out of gardens, courts or footways;
- (5) other amenity features;

“landscaping plan”—A plan which is drawn to scale and shows the information required by this Agreement;

“lot”—A lot shown in a plan pursuant to the Building Units and Group Titles Act 1980, as amended;

“owner”—in relation to an allotment means—

- (1) where an allotment is subdivided under the Building Units and Group Titles Act 1980—the body corporate; or
- (2) where an allotment is being purchased from the Crown for an estate in fee simple pursuant to the Land Act 1994—the purchaser; or
- (3) in all other cases—the persons for the time being entitled to receive the rent of the allotment or would be entitled to receive the rent if the allotment were let to a tenant at a rent; and

includes the Crown;

“plan of subdivision”—Means a plan which, in addition to dividing or subdividing land into allotments or otherwise, shows any new road, street and or pathway over the land or any part thereof;

“plan”—Includes any map, diagram, drawing, section or detail;

“plot ratio”—The ratio between the gross floor area of a building and the total area of the site on which the building is, or is proposed to be, built;

“premises”—Any land, building or other structure or any part thereof;

“proposed allotment”—Each of several parts of any land which is proposed to be subdivided into an allotment;

“relocatable home”—A structure that complies in all respects with the Building Act 1975 as amended, capable of being readily transported by trailer or other vehicle, for which building approval has been granted in a Relocatable Home Park. Such buildings may be fitted with wheels at the point of manufacture solely for the purpose of road transport to the proposed location. The wheels may be retained on the structure after location on site. The term does not include a caravan as defined in this Agreement;

“residential density”—Means the ratio of residential yield to site area and is either nett residential density or gross residential density;

“residential purposes”—The use of premises for human habitation, including for any of the following purposes: accommodation premises, bed and breakfast, caravan park, caretaker’s residence, duplex dwelling, dwelling house, family accommodation, hotel, motel, relocatable home park, retirement community;

“residential yield”—In relation to a development for residential purposes, the equivalent number of dwelling units (whether or not the total includes residential units other than dwelling units), given by the following formula, and expressed in dwelling units:—

$$\text{residential yield} = (a + .67b + .5c + .25d)$$

where:

- a is the number of dwelling-houses plus the number of dwelling units of three or more bedrooms;
- b is the number of dwelling units of two bedrooms;
- c is the number of dwelling units of one bedroom, plus the number of bedsitter units, hotel rooms, motel units, serviced rooms and other accommodation units, as determined by Council; and
- d is the number of hostel beds;

“road frontage”—Any boundary line, or part thereof, of land which coincides with the alignment of a road or an access restriction strip;

“site”—Any land on which development is carried out or is proposed to be carried out whether such land comprises the whole or part of one (1) allotment or more than one (1) allotment if each of such allotments is contiguous with the other or another of such allotments;

“site coverage”—That portion of a site covered by a building, fixed structure, or outdoor storage area, but not including unroofed parking areas;

“storey”—That space within a building which is situated between one floor level and the floor level next above, or if there is no floor above, the ceiling or roof above and includes a space which is designed, constructed or adapted for the accommodation of bathrooms, shower rooms, laundries, water closets or other sanitary compartments, storage of goods, or for the accommodation of vehicles. No storey so defined shall exceed the vertical dimension prescribed pursuant to the provisions of the Building Act as amended:

“structure”—Any building, wall, fence or other structure or anything affixed to or projecting from any building, wall, fence or other structure. The term includes any part of a structure;

“subdivision”, “subdivide”, and similar expressions mean and refer to dividing land into parts whether the dividing is—

- (1) by sale, conveyance, transfer, or partition; or
- (2) by any agreement, dealing or instrument *intervivos* (other than a lease for any term not exceeding five years without right of renewal), rendering different parts thereof immediately available for separate disposition or separate occupation; or
- (3) by procuring the issue of a certificate of title under the Land Title Act 1994 in respect of a part of land; or
- (4) the excision of and from an allotment for dedication to the Crown;

“total use area”—The sum of the areas (exclusive of all walls and columns) of all storeys of a building which is used or intended for use for a particular purpose plus any other area of a site which is also used or intended for use for the same purpose, provided that the term does not include:—

- (1) The areas (inclusive of all walls and columns) of any liftwells, lift motor rooms, air conditioning, and associated mechanical or electrical plant and equipment rooms;
- (2) The areas of any staircases;

- (3) The areas of any common foyer where not being used for commercial or retail purposes;
- (4) The area of any public toilets;
- (5) The areas of any staff toilets, washrooms, recreation areas and lunchrooms provided that such areas are not open to persons other than staff;
- (6) The area used for the access, parking and associated manoeuvring of motor vehicles;

“use”—The term includes:—

- (1) In relation to land, the carrying out of excavation work in or under land and the placing on land of any material or thing that is not a building or other structure; and
- (2) Any use which is ancillary to the lawful use of the premises in question.

USE DEFINITIONS

“accommodation premises”—Any premises used or intended for use for residential purposes, not being a purpose elsewhere defined in this clause. The term includes a boarding house, flat, apartment building, guest house, hostel, serviced apartment or serviced room;

“accommodation units”—Any premises used or intended for use for residential purposes;

“agriculture”—Any premises used or intended for use for the growing of crops, pastures, fruit, vegetables, or any plants or trees other than for the domestic use by the occupants of the premises. The term does not include aquaculture, retail sales of agricultural produce, rural industry, or a bulk garden supplies as defined in this clause;

“animal husbandry”—Any premises used or intended for use for the keeping or farming of animals, birds or reptiles. The term includes poultry, dairy and goat farms, and veterinary establishments associated with them, but does not include a cattery, kennels, piggery, rural industry, stable or lot feeding as defined in this clause, nor the keeping of domestic animals;

“aquaculture”—Any premises used or intended for use for the commercial production of fish, crustacean or shellfish;

“automotive and marine premises”—Any premises used or intended for use for the cleaning, customising, detailing, hire, modification, repair, sale, storage, or servicing of new and used vehicles, vessels (not exceeding ten (10) metres in length), machinery, trailers or caravans. The term includes, when carried on within a building, the sale or fitting of accessories, spare parts or replacement parts, panel beating and spray painting or the provision of training and ancillary services;

“bed and breakfast”—Any premises used or intended for use as a dwelling house which may also provide overnight accommodation for up to four tourists or members of the travelling public on an occasional basis. The term does not include an accommodation unit as defined in this clause;

“bulk garden supplies”—Any premises used or intended for use for the sale or distribution of sand, soil, screenings, rocks, sleepers and other such garden and landscaping materials where such material is received on site in quantities greater than one cubic metre. The term does not include agriculture, extractive industry, retail nursery or rural industry as defined in this clause;

“car park”—Any premises used or intended for use for the parking of motor vehicles where such parking is not ancillary to a use or uses on the same site;

“caravan park”—Any premises used or intended for use for the parking of caravans and/or the pitching of tents for the purpose of providing accommodation for and rendering services to travellers, tourists or the general public, whether or not relocatable homes and/or other accommodation are also situated on the site. The term includes the erection and use within the caravan park of a kiosk and/or amenity buildings for the exclusive use of occupants of the caravan park. The term does not include a motel or a relocatable home park as defined in this clause;

“caretaker’s residence”—Any dwelling unit used or intended for use for caretaker purposes only where a person residing

therein is employed on the site and where the dwelling unit is used in connection with an industry or other non—residential use conducted on the same parcel of land. The term includes any dwelling unit provided for a person engaged in a use lawfully established on the land;

“car wash”—Any premises used or intended for use for the washing of motor vehicles manually or by an automatic or partly automatic process using mechanically operated brushes and/or washers and whether or not air jet dryers are also used;

“casino”—Any premises used or intended for the purpose of gambling and where the use is conducted in accordance with the provisions of any Act concerning casino premises. The term does not include an indoor recreation;

“catering business”—Any premises used or intended for use for the purpose of the preparation or service of beverages, food or confectionary for consumption either on the premises or off the premises included in but not limited to Appendix I hereto:

Appendix I

Cafe
Coffee Shop
Confectioner
Fast food outlet
Fried food outlet
Milk bar
Patisserie
Reception room or function room
Restaurant
Snack bar
Specialty food outlet
Tea garden
Tea room

The term does not include a hotel or tavern as defined in this clause;

“cattery”—Any premises used in connection with the keeping, boarding, or breeding of more than four cats;

“cemetery”—Any premises used or intended for use for the interment of the dead or the reduction of the human body to ashes after death. The term includes a graveyard, a burial ground, or any funeral chapel or parlour or columbarium erected on such land and used in connection therewith;

“central fuelling facility”—Any premises used or intended for use for the fuelling of motor vehicles or vessels used by or in connection with any use within the Development Section in which the facility is located which fuelling involves the sale of petrol or automotive distillate or any derivative capable of use in internal combustion engines. The term does not include fuel depot or a service station or service station combination;

“child care centre”—Any premises used or intended for use for the minding or care, but not residence, of children. The term includes a kindergarten, creche or pre-school. The term does not include family day care, an educational establishment, institution or a special use as defined in this clause;

“cinema”—Means a place used or intended to be used for the showing of moving pictures. The term includes:—

- (1) where the whole or part of those premises are the premises to which a license or permit under the Liquor Act 1992 applies, and the use of any facility provided for the purpose of exercising the rights or privileges conferred by that license or permit;
- (2) the use of any facility provided for the purpose of light refreshments.

The term does not include a cultural facility, high technology entertainment facility, licensed club or public recreation as defined in this clause;

“commercial premises”—Any premises used or intended for business, commercial or financial purposes not otherwise defined in this clause;

“convention centre”—Any premises:

- (1) established in a co-ordinated fashion;
- (2) which function as an integrated unit; and
- (3) used or intended for use for any or all of the following:
 - (a) as a place for the assembly of persons for some common object; or
 - (b) for trade fairs or exhibitions, whether or not they are also used or intended for use for any form of entertainment not envisaged by its use as referred to in sub-paragraphs (a) and (c);
 - (c) for or in connection with the conduct of sporting or athletic activities engaged in competitively;

The term includes the use of any facilities provided at those premises for the health, comfort or convenience of persons resorting thereto for those activities which characterise those premises including any facility providing light refreshments, meals for consumption thereat or elsewhere, professional services by a medical practitioner or physiotherapist, or banking services;

“cultural facility”—Any premises used or intended for use for the purpose of a library, museum, theatre, concert hall or art gallery. The term does not include a special use as defined in this clause;

“display home”—Any dwelling house, duplex dwelling or accommodation unit used or intended for use for a period not exceeding two (2) years to display to the general public the type of construction or design offered by a builder. The term does not include an estate sales office, office, or professional office as defined in this clause;

“duplex dwelling”—Any premises which is comprised of two attached dwelling units on one allotment. The term does not include family accommodation or integrated housing as defined in this clause;

“dwelling house”—Any premises which comprises a single dwelling unit in a separate building, not including a

caretaker's residence or integrated housing as defined in this clause;

“educational establishment”—Any primary school, secondary school, college, university, technical institute, academy, educational centre or premises used for the provision of education. The term includes the provision of residential accommodation associated therewith but does not include a child care centre or institution as defined in this clause;

“estate sales office”—Any premises, including a caravan, erected on land subdivided and released as one estate and used or intended for use for a period not exceeding two (2) years for the purpose of promoting and selling that land only. The term does not include a display home, an office, or a professional office as defined in this clause;

“extractive industry”—Any premises used or intended for use for the purpose of carrying on an industry involving extraction, storage, loading or cartage of sand, gravel, soil, rock, stone or similar substances from land. The term does not include crushing, screening, washing or other treatment process, or manufacture of products from such substances, or a mine under the Mineral Resources Act 1989;

“factory units”—Any premises used or intended for use as a multi-unit factory development erected upon one allotment, where provision is made for separate industries of similar classifications;

“family accommodation”—Any premises used or intended for use as a dwelling unit within the curtilage of a dwelling house where the dwelling unit is used or intended for use for occupation by a member or members of the immediate family of, and/or by personal staff necessary for the health or well being of, a member or members of the household;

“fuel depot”—Any premises used or intended for use as a depot for the storage or sale of liquid or gaseous fuel, where such premises are required to be licensed in accordance with the Flammable and Combustible Liquids Regulations 1976. The term does not include a central fuelling facility, a service station, a service station combination, automotive and marine premises or a waterfront activity;

“funeral parlour”—Any premises used or intended for use by an undertaker for the storage of, or preparation of bodies for burial or cremation. The term includes a mortuary, a funeral chapel, and/or office/administration areas used in connection with the use;

“general store”—Any premises not exceeding one hundred and seventy five (175) square metres in retail floor area used or intended for use for the sale by retail of general merchandise including food;

“heavy industry”—Any premises used or intended for use for any of the purposes included in Appendix II hereto or any other industrial purposes (which in the opinion of Council is heavy) not specifically defined in this clause;

Appendix II

(1) Any operation involving:—

- The use of a radioactive substance or material in a process.
- The treatment or processing of a radioactive substance or material contaminated by a radiation substance prior to disposal.
- The disposal of a radioactive substance or material.
- The storage of a radioactive substance or material.

except where that radioactive substance or material forms part of an instrument or is used in association with equipment for the testing, measurement or analysis of a product, machinery or equipment or is used for medical purposes;

(2) Purposes including or ancillary to any of the following:—

- Cannery
- Distillery
- Fertiliser Works
- Foundry
- Generating Works

- Iron and steel works
- Paper mill
- Rubber mill
- Sanitary depot
- Sewerage treatment works
- Sugar refinery
- Tannery
- (3) Purposes involving any process for or ancillary to the manufacture of any of the following:—
 - Acids
 - Ammunition
 - Asbestos products
 - Bleaches
 - Calcium carbide
 - Celluloid or celluloid products
 - Cement and lime
 - Chemicals where there is risk of explosion or the escape of toxic gas
 - Disinfectants
 - Explosives (including fireworks)
 - Fertilisers
 - Flammable or combustible liquids by refining and including any products of flammable or combustible liquid and resins, waxes or pigments
 - Gas as defined in the Gas Act 1965–1985 but not including carburetted water gas, producer gas or water gas where those gases are immediately used by a gas engine
 - Lead products
 - Matches

-
- Organic compounds of mercury
 - Oxygen
 - Paint or varnish
 - Photographic film other than non-flammable film
 - Poisons listed in Schedule 5, Schedule 6 or Schedule 7 of the Poisons Regulations of 1973 as amended
 - Plastic
 - Soap (where there is an extraction of fat)
 - Solder
 - Tar
 - Vaccines bearing live virus
 - Zinc oxide by the continuation of a smelting process
 - (4) Purposes involving any process for or ancillary to an activity listed hereunder:—
 - Cleaning, descaling or treatment of metal or masonry or other articles by abrasive blasting other than by a wet process
 - Cleaning, descaling or treatment of ferrous metal in an acid bath
 - Conduct of a poultry dressing house (more than 500 birds per week)
 - Conduct of a pre-mix bitumen plant
 - Heat treatment in a kiln of minerals (including clay), timber, or the products of powder metallurgical processes
 - Hot dip galvanising, sherardizing, electroplating, electrostatic coating with metals or processes of a like nature
 - Incineration where the incinerator or incinerators used is or are capable of consuming in excess of one tonne of material per hour and where not in the use of a crematorium

- Preparation of foods for animal consumption by cooking, refining, purifying, extracting, smoking, curing, salting, dehydrating, conserving or like means
 - Preserving meats, fish or oysters other than by cold storage
 - Processing lead
 - Processing natural rubber
 - Processing or treatment of animal, fish or bird carcasses or parts of them by boiling, heating, washing, crushing, burial, tanning or scouring other than in the production of food, and including extraction of fat and the production of animal by-products including glue
 - Settling ponds for offensive liquids
 - Slaughtering of livestock at an abattoir, slaughter-house or knackery
 - Smelting, alloying or refining of metals, ores or semi-processed ores (including the reclamation of metal from scrap)
- (5) Storage of any of the following:—
- Flammable liquid and combustible liquid or either of them where—
 - (i) the quantity stored above ground is ordinarily more than
 - (a) 2,500 litres of class A flammable liquid;
 - (b) 5,000 litres of class B flammable liquid; or
 - (c) 15,000 litres of combustible liquid; or
 - (ii) the quantity of flammable liquid and combustible liquid stored below ground is ordinarily more than 385,000 litres, and the storage of that liquid is not in connection with the operation of a motor fuel pump;

- poisons by way of any one or more of those poisons listed in Appendix A to Schedule 6 of, and in Schedule 7 of, The Poisons Regulations of 1973 as amended where ordinarily the quantity of those poisons stored is in excess of two kilograms;
- poisons by way of any one or more of—
 - (i) the poisons listed in Schedule 5 of The Poisons Regulations 1973 as amended; and
 - (ii) such of the poisons listed in Schedule 6 of The Poisons Regulations 1973 as amended as are not also listed in Appendix A to that Schedule 6, where ordinarily the quantity of those poisons stored is in excess of 200 kilograms;
- ammunition other than ammunition the storage whereof is ancillary to the sale of the same pursuant to a license under The Explosives Regulations, 1955 as amended;
 - calcium carbide where ordinarily the quantity stored is in excess of 50 kilograms;
 - explosives (including fireworks) as defined in the Explosives Act 1985;
 - gas as defined in the Gas Act 1965 except where stored in a cylinder or cylinders being of not more than a total capacity of 46,000 kilograms water capacity;
 - chemicals, not listed elsewhere herein, where there is a risk of explosion or the escape of dangerous gas or fluids;
 - bones, hides, skins or tallow;

“helicopter landing site”—Any premises used or intended for use and which are authorised to be used as an aerodrome for the purposes of the landing and taking off of helicopters;

“high technology entertainment facility”—Any premises used or intended for use for the conduct of new types of high

technology entertainment products which include but are not limited to:—

- Imax theatres, Imax Show Scan with 360 degree theatre experience
- virtual reality facilities
- interactive entertainment experiences
- other forms of hi-tech themed attractions and entertainment centres.

The use may be integrated with retail facilities;

“home occupation”—Any occupation or profession carried on, in, under, or within the curtilage of, a dwelling unit and in the conduct of which:—

- (1) Either the registered proprietor of the dwelling house and/or members of his family are engaged or the legal tenant (subject to the written consent of the registered proprietor) and/or members of his family are engaged;
- (2) The floor area used (whether temporarily or permanently) does not exceed one third of the gross floor area of the dwelling house, up to a maximum of thirty (30) square metres except, and in accordance with, the conditions of an express permission of Council;
- (3) There is no interference with the amenity of the neighbourhood from the operation of machinery or electrical equipment, or from light, noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, grit, oil, dust, waste water, waste products, electrical interference, or otherwise;
- (4) A workshop may be established but no goods are publicly displayed on the premises;
- (5) No load is imposed on the public utility greater than that which is normally required by residential uses;
- (6) No sign other than a sign not exceeding zero point three (0.3) square metres in area, and bearing only the name, occupation and telephone number of the occupier is displayed;

- (7) No more than one commercial vehicle is used;
- (8) The level of traffic generated is compatible with residential uses, and adequate car parking is provided;
- (9) Members of the public visit the premises only between the hours of 8.30am to 5.00pm Monday to Friday and 8.30am to 12 noon Saturday (unless otherwise approved by Council);
- (10) That personal services or paramedical services are not permitted unless otherwise approved by Council;

“hospital”—Any premises used or intended for use for the medical or surgical treatment of sick, injured and infirm persons or the care and accommodation of sick, injured or infirm persons;

The term includes a home for infirm, incurable or convalescent persons, a hospital, a nursing home, or a sanatorium, and includes buildings and other structures associated with such uses, but does not include an institution, respite care centre or retirement community as defined in this clause;

“hotel”—Any premises where a general license is required under the provisions of the Liquor Act 1992 and which provides:—

- accommodation in guestrooms or suites
- bars and/or lounge bars for the sale of liquor to be consumed on the premises
- a restaurant or restaurants for private or public use

and which may also include:—

- function room or rooms
- nightclub or cabaret
- ancillary tourist services and shops
- ancillary recreation facilities both internal and external
- provision for the sale of liquor to be consumed off the premises

The premises may be subdivided by a building units plan;

“institution”—Any premises used or intended for use as:—

- (1) Premises for the care, treatment and/or accommodation of the mentally ill or mentally or physically handicapped;
- (2) Premises for the reform or training of persons committed thereto by a court;
- (3) Any other similar use.

The term includes buildings and other structures associated with such uses, but does not include a hospital, or a retirement community as defined in this clause;

“integrated housing:—Any premises comprising two or more dwelling units that:—

- (1) may or may not be in separate buildings;
- (2) are designed and developed in an integrated manner;
- (3) comply with the provisions of AMCORD, or AMCORD Urban as amended from time to time;

“kennels”—Any premises used or intended for use in connection with the keeping, boarding or breeding or training of more than two (2) dogs;

“kiosk”—Any premises used or intended for use for the sale of general merchandise including food where such a use does not exceed a total use area of fifty (50) square metres and is located preferably within a building or a public park and where the goods are sold to the general public. The term does not include a catering business or shop as defined in this clause;

“laundromat”—Any premises used or intended for use for the mechanical washing, drying and ironing of clothes and fabrics by any member of the public;

“licensed club”—Any premises to which the public does not resort which:

- (1) are used or intended for use by a club, lodge, friendly society or like organisation as a place for meetings of,

social intercourse among, or entertainment of, the members of the club, lodge, friendly society or like organisation, whether or not those premises are also used or intended for use in part as an office for the administration of the affairs of the club, lodge, friendly society or like organisation; and

- (2) are premises to which a club license of one of the prescribed types under the Liquor Act 1992 applies;

but does not include:—

- (a) any premises, place or part of any premises or place elsewhere specifically defined in this clause; or
- (b) any premises used for any purpose elsewhere specifically defined in this clause.

A use of premises for the purpose of a licensed club:—

- (3) includes the use of those premises for any activity authorised by a club license under the Liquor Act 1992;
- (4) does not include, save for the use of a caretaker's flat, any residential use;
- (5) does not include the use of these premises for an hotel or tavern as defined in this clause;

“light industry”—Any premises used or intended for use for any purpose included in Appendix III, provided that the term does not include a use contemplated by the term automotive and marine premises.

Appendix III

- (1) Purposes including or ancillary to any of the following:—
- Aerated water manufacturing
 - Agricultural supplies and machinery
 - Aluminium working
 - Animal food manufacturing
 - Asbestos products and cement products

Schedule 2

- Assembly works
- Bonded store
- Bottling
- Builders supply depot, workshop or yard
- Caravan manufacturing
- Carpenters' and joiners' workshop
- Clothing manufacturing
- Cold store
- Contractors' yard
- Cotton goods manufacturing
- Diecasting
- Electrical appliance manufacturing
- Electricians' depot, workshop or storeroom
- Electroplating
- Engineering works (light)
- Fibre-glass manufacturing
- Floor covering factory
- Foodstuff manufacturing
- Footgear manufacturing
- Fruit products manufacturing
- Furniture storage
- Gas appliances workshop
- Hardware manufacturing
- House removing depot
- Leathergoods manufacturing
- Light metal working
- Painters' depot
- Printing

- Recycling depot for collection, sorting and dispatch of household paper, metal, plastic & glass
- Second hand goods depot
- Shop fitting
- Signwriters' yard
- Silvering of glass
- Smallgoods manufacturing
- Stoneworking
- Timber yard (other than a mill)
- Tradesmen's workshop and yard
- Wholesale depot
- Woodworking
- Workshop
- (2) Purposes involving any process for or ancillary to the manufacture of any of the following:—
 - Artificial flowers
 - Blinds
 - Brooms, brushes, bristle or hair goods
 - Cameras
 - Clocks, watches
 - Coir goods
 - Cork goods
 - Drawing or writing goods
 - Felt goods
 - Fur goods
 - Leadlights
 - Musical instruments
 - Optical goods (other than spectacles or the like)
 - Paper goods, paper board goods

- Scientific instruments
- Sports equipment (other than ammunition, vehicles and water craft)
- String, string goods
- Textile bags
- Therapeutic and life support aids, appliances, garments and equipment
- Travelling bags
- Twine, twine goods
- Umbrellas
- Wiregoods (other than barbed wire, wire mesh, wire netting, wire rope and cable)

“lot feeding”—Any premises used or intended for use for the purpose of feeding stock in stalls, compounds or stock yards as distinct from range feeding. The term does not include a piggery as defined in this clause;

“market industry”—Any premises used or intended for use for the purposes of hand crafting, displaying and offering for sale goods of a similar type or nature and which does not cause any interference with the amenity of the Precinct by reason of the emission of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, wastewater, light (whether steady or flashing), waste products, grit, oil or otherwise or cause hazard likely in the opinion of the Council to cause undue disturbance and/or annoyance to persons or other property not connected with the industry. The term includes the ancillary use of such premises for:—

- (1) the storage of articles used in connection with or resulting from such activity;
- (2) the use of any amenity building provided at such premises;
- (3) any work of administration or accounting in connection with any such activity;

but does not include commercial premises, industry, kiosk, shop, or catering business as defined in this clause;

“medical centre”—Any premises used or intended for use for the medical or surgical care or treatment of persons not resident on the site. The term includes a first aid station, a maternal and child welfare clinic, a nursing service, an ambulance station, and premises used or intended for use by a chiropodist, chiropractor, dentist, medical practitioner, optometrist, natural therapist, pathologist, physiotherapist, or radiologist, in the practice of that profession. The term does not include a home occupation, a hospital, an institution, a retirement community or a surgery as defined in this clause;

“medium industry”—Any premises used or intended for use for any industry not specifically defined elsewhere in this clause;

“milk depot”—Any premises used or intended for use for the purpose of bulk handling of milk or dairy products for distribution to consumers or retailers. The term includes the loading and unloading of vehicles used in such distribution;

“minor tourist facility”—Any premises not exceeding a total area of one hundred and fifty (150) square metres used or intended for use primarily for the purpose of providing small scale, low-key recreation, entertainment or attractions for the general touring public. The term includes eating facilities for tourist as an ancillary use where the seating capacity does not exceed forty (40) persons. The term does not include a shop, kiosk, catering business, public recreation, or any use for residential purposes, as defined in this clause;

“motel”—Any premises used or designed for use for temporary accommodation of travellers and the vehicles used by them. The term includes ancillary premises used or designed for use in the provision of meals to such travellers and the general public but does not include a caravan park or a hotel as defined in this clause;

“night club”—Any premises used or intended for use as a cabaret or night club where entertainment is regularly provided to members of the public and where an on-premises license is required under the provisions of the Liquor Act

1992. The term includes the provision of music and dancing facilities for people attending the night club;

The term does not include a hotel, public recreation, catering business or tavern as defined in this clause;

“occasional market”—Any premises used or intended for use for a limited duration and from time to time for the purpose of displaying or selling readily portable home made or crafted articles to the public from stalls which are not fully enclosed within a building. The term does not include a shop as defined in this clause;

“office”—Any premises used or intended for use for business administration, carrying on of agencies, banks, secretarial services or services of a similar nature. The term includes administration in connection with an industry, business or other commercial use where not conducted on the same site. The term does not include a professional office as defined in this clause;

“park”—Means land:—

- (1) to which the public has rights of access;
- (2) used or intended for use for open air recreation, and
- (3) which:—
 - (a) has been ornamentally laid out or prepared with paths;
 - (b) has been prepared or is maintained as a grassed area or buffer either with or without trees or shrubbery.

Use of the premises for the purpose of a park includes:—

- (4) the use of any facilities provided on land being a park for the enjoyment or convenience of the public by way of:—
 - (a) bandstands
 - (b) picnic places, places for enjoying views, routes for nature study, parking areas, bikeways and footways;

- (c) information and display areas for the promotion of such land;
- (d) shelters and other public conveniences;
- (e) children's play areas;
- (f) temporary light refreshment booths;
- (5) the use of any waterfront area for a landing facility;
- (6) open-air recreation within the park or on part of any river, creek, stream or other body of water abutting or within the park;
- (7) any infrequent use of such land for a sport or form of athletics conducted on an informal basis;
- (8) structures, surfacing or equipment provided for informal sport or physical exercise;
- (9) sculptures, fountains, ponds or other decorative devices; and
- (10) maintenance sheds and depots.

The term does not include private recreation or public recreation as defined in this clause;

“passenger terminal”—Any premises used or intended for use for the assembly and dispersal of passengers and their baggage prior to or subsequent to their transportation irrespective of the mode of transport and includes waiting rooms associated therewith;

“piggery”—Any premises used or intended for use for the keeping, depasturing, feeding, watering or breeding of pigs;

“place of worship”—Any premises used or intended for use primarily for the public religious activity of a religious organisation, community or association. The term does not include an educational establishment, or an institution, as defined in this clause, but does include ancillary use of part of the premises for a columbarium;

“private recreation”—Any premises within the curtilage of a dwelling house, duplex dwelling or accommodation unit used or intended for use by the occupants for recreation provided

that, in the opinion of Council, the use is not detrimental to the amenity of the area because of noise, traffic, lights, or anything whatsoever. The term does not include premises used by clubs or teams, or premises open to the public with or without charge, or domestic swimming pools, but includes tennis courts or half courts;

“professional office”—Any premises used or intended for use for the provision of professional services or the giving of professional advice by an accountant, architect, engineer, management consultant, property consultant, legal practitioner, surveyor, taxation consultant, town planner, valuer, or other professional practitioner. The term does not include a medical centre or office as defined in this clause;

“public recreation”—Any premises used or intended for use for any activity, purpose, pursuit, entertainment or recreation which involves the active participation or entertainment of the general public for the purpose of exercise or enjoyment. The term includes but is not limited to those activities, purposes, pursuits, entertainments or recreations included in Appendix IV:—

Appendix IV

- Amusement parlour or centre unless otherwise defined
- Archery
- Boating
- Bowling
- Circus
- Dance hall
- Equestrian centre
- Exhibition
- Fair
- Golf
- Gymnasium
- Hall or meeting hall

- Indoor cricket centre
- Model car, boat or aircraft operations
- Playing field
- Rowing
- Skating rink
- Sporting arena or track
- Stadium
- Swimming pool
- Tennis or squash courts
- Unlicensed club
- Youth centre

The term includes, where approved by Council, the erection of clubhouses or ancillary buildings, and the occasional use of the premises for fairs, exhibitions and similar activities if approved by Council. The term does not include a park or private recreation as defined in this clause;

“private utility”—Any premises used or intended for use for any of the following undertakings:—

- (1) A railway, tramway, road transport, air transport, wharf, harbour, river or other undertaking offering transportation services to the public;
- (2) The supply of water, hydraulic power, electricity or gas, or the provision of telephone, postal, sewerage or drainage services;
- (3) The provision or maintenance of roads or traffic controls.

The term includes maintenance or storage depots used in connection therewith;

“public utility”—Any premises used or intended for use for any of the following undertakings, by a Government, Semi-Government, Government owned Corporation, Statutory Authority, or Local Authority:—

- (1) A railway, tramway, road transport, air transport, wharf, harbour, river or other undertaking offering transportation services to the public;
- (2) The supply of water, hydraulic power, electricity or gas, or the provision of telephone, postal, sewerage or drainage services;
- (3) The provision or maintenance of roads or traffic controls.

The term includes maintenance or storage depots used in connection therewith;

“radio and television premises”—Any premises used or intended for use for making, creating or arranging audio or visual programmes for transmission as authorised by the Broadcasting and Television Act 1942 and may include use as an office for the associated business of the premises;

“relocatable home park”—Any premises used or intended for use for the parking or location of relocatable homes for the purpose of providing residential accommodation. The term includes ancillary amenities buildings, a kiosk and recreational facilities where maintained for the use of patrons of the relocatable home park. The term does not include a caravan park as defined in this clause;

“respite care centre”—Any premises used or intended for use for the occasional or temporary accommodation and care of elderly or infirm persons, physically or intellectually handicapped persons or persons suffering from a physical or mental illness or those who care for them;

The term includes ancillary dining and recreation facilities, administrative offices, laundries, kitchens, residential accommodation for persons associated with the development and other ancillary activities which are complementary to and compatible with the development.

The term does not include a child care centre, hospital, institution or retirement community as defined in this clause;

“retail nursery”—Any premises used or intended for use for the sale to members of the public of plants, shrubs, trees, pots, gardening equipment and accessories. The term includes the

sale of gardening materials where those materials are ancillary to the sale of plants and are packaged for sale in quantities not exceeding 50 kilograms.

The term does not include bulk garden supplies, rural industry, shop or showroom as defined in this clause;

“retirement community”—Any premises which are used or are intended for use as permanent residential accommodation for persons aged fifty years or over and which consist of a grouping of dwelling units and/or serviced hostel units together with ancillary facilities provided for exclusive use by residents or staff of the community and which may include staff accommodation, chapels, medical consulting rooms, meeting rooms, recreational facilities, therapy rooms, and kiosk facilities;

“rural industry”—Any premises used or intended for use for the purpose of any industry (not being a heavy industry) handling, treating, processing or packing primary products produced on the land on which it is situated. The term includes sawmilling when carried out in a rural area, a wholesale nursery, a turf farm, servicing of plant or equipment used for agricultural, rural industry or forestry purposes; but does not include a shop or stall as defined in this clause nor retail sale of any products;

“salvage yard”—Any premises used or intended for use in the collection storage, salvaging, abandonment, dismantling or sale of scrap metals, scrap timber, other scrap materials, scrap goods, motor vehicles or machinery;

“service industry”—Any premises used or intended for use for the purpose of conducting any industry included in but not limited to Appendix V provided that it complies with the criteria of Schedule A;

Appendix V

- Bonded store where associated with a duty - free shop
- Boot and shoe repairing
- Bread, cake and pastry establishment
- Business machine maintenance

Schedule 2

- Cleaning contractor's establishment
- Clock, watch and jewellery manufacturing and repairing
- Computer services
- Cycle repairing
- Dancing teaching
- Display Centre
- Dressmaking, tailoring and millinery
- Dry cleaning and dyeing
- Duplicating and copying service
- Electrical goods maintenance
- Engraving
- Equipment hire
- Film developing and printing
- Furniture repairing
- Glass Cutting
- Hairdressing
- Laundering
- Lawnmower maintenance
- Locksmith's establishment
- Mail delivery and sorting
- Mini storage depot
- Mobile phone installation and repairs
- Musical instrument maintenance
- Parcel delivery service depot
- Photographic studio
- Printing or photocopying or bookbinding
- Research & development industries
- Repair shop

- Screen printing
- Sculpture
- Security services
- Signwriting
- Sportsgoods maintenance
- Taxicab depot
- Tool repairing and sharpening
- Upholstering
- Watchmaker’s establishment;

Schedule A

- (1) resulting noise levels must not detrimentally affect the amenity of the areas;
- (2) dust, fumes, odours or any other emission shall be contained within the subject premises at all times;
- (3) the appearance of the development must not detrimentally affect the amenity of the area, whether by reason of the scale of the buildings, the design and materials used in the buildings, the storage of goods, vehicles or any other material outdoors, or any other thing, taking into account the location of any buildings and the topography and other characteristics of the site and any landscaping existing or proposed;
- (4) any traffic generated by the activities on the premises must not cause or aggravate a traffic problem, nor detrimentally affect the amenity of the area;

“service station”—Any premises used or intended for use for the fuelling of motor vehicles involving the sale by retail of petrol or automotive distillate or any derivative capable of use in internal combustion engines whether or not the premises are also used for one or more of the following purposes:—

- (1) The sale by retail of—
 - (a) lubricating oils and greases;

- (b) batteries and tyres;
 - (c) accessories and other products associated with motor vehicles;
 - (d) power and lighting kerosene;
 - (e) mower fuel;
 - (f) maps, tobacco, confectionery, patent medicines, softdrinks, milk products, bread, newspapers and periodicals where any such sale is to a person travelling by motor vehicle;
- (2) The carrying out of:—
- (a) the fitting, removal, and exchange of tyres;
 - (b) the repairing of tubes;
 - (c) the supply of air;
 - (d) the charging or replacement of batteries;
 - (e) the lubrication and greasing of motor vehicles;
 - (f) the cleaning, adjustment and replacement of sparkplugs;
 - (g) the adjustment, cleaning or replacement of filters or carburettors or fuel injection systems;
 - (h) the reception and return of tyres deposited for repair on other premises;
 - (i) running repairs of a minor nature and of a type which do not normally immobilise a vehicle for a period longer than two hours;
 - (j) the washing, cleaning and polishing of vehicles;
- (3) The rendering of minor services incidental to any of the foregoing.

The term does not include a catering business, an industry, a salvage yard, a passenger terminal, a shop, or a transport terminal, as defined in this clause;

“service station combination”—Any premises used or intended for use for:—

- (1) a service station in combination with a specified use; or
- (2) a service station, a specified use and a use associated with the service station or specified use in relation to the premises;

whether or not the premises are used for any other purpose.

The total use area used for the specified use must not exceed 175m².

In this definition, “specified use” means any one of the following uses:—

- (a) general store;
- (b) local store;
- (c) shop;
- (d) store.

“shop”—Any premises used or intended for use for the purpose of displaying or offering of goods for sale by retail. The term includes the ancillary storage of goods on the same premises or a food barn or administration activities carried out in connection with the use. The term also includes, where ancillary to a major shopping development, the fitting of motor vehicles accessories and parts or the rendering of minor services or minor running repairs to motor vehicles. The term does not include commercial premises, a general store, a hotel, an industry, a service station, a showroom, a stall or a warehouse as defined in this clause;

“showroom”—Any premises used or intended for use for the displaying and/or offering for sale by retail or otherwise goods of a bulky character where such use has a total use area of at least three hundred (300) square metres. The term does not include a shop;

“special use”—Any premises used or intended for use for:—

- (1) Federal Government purposes;
- (2) State Government purposes;

- (3) Local Government purposes including land predominantly required for buffering or drainage purposes;
- (4) Semi-Government, statutory authority and Government Owned Corporation purposes;
- (5) Any other public purpose not specifically included in any other definition contained in the Part. The term does not include a child care centre, institution, park or public utilities as defined in this clause, however to remove all doubt, the term does include the use of premises for the purpose of police, fire and ambulance stations and a State Emergency Service Depot and uses associated therewith or ancillary thereto;

“stable”—Any building or other structure, including a shed, loose box, stall, roofed yard, or training track used or intended for use for the stabling, keeping, feeding, watering, grooming, shoeing or veterinary treatment of horses;

“stall”—Any premises used or intended for use for the display or sale of agricultural or horticultural produce grown on the site on which the stall is located. The term does not include a shop, bulk garden supplies or general store as defined in this clause or the sale of garden hardware or implements;

“surgery”—Any premises forming part of a dwelling house wherein the owner and occupier of the dwelling house carries on the practice of a medical general practitioner, dental surgeon, chiropractor, natural therapist, physiotherapist or other similar medical profession. The term does not include medical centre as defined in this clause;

“tavern”—Any premises where a general license is required under the provisions of the Liquor Act 1992 and which provides:

- bars and/or lounge bars for the sale of liquor to be consumed on the premises
- restaurant or restaurants for public use
- for the sale of liquor to be consumed off the premises

and which may also include:

- function room or rooms
- nightclub or cabaret
- ancillary recreation facilities
- use of part of the premises as a Totalisator Administration Board agency
- a mini brewery where ancillary to a tavern;

“temporary quarry”—Any premises used or intended for use for the purpose of extraction, storage, loading, carting or treatment of sand, gravel, rock, stone, soil, or similar substances for a period not exceeding four (4) years from the date of the Council’s consent or a lesser period as determined by Council. The term does not include an extractive industry as defined in this clause for the removal or placement of sand, gravel, rock, stone, soil or similar substance during the course of development of land;

“tourist facility”—Any premises used or intended for use primarily for the purpose of providing recreation, entertainment or attractions for the general touring public. The term includes accommodation or eating facilities for tourists as an ancillary use;

“transport terminal”—Any premises used or intended for use for the purpose of an airline goods terminal, bus depot, road transport goods terminal, rail goods terminal or a terminal for water-borne goods. The term does not include a passenger terminal, but includes a repository for temporary storage of goods before re-shipment, and includes a terminal used solely for the garaging and basic maintenance of fleet vehicles engaged in the transport of goods;

“veterinary clinic”—Any premises used or intended for use in which a veterinary surgeon or veterinarian treats the minor ailments of domestic animal and household pet out-patients provided that no patients remain on the premises overnight, except for emergency cases;

“veterinary hospital”—Any premises used or intended for use for or in connection with the treatment of sick or injured animals where such animals are accommodated overnight or for longer periods in premises constructed of sound proof

materials. The term does not include animal husbandry as defined in this clause;

“warehouse”—Any premises used or intended for use for the storage of goods, merchandise or materials in large quantities pending their sale, or distribution, to persons who purchase for the purpose of resale only. The term does not include a shop, showroom as defined in this clause, nor a food barn;

“waterfront activity”—Any premises used or intended for use for the purpose of conducting any activity included in and limited to Appendix VI;

Appendix VI

- Chandlery involving the sale of boating equipment and accessories not of a bulky character.
- Vessel refuelling facility having maximum storage capacities for 2,000 litres of petrol, 2,000 litres of distillate, 2,000 kgs of liquid petroleum gas and 500 litres of lubricant.
- Naval architect.
- Marina having a maximum of 6 berths.
- Berthing facility.
- Shop for the sale of general requirements for boat owners and for water activities, e.g. ice, bait, food and drinks.

The term does not include uses usually associated with boat building or repair or marine engineering, or the provision of goods or services of an industrial character;

“waterfront industry”—Any premises used or intended for use for the purpose of conducting any industry included in but not limited to Appendix VI which requires direct access to a river, creek, stream, or other body of water as an essential part of its operation;

Appendix VII

- Boat building, repairing or storage
- Fish and seafood processing or storage

- Fishing gear manufacturing
- Marina for more than 6 berths
- Marine engineering
- Slipway
- Warehouse associated with waterfront industry
- Wharf and dock.

“welfare premises”—Any premises used or intended for use for:—

- (1) social welfare purposes;
- (2) provision of a counselling or advisory service;
- (3) of a like character to those referred to in sub-paragraphs (1) and (2);
- (4) provision of some form of education or instruction to some section of the public,

the term does not include commercial purposes, or an educational establishment, licensed club or institution.”

2.1.18 By deleting Clause 196 of the Second Schedule and substituting the following Clause:—

“196 The Council must from premises within the Core or the Inner Frame continuously provide, maintain and operate at a level of service not less than that normally provided in the Shire and at its own expense:—

196.1 on and from the 22nd of August 1996 a public library; and

196.2 no later than the 31st December 1997 a community centre (including provision of meeting rooms); and

196.3 if the Council gives Robina a notice under Clause 87 a community centre on the land referred to in that Clause.”

- 2.1.19 By removing from the Plans, Tables, Drawings and Documents held at the Public Office of the Council the Plans/Tables shown in column 1 and substituting in their respective place the Plans/Tables in column 2 opposite the Plans/Tables deleted:—

Column 1

Column 2

Plan No. 2/2/2 to be replaced by	Plan No. 2/2/2A
Plan No. 2/2/4 to be replaced by	Plan No. 2/2/3A
Plan No. 2/3/1 to be replaced by	Plan No. 2/3/1A
Table No. 2/3/2 to be replaced by	Table No. 2/3/2A
Plan No. 2/3/3 to be replaced by	Plan No. 2/3/3A
Plan No. 2/4/1 to be replaced by	Plan No. 2/4/1A
Table No. 2/4/3 to be replaced by	Table No. 2/4/3A
Plan No. 2/5/1 to be replaced by	Plan No. 2/5/1A
Table No. 2/5/2 to be replaced by	Table No. 2/5/2A
Plan No. 2/6/1 to be replaced by	Plan No. 2/6/1A
Plan No. 2/6/7 to be replaced by	Plan No. 2/6/1A

and by deleting the words and figures shown in column 1 wherever they appear in the Robina Central Planning Agreement and substituting in their respective place the words and figures in column 2 opposite the words and figures deleted.

- 2.1.20 By including in the Plans, Tables, Drawings and Documents to be held at the Public Office of the Council Documents 1/1/5 to 1/1/20 (inclusive), Plan 2/2/4A and Plan 2/2/5.

- 2.1.21 By re-numbering Plan 2/2/3 held at the Public Office of the Council Plan 2/2/6 and deleting the words and figures “Plan

2/2/3” wherever they appear in the Robina Central Planning Agreement and substituting the words and figures “Plan 2/2/6”.

- 3 A reference to a Plan, Table, Drawing or Document identified by a particular number in this Amendment Agreement is a reference to a Plan, Table, Drawing or Document bearing that number held at the public office of the Council certified under seal by both the Council and Robina and Robina Properties as being the Plan, Table, Drawing or Document of that number referred to in this Amendment Agreement.
- 4 For the avoidance of doubt, the parties acknowledge and agree that the Amendment Agreement executed by the parties on the 21st March 1996 has never had effect.
- 5 Clause 99 of the Robina Central Planning Agreement applies to this Amendment Agreement and is incorporated by reference in this Amendment Agreement.

IN WITNESS WHEREOF the parties have executed this Amendment Agreement on the day and year first hereinbefore written.

The Common Seal of ROBINA)
LAND CORPORATION PTY LTD)
A.C.N. 010 159 387 was)
hereunto affixed in)
accordance with its)
Memorandum and Articles)
of Association in the)
presence of)
a Director)
and)
the Secretary and in the)
presence of:)

Schedule 2

Witness:

The Common Seal of ROBINA)
PROPERTIES PTY LTD A.C.N.)
010 147 038 was hereunto)
affixed in accordance)
with its Memorandum and)
Articles of Association)
in the presence of)
a Director)
and)
the Secretary and in the)
presence of:)

Witness

The Corporate Seal of)
COUNCIL OF THE CITY OF)
GOLD COAST was hereunto)
affixed in the presence)
of)
the Mayor and)
the)
Chief Executive Officer and in)
the presence of:)

Witness

*Solicitors for Robina Land
Corporation Pty Ltd and Robina
Properties Pty Ltd:—*

**Hill & Taylor
Solicitors & Attorneys**
Level 2,
Waterfront Place,
1 Eagle Street,
Brisbane.

Mr. J.D. Taylor

*Solicitors for Council of
the City of Gold Coast:—*

**King & Company
Solicitors**
Level 7,
Quay Central,
95 North Quay,
Brisbane.

Mr. S.P. Fynes-Clinton

Schedule 3 Robina Central Second Amending Agreement

section 2, definition *second amending agreement*

THIS AGREEMENT is made the day of 2003.

BETWEEN:

ROBINA LAND CORPORATION PTY LTD ACN 010 159 387 a company incorporated in the State of Queensland and having its registered office at Suite 1, Riverwalk One, 140 Robina Town Centre Drive, Robina Town Centre, Robina in the State of Queensland (in this Agreement called "Robina")

AND:

ROBINA PROPERTIES PTY LTD ACN 010 147 038 a company incorporated in the State of Queensland and having its registered office at Suite 1, Riverwalk One, 140 Robina Town Centre Drive, Robina Town Centre, Robina in the State of Queensland (in this Agreement called "Robina Properties")

AND

COUNCIL OF THE CITY OF GOLD COAST of Nerang-Southport Road, Nerang in the State of Queensland (in this Agreement called "the Council")

RECITALS

- 1.1 Robina, Robina Properties and the Council (formerly the Albert Shire Council) entered into the Robina Central Planning Agreement on 18 September 1992 ("the Planning Agreement").

- 1.2 The Planning Agreement was given the force of law by the Local Government (Robina Town Centre Planning Agreement) Act 1992.
 - 1.3 The Local Government (Robina Town Centre Planning Agreement) Act 1992 was amended by the Local Government (Robina Town Centre Planning Agreement) Amendment Act 1996.
 - 1.4 The Local Government (Robina Central Planning Agreement) Act 1992 was amended by the Local Government (Robina Central Planning Agreement) Amendment Act 2003.
 - 1.5 The Local Government (Robina Town Centre Planning Agreement) Act 1992 provided for the Planning Agreement to be amended by a further agreement.
 - 1.6 The Planning Agreement was amended by the Robina Central Planning Agreement Amendment Agreement made between the Parties on 27 May 1996 (“the First Amending Agreement”).
 - 1.7 Robina, Robina Properties and the Council have agreed to further amend the Planning Agreement as provided by this Second Amending Agreement and have undertaken the lawful procedures and actions necessary to seek approval of the Second Amending Agreement.
 - 1.8 Robina, Robina Properties and the Council will execute this Second Amending Agreement after the commencement of the Local Government (Robina Central Planning Agreement) Amendment Act 2003.
2. The Parties now enter into this Agreement and undertake and agree as follows:-

- 2.1 The Parties agree that the Planning Agreement be amended as follows:-

Clause 2

Insert:-

- 2.15 During the course of development of the combined site some roads have been closed in conjunction with the opening of new roads. The areas of closed road have been acquired by Robina and amalgamated with adjoining allotments. Council, Robina and Robina Properties have agreed that the land described in Column 1 of Part 11 of the First Schedule be subject to this agreement and be excluded from the zone in Column 2 of Part 11 of the First Schedule and be included in the zone shown in Column 3 of Part 11 of the First Schedule.
- 2.16 Two areas of land adjoining the combined site are to be developed with that land and it is appropriate for them to be included in the combined site. Council, Robina and Robina Properties have agreed that the land described in Column 1 of Part 12 of the First Schedule be subject to this agreement and be excluded from the zone in Column 2 of Part 12 of the First Schedule and be included in the zone shown in Column 3 of Part 12 of the First Schedule.
- 2.17 During the course of development of the combined site the land in the Special Facilities (Robina Town Centre Core) Zone was physically divided by Robina Town Centre Drive leaving approximately 1.611 hectares on the western side of Robina Town Centre Drive. Council, Robina and Robina Properties have agreed the land described in Column 1 of Part 13 of the First Schedule be excluded from the zone in Column 2 of Part 13 of the First Schedule and be included in the zone shown in Column 3 of Part 13 of the First Schedule.

2.18 The Northern Frame Land was intended to be developed for golf course, hotel and residential uses. Studies undertaken by Council and Robina show that parts of the low lying land are more suited to environmentally sensitive uses and the balance should be developed for residential uses and commercial uses consistent with uses in the adjoining land in the Special Business Zone. Council, Robina and Robina Properties have agreed that the land described in Column 1 of Part 14 of the First Schedule be excluded from the zone in Column 2 of Part 14 of the First Schedule and be included in the zone shown in Column 3 of Part 14 of the First Schedule.

Clause 8

Delete clause 8.2.

Clause 26

Insert:-

Upon application to Council for its consent under this clause, Council may impose as a condition of its consent conditions of subdivision, which it might otherwise lawfully have imposed on the application for subdivision creating the management lot, but for its being a management lot.

Clause 99

(a) Definition of “Combined Site”:-

Insert the words “11 and 12” after the number “10” and delete “Part 11” and insert “Part 15”.

(b) definition “Detailed Development approval”:-

Delete the definition.

(c) Definition “DOT”:-

Delete the definition.

Insert:-

“DMR” means the Department of Main Roads

(d) Definition “Precinct”.

Delete definition insert new definition “Precinct” means part of an area shown on the Precinct Plan 2/2/5B or any amended Precinct Plan.

(e) Definition “Robina Town Centre Core or Core”:-

Add after the words “First Schedule” the words “other than the land described in Part 13 of the First Schedule.

Throughout the Agreement delete “DOT” and insert “DMR”

FIRST SCHEDULE

Delete all references to the “Northern Flood Plain” and replace them with “Northern Frame”.

First Schedule Part 11

Part 11 is to be renumbered Part 15.

First Schedule Parts 11, 12, 13 and 14

Insert new parts 11, 12, 13 and 14 as follows:-

FIRST SCHEDULE (continued)**PART 11****ADJUSTMENT LAND**

Column 1 Description of Land	Column 2 Existing Zoning	Column 3 New Zoning
That part of lot 771 on RP 909431 identified as Parcel A on Brown & Pluthero Drawing No. 12163D, and more particularly described in the metes and bounds description both of which are Document 1/1/21	Unzoned	Special Business
That part of Lot 861 on CP 900093 identified as Parcel B on Brown & Pluthero Drawing No 12164D, and more particularly described in the metes and bounds description both of which are Document 1/1/22	Unzoned	Special Business
That part of Lavers Road identified as "Road to be closed" on Brown & Pluthero Drawing No 12167D, and more particularly described in the metes and bounds description both of which are Document 1/1/23	Unzoned	Special Business

PART 12**ADJUSTMENT LAND**

Column 1 Description of Land	Column 2 Existing Zoning	Column 3 New Zoning
That part of Lot 133 on RP 886529 identified as Parcel C on Brown & Pluthero Drawing No 12165D, and more particularly described in the metes and bounds description both of which are Document 1/1/24	Future Urban	Special Business
That part of Lots 134 and 144 on RP 886531 identified as Parcel D on Brown & Pluthero Drawing No. 12166D, and more particularly described in the metes and bounds description both of which are Document 1/1/25	Future Urban	Special Business

PART 13**ADJUSTMENT LAND**

Column 1 Description of Land	Column 2 Existing Zoning	Column 3 New Zoning
That part of Lot 156 on RP 892177 and that part of Lots 154 and 986 on SP 100234 identified as Parcel F on Brown & Pluthero Drawing No. 12168D, and more particularly described in the metes and bounds description both of which are Document 1/1/26	Special Facilities (Robina Town Centre Core)	Special Business

PART 14

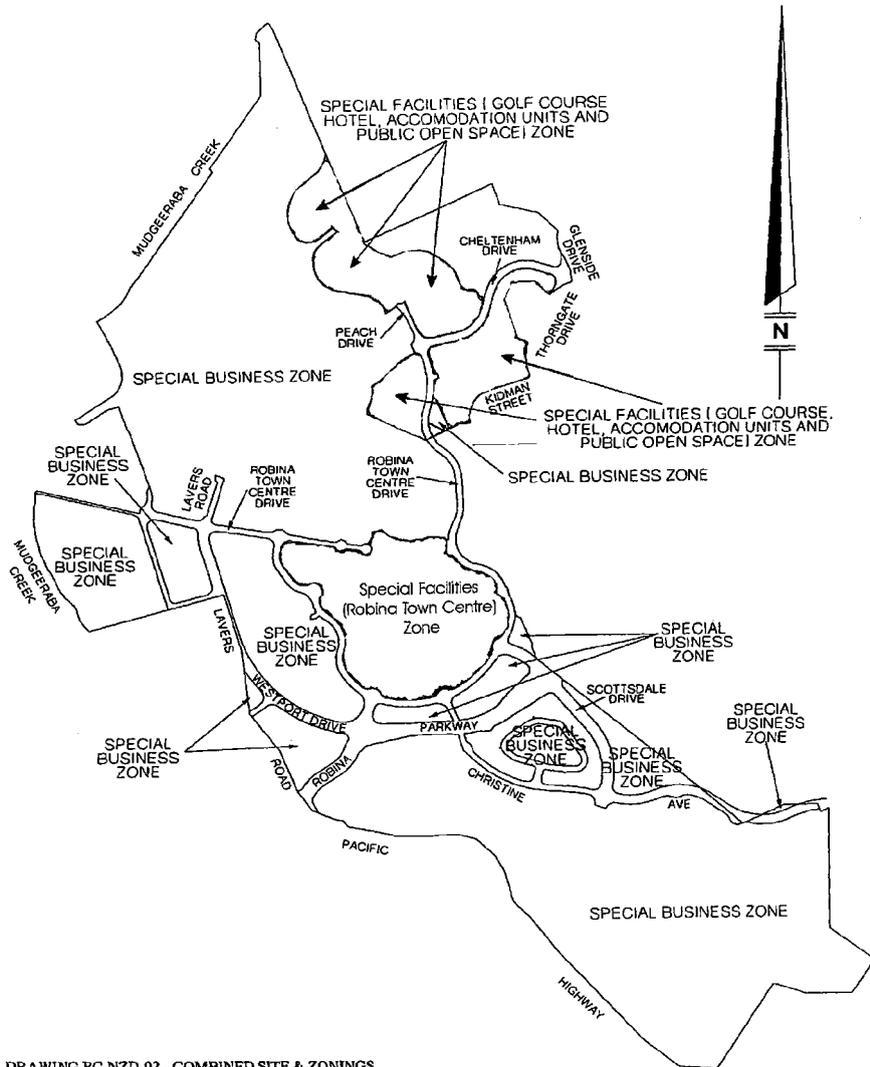
ADJUSTMENT LAND

Column 1 Description of Land	Column 2 Existing Zoning	Column 3 New Zoning
That part of Lot 9 on RP900112, part of Lots 11 and 869 on RP 892163, part of Lot 894 on RP892161, part of Lot 731 on SP100219 and part of Lot 752 on SP100218 identified as Parcel G on Brown & Pluthero Drawing No 12169C, and more particularly described in the metes and bounds description both of which are Document 1/1/27 and Lot 88 on RP 900115 and Lot 51 on RP 909432 identified as Parcel H on Brown & Pluthero Drawing No 12170C and more particularly described in the metes and bounds description both of which are Document 1/1/28.	Special Facilities (Golf Course, Hotel, Accommodation Units and Public Open Space)	Special Business

First Schedule Part 15

Delete Drawing RC-NZD-01 Combined Site and Zonings

Insert -



SECOND SCHEDULE

Delete all references to “DOT” and insert “DMR”.

Delete all references to the “Northern Flood Plain” and replace them with “Northern Frame”.

Second Schedule Clause 3.4

Delete the words “and 11” and insert the word “and” after figure 9.

Second Schedule Clause 11

Delete the word “proposed” in paragraphs 2 and 3.

Second Schedule Clause 14

Delete Clause 14.

Insert -

“14 Robina may, from time to time, with the approval of Council amend the structure plan, the master plan, the open space and pathway network plan, Table 2/2/7 and the precinct plans to reflect change, more detailed planning and market expectations. Robina must consult with Council on a proposed revision of a plan and must provide any relevant information in support of its proposed revision as may reasonably be required by Council. Robina must to the extent possible, take into account Council’s reasonable and relevant requirements. When Robina amends a plan it must lodge the revised plan with Council which plan will replace and be substituted for the previous plan. The provisions of Section 10 of the RCPA do not apply to an amendment under this clause.”

Second Schedule Clause 15

Delete the last paragraph

Insert:

“There is a physical constraint on the ultimate development in that the infrastructure for which this

agreement provides is designed to service an equivalent population of 23,000 persons (more or less) residing or working within Robina Central.

Following examination of the Regional Framework for Growth Management 2000 and the Activity Centre Strategy (Gold Coast City Council, 1998) Council has identified that Robina Central must provide approximately 12,500 to 15,000 employment opportunities when the Gold Coast reaches a population of 700,000. This is a significantly smaller number in equivalent person terms than that provided for in the original of this agreement in 1992 (previously 18,000). The area of land needed to provide those employment opportunities including that already developed or included in approved Plans of Development at June 1999 is 94.67 hectares which is some 54 hectares less than the land area originally set aside for commercial purposes and which had it not been so set aside would otherwise have been developed for residential purposes. The planning for the ultimate development (and for each area and precinct) must take these constraints into account.

Development which will generate an equivalent population significantly exceeding 23,000 persons is not permitted”.

Second Schedule Clause 15A

Insert:-

“15A Primary Concepts and Intentions - Commercial Land

Consistent with the intent for Robina Central, the Regional Framework for Growth Management and the Gold Coast City Council Activity Centre Strategy adopted by Council on 17 April 1998, Robina Central as a Key Regional Centre is intended to provide approximately 12,500 to 15,000 employment opportunities when the Gold Coast reaches its

maximum projected population of 700,000 of which approximately 3,500 have been provided (June 1999).

Planning for Robina Central must therefore ensure there is sufficient land and infrastructure capacity reserved for those employment opportunities remaining to be provided.

Table 2/2/7 identifies the land requirements to accommodate those employment opportunities and in an indicative way a likely distribution of land areas on a Precinct by Precinct basis.

Robina must when seeking Council approval of a Plan of Development demonstrate the manner in which the indicative land allocation for that Precinct as shown in Table 2/2/7 (or as varied) will be provided. Plans of Development which relate to land fronting the Key Pedestrian Way shown in Plan 2/6/1C must also demonstrate compliance with Part 1 of Table 2/2/8. Plans of Development for land in the Gateway East, Gateway West and Gateway Heights Precincts must demonstrate compliance with Part 2 of Table 2/2/8. If Council is not satisfied a Plan of Development makes provision for the minimum allocations of land as set out in Table 2/2/7 as varied or that the balance of land in the Precinct will be sufficient to satisfy the minimum allocations (or the allocation remaining to be provided) or where relevant, compliance with Table 2/2/8 it may refuse to approve the Plan of Development.

It is acknowledged the minimum land areas in Table 2/2/7 are indicative which allows flexibility as to where those land areas are ultimately provided. Accordingly, Robina may vary the area of land allocated to a Precinct in Table 2/2/7 by allocating that area or part of it to another Precinct in Robina Central provided the total area of land allocated in a column is not thereby reduced.

Second Schedule Clause 16

Delete last sentence.

Second Schedule Clause 17.1

Delete “studio apartments”.

Insert “accommodation premises above level 2. However the total extent of residential development in the Core must not exceed 300 Equivalent Persons.”

Second Schedule Clause 17.3

In line 4 insert “low to” before the word “medium”.

Second Schedule Clause 17.4

Delete clause 17.4.

Insert:-

“17.4 Covering the predominantly low lying land between the Inner Frame and Mudgeeraba Creek, the Northern Frame is intended as an area for residential development in a range of densities and building form built around the intensive open space and waterways which dominate this area. Some commercial uses will also be appropriate either in a mixed form with Residential or as stand alone development. A dominant feature is expected to be an eco-tourist type hotel resort accommodation built in a wooded wetland environment. Extensive areas adjacent to Mudgeeraba Creek are to be developed by Council for open space, playing fields and sporting activities.”

Second Schedule Clause 17.5

Insert:-

“17.5 Retail Significance of the Core

Although Shop Uses are intended for Areas outside the Core, it is not intended that these Shop Uses detract from the planning intent for the Core as described in clause 17.1 or the intent for development stated in clause 18B.1, nor from the intention for the Core to contain the highest order of shopping and accordingly the planning intent for each of the Areas other than the Core and the

intent for development of each precinct outside the Core shall be read so as not to permit in those Areas:

- (a) Highest order shopping such as department stores eg David Jones, Myer;
- (b) Large (in excess of 6,000 square metres) discount department stores eg K Mart, Target;
- (c) Single category shop uses eg Bunnings Hardware, which do not comply with the limitations and requirements stated in the Table;
- (d) Supermarkets which do not comply with the limitations and requirements stated in the Table;
- (e) Other Shops (other than Single Category Retail Shops, Convenience Shops and Supermarkets) which do not comply with the limitations and requirements both as stated in the Table;
- (f) Convenience Shops which do not comply with the limitations and requirements as stated in the Table.

Table

Single Category Shop Uses

A maximum of 25,000 square metres in all Areas other than the Core;

A minimum of 3,000 square metres for any Single Category Shop;

Shall not be located in the Rail Interchange, West Lake, Peninsula or Riverwalk Precincts;

Supermarkets

A maximum of 2,000 square metres in any one development;

A maximum of 4,000 square metres in all Areas other than the Core;

Shall not be in one development with other shops in excess of 2,000 square metres gross floor area;

Other Shops

A maximum of 15,000 square metres in all Areas other than the Core comprising a maximum of 10,000 square metres in precincts Gateway West, Parkway Services, Rail Interchange, West Lake, Peninsula or Riverwalk and a maximum of 5,000 square metres in all areas other than the Core and the above precincts;

A maximum of 600 square metres gross floor area in one development in association with a single category shop;

A maximum of 2,000 square metres gross floor area in one development in association with a supermarket

Convenience Shops

A maximum of 2,400 square metres in all areas other than the Core.

A maximum of 600 square metres in any one development”.

Second Schedule Clause 18.2

Insert “the Northern Frame” after the phrase “the Inner Frame”.

Second Schedule Clause 18.3

Delete Clause 18.3.

Second Schedule Clause 18A

Delete.

Insert:-

“18A The Core and Frame Areas have been divided into Precincts accommodating ranges of dominant land uses considered appropriate for those Precincts having regard to the intents for the Area in which the Precincts are located.

The Precincts into which each Core and Frame have so far been divided are shown on the Precinct

Plan 2/2/5B. Additional Precincts may be created as more detailed planning of the Core and Frame Areas is advanced.

A number of Precincts, including the Rail Interchange, Medical and Gateway West, are presently constrained by existing roads which roads are not included in the relevant Precincts on the Precinct plan. However, as a consequence of the acquisition by Queensland Rail of land for the Robina rail line and transport interchange and Robina's obligation to construct roads giving access to the transport interchange, roads have been closed and it is intended to include them in appropriate zones in conformity with this Agreement. These areas of road will then form part of the Precinct in which they are located and be subject to the relevant planning intentions and provisions of this Agreement."

Second Schedule Clause 18B.2

Delete.

Insert:-

"18B.2 INNER FRAME PRECINCTS

18B.2.1 HIGH SCHOOL PRECINCT

This Precinct located along the Robina Town Centre Drive accommodates the Robina State High School.

18B.2.2 WEST ENTRY PRECINCT

West Entry Precinct is adjacent to the Robina High School, the Hospital and the Railway Station and Interchange. It is envisaged that this precinct will accommodate those uses which are a 'flow on' from the uses in the surrounding precincts. It is therefore primarily intended for a range of business, commercial, education, entertainment,

medical, retail and service uses in addition to, complementary to and supporting the uses in those adjoining Precincts. As its location allows rapid access for emergency vehicles to Robina and Mudgeeraba, it is also particularly suitable for emergency services, nursing homes, retirement homes and government administrative offices, indoor sport and entertainment. This easy access and high visibility also makes it suitable for businesses and services needing easy vehicular access for customers and for business needing high exposure such as motor dealerships. This Precinct, the Medical Precinct and Railway Squares C & D in the Rail Interchange Precinct are each considered suitable for a service station, however once a service station is established in one of these Precincts a further service station in any of those Precincts will be undesirable. It is anticipated businesses will be accommodated in groupings of low to medium rise buildings which will integrate with and reflect the adjoining dominant developments in those Precincts. Part of this Precinct has been acquired for the extension of the rail line south from Robina.

18B.2.3 MEDICAL PRECINCT

The Medical Precinct is ideally located south of the Rail Interchange and east of land owned by the South Coast Regional Health Authority which has been developed as a Hospital. This Precinct is envisaged as providing a range of specialist medical facilities, other business, commercial and service uses complementary to and supporting, activities in both the Hospital and the Rail Interchange. Buildings will be predominantly low to medium rise and

developed in context with the Hospital and development in the Rail Interchange Precinct. Landscaping is to be designed so as to create development unity across this Precinct.

18B.2.4 RAIL INTERCHANGE PRECINCT

This Precinct comprises land owned by Queensland Rail to accommodate the terminus of the Brisbane to Robina rail line and regional public transport interchange and two parcels of land designated Railway Square C and Railway Square D. Railway Squares C and D may provide a range of convenience retail, education, religious, entertainment, business, commercial, medical, residential and service (including a service station) uses developed in a range of heights and densities from low to medium rise in the short term and ultimately high rise in the long term. Because of their proximity to the terminus and transport interchange Railway Squares C and D will be suitable for large scale development and uses requiring proximity to public transport such as offices, a regional indoor sports entertainment and convention centre. Such a centre could because of its size provide architectural emphasis as a landmark building. Although Railway Squares C and D are suitable for a service station in this Precinct, once a service station is established in either or in West Entry Precinct or in the Medical Precinct a further service station in any of those Precincts is undesirable.

Development fronting the Key Pedestrian Way shown on Plan 2/6/1C must comply with the design principles set out in part 1 of Table 2/2/8.

18B.2.5 WEST LAKE, EAST LAKE AND PENINSULA PRECINCTS (WATERWAY PRECINCTS)

These Precincts are intended for mixed use development with an urban character which relates strongly to the Core retail Precinct in the case of East Lake and Peninsula Precinct and the Rail Interchange in the case of West Lake Precinct. All three Precincts relate strongly to the distinctive waterway landscape settings. The anticipated land uses include business, cultural, education, entertainment facilities, health care, hotel accommodation, medical, offices, religious, service and residential uses. It is intended that residential uses may be developed either as stand alone forms of development or as a grouping of various forms. Residential uses may also be part of mixed use development in conjunction with commercial or business uses. The commercial uses are likely to be polarised near to the Town Centre, Robina Town Centre Drive, Laver Drive and Collyer Quay with stand alone residential development occurring in the balance of the precincts.

Building development is envisaged as being predominantly low to medium rise but with occasional high rise opportunities (up to 20 storeys) at appropriate locations in the longer term. The desirable urban character of these Precincts will be achieved by designing the diverse forms of buildings and landscaping in a way that they combine to create attractive pedestrian friendly frontages and spaces. Development fronting the Key Pedestrian Way shown on Plan 2/6/1C must comply with the design principles set out in part 1 of Table 2/2/8.

18B.2.6 RIVERWALK PRECINCT

Linking south from the lake to the main highway gateway entry, this Precinct is intended as an alternative, linear river-like park setting for a range of mixed use development. A range of development forms and uses that enhance the serpentine river setting will be encouraged, including business, commercial, education, entertainment, health care, hotel accommodation, medical, residential, service and tourist uses combined with cafes, cultural, religious and restaurant facilities. The Precinct will also be ideal to allow the erection of self contained or fully serviced medium density residential and or mixed use communities. Other potential uses may include banking, commercial and personal services, limited shopping facilities, recreational uses, together with carparking facilities, outdoor plazas and parkland.

Medium to high density development will be permitted in this Precinct with buildings establishing strong axial relationships with the river, including the provision of vistas through or from the lower levels of development. Open spaces, landscaped areas and walkways will be provided along the pedestrianised river setting creating an important unifying element for the complementary mix of land uses and building types that will be accommodated. Development fronting the Key Pedestrian Way shown on Plan 2/6/1C must comply with the design principles set out in part 1 of Table 2/2/8.

18B.2.7 GATEWAY EAST AND GATEWAY WEST PRECINCTS (GATEWAY PRECINCTS)

These Precincts flank the main road entry to the Core and will offer prime sites on which office and business uses can locate with high accessibility and exposure. While these uses are expected to dominate, parts of these precincts may be developed initially for low density residential uses and in the longer term for medium to high density residential uses. Because of this high accessibility and exposure the Precinct is suitable for purposes such as clean industry, cultural, education, health care, medical, motor dealership, religious, showroom and tourist development including hotels, motels, private hospital or retirement community. Complementary convenience uses and services associated with development may also be provided within the Precinct.

Buildings may range from low to high rise provided variations in the height and scale are visually and functionally appropriate. The incorporation of landmark features with building designs enhanced by attractive landscape treatments will be encouraged given the “Gateway” nature of these Precincts.

Development in these Precincts must comply with the design principles set out in part 2 of Table 2/2/8.

18B.2.8 PARKWAY SERVICE PRECINCT

Located between the Robina Town Centre Core and the main road entry of Robina Parkway, this Precinct is intended to extend the range of retail business and related facilities provided by the Core. It is anticipated the Precinct will be

predominantly developed for fast food outlets, motor dealerships, restaurants, a service station, service uses, shops, showrooms and compatible uses including commercial premises, offices and various forms of education, entertainment, food and beverage supplies. Medical and service businesses will also be appropriate. A linear combination of low rise building development reflecting an “urban scale” is planned, although considerable variation is envisaged in the architectural design. Facilities that locate in the Parkway Service Precinct will benefit from the high accessibility and exposure to passing traffic offered by this strategic location.

Second Schedule Clause 18B.3

Delete.

Insert:-

“18B.3 Southern Frame Precincts

18B.3.1 AUTOMOTIVE & SERVICE PRECINCT

This Precinct is located immediately south of the Robina Parkway, offering excellent visibility and accessibility to the arterial road system of Robina Central. It is intended for development for an automall in which car and marine dealerships and associated and service and complementary uses will be grouped together to achieve the convenience of “one stop” shopping. It is also intended to provide a range of business, commercial, cultural, education, professional, retail and service uses which may or may not have some relationship with the automotive industry and which will benefit from proximity to Robina Parkway, Christine Avenue and Scottsdale

Drive and will provide facilities to a wide segment of the local community and the travelling public. Development is envisaged as predominantly low rise buildings but may include some medium or high rise buildings with attractive landscape frontages presented as a unified whole and complemented by carefully controlled identity signage.

18B.3.2 GATEWAY HEIGHTS PRECINCT

Located between the Automotive and Service Precinct and Pacific Highway this Precinct is buffered from the highway and the proposed rail line by Megan's Knoll which makes it attractive for residential uses. Although primarily it is suitable for residential purposes opportunities exist for commercial development, particularly along the Christine Avenue and Scottsdale Drive frontages.

Residential development is likely to be low to medium density in the short to medium term but high density opportunities are encouraged now and in the future. A range of housing types and choices is intended. Commercial development intended for the Precinct is business, commercial, showroom and warehouses.

Development must comply with the design principles set out in part 2 of Table 2/2/8.

18B.3.3 MIXED USE PRECINCT

This Precinct offers a high level of visibility and accessibility from the road system. It is intended for a wide range of mixed use developments including accommodation, business, commercial, cultural, education, offices, religious and service uses. Bulky retail uses such as showrooms, motor dealerships, factory units and specialised

home improvement uses will be suited in this Precinct. A service station and retail uses such as shops and take away food outlets together with other complementary and convenience uses for those working in this Precinct are also appropriate. Development is envisaged as being predominantly low to medium rise with attractive landscaped and pedestrianised frontages

18B.3.4 SOUTH HILL PRECINCT

This linear Precinct runs south along the Pacific Highway frontage from the Gateway East Precinct. The Precinct is intended for predominantly low to medium rise buildings which will house a wide range of business and service uses, large bulky retail uses such as showrooms, service industries and warehouses not appropriate in other Precincts. It will also be an appropriate location for the new style of 'clean' industry associated with computer, electronic and high technology uses. Other uses such as a motel or uses having education and religious characteristics would be appropriate complementary facilities. Development should reflect a strong integration between the architectural design and landscape treatment to create a business and office environment in an impressive park like setting.

18B.3.5 SOUTHERN VALE PRECINCT

Southern Vale is bounded by the arterial roads of Scottsdale Drive and Christine Avenue and is located adjacent to the proposed southern sports fields. Much of the Precinct will be suitable for a range of quality housing types and densities together with some office, showroom and business and service

development with development occurring in a mixed use combination. Other complimentary uses include convenience shopping, child care centres with education, cultural and community facilities also being appropriate. Generally, low to medium rise buildings are envisaged across the Precinct.”

Second Schedule Clause 18B.4

Delete.

Insert:-

“18B.4 Northern Frame Precincts

18B.4.1 PARK HILL AND WATERVIEW
PRECINCTS (RESIDENTIAL
PRECINCTS)

These Precincts which consist of four separate land parcels offer prime park and waterfront sites committed for residential uses. A range of low to medium rise and relatively low density quality housing types are suitable. These may include terrace houses, dwelling houses and apartments. These Precincts will be extensively landscaped to enhance their attractive open space settings.

18B.4.2 CHELTENHAM DRIVE PRECINCT

This Precinct is centred around open space which might be developed for recreational activities or the like. It is intended to provide residential accommodation in association and integrated with development of the open space - by way of a single prestige home with a private golf course or apartment buildings, lower density forms of residential development such as townhouses, dwelling houses or a retirement community or any

combination of these forms of development. Some complementary uses may be appropriate to provide services to residents within the Precinct such as child care, kiosk and a surgery.

18B.4.3 NORTHERN PRECINCT

This Precinct comprises the low lying land adjacent to the Mudgeeraba Creek. It is intended it be developed in part for an eco-tourist hotel resort utilising existing and proposed waterways. The remainder is to be transferred on trust to Council for open space purposes which it is envisaged will be utilised for sporting facilities such as a tennis or basketball centre and playing fields.

18B.4.4 NORTH VIEW PRECINCTS A & B

These Precincts consist of land which has been filled as identified on Plan 2/12/5A. It is anticipated the land in Precinct A will primarily be developed for a range of choices in low to medium density residential development with limited forms of complementary uses such as child care centres, convenience shops and recreation facilities. The location of this precinct close to the railway station makes it ideal for residential use. Generally, development is anticipated to be low to medium rise but limited locations for high rise buildings will be permitted to retain view sheds to the North.

Given the proximity of the precinct to the railway station, it is anticipated the land in Precinct B will be primarily developed for a range of choices in low to medium and high density residential development which may include resort hotel and other forms of tourist

accommodation and associated facilities. It would also be suitable for a convention centre, cultural, educational, entertainment, religious or sporting facilities and some forms of business and commercial uses. Limited forms of complementary uses such as child care centres, convenience shops and recreation facilities to support the uses in the precinct will also be appropriate. Generally, low to medium rise development with limited locations for high rise buildings will capitalise on the adjacent redeveloped low land in the Northern Precinct and the desirable northerly orientation.

18B.4.5 ENVIRONMENTAL ASSESSMENT & MANAGEMENT

The proposed form of development in Cheltenham Drive Precinct and Northern Precinct as depicted on Plan 2/2/3C is expected to involve the excavation and filling of land. Excavation and filling of land identified in Plan 2/12/9, and as more particularly described in clause 183B, has been assessed by Council as being capable of being carried out in a manner which will not cause adverse impacts in terms of flooding, hydrology or stormwater management. Therefore, no further environmental impact studies will be required to support applications for a development permit (for operational works) to carry out such filling and excavation. However, the applicant will still need to satisfy Council that each particular operational works application is consistent with the flooding, hydrology and stormwater assessment which has been accepted by Council, as well as address other usual matters for such applications as more particularly mentioned in clause 183B.

Plans of Development must include management plans for environmental management issues envisaged by clause 153.3.16.”

Second Schedule Clause 18C

At the end of paragraph 2 insert “Before land can be developed the land must be included in a Plan of Development.”

Second Schedule Clause 18C Table

Delete “duplex dwelling”.

Second Schedule Clause 18D.4

Insert at the end of the clause:-

“A Plan of Development may despite the definition of a use limit the extent of the use by reference to one or more of the following:-

- total use area; or
- a class of industry, business, product, service or undertaking; or
- hours of operation.”

Second Schedule Clause 18D.4A

Insert:-

“18D.4 A The purposes for which land in the development section may be used only with the consent of Council and the purposes for which development must not be carried out.”

Second Schedule Clause 18D.7A

Insert:-

“18D.7A A demonstration of the manner in which the indicative land allocation for that Precinct as shown in Table 2/2/7 will be provided and how the requirements of Table 2/2/8 (where relevant) will be satisfied.”

Second Schedule Clause 18D.12

Add “unless there are sufficient planning grounds to justify any inconsistency”

Second Schedule Clauses 18D.4A to 18D.12

Re-number as 18D.5 to 18D.14

Second Schedule Clause 18E.2

Delete.

Insert:-

“18E.2 Council may only refuse to approve a Plan of Development if it is satisfied that it is inconsistent with any of the concepts referred to in clause 18D.10 to 18D.14 and there are insufficient planning grounds to justify the inconsistency.”

Second Schedule Clauses 18F, 18G and 18H

Delete Clauses 18F, 18G, 18H.

Insert:-

“Variation of Plan of Development and Development Section by Robina before Transfer of Land.

18F A Plan of Development or a Development Section may be varied by Robina before it transfers any developable part of the land in that Development Section. Upon Robina varying a Plan of Development or a Development Section it must lodge the varied Plan of Development with Council which replaces the previously approved Plan of Development.

Variation of Plan of Development after Robina Transfers Land

18G After Robina transfers a developable part of the land in a Development Section, the Plan of Development may be varied:-

- 18G.1 in the case of a minor variation, in respect of an allotment in that Development Section, by the owner of that allotment, lodging with Council the minor variation with the consent in writing of Robina (if it is not the Applicant);
- 18G.2 in the case of any other variation in respect of an allotment in that Development Section, by the owner of that allotment, in accordance with the provisions of this Agreement applicable to applications for consent in respect of a permissible use.

Variation of a Development Section after Robina Transfers Land

- 18GA After Robina transfers a developable part of the land in a Development Section, Robina may vary the Development Section by decreasing the area of land comprising that Development Section and in that event;
- 18GA.1 if the area of the Development Section is not decreased by more than 10% then Council may at its discretion approve the variation; and
- 18GA.2 in the case of any other variation -
- (a) provided all owners of allotments within the Development Section have consented to the change in writing, Council may approve the variation or;
 - (b) in the event all of the owners of allotments in the Development Section do not consent, then Robina must apply to Council for its consent to the variation

and the provisions of this Agreement applicable to applications for consent in respect of a permissible use will apply to that application for variation.

In clause 18F, 18G and this clause “developable part of the land” in a Development Section means:-

Land that is able to be used or developed for a lawful purpose and does not include land which is required to be dedicated for road or transferred for a local government purpose as a requirement or a condition of an approval.

Variation of a Plan of Development to include certain new permitted uses

18GB A Plan of Development which was approved by the Council prior to the date of effect of the Second Amending Agreement may be amended, under clause 18F or clause 18G.2 (as the case requires), to include as a Permitted Development under the plan a use which is a Permitted Development under clause 151.1, but before that date of effect was a Permissible Development under clause 151.2 (other than under the last paragraph of clause 151.2).

18GC The application to the Council for approval of an amendment under clause 18GB must include the consent in writing of Robina if Robina is not the applicant.

18GD Clause 18GB does not limit clauses 18F and 18G.2

Variation - Application of Provisions

18H The provisions of clause 18E apply to a variation of a Plan of Development or a Development Section.”

Second Schedule Clause 18N.4

Delete the last clause.

Insert:-

“The target residential population has increased to 10,000 equivalent persons from the original 1992 estimate of 5,000 equivalent persons in recognition of the reduction in the number of equivalent persons for commercial/employment purposes and in recognition of the oversupply by Robina of 54 hectares of land for these purposes and which land is no longer required for those purposes.

As a result the combined site is designated for a target residential population of 10,000 equivalent persons to be accommodated in development designed under controls based on performance criteria developed from first principles for each situation.”

Second Schedule Clause 18T and 18U

Insert:-

“Transitional

18T A Plan of Development approved by Council before the making of a further agreement must be interpreted on the basis of this agreement in force at the time the Plan of Development was approved by Council.

18U An amendment of a Plan of Development approved by Council before the making of a further agreement must for the purpose of clause 18D.8 be consistent with this agreement in force applicable at the time Council approves the amendment of the Plan of Development.”

Second Schedule Clause 18V

Insert:-

“Interim Purpose

18V Despite the provisions of this Part, Council may (if requested by Robina) at its discretion allow land to be used for an interim or temporary purpose for a period not exceeding two (2) years even though the land has not been included in a Plan of Development and an application for final development approval has not been made.”

Second Schedule Clause 25

Insert after “Service District” where it last appears:-

“or where the land in the Service District is developed in stages then the road section may be constructed only to the extent of that part of the road which lies adjacent to that stage.”

Second Schedule Clause 25.1

Insert:-

“and (if required) a connection to the road network”.

Second Schedule Clause 29

Delete “Christine Avenue”.

Insert “Scottsdale Drive”.

Delete “Q”

Second Schedule Clause 36

Delete “pursuant to Section 6.2 of the Act”.

Second Schedule Clause 38

Delete.

Second Schedule Clause 39

Delete “subject to clause 38”.

Second Schedule Clause 41.1

Delete.

Insert:-

“41.1 The amount of the additional water headworks charges is the number of equivalent persons calculated by multiplying the number of occupied storeys above 4 x 15 EP per hectare and then multiplying the resultant number by the applicable rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building.”

Second Schedule Clause 44A

Insert:-

“44A Calculation of headworks charges (mixed use development)

The water headworks charges payable at the time referred to in clause 37 for an allotment intended for mixed non-residential and residential use are to be calculated in the same manner as provided in clause 39.

When it is proposed to construct a building on that allotment for mixed non-residential and residential use, the number of equivalent persons for the proposed development must then be re-calculated on the basis of 2.4 EP for each residential unit and in respect of each fixture associated with the non-residential use as determined in accordance with the relevant planning policy as at the date building approval is granted for the building. In the event the number of EP so derived exceeds the number of EP in respect of which headworks charges were paid at the time referred to in clause 37 then additional headworks charges must be paid in respect of the excess EP at the applicable rate per equivalent person under the relevant planning policy before Council is obliged to release the approved building plan to any person.

In the event water headworks charges are paid for an allotment in accordance with this clause 44A and the allotment is not then to be used for mixed use development then if it is to be used for non-residential

purposes the provisions of clauses 40 and 41 will then apply to that allotment. If it is to be used for residential purposes then the provisions of clause 42, 43 and 44 will apply to that allotment as though Robina had nominated the number of proposed residential units determined by dividing the number of equivalent persons in respect of which headworks were paid x 2.4.”

Second Schedule Clause 45

Delete “39 or 42”.

Insert “39, 42 or 44A”

Second Schedule Clause 59

Delete “pursuant to Section 6.2 of the Act”

Second Schedule Clause 61

Delete.

Second Schedule Clause 62

Delete “subject to clause 61”.

Second Schedule Clause 64.1

Delete.

Insert:-

“64.1 The amount of the additional sewerage headworks charges is the number of equivalent persons calculated by multiplying the number of occupied storeys above 4 x 15 EP per hectare and then multiplying the resultant number by the applicable rate per equivalent person under the relevant planning policy as at the date building approval is granted for the building”.

Second Schedule Clause 67A

Insert:-

“67A Calculation of headworks charges (mixed use development)

The sewerage headworks charges payable at the time referred to in clause 60 for an allotment intended for mixed non-residential and residential use are to be calculated in the same manner as provided in clause 62.

When it is proposed to construct a building on that allotment for mixed non-residential and residential use, the number of equivalent persons for the proposed development must then be re-calculated on the basis of 2.4 EP for each residential unit and in respect of each fixture associated with the non-residential use as determined in accordance with the relevant planning policy as at the date building approval is granted for the building. In the event the number of EP so derived exceeds the number of EP in respect of which headworks charges were paid at the time referred to in clause 60 then additional headworks charges must be paid in respect of the excess EP at the applicable rate per equivalent person under the relevant planning policy before Council is obliged to release the approved building plan to any person.

In the event sewerage headworks charges are paid for an allotment in accordance with this clause 67A and the allotment is not then to be used for mixed use development then if it is to be used for non-residential purposes the provisions of clauses 63 and 64 will then apply to that allotment. If it is to be used for residential purposes then the provisions of clause 65, 66 and 67 will apply to that allotment as though Robina had nominated the number of proposed residential units determined by dividing the number of equivalent persons in respect of which headworks were paid x 2.4.”

Second Schedule Clause 68

Delete “62 or 65”.

Insert “62, 65 or 67A”

Second Schedule Clause 81

Delete.

Insert:-

“81.1 Robina must transfer or cause to revert to the Council in fee simple (on trust) for Local Government purposes (open space):-

81.1.1 those parcels of land outlined in red on Plan No. 2/6/1C not already transferred as at the 31 March 2002;

81.1.2 an additional 6ha of land within the combined site (Council acknowledges Robina has partially satisfied this obligation);

81.2 Robina must transfer to the Council in fee simple (on trust) for Local Government Purposes (community facilities) the parcel of land outlined in orange on plan 2/6/1C at the time of the sealing of release of the Plan of Subdivision creating the first allotment in the Northern Precinct.

81.3 Robina must obtain any valuation required to enable the transfer to be stamped and pay any stamp duty in respect of those transfers.

81.4 If the Council intends to sell land it obtains under this clause 81, the Council must advertise its intention to sell by placing a notice of the sale in a newspaper circulating in the Council's area.

The notice must contain the following:-

81.4.1 a description of the land proposed to be sold;

81.4.2 the purpose for which the land was given on trust;

81.4.3 the reason for proposing to sell the land; and

81.4.4 the reasonable time within which submissions must be made.

81.5 The Council must consider all submissions in relation to the notice before making a decision about the sale.

81.6 If the Council complies with clauses 81.4 and 81.5 and sells the land, the land is sold free of trust.”

Second Schedule Clause 82

Delete “Clause 81.2”

Insert “Clause 81.1.2”

Second Schedule Clause 82.1

Delete “but only if a pedestrian/bikeway is constructed in it.”

Second Schedule Clause 86

Delete all words after the first sentence.

Second Schedule Clause 87

In paragraph 2 delete “(Community Centre)”

Second Schedule Clause 120

Delete “Accommodation premises”.

Insert “Accommodation Premises (not exceeding 300EP in total) for the Core”.

Second Schedule Part 10

In the heading insert “Northern Frame” after “Inner Frame”.

Second Schedule Clauses 150.1, 150.2 and 150.3, 152, 153.2.6, 155

After the phrase “Inner Frame” insert the phrase “Northern Frame”.

Second Schedule Clause 151.1

Insert “Convention Centre”, “Cultural Facility”, “General Store”, “High Technology Entertainment Facility”, “Integrated Housing”, “Licensed Club”, “Radio & Television Premises”, “Retail Nursery”, “Retirement Community”, “Shop” (not exceeding the limits set out in clause 17.5), “Service Station Combination, Studio Apartment”

Second Schedule Clause 151.2

Insert in the opening paragraph “subject to limitation by a Plan of Development” after the words “Development Section”.

Delete “Convention Centre”, “Cultural Facility”, “Duplex Dwelling”, “Factory Units”, “General Store”, “High Technology Entertainment Facility”, “Integrated Housing”, “Licensed Club”, “Radio & Television Premises”, “Retail Nursery”, “Retirement Community”, “Shop”, “Service Station Combination”

Insert “Shop (exceeding the limits set out in clause 17.5)”

Second Schedule Clause 153.1

Delete “duplex dwelling”

Second Schedule Clause 153.3.1

Delete.

Insert:-

“153.3.1. The minimum allotment and lot size, minimum frontage of allotments, maximum number of allotments or lots, and density of residential development.”

Second Schedule Clause 153.3.16

Insert:-

“153.3.16 Environmental management issues including stormwater management (quantity and quality); noise (acoustic quality); native habitat (flora and fauna) protection; erosion, sediment, and dust control; acid sulfate soil management; waterbody maintenance; and the consideration of electromagnetic fields.”

Second Schedule Clause 153.3.17

Insert:-

“153.3.17 Noise amelioration for noise sensitive uses (as defined in the Environmental Protection Act 1994) for development:

- (a) within 100 metres of the rail corridor, for noise sensitive uses north of Robina Rail Station and South of Robina Rail station following Queensland Rail's final commitment to extend the rail line to the south, as required by law and/or statutory instruments;
- (b) within 100 metres of the rail corridor, for noise sensitive uses south of Robina Rail Station before Queensland's Rail final commitment to extend the rail line to the south, as required to make reasonable provisions, by means of building design to reduce potential noise levels within development; and
- (c) adjacent to, or within the vicinity of, existing or proposed State Controlled Roads, as required by law and/or statutory instruments, by appropriate means, including attenuation devices and building design.”

Second Schedule Clause 153.6.6

Insert at end of clause:-

“...In lieu of an assessment, a Plan of Development may, if Council agrees adopt Council parking requirements for the proposed development.”

Second Schedule Clause 157N

Delete “and Part 11”

Insert before Part 9 “and”.

Second Schedule Clause 157N Explanatory Definitions

Insert:-

“(a) accommodation units” – any premises used or intended for use for residential purposes.”

Second Schedule Clause 157N Use Definitions

Delete definitions of:-

“accommodation units”

“factory units”

Amend the definition of “hospital” by inserting after the word “uses” in the third last line:-

“including a hotel or other accommodation premises,”

Delete definition of “duplex dwelling”

Amend the definition of “Integrated Housing” by deleting Item 3 from it.

Amend the definition of “light industry” by deleting references in Appendix III to the following:-

- Electrical appliance manufacturing
- Foodstuff manufacturing
- Furniture storage
- Printing
- Shop fitting
- Signwriters’ yard
- Woodworking
- Workshop
- Cameras

- Clocks, watches –
- Optical goods (other than spectacles or the like)
- Scientific instruments
- Sports equipment (other than ammunition, vehicles and watercraft)
- Therapeutic and life support aids, appliances, garments and equipment

Insert:-

“Studio apartments” – any premises used or intended for use for self-contained residential purposes not exceeding 60 sqm in area and where the sleeping accommodation is not contained in a separate room.”

Delete the definition of “service industry”.

Insert:-

“Service Industry - Any premises used or intended for use for the purpose of conducting any industry not specifically defined elsewhere in this clause and which complies with the criteria in Appendix V.

Appendix V

1. resulting noise levels must not detrimentally affect the amenity of the areas;
2. dust, fumes, odours or any other emission shall be contained within the subject premises at all times;
3. the appearance of the development must not detrimentally affect the amenity of the area, whether by reason of the scale of the buildings, the design and materials used in the buildings, the storage of goods, vehicles or any other material outdoors, or any other thing, taking into account the location of any buildings and the topography and other characteristics of the site and any landscaping existing or proposed;
4. any traffic generated by the activities on the premises must not cause or aggravate a traffic

problem, nor detrimentally affect the amenity of the area.”

Second Schedule Part 11

Delete Part 11.

Second Schedule Clause 174

Delete.

Second Schedule Clause 183A

Insert:-

“183A Temporary Signs

Robina may without the consent of Council erect 10 temporary signs for Robina marketing purposes which signs must not exceed eight (8) metres x six (6) metres in prominent locations on key sites on land owned by it in the combined site in such a manner as not to interfere with the safe movement of pedestrian, cycle and vehicle movements.”

Second Schedule Clause 183B

Insert:-

“183B DEVELOPMENT IN THE NORTHERN FRAME

An environmental impact assessment of the proposed form of development in the Cheltenham Drive Precinct and Northern Precinct has been undertaken by Robina and accepted by Council as demonstrating that the development proposed, including excavation and filling of land, may be carried out without adverse environmental impact in terms of flooding, hydrology and stormwater management issues.

The developer of Areas A, B or C in those Precincts, as more or less outlined in pink on Plan 2/12/9, may place fill within the areas outlined in blue within each Area, so long as any decrease to the existing flood plain storage capacity caused by that filling, is balanced by creation

of wetland areas or other excavation within the remaining part of the Area in which fill has been placed, so that there is no net loss of flood plain storage capacity, and no other adverse flooding or drainage impact external to the relevant area.

However, a development permit (for operational works) must still be obtained, as required by the Planning Scheme, for all proposed earthworks. The application for this permit may be made in conjunction with application for approval of a Plan of Development, or as a stand alone application. No further environmental impact assessment or flood impact study will be required to be provided in conjunction with any such application, but the Council will need to be satisfied that each such application is consistent with the basis of Council's acceptance of the previous assessment.

The application for development permit must also satisfactorily address the other usual matters for such applications, such as management of acid sulfate soils, noise, native habitat protection, erosion and sediment and dust control."

Second Schedule Clause 196.2

Delete "31 December 1997".

Insert "30 June 2000".

- 2.2 By removing from the Plans, Tables, Drawings and Documents held at the Public Office of the Council, the following Plans/Tables –
- Plan 2/2/6
- Plan 2/11/1
- 2.3 By removing from the Plans, Tables, Drawings and Documents held at the Public Office of the Council the Plans/Tables shown in Column 1 and substituting in

their respective place the Plans/Tables in column 2 opposite the Plans/Tables deleted:-

Column 1	Column 2
Plan No. 2/2/2B to be replaced by	Plan No. 2/2/2C
Plan No. 2/2/3B to be replaced by	Plan No. 2/2/3C
Plan No. 2/2/5A to be replaced by	Plan No. 2/2/5B
Plan No. 2/3/1A to be replaced by	Plan No. 2/3/1C
Table No. 2/3/2A to be replaced by	Table No. 2/3/2B
Plan No. 2/3/3A to be replaced by	Plan No. 2/3/3B
Plan No. 2/3/8 to be replaced by	Plan No. 2/3/8A
Plan No. 2/4/1 to be replaced by	Plan No. 2/4/1A
Table No. 2/4/3A to be replaced by	Table No. 2/4/3B
Plan No. 2/5/1A to be replaced by	Plan No. 2/5/1B
Table No. 2/5/2A to be replaced by	Table No. 2/5/2B
Plan No. 2/6/1 to be replaced by	Plan No. 2/6/1C
Table No. 2/6/2 to be replaced by	Plan No. 2/6/2A
Plan No. 2/12/5 to be replaced by	Plan No. 2/12/5A

and by deleting the words and figures shown in column 1 wherever they appear in the Robina Central Planning Agreement and substituting in their respective place the words and figures in column 2 opposite the words and figures deleted.

- 2.4 By including in the Plans, Tables, Drawings and Documents to be held at the Public Office of the Council Documents 1/1/21 to 1/1/28 (inclusive), Tables 2/2/7, 2/2/8 and Plan 2/12/9.

- 2.5 By making all necessary or consequential amendments to give effect to the substantive amendments set out above.
3. A reference to a Plan, Table, Drawing or Document identified by a particular number in this Second Amending Agreement is a reference to a Plan, Table, Drawing or Document bearing that number held at the public office of the Council certified under seal by both the Council and Robina and Robina Properties as being the Plan, Table, Drawing or Document of that number referred to in this Second Amending Agreement.
4. Clause 99 of the Robina Central Planning Agreement applies to this Second Amending Agreement and is incorporated by reference in this Second Amending Agreement.

Executed as an Agreement

THE COMMON SEAL of)
ROBINA LAND CORPORATION)
ACN 010 159 387 is affixed in)
accordance with its Constitution in)
the presence of:)

Witness

Director

Director/Secretary

THE COMMON SEAL of)
ROBINA PROPERTIES ACN 010)
147 038 is affixed in accordance with)
its Constitution in the presence of:)

Witness

Director

Director/Secretary

THE CORPORATE SEAL of)
COUNCIL OF THE CITY OF)
GOLD COAST was hereunto affixed)
in the presence of) _____
the Mayor, and)
the Chief Executive Officer and in the)
presence of) _____

Witness

Solicitors for Robina Land Corporation Pty
Ltd and Robina Properties Pty Ltd:

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Brisbane

Mr JD Taylor

Solicitors for Council of the City of Gold
Coast:

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Mr SP Fynes-Clinton