

# Early arrangement

## Financial Settlement Offset

Between the **Administering Agency** and the **Entity**

### Instructions to the Entity:

1. This agreement is an **Early Arrangement**.
2. This agreement is for a **Financial Settlement Offset** only and not a **Proponent-Driven Offset**.
3. Electronically complete 'Schedule 1 – Agreement details' on page 2 of this agreement.
4. Print two copies of this agreement. If the **Entity** is more than one entity, print additional copies so that there are enough copies to distribute to each entity. For example, if the **Entity** consists of two entities, print three copies of the agreement.
5. Sign each copy on the Signing Pages on page 18 (and page 19 if there is more than one entity who is the **Entity**) in accordance with the Instructions to the **Entity** on pages 18 and 19.
6. Deliver the signed copies of this agreement to the officer named at the top of the **Notice of Decision**.

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## Schedule 1 – Agreement details *(for the Entity to complete)*

Item 1      **Early Arrangement  
Application Number**

Insert the environmental offset application number shown on the **Notice of Decision**.

Item 2      **Entity**

Insert the name/s of the entity/entities. This is the entity that made the **Application** by way of being described in the 'contact details' panel of the **Application**. If the Entity comprises of more than one entity, each entity must be listed.

Item 3      **Entity's Notice Details**

Insert the notice details of the **Entity/Entities**. For a corporation, this will be the corporation's registered office. For an individual, this will be the individual's residential street address. If the **Entity** comprises of more than one entity, each **Entity's** notice details must be listed.

Item 4      **Notice of Decision**

Insert the date of the notice of decision given by the **Administering Agency** for the **Early Arrangement Application Number**.

# Early arrangement

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## Details

### Date

If executed in counterparts, the date of this Agreement is the date of latest execution.

### Parties

The parties to this agreement are the **Entity** and the **Administering Agency**.

### Notice details

- A The notice details of the **Entity** are the notice details in **Item 3 of Schedule 1**.
- B Unless otherwise specified in this agreement, the notice details of the **Administering Agency** are as follows:  
  
135 Bundall Road, Bundall Qld 4217  
Attention: Chief Executive Officer

### Background

- A The **Entity** has given the **Administering Agency** the **Application** which requests that an **Early Arrangement** be entered into.
- B The **Administering Agency** has given the **Notice of Decision** to the **Entity** which gives notice that the **Administering Agency** agrees to enter into an **Early Arrangement** as described in the **Notice of Decision**.
- C This is the **Early Arrangement**.

# Agreed terms

## 1. Defined terms & interpretation

### 1.1 Defined terms

In this agreement:

**Additional Amount** means the value of the **Financial Settlement Offset** for the additional impact area identified in an 'Information note – additional impact area' in a **Change Notice** (rounded to the nearest dollar), identified in a notice given by the **Administering Agency** to the **Entity** pursuant to clause 5.2(b)(ii) confirming that the **Administering Agency** agrees that the **Proposed Additional Amount** has been correctly calculated.

**Administering Agency** means Council of the City of Gold Coast.

**Application** means the application made by the **Entity** to the **Administering Agency** requesting that an **Early Arrangement** be entered into, which includes Environmental Offsets Delivery Form 4 – Financial Settlement Details, which is specified in the **Notice of Decision**.

**Assessable Development** has the meaning given under **Planning Act**.

**Authority** has the meaning given under the **EO Act**.

**Business Day** has the meaning given in the *Acts Interpretation Act 1954* for the **Administering Agency's** local government area.

**Change Notice** means a notice issued by the **Administering Agency** that approves a change to the **Authority** referred to in clause 5.1(b)(ii)(A), in circumstances where the Council has issued a notice to the **Entity** referred to in clause 5.1(b)(ii)(B).

**Chief Executive Officer** means the Chief Executive Officer of the **Administering Agency** or delegate.

**Commencement Date** means the commencement of this agreement pursuant to clause 2.3.

**CPI** means the Consumer Price Index.

**Development Application** has the meaning given under **Planning Act**.

**Development Permit** has the meaning given under **Planning Act**.

**Early Arrangement** has the meaning given under the **EO Act**.

**Early Arrangement Application Number** is the number described in **Item 1** of **Schedule 1**.

**Entity** means the person described in **Item 2** of **Schedule 1**.

**Environmental Offset** has the meaning given under the **EO Act**.

**EO Act** means the *Environmental Offsets Act 2014*.

**Financial Settlement Offset** has the meaning given by the **EO Act**.

**Financial Settlement Offset Amount** means the amount recorded in 'Part A – Offset Calculator Results' as the total financial offset requirement rounded to the nearest dollar on 'Environmental

Offsets Delivery Form 4 – Financial Settlement Details’ in the **Application**, subject to any requirement in the **Notice of Decision** for the **Environmental Offset** for the **Identified Prescribed Environmental Matter** to be delivered in a different way.

**Force Majeure** means an event:

- (a) being a decree of the Commonwealth Government or the State Government, an act of God, industrial disturbance, act of public enemy, war, international blockade, public riot, lightning, flood, earthquake, fire, storm or other event whether of a kind herein specified or otherwise; and
- (b) which is not within the control of the party claiming Force Majeure; and
- (c) which could not have been prevented by the exercise by that person of a standard of foresight, care and diligence consistent with that of a prudent and competent person under the circumstances.

**Identified Impact Area** means the impact area identified in the **Application**, subject to any variation by the **Notice of Decision**.

**Identified Prescribed Environmental Matter** means the **Prescribed Environmental Matter** identified in the **Application** for the **Identified Impact Area**, subject to any variation by the **Notice of Decision**.

**Impact Area** has the meaning given in clause 5.2(a) and clause 5.4(a)(i)(A).

**Land** means the land specified in the property description and property location in the **Notice of Decision**.

**Material Change of Use** has the meaning given under **Planning Act**.

**Notice of Decision** means the notice given by the **Administering Agency** to the **Entity** which states that:

- (a) the **Administering Agency** agrees to entering into an **Early Arrangement**; and
- (b) the way in which the **Entity** is required to deliver the **Environmental Offset** for the **Identified Prescribed Environmental Matter** is by way of a **Financial Settlement Offset**

which is identified in **Item 4** of **Schedule 1**.

**Offset Condition** has the meaning given in the **EO Act**.

**Operational Work** has the meaning given under **Planning Act**.

**Owner** has the meaning given under **Planning Act**.

**Planning Act** means the *Planning Act 2016*.

**Prescribed Activity** has the meaning given in the **EO Act**.

**Prescribed Environmental Matter** has the meaning given in the **EO Act**.

**Proponent-Driven Offset** has the meaning given by the **EO Act**.

**Proposed Additional Amount** has the meaning given in clause 5.2(b)(i)(B) of this agreement.

**Proposed Recalculated Financial Settlement Offset Amount** means the amount identified in the standard form ‘Application to recalculate/refund/credit Financial Settlement Offset Amount’.

**Proposed Reduction Amount** has the meaning given in clause 5.4(a)(i)(B).

**Recalculated Financial Settlement Offset Amount** means the value of the recalculated financial settlement offset amount (rounded to the nearest dollar) identified in a notice given by the **Administering Agency** to the **Entity** pursuant to clause 5.2(b)(ii) confirming that the **Administering Agency** agrees that the **Proposed Recalculated Financial Settlement Offset Amount** has been correctly calculated.

**Reconfiguring a Lot** has the meaning given under **Planning Act**.

**Reduction Amount** means the value of the **Financial Settlement Offset** for the reduction in an **Impact Area** identified in an 'Information note – reduced impact area' in a **Change Notice** (rounded to the nearest dollar), identified in a notice given by the **Administering Agency** to the **Entity** pursuant to clause 5.4(a)(ii)5.4(a)(ii) confirming that the **Administering Agency** agrees that the **Proposed Reduction Amount** has been correctly calculated.

**Significant Residual Impact** has the meaning given in the **EO Act**.

## 1.2 Interpretation

In this agreement, unless a contrary intention appears, reference to:

- (a) A clause is to a clause in this agreement.
- (b) The singular includes the plural and vice versa.
- (c) Any gender includes all other genders.
- (d) A person includes a firm, a corporation, an association and a body, whether incorporated or not and a government or statutory body or authority.
- (e) Legislation (including subordinate legislation) includes:
  - (i) statutory instruments under the legislation; and
  - (ii) consolidations, amendments, re-enactments or replacements of the legislation; and
  - (iii) writing includes any mode of representing or reproducing words in tangible and permanently visible form and includes facsimile transmission; and
  - (iv) this or any other agreement includes the agreement as varied or replaced and is not affected by any change in the identity of the parties; and
  - (v) a day is to a business day.
- (f) The clause headings appearing in this agreement are inserted for convenience of reference and do not affect the construction of this agreement.
- (g) If any words are italicised or otherwise printed differently, this has been done for convenience only and does not affect the construction of this agreement.
- (h) Whenever more persons than one constitute a party all the covenants, agreements, conditions, restrictions and provisos on the part of that party contained or implied in this agreement bind those persons jointly and each of them severally.
- (i) This agreement is in all respects to be interpreted in accordance with the laws of the State of Queensland, and the parties irrevocably and unconditionally submit to the non-exclusive jurisdiction of the courts of that state and any courts which have jurisdiction to hear appeals from them, and waive any right to object to proceedings being brought in those courts.



- (j) Nothing contained in this agreement affects, prejudices or derogates from the requirements of any statute or from the rights, powers and authorities of the **Administering Agency** under the provisions of any statute or under any declared policy of the **Administering Agency**.
- (k) An inclusive definition, or an example or particularisation of a provision, does not limit but may extend that definition or provision.
- (l) Where a word or expression is defined, other parts of speech and grammatical forms of that word or expression have a corresponding definition.
- (m) All schedules to this agreement form part of this agreement and a reference to an item is a reference to an item in the **schedule**.

### **1.3 Other expressions**

If a term is not defined in this agreement it shall unless the context otherwise requires, have the meaning given to it by:

- (a) the **EO Act**; or
- (b) the Macquarie Dictionary in the absence of a definition in the **EO Act**.

## **2. Acknowledgments**

### **2.1 Application of the EO Act**

This agreement is intended to constitute an **Early Arrangement** under section 19(5) of the **EO Act**.

### **2.2 Authority attaching to the land**

- (a) The parties acknowledge that this agreement gives effect to an agreement reached between the **Administering Agency** and the **Entity** about the delivery of an **Environmental Offset** for the **Identified Prescribed Environmental Matter**.
- (b) Upon an **Authority** being given, the parties acknowledge that the **Authority** will attach to the **Land** and will be binding on the **Owner** of the **Land** and the successors in title of the **Owner** of the **Land** and any occupier of the **Land** pursuant to section 73 of **Planning Act**.

### **2.3 Commencement**

This agreement commences on the date the last party executes this agreement.

### **2.4 Future Offset Conditions**

The parties acknowledge and agree that:

- (a) the **Financial Settlement Offset Amount** (required to be paid by the **Entity** pursuant to this agreement) is in respect of the **Identified Impact Area**; and
- (b) in the event that an **Authority** is granted that includes an **Offset Condition** for the **Identified Prescribed Environmental Matter** to which there is a change to the impact on the **Identified Prescribed Environmental Matter** (including a change to the **Identified Impact Area**), then the **Administering Agency** may issue a notice under section 19A(3) of the **EO Act**.

### **2.5 Not a Development Permit or Authority**

The parties acknowledge and agree that this agreement:

- (a) is not a **Development Permit** for **Assessable Development** and does not approve a **Prescribed Activity**; and

- (b) does not fetter the **Administering Agency's** decision in respect of any application made for an **Authority** that will impact the **Identified Prescribed Environmental Matter**, or any other **Development Application** for the **Land**.

### 3. Obligations of the parties

#### 3.1 Entity's obligations

The **Entity** must:

- (a) pay the **Financial Settlement Offset Amount** in accordance with clause 4; and
- (b) otherwise comply with the terms of this agreement.

#### 3.2 Administering Agency's obligations

The **Administering Agency** must comply with the terms of this agreement.

### 4. Payment of the Financial Settlement Offset Amount

- (a) Pursuant to section 19A(2)(b) of the **EO Act**, the **Entity** must not pay the **Financial Settlement Offset Amount** until an **Authority** is granted for a **Prescribed Activity** that includes an **Offset Condition** for the **Identified Prescribed Environmental Matter** and until any necessary recalculation has occurred in accordance with clause 5 of this agreement.
- (b) The **Entity** must pay the **Financial Settlement Offset Amount** (subject to clause 5) to the **Administering Agency** before the earlier of the following events:
  - (i) any **Operational Work** commencing on the **Land**;
  - (ii) a request for approval for any subdivision plan for **Reconfiguring a Lot** for the **Land**; and
  - (iii) the first **Material Change of Use** starting on the **Land**.
- (c) Payment of the **Financial Settlement Offset Amount** must:
  - (i) be made:
    - (A) by bank cheque, debit card (from a savings or cheque account), credit card, up to the amount of \$50,000 (credit card payments will incur a surcharge) or cash at a customer service centre of the **Administering Agency**; or
    - (B) by bank cheque by post to PO Box 5042, Gold Coast MC, QLD 9729;
  - (ii) if made by bank cheque:
    - (A) describe the payee in the terms specified in the **Notice of Decision**; and
    - (B) not be a post-dated bank cheque;
  - (iii) be in Australian currency.
- (d) Upon the **Administering Agency** providing a receipt to the **Entity** for the entire **Financial Settlement Offset Amount**, the obligation under this agreement for the **Entity** to pay the **Financial Settlement Offset Amount** will be satisfied.

## 5. Recalculation of the Financial Settlement Offset Amount

### 5.1 Application of this clause

- (a) The parties acknowledge that where the time of payment of the **Financial Settlement Offset Amount** is 18 months or more after the **Commencement Date**, section 2.4.2 of the Queensland Environmental Offsets Policy (Version 1.1) requires that the **Financial Settlement Offset Amount** will need to be recalculated using the financial settlement offset calculator to account for fluctuations in **CPI**.
- (b) The parties agree that if either or all of the following occurs, then this clause 5 applies and the **Financial Settlement Offset Amount** shall be recalculated in accordance with this clause:
  - (i) the time of payment of the **Financial Settlement Offset Amount** (pursuant to clause 4) is 18 months or more after the **Commencement Date**; or
  - (ii) if the **Administering Agency** issues all of the following:
    - (A) an **Authority** that includes an **Offset Condition** for a **Prescribed Activity** for the **Identified Prescribed Environmental Matter**;
    - (B) a notice to the **Entity** stating that the environmental offset is required to be delivered in the way stated in this agreement; and
    - (C) a **Change Notice** which requires the **Financial Settlement Offset Amount** to be recalculated; or
  - (iii) if the **Administering Authority** issues both of the following:
    - (A) an **Authority** that includes an **Offset Condition** for a **Prescribed Activity** for the **Identified Prescribed Environmental Matter**; and
    - (B) a notice to the **Entity** stating that the environmental offset is required to be delivered in a different way to the way stated in this agreement and that different way is by way of a recalculation of the **Financial Settlement Offset Amount**.

### 5.2 Process to determine the Recalculated Financial Settlement Offset Amount

- (a) For the purpose of determining the **Recalculated Financial Settlement Amount** and the **Additional Amount**:
  - (i) if this clause 5.2 applies pursuant to clause 5.1(b)(i), then the **Impact Area** remains the same as the **Identified Impact Area**; and
  - (ii) if this clause 5.2 applies pursuant to clause 5.1(b)(ii) and the **Financial Settlement Offset Amount** has:
    - (A) not been paid – then the **Impact Area** will be the **Impact Area** identified in the **Change Notice**;
    - (B) been paid and the **Change Notice** includes an ‘Information Note – Additional Impact Area’ – then the **Impact Area** for the purpose of calculating the **Proposed Recalculated Financial Settlement Offset Amount** is the total **Impact Area** identified in the **Change Notice** (and not the impact area identified in the ‘Information Note – Additional Impact Area’).

- (iii) if this clause 5.2 applies pursuant to clause **Error! Reference source not found.**, then the **Impact Area** will be the **Impact Area** identified in the **Offset Condition** of the **Authority** referred to clause **Error! Reference source not found.**.
- (b) if this clause applies pursuant to clause 5.1(b)(i), the following must occur prior to payment of the **Financial Settlement Offset Amount**. If this clause applies pursuant to clause 5.1(b)(ii) or clause **Error! Reference source not found.** then the first of the following steps must be taken by the **Entity** within **twenty (20) Business Days** of the day the **Change Notice** takes effect:
- (i) the **Entity** must complete and provide to the **Administering Agency** the standard form 'Application to recalculate/refund/credit Financial Settlement Offset Amount', which will attach the environmental offsets calculator results email and the environmental offsets calculator results email attachment (offset-data.csv) and identify:
- (A) the **Proposed Recalculated Financial Settlement Offset Amount** by inserting the **Impact Area** as described in clause 5.2(a) into the environmental offsets calculator; and
- (B) if this clause applies pursuant to clause 5.1(b)(ii) and there is:
- (I) an additional impact area identified in the 'Information Note – Additional Impact Area' – the amount attributed to the additional impact area identified in the 'Information Note – Additional Impact Area' in the **Change Notice**, by subtracting the **Financial Settlement Offset Amount** from the **Proposed Recalculated Financial Settlement Offset Amount** ('**Proposed Additional Amount**'); or
- (II) a reduction in impact area identified in the 'Information Note – Reduced Impact Area' – the amount attributed to the reduction in the impact area identified in the 'Information Note – Reduced Impact Area' in the **Change Notice** by subtracting the **Proposed Recalculated Financial Settlement Offset Amount** from the **Financial Settlement Offset Amount** ('**Proposed Reduction Amount**').

*Explanatory Note: By way of example, if the **Financial Settlement Offset Amount** is \$10,000 and if the **Proposed Recalculated Financial Settlement Offset Amount** is \$17,000, then subtract the **Financial Settlement Offset Amount** from the **Proposed Recalculated Financial Settlement Amount** which will result in \$7,000. This is the **Proposed Additional Amount**.*

- (C) if this clause applies pursuant to clause **Error! Reference source not found.** and there is:
- (I) an additional impact area identified in the notice referred to in clause 5.1(b)(iii)(B) – the amount attributed to the additional impact area identified in the notice referred to in clause 5.1(b)(iii)(B), by subtracting the **Financial Settlement Offset Amount** from the **Proposed Recalculated Financial Settlement Offset Amount** ('**Proposed Additional Amount**'); or

a reduction in impact area identified in the 'notice referred to in clause 5.1(b)(iii)(B) – the amount attributed to the reduction in the impact area

referred to in clause 5.1(b)(iii)(B), by subtracting the **Proposed Recalculated Financial Settlement Offset Amount** from the **Financial Settlement Offset Amount** ('**Proposed Reduction Amount**');

- (ii) within **twenty (20) Business**
- (iii) **Days** of the **Administering Agency** receiving the application referred to in clause 5.2(b)(i), the **Administering Agency** will provide a notice to the **Entity** confirming whether it is of the view that the details inputted into the environmental offsets calculator to generate the **Proposed Recalculated Financial Settlement Offset Amount** are correct (and if applicable, whether the **Proposed Additional Amount** is correctly calculated); and
- (iv) if the **Administering Agency** identifies an error in the details input into the environmental offsets calculator, or in the calculation of the **Proposed Additional Amount**, then:
  - (A) the notice referred to in clause 5.2(b)(ii) must identify the error in the details input into the environmental offsets calculator or the error in the calculation of the **Proposed Additional Amount** (if relevant);
  - (B) the **Entity** must recalculate the **Proposed Recalculated Financial Settlement Offset Amount** (by rectifying the error in the details inputted into the environmental offsets calculator) and the **Proposed Additional Amount** (if relevant and required) and complete and provide to the **Administering Agency** the standard form 'Application to recalculate/refund/credit Financial Settlement Offset Amount' within **five (5) Business Days** of receiving the notice referred to in clause 5.2(b)(ii); and
  - (C) the **Administering Agency** will provide a notice to the **Entity** referred to in clause 5.2(b)(ii).

### 5.3 Dealing with the Recalculated Financial Settlement Amount

- (a) If the **Financial Settlement Offset Amount** has not been paid, the parties agree that:
  - (i) the **Recalculated Financial Settlement Offset Amount** replaces the **Financial Settlement Offset Amount**; and
  - (ii) a reference to the **Financial Settlement Offset Amount** in clause 4 of this agreement is a reference to the **Recalculated Financial Settlement Offset Amount** without any further amendment being required to be made to this agreement.
- (b) If the **Financial Settlement Offset Amount** has been paid, then the **Entity** must pay the **Additional Amount** within **forty (40) Business Days** of the **Administering Agency** issuing the notice pursuant to clause 5.2(b)(ii) confirming that the **Proposed Recalculated Financial Settlement Offset Amount** and the **Proposed Additional Amount** are correct.

### 5.4 Refund of a portion of the Financial Settlement Amount

- (a) If the **Financial Settlement Offset Amount** has been paid and the **Change Notice** includes an 'Information Note – Reduced Impact Area' then the parties agree that:
  - (i) within **twenty (20) Business Days** of the day the **Change Notice** takes effect the **Entity** will complete and provide to the **Administering Agency** the standard form

'Application to recalculate/refund/credit Financial Settlement Offset Amount' and identify:

- (A) the **Proposed Recalculated Financial Settlement Offset Amount**. To be clear, to calculate the **Proposed Recalculated Financial Settlement Offset Amount**, the **Impact Area** is the total impact area identified in the **Change Notice** (and not the impact area identified in the 'Information Note – Reduced Impact Area' in the **Change Notice**); and
- (B) the amount attributed to the reduction in the impact area identified in the 'Information Note – Reduced Impact Area' in the **Change Notice** by subtracting the **Proposed Recalculated Financial Settlement Offset Amount** from the **Financial Settlement Offset Amount** ('**Proposed Reduction Amount**');

*Explanatory Note: By way of example, if the **Financial Settlement Offset Amount** is \$17,000 and if the **Proposed Recalculated Financial Settlement Offset Amount** is \$10,000, then subtract the **Proposed Recalculated Financial Settlement Offset Amount** from the **Financial Settlement Amount** which will result in \$7,000. This is the **Proposed Reduction Amount**.*

To be clear, the option of a credit is not available for this agreement.

- (ii) Within **twenty (20) Business Days** of the **Administering Agency** receiving an application referred to in clause 5.4(a)(i) or clause 5.4(a)(iii)(B), the **Administering Agency** will provide a notice to the **Entity** confirming whether the **Administering Agency** agrees that the **Proposed Recalculated Financial Settlement Offset Amount** and the **Proposed Reduction Amount** has been correctly calculated.
- (iii) If the **Administering Agency** identifies an error in the value of the **Proposed Reduction Amount**, then:
  - (A) the notice referred to in clause 5.4(a)(ii) must identify the error in the details input into the environmental offsets calculator, or the error in the calculation of the **Proposed Reduction Amount**;
  - (B) the **Entity** must recalculate the **Proposed Recalculated Financial Settlement Offset Amount** (by rectifying the error in the details inputted into the environmental offsets calculator) and the **Proposed Reduction Amount** and complete and provide to the **Administering Agency** the standard form 'Application to recalculate/refund/credit Financial Settlement Offset Amount' within **five (5) Business Days** of receiving the notice referred to in clause 5.4(a)(ii); and
  - (C) the **Administering Agency** will provide a notice to the **Entity** referred to in clause 5.4(a)(ii).
- (b) If the notice referred to in clause 5.4(a)(ii) confirms that the **Administering Agency** agrees that the **Proposed Recalculated Financial Settlement Offset Amount** and the **Proposed Reduction Amount** have been correctly calculated then the **Administering Agency** will provide a refund to the **Entity** for the value of the **Reduction Amount** within **twenty (20) Business Days** of the issuing of that notice.

## 6. Assignment by Entity

### 6.1 Restriction on assignment

The **Entity** shall not, either absolutely or by way of security, assign its interests, rights or obligations under this agreement without the prior consent of the **Administering Agency** in writing signed by the **Chief Executive Officer** of the **Administering Agency**.

### 6.2 Restriction on the right to refuse

The **Administering Agency** may, in its absolute discretion, withhold its consent to the assignment.

### 6.3 Conditions of the consent

If the **Administering Agency** grants its consent, the **Administering Agency** may impose conditions for the giving of such consent which are not inconsistent with the provisions of this agreement.

## 7. Default by Entity

### 7.1 Rights of the Administering Agency on default

If the **Entity** has breached clause 3.1, 4 or 6 of this agreement, the **Administering Agency** may elect, in its absolute discretion and without limiting any other rights, to do one or more of the following:

- (a) pursue contractual remedies for breach of this agreement; or
- (b) exercise any of its powers pursuant to Chapters 5 and 6 of **Planning Act**.

## 8. Mediation

### 8.1 Negotiation and good faith

If a dispute arises between the parties, then prior to initiating any court action, the parties must meet and in good faith attempt to resolve the dispute.

### 8.2 Parties to mediate

- (a) If the parties fail to resolve the dispute within **ten (10) Business Days** of the dispute arising, then the parties must submit to the mediation of the dispute by a mediator appointed by the President for the time being of the Queensland Law Society.
- (b) The mediator's fees shall be borne equally by the parties.

## 9. Service

### 9.1 Service by prepaid post

A notice is sufficiently made, given or served by a party if left at or forwarded by prepaid post in an envelope addressed to the other party or any of them (where there are more persons than one person comprising the other party) at the address of that party shown specified in the Notice details clause.

## 10. Miscellaneous

### 10.1 Payment of costs

Each party bears its own costs.

## 10.2 Time

Time is, in all cases, of the essence.

## 10.3 Joint and severable liability

If the **Entity** is more than one entity, then the provisions of this agreement bind the entities that are the **Entity** jointly and severally.

## 10.4 Waiver

No waiver by the **Administering Agency** of any breach by the other parties of any of the provisions of this agreement shall be implied against the **Administering Agency** or be otherwise effective unless it is in writing under the hand of the **Chief Executive Officer**.

## 10.5 Laches and delay

No laches or delay by the **Administering Agency** at any time or times in enforcing any of its rights, powers and the like under this agreement prejudice or affect those rights or powers.

## 10.6 Severance

If any provision of this agreement cannot be given effect or full force and effect by reason of statutory invalidity that provision shall be severed or read down but so as to maintain and uphold so far as possible the remaining provisions of this agreement.

## 10.7 Warranty of authority

Any person signing this agreement:

- (a) as attorney of any party warrants to the other parties that at the date of execution that person has not received any notice or information of the revocation of the power of attorney appointing that person; and
- (b) as an authorised officer, agent or trustee of any party warrants to the other parties that at the date of execution that person has full authority to execute this agreement in that capacity.

## 10.8 Counterparts

This agreement may be executed in counterparts. All executed counterparts constitute one document.

## 10.9 Further assurances

Each party agrees at its cost to do everything reasonably necessary to give effect to this agreement.

## 10.10 Force Majeure

- (a) If a party is unable by reason of an event of **Force Majeure** to carry out its obligations under this agreement, that party must give a notice to the other party advising of the event of the **Force Majeure** as soon as it is reasonably practicable after the event of a **Force Majeure**.
- (b) If a party gives a notice advising of an event of **Force Majeure**, that party's obligations will be suspended during the period for which the event of **Force Majeure** or its effect extends.
- (c) Where the obligations of the **Administering Agency** are dependent upon the occurrence of specified circumstances, then the **Administering Agency** will be relieved of its obligations for so long as there is a change or deviation or nonoccurrence of those circumstances arising from a matter beyond the **Administering Agency's** control.



### 10.11 Amendment of agreement

- (a) Despite any other provision of this agreement, the parties may at any time agree to vary the terms of this agreement pursuant to section 19(7) of the **EO Act**.
- (b) No modification, variation or amendment of this agreement is of any force or effect unless:
  - (i) it is in the form of an amendment agreement and has been signed by the parties; and
  - (ii) where relevant the amendment agreement complies with the requirements of the **EO Act**.
- (c) To avoid any doubt:
  - (i) if a **Recalculated Financial Settlement Offset Amount** is determined for the purpose of clause 5.1(b)(i)**Error! Reference source not found.**, then that recalculation is not a modification, variation or amendment of this agreement; and
  - (ii) if a **Recalculated Financial Settlement Offset Amount** is determined for the purpose of clause **Error! Reference source not found.**5.1(b)(ii), then that recalculation is taken to be an amendment of this agreement without the need for an amendment agreement to be signed by the parties.

# Signing pages

**EXECUTED** as a deed.

**Signed** for and on behalf of COUNCIL OF THE  
CITY OF GOLD COAST by \_\_\_\_\_  
\_\_\_\_\_ (name) pursuant to  
delegated authority number \_\_\_\_\_ on the \_\_\_\_\_  
day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the  
presence of:

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full Name

\_\_\_\_\_  
Print full name

**Instructions to the Entity:**

1. If the Entity is only one entity, please sign in accordance with steps 4 and 5 on this page 18. Please do not sign on page 19.
2. If the Entity comprises two entities, please have the second entity sign on page 19 in accordance with steps 4 and 5.
3. If the Entity comprises more than two entities, please print out page 19 the number of times required so that each entity signs in accordance with steps 4 and 5.
4. If the Entity is a corporation (and not an individual) please sign **Entity Signing Clause – corporation**. Please do not sign Entity Signing Clause - individual.
5. If the Entity is an individual (and not a corporation) please sign **Entity Signing Clause – individual**. Please do not sign Entity Signing Clause – corporation.

**Signing Clause – corporation**

**Signed** for the **Entity** under section 127 of the *Corporations Act 2001* on the \_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the presence of:

\_\_\_\_\_  
Signature of director



\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

**Signing Clause – individual**

**Signed** for the **Entity** on the \_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the presence of:

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Print full name

This page only needs to be signed if the Entity is more than one entity.

**Entity Signing Clause – corporation**

**Signed** for the **Entity** under section 127 of the *Corporations Act 2001* on the \_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the presence of:

\_\_\_\_\_  
Signature of director



\_\_\_\_\_  
Signature of director/company secretary  
(Please delete as applicable)

\_\_\_\_\_  
Name of director (print)

\_\_\_\_\_  
Name of director/company secretary (print)

**Entity Signing Clause – individual**

**Signed** for the **Entity** on the \_\_\_\_ day of \_\_\_\_\_ (month) \_\_\_\_\_ (year) in the presence of:

\_\_\_\_\_  
Signature



\_\_\_\_\_  
Witness

\_\_\_\_\_  
Full name

\_\_\_\_\_  
Print full name