

Macquarie Infrastructure Trust (II)

Fourth Supplemental Deed

by

Macquarie Infrastructure Investment Management Limited

ACN 072 609 271

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Fourth Supplemental Deed

This Deed Poll is made on 14 November 2002

By

Macquarie Infrastructure Investment Management Limited (ACN 072 609 271) of Level 15, 1 Martin Place Sydney NSW 2000 (the "Manager")

Recitals:

- A. The Manager and Trust Company of Australia Limited (the "Trustee") are parties to a trust deed dated 18 July, 1996 (as amended) (the "Constitution") under which the Macquarie Infrastructure Trust (II) (then known as the Infrastructure Trust of Australia (II)) ("MIT(II)") was created.
- B. On 9 June 2000 MIT(II) became a registered scheme, the Manager became the responsible entity and the Trustee retired as trustee of MIT(II).
- C. In accordance with section 601GC of the Corporations Act 2001, a special resolution was passed by Unitholders of MIT(II) on 30 October 2002 authorising an amendment to the Constitution as set out in this Deed Poll.
- D. This Deed Poll is executed by the Manager in accordance with clause 22.1 of the Constitution and will take effect as a supplemental deed to the Constitution.

This Deed Poll witnesses as follows:

1. Definitions and interpretation

The definitions and rules of interpretation set out in clause 28 of the Constitution apply to this Deed Poll as though those definitions and rules of interpretation were set out in full.

2. Amendment to the Constitution

2.1 Amendment

The Constitution is amended by:

- (a) inserting a new clause 19.1(f) and clause 19.1(g) at the end of clause 19.1 as follows:
 - "(f) Whilst Unit Stapling applies, if an instalment of the Performance Fee is payable as at the last day of a Financial Year in accordance with clause 19.1(d) then, subject to the Corporations Act and the Listing Rules, the Manager and its associates, if approved by the non-executive directors of the Manager acting in the interest of the Members, shall be entitled to subscribe

for that number of Stapled Securities equal to the amount of the instalment of the Performance Fee divided by the volume weighted average trading price of all Stapled Securities traded on the ASX during the last 10 Business Days of that Financial Year and apply the instalment of the Performance Fee in payment of the Application Price of those Stapled Securities. The Stapled Securities relating to an instalment of the Performance Fee must be issued as soon as reasonably practicable after the instalment of the Performance Fee becomes payable in accordance with clause 19.1(d) . To the extent that any instalment of the Performance Fee to which the Manager is entitled under this clause is not applied in the purchase of Stapled Securities, it must be paid in cash to the Manager out of the Assets. It is recognised that the Manager and its associate may receive part of the Performance Fee from the Stapled Trust and may aggregate the instalment of the Performance Fee payable by the Trust and the Stapled Trust for the purpose of applying that instalment of the Performance Fee to acquire Stapled Securities in accordance with this clause 19.1(f).

- (g) Whilst Share Stapling applies, if an instalment of the Performance Fee is payable as at the last day of a Financial Year in accordance with clause 19.1(d) then, subject to the Corporations Act, the Listing Rules and the Companies Act 1985 to 1989, the Manager and its associates, if approved by the non-executive directors of the Manager acting in the interest of the Members, shall be entitled to subscribe for that number of Share Stapled Securities equal to the amount of the instalment of the Performance Fee divided by the volume weighted average trading price of all Share Stapled Securities traded on the ASX during the last 10 Business Days of that Financial Year and apply the instalment of the Performance Fee in payment of the Application Price of those Share Stapled Securities. The Share Stapled Securities relating to an instalment of the Performance Fee must be issued as soon as reasonably practicable after the instalment of the Performance Fee becomes payable in accordance with clause 19.1(d) . To the extent that any instalment of the Performance Fee to which the Manager is entitled under this clause is not applied in the purchase of Share Stapled Securities, it must be paid in cash to the Manager out of the Assets. It is recognised that the Manager and its associate may receive part of the Performance Fee from the Stapled Trust and the Stapled Company and may aggregate the instalment of the Performance Fee payable by the Trust, the Stapled Trust and the Stapled Company for the purpose of applying that instalment of the Performance Fee to acquire Share Stapled Securities in accordance with this clause 19.1(g)."

- (b) deleting the words "Australian All Industrials Accumulation" wherever they occur in the definition of Benchmark Return in clause 28.1 and replacing them in each case with the words "S&P/ASX 300 Industrials Accumulation".
- (c) amending the definition of Bloomberg in clause 28.1 so that it reads as follows:

"Bloomberg: Bloomberg Financial Markets or if it ceases to publish or report the S&P/ASX 300 Industrials Accumulation Index or the accumulation index for the Stapled Securities or Share Stapled Securities listed on ASX such other person which publishes or reports that information as selected by the Manager."

- (d) replacing the references to "clause 19.1(e)" wherever they occur in the definition of Annual Return in clause 28.1 with references to "clause 19.1(d)".
- (e) replacing each of the references to "calculated and reported by Bloomberg" in the definition of Annual Return in clause 28.1 with "calculated by a person reasonably approved or selected by the Manager and reported by Bloomberg".
- (f) replacing each of the references to "calculated and reported by Bloomberg" in the definition of Benchmark Return in clause 28.1 with "reported by Bloomberg".
- (g) adding the following definition to clause 28.1 in the correct alphabetical sequence:

"S&P/ASX 300 Industrials Accumulation Index: the index with that name calculated by or on behalf of Standard & Poor's and reported by Bloomberg or if that index ceases to be calculated and published the nearest equivalent available index reasonably selected by the Manager."

2.2 Confirmation

The provisions of this deed are binding on the Manager and Unit Holders of MIT(II) from time to time and all persons claiming through them respectively.

3. Effect

The amendment to the Constitution set out in clause 2 takes effect upon lodgment of this Deed Poll with the Australian Securities and Investments Commission in accordance with section 601GC(2) of the *Corporations Act 2001*.

4. General Provisions

4.1 Governing law

This Deed Poll is governed by the laws of New South Wales.

Executed as a Deed Poll

The Common Seal of
Macquarie Infrastructure
Investment Management Limited
is affixed in accordance with its
constitution

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) 19/02

Christine Williams

Signature of secretary/director



Anthony Kahn

Signature of director

CHRISTINE ELIZABETH WILLIAMS

Name of secretary/director (please print)

Anthony Kahn

Name of director (please print)