

**Macquarie Infrastructure Investment Management Limited**  
ABN 67 072 609 271  
AFS Licence No. 241405  
A Member of the Macquarie Bank Group

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25 November 2005

## **ASX RELEASE**

### **Macquarie Infrastructure Group**



#### **Trust Constitution Amendments – Pricing Amendments**

At the MIG Annual General Meeting of 21 November 2005, the members of Macquarie Infrastructure Trust (I) and Macquarie Infrastructure Trust (II) (the "Trusts") approved pricing amendments to the constitutions of the Trusts.

The constitutions of the Trusts have been amended accordingly.

The supplemental deeds giving effect to the amendments are attached.

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**Macquarie Infrastructure Trust (I)**  
(ARSN 092 863 780)  
**Ninth Supplemental Deed**

**Macquarie Infrastructure Investment  
Management Limited**

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**BAKER & MCKENZIE**

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*11 October 2005*

Ref: 319361-v1UCZ





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Date

25 NOVEMBER 2005

By

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

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## Recitals

- A The Manager and Trust Company of Australia Limited (the **Trustee**) were parties to a trust deed dated 18 July 1996 (as amended) (the **Constitution**) under which the Macquarie Infrastructure Trust (I) (then known as the Infrastructure Trust of Australia (I)) (**MIT(I)**) was created.
- B On 9 June 2000 MIT(I) became a registered scheme, the Manager became the responsible entity and the Trustee retired as trustee of MIT(I).
- C In accordance with section 601GC(1)(a) of the Corporations Act, the Manager wishes to amend the Constitution as set out in clause 2 of this Deed Poll.
- D The members of MIT(I) have approved the proposed amendments set out in clause 2 of this Deed Poll by passing a special resolution at the meeting of members held on 21 November 2005.
- E 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.

## Operative provisions

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### 1 Definitions and interpretation

- 1.1 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.
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### 2 Amendment to the Constitution

- 2.1 The Constitution is amended by:
- (a) replacing clause 3.6(a) to read as follows:  
"for no consideration or an issue price determined in accordance with clause 4.5A";
  - (b) amending clause 3.6(b) by inserting after the words "the price determined by the Manager", the words "or determined in accordance with clause 4.5A";
  - (c) inserting a new clause 4.1(da) as follows:  
"in any case and notwithstanding any other provision of this clause 4.1, determined in accordance with clause 4.5A;"

(d) inserting a new clause 4.5A as follows:

"In addition to any other power the Manager has to issue Units or Options, while the Trust is Listed, the Manager may at any time issue Units or Options to any person on terms determined by it, provided that:

- (a) the price at which the Units or Options are offered or are to be issued (and the price at which Units are to be issued on exercise of the Options) is:
  - (i) an amount determined by the Manager under clause 4.6 where the Application Price of a Share Stapled Security or a Stapled Security (as the case may be) is the Determined Issue Price of that Share Stapled Security or Stapled Security on a Relevant Day; and
  - (ii) in the case of an issue price of an Option, the Determined Issue Price of that Option on a Relevant Day;
- (b) the Manager complies with the ASX Listing Rules applicable to the issue and the conditions of any applicable ASIC relief; and
- (c) while Unit Stapling applies, any offer of Units which are to be issued pursuant to this clause 4.5A must be accompanied by a contemporaneous and corresponding offer of Stapled Units by the Stapled Trust, the offer is capable of acceptance only if the recipient takes up an identical number of Units and Stapled Units; and
- (d) while Share Stapling applies, any offer of Units including if Unit Stapling applies any offer of Units under clause 4.5A(c) which are to be issued pursuant to this clause 4.5A must be accompanied by a contemporaneous and corresponding offer of Stapled Shares by the Stapled Company, the offer is capable of acceptance only if the recipient takes up an identical number of Stapled Shares to the number of Units and if clause 4.5A(c) applies, Stapled Units taken up under clause 4.5A(c).";

(e) inserting a new definition of "Determined Issue Price" in clause 28 in the appropriate alphabetical order as follows:

**"Determined Issue Price** of a Relevant Security on a particular day means:

- (a) the price obtained for Relevant Securities pursuant to a book build arranged by a reputable merchant or investment bank or banks with experience in arranging book builds in the Australian equity market or the equity market into which the Relevant Security is to be sold, provided that the Auditor has provided written certification that the book build was conducted in accordance with normal market practice for such book builds; or
- (b) an amount (which in the case of an Option is the amount or amounts at which the Relevant Security will be issued either on issue of the Option or on exercise of the Option or both) determined by an adviser:
  - (A) who is independent of the Manager; and
  - (B) who is qualified to determine and has relevant market experience in determining the issue price of securities in circumstances similar to those in which the determination of the price of the Relevant Security is being made; and

- (C) who certifies the amount in writing to the Manager and confirms that in determining the amount the expert has had regard to the matters set out in paragraphs (D) to (G) below,

as being a fair and reasonable issue price of the Relevant Security, having regard to:

- (D) the nature and size of the proposed offer for which purpose the issue price of a Relevant Security is being calculated;
- (E) the circumstances in which the proposed offer of Relevant Security will be made;
- (F) the interests of Members generally including balancing the dilutionary effect of any such issue against the desirability of a successful capital raising; and
- (G) the valuation methods and policies applied by the adviser must be capable of resulting in a calculation of the Determined Issue Price that is independently verifiable.

In circumstances where the adviser determines the issue price of an Option, the adviser must also determine the amount of the issue price which should be allocated to the issue price of an interest in this Trust. In so doing, the adviser should rely on the procedures and methodology used by the Manager to allocate the Application Price of a Share Stapled Security or a Stapled Security.

In this definition of Determined Issue Price, the term **Relevant Security** means:

- (i) a Share Stapled Security;
- (ii) a Stapled Security; or
- (iii) an option to acquire either one of them (as the case may be).

If either of paragraphs (a) or (b) in this definition is held to be void, invalid or otherwise unenforceable, it is deemed to be severed from the remainder of this definition, which will remain in full force and effect, and Determined Issue Price must be calculated in accordance with the clause which is not thereby deemed to be severed."; and

- (f) inserting a new definition of "Relevant Day" in clause 28 in the appropriate alphabetical order as follows:

**"Relevant Day** means:

- (a) in the case of a calculation of Determined Issue Price under paragraph (a) of the definition of Determined Issue Price, the day on which the price for the Relevant Securities is set in the book build process; and
- (b) in the case of a calculation of Determined Issue Price under paragraph (b) of the definition of Determined Issue Price, the day on which the adviser provides its written determination of the Determined Issue Price."

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### **3 Effect**

- 3.1 The amendments to the Constitution set out in clause 2 take 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*.
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### **4 General Provisions**

#### **Confirmation**

- 4.1 The provisions of this Deed Poll are binding on the Manager and Unit Holders of MIT(I) from time to time and all persons claiming through them respectively.

#### **Governing law**

- 4.2 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



*Christine Williams*

Signature of secretary/director

**CHRISTINE ELIZABETH WILLIAMS**

Name of secretary/director (please print)

*John Roberts*

Signature of director

*John Roberts*

Name of director (please print)



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**Macquarie Infrastructure Trust (II)**  
(ARSN 092 863 548)  
**Ninth Supplemental Deed**

**Macquarie Infrastructure Investment  
Management Limited**

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**BAKER & MCKENZIE**

Solicitors  
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**11 October 2005**

Ref: 319772-v1UCZ



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**Date**

25 NOVEMBER 2005

**By**

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

---

## Recitals

- A The Manager and Trust Company of Australia Limited (the **Trustee**) were 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(1)(a) of the Corporations Act, the Manager wishes to amend the Constitution as set out in clause 2 of this Deed Poll.
- D The members of MIT(II) have approved the proposed amendments set out in clause 2 of this Deed Poll by passing a special resolution at the meeting of members held on 21 November 2005.
- E 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.

## Operative provisions

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### 1 Definitions and interpretation

- 1.1 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.
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### 2 Amendment to the Constitution

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- (b) amending clause 3.6(b) by inserting after the words "the price determined by the Manager", the words "or determined in accordance with clause 4.5A";

- (c) inserting a new clause 4.1(da) as follows:

"in any case and notwithstanding any other provision of this clause 4.1, determined in accordance with clause 4.5A;"

- (d) inserting a new clause 4.5A as follows:

"In addition to any other power the Manager has to issue Units or Options, while the Trust is Listed, the Manager may at any time issue Units or Options to any person on terms determined by it, provided that:

- (a) the price at which the Units or Options are offered or are to be issued (and the price at which Units are to be issued on exercise of the Options) is:
- (i) an amount determined by the Manager under clause 4.6 where the Application Price of a Share Stapled Security or a Stapled Security (as the case may be) is the Determined Issue Price of that Share Stapled Security or Stapled Security on a Relevant Day; and
- (ii) in the case of an issue price of an Option, the Determined Issue Price of that Option on a Relevant Day;
- (b) the Manager complies with the ASX Listing Rules applicable to the issue and the conditions of any applicable ASIC relief; and
- (c) while Unit Stapling applies, any offer of Units which are to be issued pursuant to this clause 4.5A must be accompanied by a contemporaneous and corresponding offer of Stapled Units by the Stapled Trust, the offer is capable of acceptance only if the recipient takes up an identical number of Units and Stapled Units; and
- (d) while Share Stapling applies, any offer of Units including if Unit Stapling applies any offer of Units under clause 4.5A(c) which are to be issued pursuant to this clause 4.5A must be accompanied by a contemporaneous and corresponding offer of Stapled Shares by the Stapled Company, the offer is capable of acceptance only if the recipient takes up an identical number of Stapled Shares to the number of Units and if clause 4.5A(c) applies, Stapled Units taken up under clause 4.5A(c).";
- (c) inserting a new definition of "Determined Issue Price" in clause 28 in the appropriate alphabetical order as follows:

**"Determined Issue Price** of a Relevant Security on a particular day means:

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- (b) an amount (which in the case of an Option is the amount or amounts at which the Relevant Security will be issued either on issue of the Option or on exercise of the Option or both) determined by an adviser:
- (A) who is independent of the Manager; and
- (B) who is qualified to determine and has relevant market experience in determining the issue price of securities in circumstances similar to those in which the determination of the price of the Relevant Security is being made; and

- (C) who certifies the amount in writing to the Manager and confirms that in determining the amount the expert has had regard to the matters set out in paragraphs (D) to (G) below,

as being a fair and reasonable issue price of the Relevant Security, having regard to:

- (D) the nature and size of the proposed offer for which purpose the issue price of a Relevant Security is being calculated;
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- (F) the interests of Members generally including balancing the dilutionary effect of any such issue against the desirability of a successful capital raising; and
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- (f) inserting a new definition of "Relevant Day" in clause 28 in the appropriate alphabetical order as follows:

**"Relevant Day** means:

- (a) in the case of a calculation of Determined Issue Price under paragraph (a) of the definition of Determined Issue Price, the day on which the price for the Relevant Securities is set in the book build process; and
- (b) in the case of a calculation of Determined Issue Price under paragraph (b) of the definition of Determined Issue Price, the day on which the adviser provides its written determination of the Determined Issue Price."

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### **3 Effect**

- 3.1 The amendments to the Constitution set out in clause 2 take 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*.
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### **4 General Provisions**

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is affixed in accordance with its constitution



Christine Williams  
Signature of secretary/director

**CHRISTINE ELIZABETH WILLIAMS**  
Name of secretary/director (please print)

John Roberts  
Signature of director

**John Roberts**  
Name of director (please print)