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Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement

Fourth Deed of Variation

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

City of Canada Bay Council

Walker Street Development Pty Limited

Bay Tower Pty Limited

Twenty Three Marquet Street Pty Limited

Twenty One Marquet Street Pty Limited

Twelve Walker Street Pty Limited

Thirty Four Walker Street Pty Ltd

Date:



Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement

Fourth Deed of Variation

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Rhodes West Station Precinct – Marquet & Walker Streets Planning Agreement Fourth Deed of Variation

Summary Sheet

Council:

Name: City of Canada Bay Council

Address: 1a Marlborough Street, Drummoyne

Telephone: (02) 9911 6400

Facsimile: (02) 9911 6550

Email: council@canadabay.nsw.gov.au

Representative: Director- City Services and Assets

Developer:

Name: Walker Street Development Pty Limited

Address: 44 Waratah Street Mona Vale NSW 2103

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

Landowners:

Name: Bay Tower Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twenty One Marquet Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twenty Three Marquet Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Twelve Walker Street Pty Limited

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

and

Name: Thirty Four Walker Street Pty Ltd

Address: Suite 101, 25 Angas Street Meadowbank NSW 2114

Telephone: 8878 6962

Facsimile: 8878 6995

Email: paul.addison@billbergia.com.au and legal@billbergia.com.au

Representative: Paul Addison

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement

Fourth Deed of Variation

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

Parties

City of Canada Bay Council ABN 79 130 029 250 of 1a Marlborough Street, Drummoyne NSW (**Council**)

and

Walker Street Development Pty Ltd ACN 164 083 809 of 44 Waratah Street, Mona Vale NSW (**Developer**)

and

Bay Tower Pty Limited ACN 099 267 464 of Suite 101, 25 Angas St, Meadowbank NSW (**Bay Tower**)

and

Twenty One Marquet Street Pty Ltd ACN 165 919 693 of Suite 101 25 Angas St, Meadowbank NSW (**Twenty One Marquet St**)

and

Twenty Three Marquet Street Pty Ltd ACN 165 919 693 of Suite 101 25 Angas St, Meadowbank NSW (**Twenty Three Marquet St**)

and

Twelve Walker Street Pty Ltd ACN 166 282 542 of Suite 101, 25 Angas St, Meadowbank NSW (**Twelve Walker**)

and

Thirty Four Walker Street Pty Ltd ABN 36 165 847 076 of Suite 101, 25 Angas St, Meadowbank NSW (**Thirty Four Walker**)

Background

- A The Parties are parties to the Planning Agreement.
- B The Parties wish to amend the Planning Agreement in respect of the application of monetary contributions to the purpose of construction of roads and public domain works in the vicinity of the Land, and to require the Developer to carry out those additional roadworks and public domain works.
- C The Parties agree to vary the Planning Agreement in accordance with this Deed.

Operative provisions

Part 1 - Preliminary

1 Interpretation

- 1.1 In this Deed the following definitions apply:

Deed means this Deed and includes any schedules, annexures and appendices to this Deed.

Party means a party to this Deed.

Planning Agreement means the document titled '*Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement Under Section 93F of the Environmental Planning & Assessment Act 1979*' entered into between the Parties on 8 February 2016 and amended by the Deeds of Variation entered into on 21 March 2018; 12 November 2021 and 19 October 2022.

Regulation means the *Environmental Planning and Assessment Regulation 2021*.

- 1.2 Except as provided by clause 1.1 all capitalised words used in this Deed that are defined in clause 1.1 of the Planning Agreement have the same meaning in this Deed as they have in the Planning Agreement.

2 Status of this Deed

- 2.1 This Deed is an amendment to the Planning Agreement within the meaning of section 203(5) of the Regulation.

3 Commencement

- 3.1 This Deed takes effect on the date when all Parties have executed this Deed.
- 3.2 The Party who executes this Deed last is to insert on the front page the date they did so and provide a copy of the fully executed and dated Deed to any other person who is a Party.

4 Warranties

- 4.1 The Parties warrant to each other that they:
- 4.1.1 have full capacity to enter into this Deed, and
 - 4.1.2 are able to fully comply with their obligations under this Deed and the Planning Agreement as modified by this Deed.

5 Amendment of Planning Agreement

- 5.1 On and from the date this Deed takes effect:
 - 5.1.1 the Planning Agreement is amended in accordance with the marking-up shown on the copy of the Planning Agreement which is Annexure A to this Deed;
 - 5.1.2 Schedule 1 of the Planning Agreement is amended in accordance with the marking up shown on Schedule 1 in the copy of the Planning Agreement which is Annexure A to this Deed; and
 - 5.1.3 The text reading 'NOT USED' in Schedule 3 of the Planning Agreement is deleted, and a new Schedule 3 is included being Schedule 3 in the copy of the Planning Agreement which is Annexure A to this Deed.
- 5.2 For the avoidance of doubt, and except as provided in clause 5.1, the other Schedules and Appendix to the Planning Agreement remain part of the Planning Agreement, but are not included in the Planning Agreement in the annexure to this Deed and have not been amended.

6 Costs

- 6.1 The Parties are to bear their own costs of preparing, negotiating, executing and stamping this Deed.

7 Explanatory Note

- 7.1 The Appendix to this Deed contains the Explanatory Note relating to this Deed required by section 205 of the Regulation.
- 7.2 Pursuant to section 205(5) of the Regulation, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.



Annexure A

(Clause 5)

Amended Planning Agreement

The Planning Agreement as amended by this Deed appears on the following pages.



Execution

Executed as a Deed

Dated:

Executed on behalf of the Council

General Manager

Witness

Mayor

Witness

Executed on behalf of the Developer in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Rhodes West Station Precinct - Marquet & Walker Streets Planning Agreement – Fourth Deed of Variation



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Executed on behalf of Twenty One Marquet St in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Bay Tower in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Twelve Walker in accordance with s127(1) of the Corporations Act (Cth) 2001

Name/Position

Name/Position

Executed on behalf of Thirty Four Walker in accordance with s127(1) of the Corporations Act (Cth) 2001

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**Rhodes West Station Precinct - Marquet & Walker Streets Planning
Agreement – Fourth Deed of Variation**



City of Canada Bay Council

Walker Street Development Pty Limited & Ors

Name/Position

Name/Position

Appendix

(Clause 7)

Environmental Planning and Assessment Regulation 2021

(Section 205)

Explanatory Note

Fourth Deed of Variation to Planning Agreement

Under s203(5) of the *Environmental Planning and Assessment Regulation 2021*

Parties

City of Canada Bay Council ABN 79 130 029 250 of 1a Marlborough St, Drummoyne NSW 2047 (**Council**)

Walker Street Development Pty Limited ACN 164 083 809 of 44 Waratah Street Mona Vale NSW 2103 (**Developer**)

Bay Tower Pty Limited ACN 099 267 464 of Suite 101, 25 Angas St, Meadowbank NSW 2114 (**Bay Tower**)

Twenty One Marquet Street Pty Limited ACN 165 919 693 of Suite 101, 25 Angas Street Meadowbank NSW 2114 (**Twenty One Marquet St**)

Twelve Walker Street Pty Limited ACN 166 282 542 of Suite 101, 25 Angas Street Meadowbank NSW 2114 (**Twelve Walker**)

Thirty Four Walker Street Pty Ltd ABN 36 165 847 076 of Suite 101, 25 Angas St, Meadowbank NSW 2114 (**Thirty Four Walker**)

Description of the Land to which the Deed of Variation Applies

The Fourth Deed of Variation applies to the same Land as the Land the subject of the Planning Agreement.

Description of Proposed Development

The Fourth Deed of Variation applies to the same Development as the Development the subject of the Planning Agreement.

Summary of Objectives, Nature and Effect of the Deed of Variation

Objectives of the Fourth Deed of Variation

The objective of the Fourth Deed of Variation is to amend the Planning Agreement.

Nature of the Fourth Deed of Variation

The Fourth Deed of Variation is a deed of variation to the Planning Agreement under s203(5) of the *Environmental Planning and Assessment Regulation 2021*.

Effect of the Fourth Deed of Variation

The Fourth Deed of Variation varies the Planning Agreement in respect of the application of monetary contributions and to require additional roadworks to be constructed by the Developer.

Assessment of the Merits of the Deed of Variation

The Planning Purposes Served by the Third Deed of Variation

The amended Planning Agreement:

- promotes the orderly and economic use and development of the Land to which the agreement applies,
- facilitates the provision of land for public purposes in connection with the Development,
- facilitates the provision of community services and facilities, and
- promotes increased opportunity for public in environmental planning and assessment.

How the Deed of Variation Promotes the Public Interest

The amended Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s1.3 of the Act.

For Planning Authorities:

Development Corporations - How the Deed of Variation Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Deed of Variation Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Deed of Variation Promotes the Elements of the Council’s Charter

The amended Planning Agreement:

- promotes the provision of adequate, equitable and appropriate services and facilities for the community by making provision for community infrastructure,
- facilitates involvement of the community in decision making regarding the provision of community infrastructure, and
- secures funding for community infrastructure for which it is provided to meet the needs of residents within the locality.

All Planning Authorities – Whether the Deed of Variation Conforms with the Authority’s Capital Works Program

The Fourth Deed of Variation will conform with the Council’s capital works program.

All Planning Authorities – Whether the Deed of Variation specifies that certain requirements must be complied with before a construction certificate, occupation certificate or subdivision certificate is issued

Yes, the amended Planning Agreement requires monetary Development Contributions to be made prior to the issue of subdivision certificates and occupation certificates.