
Council of the City of Ryde
ABN 81 621 292 610

and

The Trust Company Limited
ACN 004 027 749

and

**Stockland Trust Management Limited as Trustee for Advance
Property Fund**
ACN 001 900 741

Explanatory Note

Deed of Variation to Planning Agreement

Explanatory Note required by clause 25E of the *Environmental Planning and Assessment
Regulation 2000* (NSW)

11-17 Khartoum Road and 33-39 Talavera Road, Macquarie Park, NSW

Explanatory Note

1 Deed of Variation to Planning Agreement

11-17 Khartoum Road and 33-39 Talavera Road, Macquarie Park, NSW

1.1 Introduction

On 2 December 2019, the parties entered into a voluntary agreement (**Planning Agreement**) under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW) (**Act**). The Planning Agreement was prepared in connection with a concept development application (LDA 2017/0547) which was subsequently approved by the Sydney North Planning Panel on 4 December 2020 (**Concept DA**).

An application to modify the Concept DA has been lodged with the Council of the City of Ryde (**Modification Application**). The purpose of the Deed (**Deed of Variation**) is to vary the Planning Agreement to reflect the modifications proposed in the Modification Application.

This Explanatory Note has been prepared jointly by the parties to the Deed of Variation as required by clause 25E of the *Environmental Planning and Assessment Regulation 2000* (NSW) (**Regulation**).

Contributions under sections 7.11 and 7.12 of the Act are excluded under the Planning Agreement. Contributions under section 7.24 of the Act are not excluded.

Capitalised terms have the meaning given to those terms in the Planning Agreement, unless otherwise defined in the Deed of Variation or this Note.

This Explanatory Note is not to be used to assist in construing the Deed of Variation.

1.2 Parties to the Deed of Variation

The parties to the Deed of Variation are:

- (a) Council of the City of Ryde ABN 81 621 292 610 (**Council**).
- (b) The Trust Company Limited as custodian for Stockland Trust Management Limited as Trustee for Advance Property Fund (**Owner**).
- (c) **Stockland Trust Management Limited** as Responsible Entity for the Advance Property Fund ACN 001 900 741 of level 29, 133 Castlereagh Street, Sydney New South Wales (**Responsible Entity**).

1.3 Description of the Land

The Deed of Variation applies to Lot 1 in Deposited Plan 633221 and known as 11-17 Khartoum Road and 33-39 Talavera Road, Macquarie Park, NSW being the land comprised in certificate of title folio identifiers 1 / 633221 (**Land**).

1.4 Description of the Proposed Development

No change is proposed to an environmental planning instrument.

The Owner seeks to carry out redevelopment of the Land in accordance with the Modification Application lodged with the Council on 30 June 2020, comprising a staged redevelopment (stages 1 to 4) of the Land comprising:

- (a) A total floor space of 55,129 sq.m (FSR ~~1.84~~ 4.99 :1) comprising the following land uses:
 - (i) Office;
 - (ii) Retail (café/restaurants and neighbourhood shops); and
 - (iii) Data Storage;
- (b) Varying building heights up to 10 storeys (45 metres);
- (c) Basement car parking for ~~987~~ 765 vehicles;
- (d) New internal roads connecting ~~between to~~ to Khartoum Road ~~and Talavera Road~~;
- (e) New Road 22 along the south-west boundary of the site connecting to Talavera Road;
- (f) New pedestrian through site link connecting to Talavera Road and future Road 1; and
- (g) Landscaping works including a central publicly accessible open space.
(described in this Explanatory Note as the **Development**).

Note that the strike through and underline text above indicates the changes to the Concept DA that are proposed by the Modification Application.

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

The objective of the Planning Agreement has not been changed by the Deed of Variation, it is still to facilitate the delivery by the Owner of the Contributions comprising:

- (a) the carrying out of the Pedestrian Link Works;
- (b) the carrying out of the Road Land Works and dedication of the Road Land as public road; and
- (c) the carrying out of the Public Domain Works,
(together **Contributions**).

In order to secure the obligations of the Developer under the Planning Agreement, the terms of the Planning Agreement require the provision of security in the form of bank guarantees or security deposits for the amounts stipulated in the Planning Agreement. The timing for the provision of this security and the monetary amounts stipulated in the Planning Agreement, have been varied by the Deed of Variation to reflect the stages of the Development. The total security monetary amount to be provided to the Council has not been varied by the Deed of Variation.

The public benefits to be provided under the Planning Agreement have not been changed by the Deed of Variation, and are summarised as follows:

- (a) the construction and dedication to Council of the Road Land;
- (b) the construction of the Pedestrian Link Works and registration of an easement in favour of Council over the Pedestrian Link across the Land; and
- (c) the carrying out of Public Domain Works to Khartoum and Talavera Roads outside the boundary of the Land.

The timing for the provision of the Contributions stipulated in the Planning Agreement, has been varied by the Deed of Variation to reflect the stages of the Development. The total monetary figure of the Contribution Value in the Deed of Variation has not changed from that in the Planning Agreement.

1.6 **Assessment of the merits of the Deed of Variation**

How the Deed of Variation promotes the public interest and one or more of the objects of the Act

The Planning Agreement which is varied by the Deed of Variation, provides a Pedestrian Link, enhancements to existing public roads and new public roads to meet the needs of the people who will live, work or visit the locality once the Development is complete.

In doing so, the varied Planning Agreement promotes the following objects of the Act:

- (a) to promote the orderly and economic use and development of land (section 1.3(c)); and
- (b) to promote good design and amenity of the built environment (section 1.3(g)).

The delivery of the Contributions under the Deed of Variation will be in the public interest because they will result in the provision of public infrastructure. The provision of these items will promote the social and economic welfare of the community.

How the Deed of Variation promotes the objects of the Local Government Act 1993 (LG Act) and the elements of the Council's charter

The Planning Agreement which is varied by the Deed of Variation, promotes the exercise by Council of its functions in accordance with the guiding principles set out in Chapter 3 of the LG Act because it will assist Council to provide infrastructure and public spaces for the benefit of the community in the area of the Development.

Council's strategic planning for Macquarie Park envisions an attractive, vibrant and sustainable urban place which provides quality residential and commercial developments complimented with enhanced pedestrian, bike and road access.

In summary, the varied Planning Agreement promotes the Council's charter by ensuring the delivery of the public benefits under the Deed of Variation which in turn satisfy the following aspects of Council's charter under the LG Act:

- (c) Councils should plan strategically for the provision of effective and efficient services and regulation to meet the diverse needs of the local community (section 8A(1)(c));

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- (d) Councils should manage lands and other assets so that current and future local community needs can be met in an affordable way (section 8A(1)(g)); and
 - (e) Council should work with others to secure the appropriate services for local community needs (section 8A(1)(g)).

The impact of the Deed of Variation on the public or any section of the public.

The scope of the Planning Agreement, which is varied by the Deed of Variation, will benefit the local and wider community as it will improve the public domain by providing new local roads, pedestrian links and enhancing existing public roads.

Whether the Deed of Variation conforms with Council's capital works program

The scope of the Planning Agreement, which is varied by the Deed of Variation, is consistent with Council's capital works program.

The planning purpose or purposes of the Deed of Variation

The public purpose of the Planning Agreement, which is varied by the Deed of Variation, is the provision of infrastructure that will provide a public benefit in terms of improving public access in and around the Land. The Contributions to be delivered under the Deed of Variation will ensure that there is sufficient infrastructure for the Development, producing a good planning outcome from the Development of the Land. As it would be difficult to obtain these public benefits through other statutory means, the varied Planning Agreement is the most suitable means of achieving that purpose.

Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates

The Contributions under the Deed of Variation, being the Contribution Works and the dedication of the Contribution Land, must be provided in accordance with the timing provisions as set out in Annexure B of the Deed of Variation, and need to be read with the Staging Plan in Annexure D the Deed of Variation.