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planning • environment • local government

## **Deed of Variation**

### **Planning Agreement for 108, 112 and 124 Forest Road and 1 and 3 Wright Street, Hurstville NSW 2220**

Under cl203(5) of the *Environmental Planning and Assessment Regulation 2021*

**Georges River Council**

**Shanghai Lihua Hurstville Pty Ltd**

**SLH 108 Pty Ltd**

Date:

*13/2/2023.*

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**Georges River Council**

**Shanghai Lihua Hurstville (Developer)**

**SLH 108 Pty Ltd (Developer)**

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## **Deed of Variation**

### **Table of Contents**

<b>Parties</b> .....	<b>3</b>
<b>Background</b> .....	<b>3</b>
<b>Operative provisions</b> .....	<b>3</b>
1 Interpretation.....	3
2 Status of this Deed .....	4
3 Commencement .....	4
4 Warranties .....	4
5 Amendment to Planning Agreement.....	4
6 Costs.....	4
7 Explanatory Note .....	5
<b>Execution</b> .....	<b>6</b>
<b>Appendix</b> .....	<b>6</b>

**Deed of Variation to Planning Agreement for 108, 112 and 124  
Forest Road and 1 and 3 Wright Street, Hurstville NSW 2220**



**Georges River Council**

**Shanghai Lihua Hurstville (Developer)**

**SLH 108 Pty Ltd (Developer)**

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## **Deed of Variation to Planning Agreement**

Under cl203(5) of the *Environmental Planning and Assessment Regulation 2021*

### **Parties**

**Georges River Council** ABN 57 789 014 855 of Civic Centre, MacMahon Street,  
Hurstville NSW 2220 (**Council**)

and

**Shanghai Lihua Hurstville Pty Ltd** ABN 19 163 958 085 of Shop 7, 231  
Kingsgrove Road, Kingsgrove NSW 2208 (**Developer**)

and

**SLH 108 Pty Ltd** ABN 18 168 371 328 of Shop 7, 231 Kingsgrove Road, Kingsgrove  
NSW 2208 (**Developer**)

### **Background**

- A The Parties are Parties to the Planning Agreement.
- B The Planning Agreement was entered into on 26 March 2018, requiring the Developer to provide Development Contributions to Council, including the dedication of land.
- C This land dedication was to be made within 5 years from the gazettal of the amendment to the Hurstville Local Environmental Plan 2012 to facilitate the implementation of the Planning Proposal.
- D The Amending LEP was gazetted on 28 February 2019.
- E Pursuant to clause 33 of the Planning Agreement, the Parties agree to amend the Planning Agreement to defer the dedication of the land for the road widening on the Forest Road frontage of the Land (between Hudson Street and Wright Street) by an additional two years.

### **Operative provisions**

#### **1 Interpretation**

- 1.1 In this Deed the following definitions apply:

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

**Planning Agreement** means the Planning Agreement pursuant to s7.4 of the *Environmental Planning and Assessment Act 1979* entered into between the Parties on 26 March 2018.



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

- 1.2 All other capitalised words used in this Deed have the meanings given to those words in the Planning Agreement.
- 1.3 Clauses 1 and 23 – 35 of the Planning Agreement apply as if they form part of this Deed with any necessary changes and except as expressly modified by this Deed.

## **2 Status of this Deed**

- 2.1 This Deed is an amendment to the Planning Agreement within the meaning of cl203(5) of the Regulation.
- 2.2 This Deed is not a planning agreement within the meaning of s7.4(1) of the Act.

## **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.

## **5 Amendment to Planning Agreement**

- 5.1 On and from the date this Deed takes effect the Planning Agreement is amended by amending Schedule 1 as follows:
  - 5.1.1 omitting from column 4 in the section dealing with the dedication of land the phrase '5 years' and substituting in its place '7 years'.

## **6 Costs**

- 6.1 The Developer is to pay to the Council the Council's reasonable costs of preparing, negotiating, executing and stamping this Deed, and any document related to this Deed within 7 days of a written demand by the Council for such payment.
- 6.2 This clause continues to apply after expiration or termination of this Deed.

**Deed of Variation to Planning Agreement for 108, 112 and 124  
Forest Road and 1 and 3 Wright Street, Hurstville NSW 2220**

**Georges River Council**

**Shanghai Lihua Hurstville (Developer)**

**SLH 108 Pty Ltd (Developer)**

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## **7 Explanatory Note**

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

Deed of Variation to Planning Agreement for 108, 112 and 124  
Forest Road and 1 and 3 Wright Street, Hurstville NSW 2220



Georges River Council

Shanghai Lihua Hurstville (Developer)

SLH 108 Pty Ltd (Developer)

**Execution**

Executed as a Deed

Dated: 13/2/2023

**Executed on behalf of the Council** pursuant to delegation granted by resolution of the Council dated 22 August 2022


  
A/ General Manager

  
Witness

**Executed on behalf of Shanghai Lihua Hurstville Pty Ltd** pursuant to Power of Attorney dated 22 July 2022 (BK 4801 No 323)

  
Signature

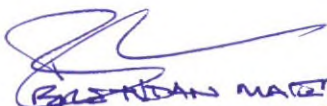
Adam Yu / Executive  
Name/Position

  
BRENDAN MAIER  
SOLICITOR, WITNESS  
Brendan Paul Maier  
Level 42  
2 Park Street, Sydney  
Solicitor

**Executed on behalf of SLH 108 Pty Ltd** pursuant to Power of Attorney dated 22 July 2022 (BK 4801 No 408)

  
Signature

Adam Yu / Executive  
Name/Position

  
BRENDAN MAIER  
SOLICITOR, WITNESS  
Brendan Paul Maier  
Level 42  
2 Park Street, Sydney  
Solicitor

**Appendix**

**Deed of Variation to Planning Agreement for 108, 112 and 124  
Forest Road and 1 and 3 Wright Street, Hurstville NSW 2220**



**Georges River Council**

**Shanghai Lihua Hurstville (Developer)**

**SLH 108 Pty Ltd (Developer)**

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(Clause 7)

*Environmental Planning and Assessment Regulation 2021*

(Clause 203(5))

## **Explanatory Note**

### **Draft Deed of Variation to Planning Agreement**

Under cl203(5) of the *Environmental Planning and Assessment Regulation 2021*

#### **Parties**

**Georges River Council** ABN 57 789 014 855 of Civic Centre, MacMahon Street,  
Hurstville NSW 2220 (**Council**)

and

**Shanghai Lihua Hurstville Pty Ltd** ABN 19 163 958 085 of Shop 7, 231  
Kingsgrove Road, Kingsgrove NSW 2208 (**Developer**)

and

**SLH 108 Pty Ltd** ABN 18 168 371 328 of Shop 7, 231 Kingsgrove Road, Kingsgrove  
NSW 2208 (**Developer**)

#### **Description of the Land to which the Draft Deed of Variation Applies**

The Draft Deed of Variation applies to the same Land the subject of the Planning Agreement,  
being 108, 112 and 124 Forest Road Hurstville NSW 2220, and 1 and 3 Wright Street  
Hurstville NSW 2220 being Lot 531 in DP 777334, Lot 1 in DP 75572, Lot 1 in DP 78322, Lot  
55 in DP 78322 and Lot 54 in DP 78322.

#### **Description of Proposed Development**

The Draft Deed of Variation applies to the same Development the subject of the Planning  
Agreement, being the development of the Land facilitated by the Planning Proposal endorsed  
by Council on 13 December 16 and conditioned by the Gateway Determination on 24  
February 2017, which proposed amendments to the Hurstville Local Environmental Plan  
2012.



## **Summary of Objectives, Nature and Effect of the Draft Deed of Variation**

### **Objective of Draft Deed of Variation**

The objective of the Draft Deed of Variation is to amend the Planning Agreement so as to defer the dedication of the land for the road widening on the Forest Road frontage of the Land (between Hudson Street and Wright Street) by an additional two years.

### **Nature of Draft Deed of Variation**

The Draft Deed of Variation is a deed of variation of the Planning Agreement under cl 203(5) of the *Environmental Planning and Assessment Regulation 2021*.

### **Effect of the Draft Deed of Variation**

The Draft Deed of Variation amends the Planning Agreement by changing the timeframe for the dedication of the land identified in Schedule 2 of the Planning Agreement from 5 years to 7 years from the gazettal of the Amending LEP, being by 28 February 2026.

## **Assessment of the Merits of the Draft Deed of Variation**

### **The Planning Purposes Served by the Draft Deed of Variation**

The Draft Deed of Variation:

- promotes and co-ordinates the orderly and economic use and development of the Land to which the Planning Agreement applies; and
- provides for the provision of public infrastructure in connection with the Development.

### **How the Draft Deed of Variation Promotes the Public Interest**

The Draft Deed of Variation facilitates the provision of funding for public facilities, including public infrastructure, amenities and services.

The Draft Deed of Variation promotes the public interest by promoting the objects of the Act set out in section 1.3(a), (c), (g) and (j).

### **For Planning Authorities:**

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

N/A

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



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N/A

***Councils – How the Draft Deed of Variation Promotes the Guiding Principles for Councils in section 8A of the Local Government Act 1993 (previously the Elements of the Council's Charter)***

The Draft Deed of Variation promotes the guiding principles for Councils in section 8A of the *Local Government Act 1993* by:

- ensuring that lands and other assets are managed so that current and future local community needs can be met in an affordable way,
- providing a means where Council can work with others to secure appropriate services for local community needs in a timely and cost-effective manner, and
- ensuring that the local community is actively engaged through the public notification of the Draft Deed of Variation and allowing the wider community to make submissions to the Council in relation to the Deed.

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

The Draft Deed of Variation conforms with the Council's capital works program.

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

The Draft Deed of Variation does not change certain requirements in the Planning Agreement that must be complied with before construction certificates are issued.