

EXPLANATORY NOTE PURSUANT TO REGULATION 25E OF THE ENVIRONMENTAL PLANNING AND ASSESSMENT REGULATION 2000

19 CARILLON AVENUE, CAPERDOWN

Development Application No. D/2017/502/D

Background

On 9 January 2020 the City entered into a Planning Agreement in relation to a development at 19 Carillon Ave, Camperdown (**Land**).

The Planning Agreement secures the installation of public art.

The parties to the Planning Agreement have agreed to vary the Planning Agreement to amend the fixed date elements of the Due Date and Call Date.

The purpose of this explanatory note is to provide a summary to support the notification of a Deed of Variation to a Planning Agreement, under Section 7.4 of the *Environmental Planning and Assessment Act 1979* (**Act**).

This explanatory note has been prepared jointly by the parties as required by Reg 25E of the *Environmental Planning and Assessment Regulation 2000* (**Regulation**).

This explanatory note is not to be used to assist in construing the Deed of Variation of Planning Agreement.

1. Parties to the Deed of Variation of Planning Agreement

The parties to the Deed of Variation are The Council of St Andrew's College (**Developer**), and the Council of the City of Sydney (**Council**).

2. Background to the Deed of Variation of Planning Agreement

On 3 April 2018, development consent was granted for construction and use of the Thyne Reid Link development for student accommodation at St Andrew's College, including alterations and additions, construction of a new Link building, site preparation works, demolition work, tree removal, and associated landscaping (D/2017/502).

Condition 81 of the consent requires the installation of public art. The condition was modified in July 2019 to allow deferral of the public art to a later date through the use of a Planning Agreement (D/2017/502/D).

On 9 January 2020, the City entered into a Planning Agreement with the Developer to secure the deferral of public art through the use of a bank guarantee.

The Planning Agreement allows the City to call on the bank guarantee after 30 August 2021 if the public art has not been completed. This is known as the Call Date.

Due to extenuating circumstances (including impacts from Covid) installation of the public art has been delayed. The Developer and the City have agreed to vary the Planning Agreement to extend the Call Date by 12 months to allow the public art installation to be completed.

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

The objective of the Deed of Variation is to vary the Planning Agreement to amend the fixed date elements of the Due Date and Call Date.

The nature of the Deed of Variation is to amend to Due Date to 30 July 2022 and the Call Date to 30 August 2022.

4. Assessment of the Merits of the Proposed Agreement

(a) How the Deed of Variation of Planning Agreement promotes the public interest and one or more of the objects of the Act

In accordance with Section 7.4, the Deed of Variation promotes the public interest by allowing Council to secure the Developer's obligations and ensure they are satisfied.

The Deed of Variation promotes the objects of the Act, in particular objects identified in Section 1.3(f) of the Act which is to promote the sustainable management of built and cultural heritage (including Aboriginal cultural heritage),. The agreement supports the objectives of the City's public art policies and strategies.

(b) How the Deed of Variation of Planning Agreement promotes the elements of the Council's charter

The Planning Agreement promotes a number of elements of the Council's charter under section 8 of the *Local Government Act* 1993 (NSW). In particular:

- (i) exercise community leadership;
- (ii) properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development; and
- (iii) engage in long-term strategic planning on behalf of the local community;

(c) The impact of the Deed of Variation of Planning Agreement on the public or any section of the public

The Deed of Variation of Planning Agreement will benefit the public and local community as it secures the delivery of public art in relation to the development.

(d) Whether the Deed of Variation of Planning Agreement conforms with Council's capital works program

The Deed of Variation of Planning Agreement conforms with Council's capital works program. The public art is being delivered by the Developer as part of the development.

(e) The planning purpose or purposes of the Deed of Variation of Planning Agreement

The Deed of Variation of Planning Agreement will serve the planning purpose by securing the delivery of public art in accordance with the conditions of the development consent.

(f) Compliance of certain requirements prior to issue of construction, occupation or subdivision certificates.

The following requirements of the Deed of Variation of Planning Agreement must be complied with before:

- (i) **A construction certificate is issued:** Nil

- (ii) **An occupation certificate is issued: Nil.**
- (iii) **A subdivision certificate is issued: Nil.**