

Deed of Novation of Planning Agreement – Edmondson Park South

Campbelltown City Council (**Council**)

Landcom (t/a UrbanGrowth NSW) (**Developer**)

Dahua Group Sydney Project 1 Pty Ltd (**Purchaser**)

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Deed of Novation of Planning Agreement

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Details

Date 13 OCTOBER 2017

Parties

Name **Campbelltown City Council** ABN 31 459 914 087
Short form name **Council**
Notice details Civic Centre, cnr Queen and Broughton Streets, Campbelltown NSW 2650
Facsimile: 4645 4111
Attention: General Manager

Name **Landcom (t/a UrbanGrowth NSW)** ABN 79 268 260 688
Short form name **Developer**
Notice details Level 14, 60 Station Street, Parramatta NSW 2150
Facsimile: 9841 8688
Attention: Peter Drivas

Name **Dahua Group Sydney Project 1 Pty Ltd** ACN 606 390 032
Short form name **Purchaser**
Notice details Suite 2, Level 20, 201-217 Elizabeth Street, Sydney NSW 2000
Facsimile: 02 9286 3399
Attention: John He, Legal Affairs Officer

Background

- A On 6 July 2015, the VPA between the Council and the Developer was executed by all parties and came into force.
- B The Developer proposes to sell the Land to the Purchaser, and retain the Residue Land.
- C The Developer proposes to novate its rights and obligations under the VPA to the Purchaser in accordance with clause 32 of the VPA and on the terms set out in this Deed of Novation.

Agreed terms

1. Defined terms & interpretation

1.1 Defined terms

In this document:

Act means the *Environmental Planning and Assessment Act 1979* (NSW).

Amended VPA means the proposed amendment to the VPA to remove the Residue Land and have the effect of the VPA applying to the Land only.

Development has the same meaning as in the VPA.

Land means part of the Original VPA Land comprised within folio identifiers 101/1200781, 102/1200781, 103/1200781, 104/1200781, 105/1200781, 107/1200781, 111/1200781, 113 in DP1218190 and 115/1218190.

Novation Deed means this deed.

Original VPA Land means land comprised within folio identifiers 101/1200781, 102/1200781, 103/1200781, 104/1200781, 105/1200781, 106/1200781, 107/1200781, 109/1200781, 110/1200781, 111/1200781, 112/1218190, 113/1218190, 114/1218190 and 115/1218190 (being land that was, prior to its subdivision, described as Lot 2 in DP 1144667, Lot 1 in DP 831149, Lot 1 in DP 831148 and Lot 3 in DP 246213).

Residue Land means part of the Original VPA Land comprised within folio identifiers 2201/1216225, 1137/1175991, 1516/1175995.

VPA means the document titled "Edmondson Park South – Planning Agreement" dated 6 July 2015 in relation to the Developer's proposed Development on the Original VPA Land, as amended from time to time.

1.2 Interpretation

In this agreement, except where the context otherwise requires:

- (a) the singular includes the plural and vice versa, and a gender includes other genders;
- (b) another grammatical form of a defined word or expression has a corresponding meaning;
- (c) a reference to a clause, paragraph, schedule or annexure is to a clause or paragraph of, or schedule or annexure to, this agreement, and a reference to this agreement includes any schedule or annexure;
- (d) a reference to a document or instrument includes the document or instrument as novated, altered, supplemented or replaced from time to time;
- (e) a reference to a party is to a party to this agreement, and a reference to a party to a document includes the party's executors, administrators, successors and permitted assigns and substitutes;
- (f) a reference to a person includes a natural person, partnership, body corporate, association, governmental or local authority or agency or other entity;
- (g) a reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them;

- (h) the meaning of general words is not limited by specific examples introduced by **including**, **for example** or similar expressions; and
- (i) a rule of construction does not apply to the disadvantage of a party because the party was responsible for the preparation of this agreement or any part of it.

1.3 Headings

Headings are for ease of reference only and do not affect interpretation.

2. Operation

- (a) This Novation Deed operates on and from the date on which it is executed by all parties.
- (b) The party who executes this Novation Deed last is to insert the date that the party executed this Novation Deed on the front page, and provide a copy of the fully executed and dated Novation Deed to the other parties.

3. Execution of this Novation Deed

- (a) The parties agree and acknowledge that they will use reasonable endeavours to execute this Novation Deed by no later than two (2) months prior to the date on which the Purchaser proposes to become the registered proprietor of the Land.
- (b) The Developer is to provide written notice to the Council of the date on which the Purchaser proposes to become the registered proprietor of the Subject Land at least three (3) months prior to that date.

4. Novation

4.1 Acknowledgment

For the purpose of section 93F(1) of the Act, the parties acknowledge and agree that the Purchaser is a person associated with a person to whom either section 93F(1)(a) or section 93F(1)(b) of the Act applies.

4.2 Novation

The parties agree that on and from the commencement of this Novation Deed:

- (a) the Purchaser is substituted for the Developer for the purposes of the VPA; and
- (b) all references to the Developer in the VPA are to be read and construed as though they are references to the Purchaser.

4.3 Continued force and effect of the VPA

Subject to the provisions of this Novation Deed, the parties agree that the provisions of the VPA continue to be in full force and effect according to the tenor of the VPA.

5. Assumption and release

5.1 Obligations of the Purchaser

On and from the commencement of this Novation Deed, the Purchaser:

- (a) is bound to perform all of the obligations of the Developer under the VPA;
- (b) must comply with the provisions of the VPA; and
- (c) may exercise all of the rights and benefits that may be exercised by Developer under the VPA.

5.2 Liability

This Novation Deed does not affect:

- (a) any liability of the Developer incurred by the Developer prior to the commencement of this Novation Deed; or
- (b) any liability of Council incurred by Council before the commencement of this Novation Deed.

5.3 Release

Council releases the Developer from any obligations under the VPA that arise on or after the commencement of this Novation Deed.

6. General provisions

6.1 Counterparts

This Deed of Novation may be executed in one or more counterparts, each of which shall be deemed to constitute an original, but all of which together shall constitute one and the same document.

6.2 Amendment and waiver

No amendment or waiver of any provision of this Deed of Novation shall be valid unless it is in writing and signed by the parties.

6.3 Costs

- (a) UrbanGrowth NSW must pay Council's reasonable costs regarding the preparation, negotiation and execution of this Deed of Novation.
- (b) UrbanGrowth NSW and Dahua must each pay its own costs regarding the preparation, negotiation and execution of this Deed of Novation.

6.4 Governing Law

This Deed of Novation shall be governed by and construed in accordance with the laws of the state of New South Wales.

Signing page

EXECUTED as a deed.

Executed on behalf of **Campbelltown City Council** by its General Manager and Mayor by the affixing of the Common Seal of Council in accordance with resolution dated

Signature has been redacted

Signature of General Manager

Lindy Deitz

Name of General Manager

Signature has been redacted

Signature of Mayor

Cr. George Bricevic

Name of Mayor

Executed for and on behalf of **Landcom** by its attorneys jointly under power of attorney Book 4716 No 510 dated 28 October 2016. By signing this document, each attorney certifies that they have no notice of revocation of such powers and authorities.

Signed in the presence of:

Signature has been redacted

Signature of witness

PETER DRIVAS

Name of witness

Address of witness

Signature has been redacted

Signature of attorney

MATTHEW BEGGS

Name of attorney

HEAD OF WESTERN SYDNEY PROJECTS
Position of attorney PORTFOLIO

Signed in the presence of:

Signature has been redacted

Signature of witness

PETER DRIVAS

Name of witness

Address of witness

Signature has been redacted

Signature of attorney

CHRISTINA HOBBS

Name of attorney

PROGRAM DIRECTOR
Position of attorney

Executed by Dahua Group Sydney
Project 1 Pty Ltd pursuant to s127(1) of the
Corporations Act 2001:

Signature has been redacted

Signature of ~~Secretary~~/director

Yuxing Li
Name of ~~Secretary~~/director

Signature has been redacted

Signature of director

Y. Fan
Name of director