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Cessnock City Council

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Huntlee Pty Ltd

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# Third Deed of Variation to Planning Agreement

Huntlee New Town

Corrs Chambers Westgarth

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18 January 2023

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## Date

## Parties

**Cessnock City Council** ABN 60 919 148 928 of 62-78 Vincent Street, Cessnock, NSW 2325 (**Council**)

**Huntlee Pty Ltd** ACN 143 744 745 of its capacity as bare trustee of the Relevant Partnership of c/- LWP Property Group, IBM Centre, Level 2, 1060 Hay Street, West Perth, WA 6005 (**Developer**)

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## Background

- A The Parties to this Deed are parties to the Planning Agreement.
- B The Developer now offers to vary the Planning Agreement in accordance with this Deed.
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## Agreed terms

### 1 Definitions

- (a) In this document these terms have the following meanings:

<b>Deed</b>	This Deed including any schedules, annexures, appendices and attachments to this Deed. A reference to this Deed includes the agreement recorded in this Deed. Any schedules, annexures, appendices and attachments form part of this Deed.
<b>EP&amp;A Regulation 2021</b>	<i>Environmental Planning and Assessment Regulation 2021 (NSW).</i>
<b>First Variation Deed</b>	The 'Deed of Variation to Planning Agreement' dated 28 September 2017, entered into between Council and the Developer.
<b>Party</b>	A party to this Deed. A reference to a Party to this Deed includes a reference to the servants, agents and contractors of the Party and the Party's successors and assigns.

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<b>Planning Agreement</b>	The planning agreement dated 18 November 2015, entered into between Council and the Developer, as amended by the First Variation Deed and the Second Variation Deed.
<b>Second Variation Deed</b>	The 'Second Deed of Variation to Planning Agreement' dated 23 March 2018, entered into between Council and the Developer.

- (b) Capitalised terms which are not defined in this Deed have the same meaning as in the Planning Agreement.
- (c) Clauses 4.2, 15, 17.1 and 20 to 31 of the Planning Agreement apply as if they form part of this Deed, with any necessary changes.

## 2 Status of this Deed

This Deed is an amendment to the Planning Agreement within the meaning of section 203(5) of the EP&A Regulation 2021.

## 3 Commencement

- (a) This Deed operates only if the Council executes this Deed.
- (b) The Council must notify the Developer immediately after the Council executes the Deed and promptly provide the Developer with this Deed as executed by Council.
- (c) Provided **clause 3(b)** is satisfied, this Deed commences operation from the date it is signed by all Parties in accordance with section 203(3) of the EP&A Regulation 2021.

## 4 Amendment of Planning Agreement

On and from commencement of this Deed under **clause 3**, the Planning Agreement is amended as shown in the mark-up in **Annexure A** to this Deed.

## 5 Affirmation of Planning Agreement

The Planning Agreement will be read and construed subject to this Deed and in all other respects, the provisions of the Planning Agreement will continue in full force and effect, subject to the variation contained in this Deed.

## 6 Explanatory Note

- (a) **Annexure B** – Explanatory Note contains the Explanatory Note relating to this Deed required by section 205(1) of the EP&A Regulation 2021.

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- (b) Pursuant to section 205(5) of the EP&A Regulation 2021, the Parties agree that the Explanatory Note is not to be used to assist in construing this Deed.

## 7 Costs

Each Party agrees to pay its own legal fees and other costs associated with the negotiation, preparation, execution and carrying into effect of this Deed.

## 8 General

### 8.1 Amendment

No modification or review of this Deed will be of any force or effect unless it is in writing and signed by the Parties to this Deed.

### 8.2 Electronic execution

- (a) The Parties acknowledge and agree that each Party may sign an electronic copy of this Deed by any method of electronic signature and bind itself accordingly. This will satisfy all other requirements for this Deed to be in writing and signed by that Party.
- (b) The Parties agree that this Deed may be exchanged by hand, post or any electronic method that evidences a Party's execution of this Deed.

### 8.3 Deed

This document is a deed. Factors which might suggest otherwise are to be disregarded.

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# Execution

**Executed** as a deed.

**Signed** for an on behalf of **Cessnock City Council** in accordance with a resolution of Council dated 16 November 2022 by its authorised delegate in the presence of:

  
.....  
Witness


CHERIE LORENZEN  
.....  
Name of Witness (print)

~~Electronic signature of me,~~

affixed by me on 18 January 2023

This document was signed in counterpart and witnessed over audio visual link in accordance with section 14G of the *Electronic Transactions Act 2000 (NSW)*

**Executed** by **Huntlee Pty Ltd** (ABN 73 143 744 745) in its capacity as trustee of the Relevant Partnership in accordance with section 127 of the *Corporations Act 2001 (Cth)*:

DocuSigned by:  
  
.....

Company Secretary/Director  
Eric Lee  
.....  
Name of Company Secretary/Director (print)

~~Electronic signature of me,~~  
Eric Lee

affixed by me on 17 January 2023

  
.....

Authorised Delegate  
K. Liddell  
.....

Name of Authorised Delegate (print)

~~Electronic signature of me,~~

affixed by me on 18 January 2023

**Executed** by **Huntlee Pty Ltd** (ABN 73 143 744 745) in its capacity as trustee of the Relevant Partnership in accordance with section 127 of the *Corporations Act 2001 (Cth)*:

DocuSigned by:  
  
.....

Director  
Danny William Murphy  
.....  
Name of Director (print)

~~Electronic signature of me,~~  
Danny William Murphy

affixed by me on 17 January 2023