

## Explanatory Note

Minister for Planning and Public Spaces (ABN 20 770 707 468)

and

Walker Corporation Pty Ltd (ABN 95 001 176 263)

and

Walker Group Holdings Pty Ltd (ACN 001 215 069)

and

Country Garden Wilton East Pty Ltd (ACN 617 612 334)

## Draft Deed of Variation – Wilton Junction Planning Agreement

### Introduction

The purpose of this explanatory note is to provide a plain English summary to support the notification of the draft Deed of Variation to the Wilton Junction Planning Agreement (the **Draft Variation Deed**) prepared under Subdivision 2 of Division 7.1 of Part 7 of the *Environmental Planning and Assessment Act 1979* (the **Act**).

The Wilton Junction Planning Agreement was entered into by the Minister for Planning, Walker Corporation Pty Ltd and Walker Group Holdings Pty Ltd on 10 April 2018. Country Garden Wilton East Pty Ltd subsequently purchased part of the land to which the Planning Agreement applies and is now also party to the Planning Agreement.

This explanatory note has been prepared having regard to the Planning Agreements Practice Note issued under clause 25B of the *Environmental Planning and Assessment Regulation 2000* and its contents has been agreed by the parties.

### Parties to the Draft Variation Deed

The parties to the Draft Variation Deed are the Minister for Planning and Public Spaces (ABN 20 770 707 468) (the **Minister**) and:

- Walker Corporation Pty Ltd (ABN 95 001 176 263);
- Walker Group Holdings Pty Ltd (ACN 001 215 069); and
- Country Garden Wilton East Pty Ltd (ACN 617 612 334) (together, the **Developer**).

### Description of the Subject Land

The Draft Variation Deed applies to the same land to which the Planning Agreement applies (as listed in Schedule 3 to the Planning Agreement) being land located at Janderra Lane, Picton Road, Almond Street and Argyle Street, Wilton (**Subject Land**).

### Description of the Proposed Development

The Planning Agreement relates to the rezoning of the Subject Land and the proposed future urban development of the Subject Land permissible following the rezoning. In that

respect, the Subject Land was rezoned on 13 April 2018 by virtue of the *State Environmental Planning Policy (Sydney Region Growth Centres) Amendment (South East Wilton Precinct) 2018*.

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

The objective of the Planning Agreement is to facilitate the delivery of contributions by the Developer towards the provision of infrastructure, facilities and services which will be required in connection with the urban development of the Subject Land.

Under the Planning Agreement the Developer is required (amongst other things) to carry out roadworks at the intersection of Picton Road and Pembroke Parade (**Intersection Upgrade**).

In relation to the Intersection Upgrade, the Developer has now finalised a design with Transport for NSW and the work required to upgrade the intersection has significantly increased beyond that required under the Planning Agreement to include the widening and upgrade of Picton Road to meet forecast demand at 2040. Based on costings undertaken on the finalised design, the estimated cost of the Intersection Upgrade has significantly increased and the works will take longer to complete.

Accordingly, the objective of the Draft Variation Deed is to amend the Planning Agreement to:

- Replace the concept plan for the Intersection Upgrade contained in Schedule 5 of the Planning Agreement to reflect the increased scope of works (the new concept plan is contained in Appendix 1 to the Draft Variation Deed);
- Identify the land required to be dedicated for the Intersection Upgrade (this is shown on the Road Dedication Plan which is Appendix 2 to the Draft Variation Deed);
- Alter the timing for the delivery of the Intersection Upgrade to before the issue of the Subdivision Certificate which will create the 301<sup>st</sup> Residential Final Lot; and
- Increase the value of the Intersection Upgrade works to reflect the increased scope of works (such values being relevant as potential offsets in the event that the Minister determines that a special infrastructure contribution (**SIC**) within the meaning of the Act is to be paid in respect of the development of the Subject Land).

The Developer is also required under the Planning Agreement to deliver the roadworks required for the Picton Road and Almond Street grade separation. The Draft Variation Deed also amends the Planning Agreement to include a requirement for the Developer to dedicate 4,300 square metres of land in connection with those roadworks. This land is also shown on the Road Dedication Plan which is Appendix 2 to the Draft Variation.

No changes are proposed to the other contributions to be provided by the Developer under the Planning Agreement.

No relevant capital works program by the Minister is associated with the Draft Variation Deed or the Planning Agreement.

## **Assessment of Merits of the Planning Agreement as varied by the Draft Variation Deed**

### **The Public Purpose of the Planning Agreement as varied by the Draft Variation Deed**

In accordance with section 7.4(2) of the Act, the Planning Agreement as varied by the Draft Variation Deed has the following public purpose:

- the provision of (or the recoupment of the cost of providing) public amenities or public services;
- the provision of (or the recoupment of the cost of providing) transport or other infrastructure relating to land.

The Minister and the Developer have assessed the Planning Agreement and both are of the view that the provisions of the Planning Agreement as varied by the Draft Variation Deed provide a reasonable means of achieving the public purpose set out above. This is because it will ensure that the Developer makes an appropriate contribution towards the provision of road infrastructure needed to accommodate future housing and growth up to forecast 2040 demand.

### **How the Planning Agreement as varied by the Draft Variation Deed Promotes the Public Interest**

The Planning Agreement as varied by the Draft Variation Deed promotes the public interest by ensuring that an appropriate contribution is made towards the provision of infrastructure, facilities and services to satisfy needs that arise from development of the Subject Land, including road infrastructure forecasted to 2040 demand levels.

The Developer's offer to contribute towards the provision of infrastructure will have a positive impact on the public who will ultimately use it.

### **Requirements relating to Construction, Occupation and Subdivision Certificates**

The Planning Agreement as varied by the Draft Variation Deed does not specify requirements that must be complied with prior to the issue of a construction certificate or an occupation certificate.

The Planning Agreement as varied by the Draft Variation Deed requires contributions to be made before the issue of subdivision certificates and therefore contains a restriction on the issue of a subdivision certificate within the meaning of section 6.15(1)(d) of the Act.