

DEED OF ASSIGNMENT

COUNCIL

Hornsby Shire Council (ABN 20 706 996 972)

ASSIGNOR

Julia Mary Wright

ASSIGNEE

Rong Xue Cai, Yan Hui Xu, William Cai, Shirley Cai

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EASTWOOD NSW 2122
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DEED OF ASSIGNMENT

THIS DEED is made on the day of , 2014

BETWEEN

The party named in Item 1 of Schedule 1 (**Council**)

AND

The party named in Item 2 of Schedule 1 (**Assignor**)

AND

The party named in Item 3 of Schedule 1 (**Assignee**)

BACKGROUND:

- A** The Assignor is the former owner of Lots 1 and 2 in Deposited Plan 503987, known as 12 and 12B Surrey Street, Epping (**Land**).
- B** The Assignor previously lodged an application with Council for Development Consent to subdivide the Land into three (3) allotments and to demolish the existing improvements on the Land (**Development**).
- C** Council granted Development Consent (DA No. 1398/2011) with respect to the Development.
- D** The Assignor entered into a Voluntary Planning Agreement (**VPA**) with Council in relation to the Development.
- E** The Assignor sold the Land to the Assignee.
- F** Pursuant to the terms of the VPA, the Assignor is required to assign the VPA to the Assignee.
- G** Council, the Assignor and the Assignee set out in this deed the terms upon which the VPA is assigned from the Assignor to the Assignee.

1 ASSIGNMENT OF THE VPA

On the date of this deed:

- (1) the Assignor assigns its rights and obligations under the VPA to the Assignee (**Assignment**);
- (2) the Assignee accepts that assignment; and

- (3) Council consents to that assignment.

2 EFFECT OF ASSIGNMENT OF THE VPA

As a consequence of the Assignment, the parties agree that:

- (1) the Assignor is, from the date of this deed, released from its obligations under the VPA;
- (2) the Assignee is obliged to perform the Assignor's obligations under the VPA as if a reference to the Assignor were a reference to the Assignee; and
- (3) Council must conduct itself in accordance with the VPA as if a reference to the Assignor were a reference to the Assignee.

3 COVENANT BY THE ASSIGNEE

The Assignee warrants to both the Assignor and Council that it will perform, observe and carry out all other obligations and covenants contained in the VPA as if a reference in the VPA to the Assignor were a reference to the Assignee.

4 CONSIDERATION FOR ENTRY INTO THIS DEED

Each party warrants to the other that:

- (1) it receives valuable consideration for the execution of this deed;
- (2) it is in its interest and for its benefit to execute this deed; and
- (3) this deed has, where necessary, been approved by all necessary corporate action.

5 COSTS OF THIS DEED

The parties agree that:

- (1) the Assignee must:
 - (a) bear its own; and
 - (b) reimburse Council its reasonable legal costs and expenses incurred in relation to the negotiation, preparation and execution of this deed; and
- (2) the Assignor must bear its own costs incurred in relation to the negotiation, preparation and execution of this deed.

6 TAXES

The Assignee must bear any Taxes payable with respect to this deed.

7 COOPERATION

Each party agrees that it will do all such acts and things as are reasonably necessary to:

- (1) perfect the assignment of the VPA; and
- (2) otherwise give effect to the transactions recorded in this deed.

8 ADMINISTRATIVE PROVISIONS

8.1 Entire agreement

This deed (and any other agreement expressly referred to in this document) is the entire agreement of the parties on the subject matter. All representations, communications and prior agreements in relation to the subject matter are merged in and superseded by this deed.

8.2 Waiver

The non-exercise of or delay in exercising any power or right of a party does not operate as a waiver of that power or right, nor does any single exercise of a power or right preclude any other or further exercise of it or the exercise of any other power or right. A power or right may only be waived in writing, signed by the parties to be bound by the waiver.

8.3 Cooperation

Each party must sign, execute and deliver all deeds, documents, instruments and act reasonably and effectively to carry out and give full effect to this deed and the rights and obligations of the parties under it.

8.4 Counterparts

This deed may be executed in any number of counterparts and all of those counterparts taken together constitute one and the same instrument.

8.5 Amendment

This deed may only be amended or supplemented in writing signed by the parties.

8.6 Unenforceability

Any provision of this deed which is invalid or unenforceable in any jurisdiction is to be read down for the purposes of that jurisdiction, if possible, so as to be valid or enforceable, and is otherwise capable of being severed to the extent of the invalidity or enforceability, without affecting the remaining provisions of this deed or affecting the validity or enforceability of that provision in any other jurisdiction.

8.7 Joint parties

Unless otherwise expressly stated, if two or more parties are included within the same defined term in this deed:

- (1) a liability of those parties under this deed is a joint liability of all of them and a several liability of each of them;
- (2) a right given to those parties under this deed is a right given severally to each of them; and
- (3) a representation, warranty or undertaking made by those parties is made by each of them.

8.8 Governing law

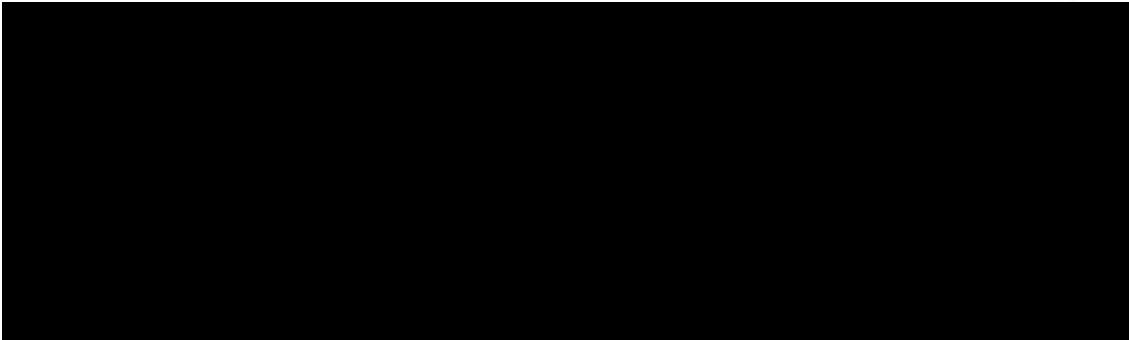
The law in force in the State of New South Wales governs this deed. The parties:

- (1) submit to the exclusive jurisdiction of the courts of New South Wales and any courts that may hear appeal from those courts in respect of any proceedings in connection with this deed; and
- (2) may not seek to have any proceedings removed from the jurisdiction of New South Wales on the grounds of *forum non conveniens*.

IN WITNESS WHEREOF, each party to this Assignment has caused it to be executed in New South Wales on the day and year first above written.

Council

Signed, sealed and delivered by the Council of the Shire of Hornsby by its duly constituted Attorney Scott Fredrick Phillips pursuant to Power of Attorney registered BK 4623 NO. 634.



The Assignor

Signed, sealed and delivered by Julia Mary Wright
In the presence of:

.....
Witness (Signature)

.....
Julia Mary Wright (Signature)

.....
Name of Witness (Print name)

The Assignee

Signed, sealed and delivered by Rong Xue Cai
In the presence of:

.....
Witness (Signature)

.....
Rong Xue Cai (Signature)

.....
Name of Witness (Print Name)

Signed sealed and delivered by Yan Hui Xu
In the presence of:

.....
Witness (Signature)

.....
Yan Hui Xu (Signature)

.....
Name of Witness (Print Name)

Signed, sealed and delivered by William Cai
In the presence of:

.....
Witness (Signature)

.....
William Cai (Signature)

.....
Name of Witness (Print Name)

Signed, sealed and delivered by Shirley Cai
In the presence of:

.....
Witness (Signature)

.....
Shirley Cai (Signature)

.....
Name of Witness (Print Name)

SCHEDULE 1

ITEM 1: COUNCIL

Hornsby Shire Council (ABN 20 706 996 972)

ITEM 2: ASSIGNOR

Julia Mary Wright

ITEM 3: ASSIGNEE

Rong Xue Cai, Yan Hui Xu, William Cai, Shirley Cai

ITEM 4: LAND

Lot 1 in Deposited Plan 503987, Folio Identifiers: 1/503987 being the land known as No. 12 Surry Street, Epping NSW 2121.

Lot 2 in Deposited Plan 503987, Folio Identifiers: 2/503987, being the land known as No. 12B Surry Street, Epping NSW 2121.

ITEM 5: PARTICULARS OF THE INSTRUMENT FOR ASSIGNMENT

Approval for the Development application No: DA/1398/2011

Description of application: Subdivision of two (2) allotments into three (3) and demolition of existing dwelling

Applicant: As shown in Item 2

Property: As shown in Item 4

Effective Date of Approval: 19 June 2013

ITEM 6: ASSIGNMENT DATE: