

Deed of variation

Northcliffe Residences

The Body Corporate for Northcliffe Residences CTS 52574

Sailsearch Pty Ltd ACN 653 077 055

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Details

Date

25 September

2024

Parties

Legal name	BODY CORPORATE FOR NORTHCLIFFE RESIDENCES COMMUNITY TITLES SCHEME 52574 a body corporate formed under the Body Corporate and Community Management Act 1997 (Act)
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Short name	Body Corporate
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Legal name	SAILSEARCH PTY LTD ACN 653 077 055
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Short name	Manager
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Background

A	The Manager is the caretaker and letting agent of Northcliffe Residences under the Agreements.
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B	The Body Corporate and the Manager have agreed to amend the terms of the Agreements.
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Operative part

1 Definitions

1.1 In this Deed unless the context otherwise requires:

- (a) the terms defined in the Agreements have the same meanings; and
- (b) the following terms have the following meanings:

Term	Assigned meaning
Agreements	the Caretaking Agreement and the Letting Deed including all extensions, renewals, assignments and variations to them and to which the Manager is now a party;
Caretaking Agreement	the caretaking agreement dated 5 July 2019 between the Body Corporate and Northcliffe Residence Management Pty Ltd ACN 632 507 021 whereby the Body Corporate appointed Northcliffe Residence Management Pty Ltd ACN 632 507 021 as caretaker of Northcliffe Residences for a term of 25 years commencing 5 July 2019; and
Letting Deed	the letting deed dated 5 July 2019 between the Body Corporate and Northcliffe Residence Management Pty Ltd ACN 632 507 021 whereby the Body Corporate appointed Northcliffe Residence Management Pty Ltd ACN 632 507 021 as caretaker of Northcliffe Residences for a term of 25 years commencing 5 July 2019.

2 Interpretation

2.1 In the interpretation of this Deed unless the context otherwise requires:

- (a) words denoting any gender include all other genders;
- (b) words denoting persons include all bodies, associations, trusts, partnerships, instrumentalities and entities corporate or unincorporate, and vice versa;
- (c) references to any of the parties include in the case of a person, their personal representatives and permitted assigns, and in other cases their successors and permitted assigns;
- (d) any obligation on the part of two or more persons is deemed to bind or benefit as the case may be, any two or more of them jointly and each of them severally;
- (e) words expressing the singular include the plural and vice versa;
- (f) headings are included for convenience only and do not affect the interpretation of this Deed;
- (g) references to sections, clauses, Backgrounds, Schedules and Annexures are to sections and clauses of and Backgrounds, Schedules and Annexures to this Deed;

- (h) references to this Deed are to this Deed as amended supplemented or varied from time to time;
- (i) references to any document or agreement includes all references to such document or agreement as amended, novated, supplemented, varied or replaced from time to time;
- (j) expressions cognate with expressions defined in clause 1 are to be construed accordingly;
- (k) references to dates and times are to Brisbane time;
- (l) references to "\$" and "dollars" are to Australian dollars;
- (m) background to this Deed is to be read as and form part of this Deed;
- (n) references to writing include typing, facsimile and all other means of reproducing words in a permanent and visible form;
- (o) references to any legislation includes any legislative provision which amends, extends, consolidates or replaces it and any orders, regulations, instruments, proclamations or other subordinate legislation made under it;
- (p) references to institutes, associations, bodies and authorities whether statutory or otherwise will, if it ceases to exist or is reconstituted, renamed or replaced or its powers or functions are transferred to refer to the institute, association, body or authority established or constituted in its place or which substantially succeeds to its powers or functions;
- (q) no rule of construction will apply to the disadvantage of a party because that party was responsible for the drafting of this Deed or any part of it; and
- (r) unless application is mandatory by law, any legislation present or future will not apply to this Deed so as to abrogate, extinguish, impair, delay or otherwise prejudicially affect the exercise or enjoyment of any rights given or accruing to any party.

3 Variation

- 3.1 The parties agree that the Caretaking Agreement is varied by adding the following wording as Clause 3.3:

"If there is not, at the time the Caretaker gives notice under this clause nor at 4 July 2044, an outstanding breach of this Agreement by the Caretaker which the Caretaker has failed to remedy within a reasonable period of time (no less than 14 days) from having received notice from the Body Corporate specifying the breach and requiring it to be remedied, the Caretaker may by giving written notice to the Body Corporate at any time before 4 July 2044, extend or renew this Agreement or the term of it for the period of 5 years commencing on 5 July 2044 and ending on 4 July 2049, otherwise upon the same conditions as are contained in this Agreement with the exception of this clause which will be deleted and except that the remuneration for the first year of this further period, and then for subsequent years of this further period, will be calculated in accordance with the manner of increase set out in clause 4 of this Agreement."

- 3.2 The parties agree that the Letting Deed is varied by adding the following wording as Clause 1.5:

"If there is not, at the time the Letting Agent gives notice under this clause nor at 4 July 2044, an outstanding breach of this Agreement by the Letting Agent which the Letting Agent has failed to remedy within a reasonable period of time (no less than 14 days) from having received notice from the Body Corporate specifying the breach and requiring it to be remedied, the Letting Agent may by giving written notice to the Body Corporate at any time before 4 July 2044, extend or renew this Agreement or the term of it for the period of 5 years commencing on 5 July 2044 and ending on 4 July 2049, otherwise upon the same conditions as are contained in this Agreement with the exception of this clause which will be deleted."

- 3.3 The parties:

- (a) ratify and confirm all of the terms and conditions of the Agreements; and
- (b) agree to be bound by the terms and conditions of the Agreements.

- 3.4 The Body Corporate acknowledges and agrees that:

- (a) the term of the Agreements is 25 years beginning on 5 July 2019 and ending on 4 July 2044;
- (b) by virtue of the variation of the Agreements in accordance with this Deed, there is a further option to extend or renew the Agreements or the term of the Agreements for a further period of 5 years; and
- (c) the unexpired term of the Agreements, from the day the resolution approving the subsequent right or option is passed by the Body Corporate, is not more than 25 years.

- 3.5 The Body Corporate warrants that it has at general meeting, by secret ballot, without the use of proxies and in compliance in all respects with the requirements of the Act and the applicable Regulation Module, resolved to vary the Agreements in accordance with this Deed and to enter into this Deed.

4 Costs

- 4.1 Each party will pay its own costs of the negotiation, preparation and execution of this Deed except that the Manager will pay all duty on it.

5 Further assurance

- 5.1 Each of the parties will and will procure every other person as required to sign and execute all such further documents and otherwise do all such things as may be necessary or desirable to give full force and effect to this Deed.

6 Severance

- 6.1 If any provision of this Deed is, for any reason, considered or found by a court of competent jurisdiction or any competent government authority to be invalid, illegal or unenforceable, that

provision is to be severed from the remainder of the provisions of this Deed and will be deemed never to have been part of this Deed. The remainder of the provisions of this Deed will remain in full force and effect unless the basic purposes of this Deed are defeated.

Execution page

Executed as a deed:

THE COMMON SEAL of THE BODY CORPORATE FOR NORTHCLIFFE RESIDENCES COMMUNITY TITLES SCHEME 52574 was affixed pursuant to a resolution of the Body Corporate in the presence of two officers who certify that they are the proper officers of the Body Corporate to affix that seal


Signature



B. W. MORGAN
Name and designation


Signature

LUCKY PARKE
Name and designation
SECRETARY

EXECUTED by SAILSEARCH PTY LTD ACN 653 077 055 in accordance with the Corporations Act by authority of its director(s)


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Signature of Director

ADAM MACKAY
.....

Name of Director (block letters)

.....

Signature of Director/Secretary/Sole Director & Secretary*

*delete whichever is not applicable

.....

Name of Director/Secretary/Sole Director & Secretary*

(block letters)

*delete whichever is not applicable