

Explanatory Note for Draft Planning Agreement – 130-150 Bunnerong Road, Pagewood.

The purpose of this Explanatory Note is to provide a plain English Summary to support the notification of a draft Planning Agreement (**“the Planning Agreement”**) under Section 93F of the *Environmental Planning and Assessment Act 1979* (**“the Act”**).

This Explanatory Note has been prepared jointly between the parties as required by Clause 25E of the *Environmental Planning and Assessment Regulation 2000* (**“the Regulation”**).

This Explanatory Note is not to be used to assist in construing the Planning Agreement.

Parties

Karimbla Properties (No. 39) Pty Limited (**“the Developer”**) has made an offer to the Bayside Council (**“the Council”**) to enter into a Planning Agreement in relation to a Planning Proposal.

Description of subject land

The land to which the Planning Agreement applies is described as follows:

Lot 2 in DP1187426 known as 130-150 Bunnerong Road, Pagewood (**“the Site”**).

Description of the Proposal to which the Planning Agreement applies

On 7th August 2015, The Land and Environment Court issued consent orders for a development that includes 7 urban lots, open space and roads with a potential yield of 2,232 residential units and about 5,000 square meters of retail space.

Summary of Objectives, Nature and Effect of the Planning Agreement

On 7 August 2015 the Developer signed a Planning Agreement in accordance with Section 93F of the *Environmental Planning and Assessment Act 1979*. It is now proposed to amend that agreement to include extra works and to allow staged payment.

Paragraph G. vi. Of that agreement previously read:

“The Developer proposes a cash contribution of \$10.5 million (i.e. Material Public Benefit Payment) as a form of public benefit.

Providing a monetary contribution of \$10.5 million to Council to upgrade the intersection of Page Street and Wentworth Avenue. Payment shall be made as part of Stage 2A(2) and prior to the issue of any occupation certificate for Urban Block 5W in accordance with the plan Annexed hereto”

It will now read:

“Providing a monetary contribution of \$10.5 million to Council for use as follows:

- a) Upgrade of the intersection of Page Street and Wentworth Avenue including works and services at the intersection; and,*
- b) Upgrade of the intersection of Baker Street and Wentworth Avenue including works and services at the intersection; and,*
- c) Upgrade to Jellicoe Park by providing a new sports amenities building (change rooms, referees room, toilets, kiosk, kitchenette, storage and the like) and upgrade to perimeter fencing; and,*
- d) Improvements to Mutch Park, including provision of a skate park and the supply or building of other recreational facilities; and,*
- e) Undertake other works with any remaining funds beings works to be undertaken at the sole discretion of the Council, for use in respect of any public purpose (public purpose being defined at section 93F (2) of the Act) within the local area (with details to be provided to the developer).*

Payments shall be made as follows:

- 1. \$8,022,000 as part of Stage 2A(2) and prior to the issue of any occupation certificate for Urban Block 5W in accordance with the plan annexed to the agreement and marked with the letter G”.*
- 2. \$2,478,000 to be paid at the earlier of an occupation certificate being issued by Council for Urban Block 1 or Urban Block 2 OR any occupation certificate being issued for any residential uses on Lot 2 DP1187426 north of Tingwell Boulevard. This payment shall be indexed in accordance with the Consumer Price Index (All Groups Index – Sydney), from the date of the initial stage 1 payment.*

The objective of the Planning Agreement is to facilitate the delivery of these contributions towards the provision of community facilities.

Assessment of the Merits of the Proposal

a) How the Planning Agreement promotes the public interest and one or more of the objects of the Act

The Draft Planning Agreement Promotes the Objects of the Environmental Planning and Assessment Act 1979 by facilitating the provision of the above community benefits. Without the planning agreement, these public benefits would not be able to be provided to the community as they are not covered by the standard s94 contributions.

The Planning Agreement thus promotes the public interest and the following objectives of the Act in that it encourages:

- the promotion and co-ordination of the orderly and economic use and development of land;
- the provision and co-ordination of community services and facilities; and
- the provision and maintenance of affordable housing.

The Planning Agreement will result in an improvement to the traffic flow and public open space within the Pagewood area.

b) How the Planning Agreement promotes elements of the Council's charter

The Planning Agreement promotes the following elements of the Council's charter under Section 8 of the Local Government Act 1993 (NSW):

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively;
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development; and
- to bear in mind that it is the custodian and trustee of public assets and to effectively plan for, account for and manage the assets for which it is responsible.

The Draft Planning Agreement is thus consistent with Council's charter and its capital works priorities.

c) The impact of the Planning Agreement on the public or any section of the public

The Planning Agreement is likely to benefit the public and local community as the monetary contribution will be used by Council to provide improved traffic management, improve local open space and other works identified in the Planning Agreement. The monetary contribution will enable Council to improve the existing infrastructure and facilities in the area and enhance the living and working environment of residents.

d) The planning purpose or purposes of the Planning Agreement

The planning purpose is to enhance and improve the Council's public assets as set out below.

The development contribution proposed being the Material Public Benefit Payment to be provided under the Planning Agreement will be used to principally for:

- a) Enhancing the transport infrastructure -; and
- b) Improvements to public domain - Upgrade to the public domain.

The Planning Agreement provides a reasonable means of achieving this planning purpose.

e) Whether the Planning Agreement conforms with Council's capital works program

The works in the Planning Agreement will be placed in the Capital Works Program. The works proposed do accord with works identified in Council's 2040 Vision. The Draft Planning Agreement is thus consistent with Council's capital works priorities.