



14 February 2023

Bayside Council
444-446 Princes Highway
Rockdale NSW 2216

Attention: General Manager

PLANNING AGREEMENT AR971967 – 128 BUNNERONG ROAD AND 120 BANKS AVENUE, EASTGARDENS

Karimbla Properties (No. 39) Pty Ltd (**Developer**) and Bayside Council (**Council**) have entered into Planning Agreement AR971967 dated 19 November 2021 (**VPA**) for the land comprising Lot 1 DP1187426 and Lot 24 DP1242288 known as 128 Bunnerong Road and 120 Banks Avenue, Eastgardens.

Purpose:

The Developer and Council have agreed to minor amendments to the Planning Agreement to facilitate a change in future land tenure over the lot identified as Open Space 01 (**OS1 land**), without compromising the public benefits of the Developer's obligations under the VPA.

The VPA requires the OS1 land to be dedicated to the Council.

The slight amendment will permit OS1 land to be combined with the adjoining development Lot A, however OS1 land will still be embellished as open space and a public access easement will be applied over that part of the site to ensure the enduring right of the public to use this area for access, leisure and recreation purposes in accordance with the agreed easement terms under Schedule 7 of the VPA.

This ensures the public maintains the same level of benefit, but reduces the future management and maintenance burden for the Council.

Amendments:

The Developer and Council have agreed to amend the VPA as follows:

1. **Schedule 1 Development Contribution:** to remove the development contributions in Schedule 1 and to replace with the development contribution attached to this letter at Annexure A;
2. **Schedule 4 Proposed Subdivision Plan:** to remove the proposed subdivision plan in Schedule 4 and to replace with the proposed subdivision plan attached to this letter at Annexure B.

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Executed by Karimbla Properties (No. 39) Pty Ltd ACN 160 693 283 in accordance with s127(1) of the Corporations Act 2001 by:


.....
Company Secretary/Director

ROBYN McCULLY
.....
Name of Company Secretary/Director
(print)


.....

Director **James Sialepis**
.....
DIRECTOR

.....
Name of Director (print)



Executed on behalf of the Council


.....

Signature of General Manager

MEREDITH WALLACE

Print name of signatory

14.6.2023

Date


.....

Signature of Witness

LOUISE SUNDERLAND

Print name of Witness

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Annexure A: Schedule 1 Development Contributions



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BATA II Site- 128 Bunnerong Road & 120 Banks Avenue,
Bayside Council

Karimbla Properties (No. 39) Pty Ltd
Meriton Properties Pty Ltd

Eastgardens Planning Agreement

Schedule 1

(Clause 11)

Development Contributions

Column 1 Item/ Contribution	Column 2 Public Purpose	Column 3 Manner & Extent	Column 4 Timing
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A. Monetary Contributions

1. Local monetary contribution per Dwelling	Public purposes specified in the Contributions Plan	The Developer is to pay to the Council an amount per Dwelling in the Development calculated in accordance with the Contributions Plan, being an amount that would have been required to be paid under s7.11 of the Act if s7.11 applied to the Development.	The amount per Dwelling is to be paid prior to the issuing of the Occupation Certificate for the Dwelling.
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Meriton Properties Pty Ltd		
2. Clause 12 monetary Development Contribution	As per Clause 12.4	\$23,900,000 as varied in accordance with clause 12.2. and indexed in accordance with Clause 14.2. The amount is to be paid in the following instalments: \$1,500,000 (as indexed) to be paid within 15 business days of the later of: - the granting of Development Consent to the Development Application DA2020/303; and - the date this Deed commences, or as otherwise agreed in writing between the Parties. \$16,400,000 (as indexed) to be paid before the later of: 1 July 2021, and - the date that is 15 business days after the granting of Development Consent to a Development Application that was lodged prior to the 31st January 2021 which authorises the construction of a building in the Development containing a Dwelling over Lot E , if any such Development Application is lodged, or as otherwise agreed in writing between the Parties. - The balance (as indexed) to be paid before the later of: 1 July 2022, and - the date that is 15 business days after the granting of any Development Consent to a Development Application that was lodged after 1st February 2021 and within the remainder of the 2021 calendar year which authorises the construction of a building in the Development

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containing a Dwelling, if any such Development Application is lodged, or as otherwise agreed in writing between the Parties.

3. BATA I VPA monetary contributions	- Upgrading the intersection of Page Street and Wentworth Avenue including works an services at the intersection - Upgrading the intersection of Baker Street and Wentworth Avenue including works and services at the intersection - Upgrading 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 - Improvements to Mutch Park, including provision of a skate park and the supply or building of other recreational facilities; and, - Undertaking other works with any remaining funds being works to be	\$2,478,000 indexed in accordance with the CPI from 2nd March 2018	The amount is to be paid prior to the issuing of any Occupation Certificate that authorises the occupation of any part of a Building in the Development containing a Dwelling
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undertaken at the sole
discretion of the Council, for
use in respect of any public
purpose]

B. Dedication of Land

4. Public open space	Open space and recreation	Dedication to the Council free of cost to the Council not less than 15,98746,995 m ² of land as public open space generally in the location marked as Open Space 01 , 'Open Space 02', 'Open Space 03', 'Open Space 04', 'Open Space 06', 'Open Space 07', 'Open Space 08' on the Proposed Subdivision Plan.	A public open space lot shown on the Proposed Subdivision Plan is to be dedicated upon the earlier of the completion of the Work that is located on the open space lot or prior to the issuing of any Occupation Certificate for any Building in the last Stage of the Development.
5. Public road	Roads	Dedication of all roads approved in the Development, being those generally as shown on the Concept Masterplan	Roads to be dedicated prior to the issuing of any Occupation Certificate for any Building in the last Stage of the Development.
6. Affordable Housing Units	Affordable housing	Transfer to the Council free of cost the AHUs as selected by the Council under clause 18	In respect of AHUs located on the BATA I Land, they to be transferred to the Council in stages as follows: 5 AHU's to be transferred prior to the issuing of the first Construction Certificate that authorises the erection of a Building in the Development containing a Dwelling. - Remaining AHU's are to be transferred as directed by the Council in writing from time to time provided that the Council is to give the Developer at least 120 days'

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notice for each stage of the AHU's to be transferred, the AHU's are to be transferred in groups of not less than 10 AHU's per stage, and the Developer may transfer the AHU's at any time within the 120 day notice period.

In respect of all AHUs located on the Land, each AHU is to be transferred prior to the issuing of the first Occupation Certificate for any part of the Building in which the AHU is located.

C. Carrying out of Work

7. Embellishment Work	Open space and recreation	Carrying out and completion of embellishment of open space to be dedicated, or made publicly accessible, under this Deed as per the Embellishment Work Value and Future Agreed Embellishment Work Specification and the Embellishment Work Concept Plan to the satisfaction of the Council (acting reasonably).	Embellishment to be completed before the time the open space is required to be dedicated or made publicly accessible (as the case may be) under this Deed.
8. Public art	Open space and public amenity	Procure and complete installation of public art on Open Space 04 and Open Space 06 (Or as agreed in writing between the Parties) in accordance with any relevant Council policy or guideline document in respect of public art applicable at the time of public art selection and installation as notified to the	Installation of public art to be completed before the time the open space on which the public art is located is to be dedicated or made publicly accessible (as the case may be) under this Deed.

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Developer and with a cost of supply of the public art consistent with Schedule 5. If there are no Council policy or guideline documents applicable at the time of public art selection or installation, the Developer is to consult with the Council in relation to the selection of the public art and the public art is to be selected solely by the Council. For the avoidance of doubt the Parties agree that Schedule 5 does not include the cost of installation of the public art which shall be at the Developer's additional cost.	

D. Other material public benefit

9. Publicly accessible open space	Open space and recreation	In respect of the land generally in the location marked as ‘Open Space 01’ and ‘Open Space 05’ on the Proposed Subdivision Plan with an area of not less than 1,098m2 and 3,131m2 respectively. Registration of an easement in gross in favour of the Council on terms satisfactory to the Council generally in accordance with the terms set out in Schedule 7 which allows the public access onto, over and across the land.	The easement in gross is to be registered on the title to the land upon the later of: (a) the registration of the strata plan containing the Publicly accessible open space , and (b) prior to the issuing of the Occupation Certificate for the last Building located on the land containing the Publicly accessible open space; Or otherwise as agreed between the parties.
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10. Publicly accessible pedestrian link
- | | | |
|--------------------------|---|--|
| <p>Pedestrian access</p> | <p>In respect of the land generally in the location marked as 'Pedestrian Link 765m2', 'Pedestrian Link 815m2', 'Pedestrian Link 574m2', 'Pedestrian Link 1587m2' and 'Pedestrian Link 819m2' on the Proposed Subdivision Plan with a total area of not less than 4,560m2</p> <p>Registration of an easement in gross in favour of the Council on terms satisfactory to the Council generally in accordance with the terms set out in Schedule 7 which allows the public access onto, over and across the land.</p> | <p>The easement in gross is to be registered on the title to the land upon the later of:</p> <p>(a) the registration of the strata plan containing the Publicly accessible pedestrian link, and</p> <p>(b) prior to the issuing of the Occupation Certificate for the last Building located on the land containing the publicly accessible pedestrian link;</p> <p>Or otherwise as agreed between the parties.</p> |
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Annexure B: Schedule 4 Proposed Subdivision Plan

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