

17 October 2024

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 02 (**OS2 land**), Open Space 06 (**OS6 land**) and Open Space 07 (**OS7 land**) without compromising the public benefits of the Developer's obligations under the VPA.

The VPA requires the OS2, OS6, OS7 and OS8 land to be dedicated to the Council.

The slight amendment will permit the following:

1. OS2 land to be combined with the adjoining development Lot D
2. Part of OS6 land to be combined with the adjoining development Lot J
3. Part of OS7 land to be combined with the adjoining development Lot F

The affected OS2, OS6 and OS7 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.

**Public Benefits:**

In addition to the reduced financial burden to Council outlined above, Council has requested additional public benefits following its meeting on 14<sup>th</sup> August 2024. As requested, further enhancements to the Open Space areas along Bunnerong Road will be provided as a broader public benefit to support the minor amendments. These are outlined in the attached concept sketch and will be updated into the respective Development Application/s, including:

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- Two additional sheltered picnic tables
- Two proprietary bike stations, including pumps & bike repair tools
- One additional nature play equipment item

**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.

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

  
.....  
Director

Albert Chan  
Name of Director (print)


)  
)  
)  
)  
  
.....  
Company Secretary

Robyn McCully  
Name of Company Secretary (print)

**Executed on behalf of the Council**  
.....  
Signature of General Manager

MEREDITH WALLACE  
.....  
Print name of signatory

13.12.24  
.....  
Date

  
.....  
Signature of Witness  
Samantha Guthrie  
.....  
Print name of Witness**MERITON GROUP**

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**Annexure A: Schedule 1 Development Contributions**

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**Schedule 1**

(Clause 11)

**Development Contributions**

<b>Column 1</b>	<b>Column 2</b>	<b>Column 3</b>	<b>Column 4</b>
<b>Item/ Contribution</b>	<b>Public Purpose</b>	<b>Manner &amp; Extent</b>	<b>Timing</b>
<b>A. Monetary Contributions</b>			
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.

**BATA II Site- 128 Bunnerong Road & 120 Banks Avenue,  
Bayside Council  
Karimbla Properties (No. 39) Pty Ltd  
Meriton Properties Pty Ltd**

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**Eastgardens Planning Agreement**

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 \$1,500,000 (as indexed) to be paid within 15 business days of the later of
  - a the granting of Development Consent to the Development Application DA2020/303, and
  - b the date this Deed commences,or as otherwise agreed in writing between the Parties
- 2 \$16,400,000 (as indexed) to be paid before the later of
  - a 1 July 2021, and
  - b 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
- 3 The balance (as indexed) to be paid before the later of
  - a 1 July 2022, and
  - b 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

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 and 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



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 <u>15,987m<sup>2</sup>-14,337m<sup>2</sup></u> of land as public open space generally in the location marked as ' <del>Open Space 02</del> ', '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	<p>In respect of AHUs located on the BATA I Land, they to be transferred to the Council in stages as follows</p> <ol style="list-style-type: none"> <li>1 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</li> <li>2 Remaining AHU's are to be transferred as directed by the Council in writing from time to time provided that the</li> </ol>

Council is to give the Developer at least 120 days' 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 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



installation as notified to the 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 and recreation open space

In respect of the land generally in the location marked as 'Open Space 01', 'Open Space 02' and 'Open Space 05' on the Proposed Subdivision Plan with an area of not less than 1,098m<sup>2</sup>, 1,558m<sup>2</sup> and 3,131m<sup>2</sup> 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

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

access onto, over and across the  
land

10 Publicly accessible pedestrian  
link Pedestrian access

In respect of the land generally in the location marked as 'Pedestrian Link 765m2', 'Pedestrian Link 815m2', 'Pedestrian Link 574m2', 'Pedestrian Link ~~1587m2~~ 1843m2' and 'Pedestrian Link 819m2' on the Proposed Subdivision Plan with a total area of not less than ~~4,560~~ 4,816m2

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 pedestrian link, and  
(b) prior to the issuing of the Occupation Certificate for the last Building located on the land containing the publicly accessible pedestrian link,  
Or otherwise as agreed between the parties

**BATA II Site- 128 Bunnerong Road & 120 Banks Avenue,  
Eastgardens Planning Agreement**

**Bayside Council**

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

**Meriton Properties Pty Ltd**

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**Annexure B: Schedule 4 Proposed Subdivision Plan**

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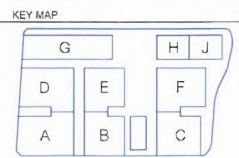
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Rev	Date	Revision	By	Chk.
8	06.05.2020	Issue for information	JG	NH
9	08.05.2020	Issue for information	JG	NH
10	13.05.2020	Issue for information	JG	NH
12	06.06.2020	Approval	NH	NH
13	25.09.2020	Council Amendments		
14	01.10.2020	Council Amendments		
15	27.01.2023	Council Amendments	NH	BR

By	Chk.
JG	NH
JG	NH
JG	NH
NH	NH
NH	BR

LEGEND
Road Dedication
Publicly Accessible Pedestrian Link - Easement
Publicly Accessible Open Space - Easement
Public Open Space - Dedicated
Road Widening



Project: BATA North  
Drawing Name: Lot Subdivision Plan  
Scale: 1:750  
Date: 27.01.2023  
Drawn: BR  
Chk.: JT

Date	Scale	Sheet Size	SJB Architects
27.01.2023	1 : 750	@ A1	
Drawn	Chk.		
BR	JT		
Job No.	Drawing No.	Revision	
5826	A0102	/ 15	



FOR INFORMATION

Nominated Architects: Adam Haddow-7188 | John Pradel-7004

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**Attachment: Open Space Concept Plan**

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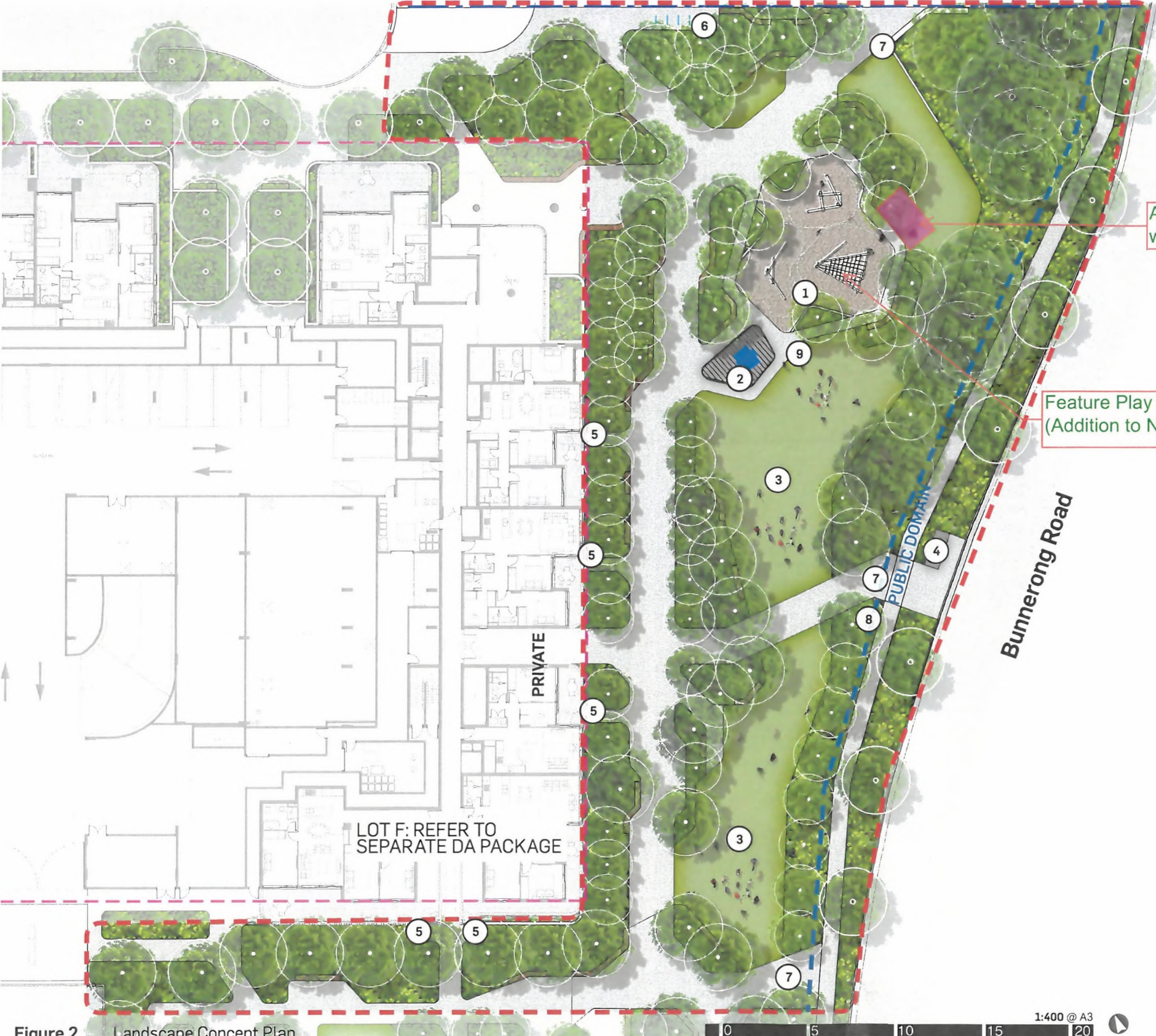
### 3.1 LANDSCAPE CONCEPT PLAN - OVERALL



**Figure 2** Landscape Concept Plan



3.1 LANDSCAPE CONCEPT PLAN



CONCEPT

The park provides residents and the wider community access to nature play area and generous open flexible lawn. Trees and vegetation will be utilised the the Eastern edge of the park to buffer Bunnerong Road. The park offers users active and passive opportunities, with integrated seating.

Additional Picnic shade shelter with picnic table and chairs

Legend

- ① Nature Play equipment (informal play)
- ② Shelter with picnic table
- ③ Flexible Lawn Area
- ④ Existing Bus shelter to be reconstructed
- ⑤ Private pathway access to Building
- ⑥ Bike Racks
- ⑦ Wayfinding Signage
- ⑧ Bin (Subject to further detailed design and input from Council)
- ⑨ Water Bubbler (Subject to further detailed design and input from Council)

NOTE: Reconstruction of the existing bus shelter to an increased size and quality shall be undertaken to the satisfaction of Bayside Council's Transport Planner and Public Domain team prior to the issue of any Occupation Certificate

Figure 2 Landscape Concept Plan



# Ground Level Landscape Plan

## Lot J Park - Phase 5



### Notes:

1. Arrival plaza with sculptural feature element, flags, feature tree and integrated seating
2. Shareway nodes with integrated seating and stools provide places to rest, relax and create small gathering spaces
3. Open lawn area creates a small breakout and gathering space for passive recreation
4. Planting provided along Bunnerong Road greens the streetscape and park while careful placement ensures sightlines for passive surveillance
5. Light columns regularly spaced through park provides ambient lighting for evening use and access
6. 3m wide shared path
7. 1.8m wide through site link walkway surrounded by lush planting provides access to Heffron road and units
8. Building facade greened and softened with planting
9. New tree planting to green the surrounding streets
10. Stairs provide access between the shared path and Bunnerong Road
11. Existing trees to be retained