

AMENDMENT TO PLANNING AGREEMENT

Dated this 24th day of May 2018

Between:

Bayside Council (formerly the Council of the City of Botany Bay)

AND

Karimbla properties No. 39 Pty Ltd (ABN 96 160 693 283)

Whereas:

On 7 August 2015 the parties executed a Voluntary Planning Agreement ("the agreement") in accordance with the provisions of section 93F of the Environmental Planning and Assessment Act 1979 ("the act").

Clause 16 of the agreement states: "any amendment or variation to this planning agreement is not effective unless it is in writing and signed by both parties".

The parties have entered into discussions and as a result of those discussions have agreed to amend or vary recital G vi of the agreement.

The agreement is hereby amended/ varied as follows:

1. Recital G vi of the agreement shall as of the date of this amendment being executed by the parties state as follows:

"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."*

2. Clause 4 vi of the agreement shall as of the date of this amendment being executed by the parties state as follows:

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

- f) Upgrade of the intersection of Page Street and Wentworth Avenue including works and services at the intersection; and,*
- g) Upgrade of the intersection of Baker Street and Wentworth Avenue including works and services at the intersection; and,*
- h) 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,*
- i) Improvements to Mutch Park, including provision of a skate park and the supply or building of other recreational facilities; and,*
- j) 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."*
3. The parties shall make all notations on the agreement and do all other things as are necessary to bring this amendment/ variation to the attention of any party or third party having any interest or prospective interest in the agreement.

Executed by Bayside Council by the General Manager pursuant to delegated authority in the presence of:

[REDACTED]
General Manager

Witness

Executed by Karimbla Properties No. 39 Pty Ltd (ABN 96 160 693 283)

[REDACTED]
Director **DAVID CREMONA**

Director **JAMES SIALEPIS**

[REDACTED]
Witness

