



Appendix

(Clause 35)

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

Explanatory Note

Draft Planning Agreement

Under s93F of the *Environmental Planning and Assessment Act 1979*

Parties

Parramatta City Council ABN 49 907 174 773 of 30 Darcy Street, Parramatta
NSW 2150 (**Council**)

and

Karimbla Properties (No. 9) Pty Limited ABN 90 102 955 635 of Level
11, 528 Kent Street, Sydney NSW 2000 (**Landowner**)

and

Meriton Apartments Pty Ltd ABN 75 000 644 888 of Level 11, 528 Kent Street,
Sydney NSW 2000 (**Developer**)

Description of the Land to which the Draft Planning Agreement Applies

Lots 1 and 2 in DP 732070, Lots 1 & 2 in DP 129023, Lot 2 in DP 582172 and Lot 1 in DP 570891.

Description of Proposed Development

The development the subject of concept plan No. MP 05_0086 approved by the Minister under Part 3A of the *Environmental Planning and Assessment Act 1979* as modified from time to time.



Summary of Objectives, Nature and Effect of the Draft Planning Agreement

Objectives of Draft Planning Agreement

The objective of the Draft Planning Agreement is to require the developer to make monetary Development Contributions, carry out Works in relation to traffic control and embellishment of open space and provide for public access to open space on the Land in conjunction with the carrying out of the Development.

Nature of Draft Planning Agreement

The Draft Planning Agreement is a planning agreement under s93F of the *Environmental Planning and Assessment Act 1979* ([Act](#)). It is an agreement between the Council, the Developer and the owner of the land to which the agreement applies. The Draft Planning Agreement is a voluntary agreement under which Development Contributions (as defined in clause 1.1 of the Draft Planning Agreement) are made by the Developer for various public purposes (as defined in s93F(3) of the Act).

Effect of the Draft Planning Agreement

The Draft Planning Agreement:

- relates to the carrying out by the Developer of the Development on the Land,
- excludes the application of s94 and s94A of the Act to the Development but does not exclude s94EF,
- requires the Developer to make certain Development Contributions in conjunction with the carrying out of the Development including:
 - monetary contributions in three stages, in respect of the Development, namely, \$650,012.66 indexed in accordance with CPI from 1 March 2009 to the date of payment for each of Stages 1, 2 and 3 of the Development;
 - signalisation and associated roadworks of the intersection of Marsden Road/Mobbs Lane in accordance with condition C40 of MP 08_0258;
 - embellishment of certain open space shown on Sheet 3 of the Map;
 - restoration of some other land shown on Sheet 3 of the Map in accordance with a vegetation management plan; and
 - provision of a public positive covenant in favour of and to the reasonable satisfaction of the Council burdening open space shown on Sheet 2 of the Map, and the necessary roads and footways to access that land.
- ordinarily, requires the Council to apply Development Contributions made under the agreement towards the specified purpose for which they are made and at the location, in the manner and to the standard (if any) specified in the agreement,
- imposes obligations on the Developer to rectify defects in the Works (other than the restoration Works) before the Works are taken to be completed,
- requires the Developer to provide the Council with a security in an amount and at a time agreed between the parties,
- provides two dispute resolution methods for a dispute under the agreement, being expert determination and mediation,



- requires that the agreement be registered, initially on the title of the Land and subsequently on the association property;
- provides that the agreement is governed by the law of New South Wales, and makes provision in relation to GST payable under *A New Tax System (Goods and Services Tax) Act 1999* (Cth).

Assessment of the Merits of the Draft Planning Agreement

The Planning Purposes Served by the Draft Planning Agreement

The Draft Planning Agreement reasonably provides for the achievement of the following planning purposes:

- promote and co-ordinate the orderly and economic use and development of the Land to which the agreement applies,
- provides and co-ordinates community services and facilities in connection with the Development, and
- provide increased opportunity for public involvement and participation in environmental planning and assessment of the Development.

How the Draft Planning Agreement Promotes the Public Interest

The draft Planning Agreement promotes the public interest by promoting the objects of the Act as set out in s5(a)(ii), (iii), (v) and 5(c) of the Act.

For Planning Authorities:

Development Corporations - How the Draft Planning Agreement Promotes its Statutory Responsibilities

N/A

Other Public Authorities – How the Draft Planning Agreement Promotes the Objects (if any) of the Act under which it is Constituted

N/A

Councils – How the Draft Planning Agreement Promotes the Elements of the Council's Charter

The Draft Planning Agreement promotes the elements of the Council's charter by:

- providing services and facilities for the community,
- by providing a means for the private funding of public facilities for the benefit of the Development and the wider community,
- providing a means that allows the wider community to make submissions to the Council in relation to the agreement.