

BETWEEN

PARRAMATTA CITY COUNCIL  
ABN 49 907 174 773

AND

KARIMBLA PROPERTIES (No.22) PTY LTD  
ABN 97 115 509 478

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DEED of VARIATION

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THIS DEED is made the day of 2015

**BETWEEN** **PARRAMATTA CITY COUNCIL** ABN 81 621 292 610 of  
30 Darcy Street, Parramatta NSW (**Council**)

**AND** **KARIMBLA PROPERTIES (No.22) PTY LTD** ABN 97 115 509  
478 of Level 11, 528 Kent Street, Sydney NSW (**Developer**)

## RECITALS

- A. The Council and the Developer entered into the VPA on 10 July 2014 for the Development.
- B. On or about 16 February 2015 the Developer made the application to modify the Development known as Modification 6.
- C. If Modification 6 is approved the Developer has offered, and Council agrees, to vary the terms of the VPA on the terms and conditions of this deed.

## OPERATIVE PROVISIONS

### 1 DEFINITIONS AND INTERPRETATION

#### 1.1 Definitions

In this deed the following words have the meaning indicated:

**Business Day** means any day which is not a Saturday, Sunday or public holiday in New South Wales.

**Development** means the construction of a mixed residential/commercial development pursuant to development consent MP10\_0171 originally approved on 19 October 2012 and as subsequently modified by various Applications.

**Development Consent** means consent MP10\_0171 granted by Council.

**Land** means land on which the development will be undertaken, being Los 2 & 3 in Deposited Plan 788637 and known as 330 Church Street, Parramatta.

**Modification 3** means MP10\_0171 MOD 3 approved by the Department of Planning on the 16 February 2015.

**Modification 6 Application** means MP10\_0171 MOD 6 approved by the Department of Planning on the 29 June 2015.

**Modification 6** means the development consent issued by the Department of Planning, in response to the Modification 6 Application.

**VPA** means the planning agreement between the Developer and Council dated 10 July 2014 applicable to the Land entered into in connection with the Development Consent.

## 1.2 General interpretation

In this deed unless the contrary intention appears:

- (a) Words expressed in the singular include the plural and vice versa.
- (b) Words expressed in one gender include the other genders.
- (c) "Including" or any similar expression when introducing a list of items does not limit the meaning of the words to which the list relates to those items or to items of a similar kind.
- (d) The word "person" includes a firm, body corporate, unincorporated association or an authority.
- (e) A reference to a person includes the person's executors, administrators, successors and permitted assigns.
- (f) A reference to a statute, ordinance, code or other law includes regulations and other instruments under it and consolidations, amendments, re-enactments or replacements of any of them.
- (g) A reference to this deed or another instrument includes any variation or replacement of them.
- (h) A reference to a schedule or annexure means a schedule or annexure to this deed and reference to this deed shall include its schedules and annexures.
- (i) An agreement, representation or warranty on the part of or in favour of two or more persons binds or is for the benefit of them jointly and severally.
- (j) Reference to "\$" or "Dollars" means Australian dollars.

## 1.3 Next business day

If under the provisions of this deed or under any notice or demand anything is required to be done on a day which is not a Business Day, the day or the last day for compliance is the next following Business Day.

## 1.4 Severance

If any provision contained in this deed is or becomes legally ineffective,

under the general law or by force of legislation, the ineffective provision shall be severed from this deed and this deed will otherwise continue to be operative.

## 1.5 Construction

In the interpretation of this deed no rules of construction shall apply to the disadvantage of one party on the basis that that party put forward the deed or any part thereof.

## 1.6 Headings

Headings and the table of contents are for guidance only and do not form part of this deed.

## 2 CONDITION PRECEDENT

It is a condition precedent to the operation of this Deed that the Modification 6 Application is approved by the Department of Planning. If Modification 6 is issued, then it is a condition precedent to the operation of this Deed that the Developer acts upon Modification 6.

## 3 VARIATION TO VPA

The VPA is varied as follows:-

- (a) Amend Clause 7.1.3(a) by adding the following clauses:
  - (v) A contribution for bonus floor space in the Development between Modification 3 and Modification 6, being \$1,360,800; and
  - (vi) The value of the contributions payable under s94A of the EPAA Act for the Development between Modification 3 and Modification 6, being \$386,558.16.
- (b) Amend Item 6 of Schedule 1 by substituting the amount of \$2,764,584.75 with \$4,511,942.91.

## 4 GENERAL

### 4.1 Power to enter and perform agreement

The parties represent and covenant with each other that each has full power to enter into and perform its obligations under this deed and this deed constitutes valid and binding obligations of each party enforceable in accordance with its terms.

### 4.2 Agreement continues

Each representation, covenant and obligation under this deed shall continue in full force and effect until such representation, obligation or covenant is satisfied or completed.

#### 4.3 Variation

The terms of this deed shall not be varied unless such variation is in writing and signed by all the parties to this deed.

#### 4.4 Governing law

This deed shall be governed by the laws of the State of New South Wales and the parties submit to the non-exclusive jurisdiction of the Courts of that State.

#### 4.5 Counterparts

This deed may be executed in any number of counterparts and all such counterparts taken together shall be deemed to constitute one and the same instrument.

#### EXECUTED AS A DEED

  
SIGNED by the Chief Executive Officer  
for PARRAMATTA CITY COUNCIL

  
SIGNED by the Lord Mayor for  
PARRAMATTA CITY COUNCIL


\_\_\_\_\_  
Signature of Witness

\_\_\_\_\_  
Signature of Witness


\_\_\_\_\_  
Full name of Witness (Block Letters)

\_\_\_\_\_  
Full name of Witness (Block Letters)

**EXECUTED by** Karimbla Properties  
(No.22) Pty Ltd ABN 97 115 509 478  
pursuant to Section 127 of the  
Corporations Act

  
\_\_\_\_\_  
Signature of Director  
JAMES SIALEPIS

\_\_\_\_\_  
Name of Director

  
\_\_\_\_\_  
Signature of Director / Secretary  
ROBYN McCULLY

\_\_\_\_\_  
Name of Director/Secretary

