

BETWEEN

CITY OF PARRAMATTA COUNCIL
ABN 49 907 174 773

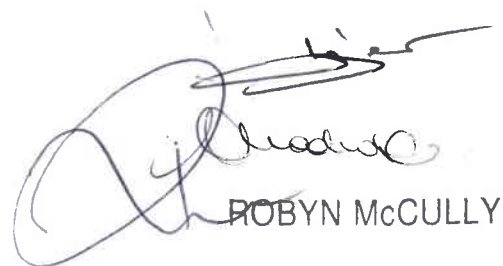
AND

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

DEED OF VARIATION 2



JAMES SIALEPIS



ROBYN McCULLY

THIS DEED is made the day of 2017

BETWEEN **CITY OF PARRAMATTA COUNCIL** ABN 49 907 174 773
of 126 Church 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. In or about 2015, Council and the Developer entered into a Deed of Variation in respect of the VPA.
- C. On or about 21 July 2016 the Developer made the application to modify the Development known as Modification 12.
- D. If Modification 12 is approved the Developer has offered, and Council agrees, to further 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 Department of Planning.

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

Modification 6 means MP10_0171 MOD 6 approved by the Department of Planning on the 16 February 2015.

Modification 12 Application means MP10_0171 MOD 12 approved by the

Department of Planning on the 22 September 2016.

Modification 12 means the development consent issued by the Department of Planning, in response to the Modification 12 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.

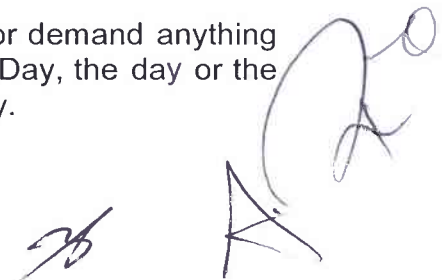
1.2 General interpretation

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.

Two handwritten signatures in black ink are located at the bottom right of the page. The signature on the left is a stylized, cursive mark. The signature on the right is more legible, appearing to be 'A. [unclear]'.

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 12 Application is approved by the Department of Planning. If Modification 12 is issued, then it is a condition precedent to the operation of this Deed that the Developer acts upon Modification 12.

3 **VARIATION TO VPA**

The VPA is varied as follows:-

- (a) Amend Clause 7.1.3(a) by adding the following clauses:
 - (vii) A contribution for bonus floor space in the Development between Modification 12 and Modification 12, being \$218,400; and
 - (viii) The value of the contributions payable under s94A of the EPAA Act for the Development between Modification 6 and Modification 12, being \$12,805.86.
- (b) Amend Item 6 of Schedule 1 by substituting the amount of \$4,511,942.91 with \$4,743,148.77.
- (c) Amend Clause 9.1.2 by adding the following wording at the end of the clause: *"Notwithstanding the Monetary Contribution relating to the Modification 12 is payable prior to any occupation certificate for the residential component approved under Modification 12"*.

4 **GENERAL**

4.1 Power to enter and perform agreement

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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.

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EXECUTED AS A DEED

Executed by City of Parramatta)
City Council under seal in)
accordance with a resolution of the)
Council on [insert date]: 29/5/2017



.....
Signature of Interim General
Manager



.....
Signature of Administrator

G. C. DYER
.....
Print name

Amanda Chadwick
.....
Print name

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


.....
Signature of Director / Secretary
ROBYN McCULLY



.....
Name of Director

.....
Name of Director/Secretary