



DEED OF VARIATION

City of Parramatta Council

and

Karimbla Properties (no. 51) Pty Ltd

ABN 95 168 601 250

for

Open Space Works Agreement

DEED OF VARIATION

THIS DEED is made on **3 MAY 2023**

PARTIES

- (1) **City of Parramatta Council** (ABN 49 907 174 773) of 126 Church Street, Parramatta NSW 2150 ('**Council**');
- (2) **Karimbla Properties (no. 51) Pty Ltd** ABN 95 168 601 250 ('**Developer**');

BACKGROUND

- A. Council and the Developer entered into an 'Open Space Works Agreement' ('**Agreement**') on 14 September 2021.
- B. Council and the Developer have agreed to vary the Agreement in the manner set out in this Deed.

THE PARTIES AGREE AS FOLLOWS:

1 INTERPRETATION

- 1.1 In this Deed, unless the context otherwise requires:

Agreement means the Agreement entered into by the Parties on 14 September 2021, otherwise known as the 'Open Space Works Agreement'.

Deed means this deed of variation of Agreement and all annexures, schedules, attachments and exhibits.

1.2 Rules for interpreting this Deed of Variation

Headings are for convenience only, and do not affect interpretation. The following rules also apply in interpreting this Deed, except where the context makes it clear that a rule is not intended to apply.

- (a) A reference to:

- (i) a legislative provision or legislation (including subordinate legislation) is to that provision or legislation as amended, re-enacted or replaced, and includes any subordinate legislation issued under it;
- (ii) a document (including this document) or agreement, or a provision of a document (including this document) or agreement, is to that document, agreement or provision as amended, supplemented, replaced or novated;

- (iii) a party to this document or to any other document or agreement includes a permitted substitute or a permitted assign of that party;
 - (iv) a person includes any type of entity or body of persons, whether or not it is incorporated or has a separate legal identity, and any executor, administrator or successor in law of the person; and
 - (v) anything (including a right, obligation or concept) includes each part of it.
- (b) A singular word includes the plural, and vice versa.
 - (c) A word which suggests one gender includes the other genders.
 - (d) If a word or phrase is defined, any other grammatical form of that word or phrase has a corresponding meaning.
 - (e) If an example is given of anything (including a right, obligation or concept), such as by saying it includes something else, the example does not limit the scope of that thing.
 - (f) The words subsidiary, holding company and related body corporate have the same meanings as in the Corporations Act.
 - (g) A reference to dollars or \$ is to an amount in Australian currency.
 - (h) A reference to this document includes the agreement recorded by this document.
 - (i) Words defined in the GST Act have the same meaning in clauses about GST.
 - (j) A reference to a month is to a calendar month.
- 1.3 A reference to a term defined in the Agreement has the same meaning when used in this Deed.
- 1.4 This Deed is not to be interpreted against the interests of a party merely because that party proposed this document or some provision in it or because that party relies on a provision of this document to protect itself.

2 VARIATION

The parties agree that the Agreement is on and from the date of this Deed varied as set out at Schedule 1.

3 NO OTHER CHANGE

The parties confirm that the Agreement will continue in full force and effect as varied by this Deed. Nothing in this Deed will be read or construed as implying any form of variation or waiver other than as expressly set out in this Deed.

4 COSTS

- 4.1 Each party will bear its own legal costs in relation to the preparation, negotiation and execution of this Deed.
- 4.2 The Developer must pay the reasonable costs incurred by Council (including any legal costs and costs arising from the public notice and inspection process) arising from or in connection with this Deed.

5 GENERAL

- 5.1 This Deed contains the entire agreement between the parties and any previous negotiations, agreements, representations or warranties relating to the subject matter of this Deed are of no effect.
- 5.2 Each party must promptly at its own cost do all things (including executing all documents) necessary or desirable to give full effect to this Deed.
- 5.3 A right may only be waived in writing, signed by the party giving the waiver, and:
 - (a) no other conduct of a party (including a failure to exercise, or delay in exercising, the right) operates as a waiver of the right or otherwise prevents the exercise of the right;
 - (b) a waiver of a right on one or more occasions does not operate as a waiver of that right if it arises again; and
 - (c) the exercise of a right does not prevent any further exercise of that right or of any other right.
- 5.4 Nothing in this Deed in any way restricts or otherwise affects Council's unfettered discretion to exercise its statutory powers as a public authority.
- 5.5 The invalidity, illegality or unenforceability of any provisions of this Deed will not affect the validity or enforceability of any other provisions.
- 5.6 This Deed may only be varied in writing by the agreement of the parties.
- 5.7 This Deed may be executed in multiple counterparts, each of which will have the effect of an original and all counterparts when taken together will form one original.
- 5.8 This Deed is governed by and construed in accordance with the law of the State of New South Wales. The parties submit to the non-exclusive

jurisdiction of the courts of New South Wales in relation to all matters arising under, or relating to, this Deed.

Schedule 1 Variation

The Agreement is varied as follows:

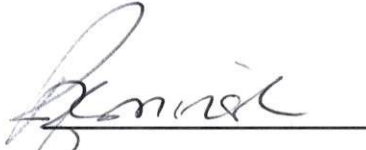
Clause 2.6 (a) (ii) of the Open Space Works Agreement is amended as follows:

"replace paragraph 2.6 (a) (ii) with

"achieve a Certificate of Practical Completion in respect of the whole of the Open Space Works prior to the issue of an Occupation Certificate in respect of Levels 22 and above of the final building to be constructed on land described as Lot 8 DP 1228764"

Executed as an agreement

Signed on behalf of City of Parramatta Council (ABN 49 907 174 773 by its duly of authorised officer in the presence of:


Signature of Witness

PATRICIA KRZEMINSKI
Full name of witness (printed)


Signature of Officer

GAIL CONNOLLY, CEO
Name and Position of Officer

By signing this document the witness states that they witnessed the signature of the signatory over audio visual link in accordance with s 14G of the Electronic Transactions Act 2000 (NSW)

Signed by Karimbla Properties (no. 51) Pty Limited ACN 168 601 250 in accordance with section 127 of the Corporations Act:


Signature of Witness


Signature of Director/Secretary



DAVID CREMONA
COMPANY DIRECTOR
Full Name

By signing this document the witness states that they witnessed the signature of the signatory over audio visual link in accordance with s 14G of the Electronic Transactions Act 2000 (NSW)

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