

# Schedule 5

## Explanatory Note

Environmental Planning and Assessment Regulation 2000

(Clause 25E)

### Explanatory Note

#### Draft Planning Agreement

Under section 7.4 of the *Environmental Planning and Assessment Act 1979* (NSW)

#### 1 Parties

The Minister for Planning and Public Spaces (**Minister**)

Karimbla Properties (No. 51) Pty Ltd (**Developer**)

#### 2 Description of subject land

- Lot 5 in Deposited Plan 1228764;
  - Lot 6 in Deposited Plan 1228764;
  - Lot 7 in Deposited Plan 1228764;
  - Lot 8 in Deposited Plan 1228764; and
  - Lot 9 in Deposited Plan 1228764,
- (**Land**).

#### 3 Description of proposed development

Subdivision and development of the Land for residential, retail and commercial purposes.

## **4 Summary of objectives, nature and effect of the draft planning agreement**

### **4.1 Objectives of Planning Agreement**

The objective of the Planning Agreement is to facilitate the development and improvement of public facilities within the Carter Street Priority Precinct and specifically to allow for the payment of Contribution Amounts to be paid at the rate of \$107.27 per square metre (subject to indexation) of gross floor area (or any part thereof) that will result from carrying out the Development in accordance with a Development Application or application for modification of a Development Consent or application for a Complying Development Certificate, payable prior to the earlier of:

- (c) the grant of any Development Consent or modification of Development Consent or the issue of any Complying Development Certificate in respect of any part of that Land; and
- (d) the issue of any Construction Certificate or Subdivision Certificate in respect of any part of that Land to which the Development Consent or modification of Development Consent referred to above applies.

### **4.2 Nature of Planning Agreement**

The Planning Agreement constitutes a planning agreement under section 7.4 of the Act. The Planning Agreement will be registered on the title to the Land.

## **5 Assessment of the merits of the draft planning agreement**

### **5.1 The planning purposes served by the Planning Agreement**

The Planning Agreement:

- (a) promotes the orderly and economic use and development of the Land to which the Planning Agreement applies;
- (b) promotes good design and amenity of the build environment by facilitating the development of the Land in accordance with the Planning Agreement;
- (c) promotes the sharing of the responsibility for environmental planning and assessment between the different levels of government in the State; and
- (d) promotes increased opportunity for the public in environmental planning and assessment.

### **5.2 How the Planning Agreement promotes the public interest**

The Planning Agreement will promote the public interest by promoting the objects of the Act as set out in sections 1.3(c), (g), (i) and (j) of the Act.

### **5.3 For Planning Authorities:**

#### ***Development Corporations – How the Planning Agreement promotes its statutory responsibilities***

*Not Applicable*

#### ***Other Public Authorities – How the Planning Agreement promotes the objects (if any) of the Act under which it is constituted***

*Not Applicable*

#### ***Councils – How the Planning Agreement promotes the elements of the Council's Charter***

*Not Applicable*

#### ***All Planning Authorities – Whether the Planning Agreement conforms with the Authority's Capital Works Program***

*Not applicable*

### **5.4 Certain requirements of the Planning Agreement to be complied with before issue of Development Consent or issue of a Complying Development Certificate, Construction Certificate or Subdivision Certificate**

The Developer will be required to pay Contribution Amounts progressively in instalments at the rate of \$107.27 per square metre (subject to indexation) of gross floor area (or any part thereof) that will result from carrying out the Development in accordance with a Development Application or application for modification of a Development Consent or application for a Complying Development Certificate, payable prior to the earlier of:

- (a) the grant of any Development Consent or modification of Development Consent or issue of any Complying Development Certificate in respect of any part of that Land; or
- (b) the issue of any Construction Certificate or Subdivision Certificate in respect of any part of that Land to which the Development Consent or modification of Development Consent referred to in clause 5.4(a) above applies.

The provision of the Development Contributions is secured through the requirement for:

- (a) a Bank Guarantee in respect of the Minister's enforcement costs;
- (b) the ability for the Minister to lodge a caveat over the Land until the Planning Agreement is registered on the title to the Land; and
- (c) the ability for the Minister to call for Bank Guarantees with a face value equivalent to the full value of Contribution Amounts required to be made by the Developer in respect of the relevant part of the Land over which this document has yet to be registered, where the Planning Agreement is not registered on all folios of the Register comprising the Land within 90

Business Days (in addition to the caveat) and then by Registration of the Planning Agreement on the title to the Land.