

SUPPLEMENTARY AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

Tuesday 22 September 2015

Beginning at 6:00pm for the purpose of considering and determining matters included in this agenda.



Rik Hart
General Manager

Issued: 18/09/2015

**Supplementary Agenda for an Ordinary Meeting of Council
to be held on Tuesday 22 September 2015
at the Civic Centre, Dee Why
Commencing at 6:00pm**

6.0	GENERAL MANAGER'S REPORTS.....	
6.4	Amendments to Section 149 (5) Planning Certificate Notations for Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest	1
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8.11	Amendment to 2008 Voluntary Planning Agreement - Meriton Property Group.....	3

ITEM 6.4	AMENDMENTS TO SECTION 149 (5) PLANNING CERTIFICATE NOTATIONS FOR LOT 11 DP 257403 BANTRY BAY ROAD, FRENCHS FOREST
REPORTING MANAGER	DEPUTY GENERAL MANAGER ENVIRONMENT
TRIM FILE REF	2015/267460
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To update the planning certificate notations under section 149(5) of the *Environmental Planning and Assessment Act 1979* to include information available for Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest (Lot 11).

SUMMARY

Following receipt of a report identifying asbestos containing material on Lot 11, it is appropriate that Council update its section 149(5) planning certificate notations in respect of Lot 11.

FINANCIAL IMPACT

Nil

POLICY IMPACT

Updates to the section 149(5) planning certificate notations will be carried out in accordance with the Operational Management Standard entitled 'Section 149 – Council Management Procedures' (PAS OMS-010).

RECOMMENDATION OF GENERAL MANAGER

That Council include the following notation on planning certificates under section 149(5) of the *Environmental Planning and Assessment Act 1979* in respect of Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest:

"Information available to Council indicates that asbestos containing material has been identified on Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest. Further information is available from Council's Natural Environment Unit."

REPORT

BACKGROUND

Earlier this year, Council become aware of the possibility of asbestos containing material on privately owned land at Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest (Lot 11). Council subsequently engaged JBS&G Australia Pty Limited (JBS&G) to undertake a site inspection and assessment of the materials on Lot 11.

The report produced by JBS&G dated 25 June 2015 concluded, among other things, that asbestos containing materials are present on Lot 11 and should be removed. Council staff have been working with the appropriate authorities and the NSW Environment Protection Authority (EPA) has informed Council staff that it is the appropriate regulatory authority in relation to the asbestos containing materials. The EPA is currently undertaking investigations and Council staff will continue to liaise with the EPA.

Council may, under section 149(5) of the *Environmental Planning and Assessment Act 1979*, include advice in a planning certificate on such relevant matters affecting the land of which it may be aware.

Accordingly, the following notation is proposed to be included on planning certificates under section 149(5) in respect of Lot 11:

"Information available to Council indicates that asbestos containing material has been identified on Lot 11 DP 257403 Bantry Bay Road, Frenchs Forest. Further information is available from Council's Natural Environment Unit."

TIMING

The proposed change to the section 149(5) planning certificate notations will be made as soon as practicable in accordance with the Operational Management Standard titled 'Section 149 – Council Management Procedures' (PAS OMS-010).

POLICY IMPACT

Updates to the section 149(5) planning certificate notations will be carried out in accordance with the Operational Management Standard titled 'Section 149 – Council Management Procedures' (PAS OMS-010).

FINANCIAL IMPACT

Nil

8.0 ENVIRONMENT DIVISION REPORTS

ITEM 8.11	AMENDMENT TO 2008 VOLUNTARY PLANNING AGREEMENT - MERITON PROPERTY GROUP
REPORTING MANAGER	GROUP MANAGER STRATEGIC PLANNING
TRIM FILE REF	2015/264916
ATTACHMENTS	NIL

EXECUTIVE SUMMARY

PURPOSE

To prepare a Deed of Amendment for public exhibition, to make changes to the 2008 Voluntary Planning Agreement between Karimbla Properties (No.41) Pty Limited and Warringah Council, relating to 890-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and 26 Oaks Avenue, Dee Why (commonly referred to as Site B).

SUMMARY

In 2008 a Voluntary Planning Agreement (VPA) was struck between Multiplex and Warringah Council. This involved construction of a Town Square, construction of a Pedestrian Connection Area (between the Town Square and Oaks Ave), construction of a bus bay on Pittwater Rd and monetary contributions for the construction of a road between Oaks Ave and Howard Ave through Council's car park. Meriton Property Group Pty Ltd (Meriton) has purchased the Multiplex site and the VPA still applies to the land. Meriton have created a company, Karimbla Properties (No.41) Pty Ltd for this development and the VPA.

In 2014 the State Government announced the Northern Beaches Bus Rapid Transport project along Pittwater Road to the city. This has placed the responsibility on the State Government (Transport for NSW), to construct the bus bay on Pittwater Road.

The amendment to the VPA is to relieve the applicant (Meriton) from constructing the bus bay and in return to provide Council with the equivalent value in monetary contributions. These contributions can be applied to the capital works program in Dee Why.

In addition, the VPA should also address the Pittwater Road skybridge landing point in the building and access to the ground floor.

Once the proposed changes are agreed between the parties, a Deed of Amendment will be prepared and will be placed on public exhibition for a period of 28 days. Following this, consideration of any submissions received will be reported back to Council together with the final Deed of Amendment for adoption.

FINANCIAL IMPACT

The changes to the VPA will provide additional funds for Council to undertake civic improvements.

POLICY IMPACT

Nil

RECOMMENDATION OF DEPUTY GENERAL MANAGER ENVIRONMENT

That:

- A. Council Staff work with Karimbla Properties (No. 41) Pty Ltd to prepare a Deed of Amendment to make changes to the voluntary planning agreement between Karimbla Properties (No.41) Pty Limited and Warringah Council, relating to 890-896 Pittwater Road, 9-17 Howard Avenue, 14-16 and 26 Oaks Avenue, Dee Why.
 - B. The Deed of Amendment be placed on public exhibition for a period of 28 days.
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REPORT

BACKGROUND

Meriton purchased Site B, along with the benefits and burdens resulting from the Multiplex applications to change the LEP and consents. Meriton have created a company, Karimbla Properties (No.41) Pty Ltd, for this development. The VPA which Multiplex and Warringah Council signed on 12 December 2008 remains with the land. A summary of the current VPA contributions are as follows:

	Description	Details	Value
1	Provision of Town Square	Design, construction, embellishment and 30 days a year access for community events by Council. Open to the public 24/7	\$1,720,000
2	Provision of Pedestrian Connection Works between Town Square and Oaks Avenue	Design, construction and embellishment with a minimum width of 14 metres. Open to the public 24/7	\$471,000
3	Provision of a Bus Setback Work	Design, construction and embellishment as required by the relevant Authority	\$300,000
4	Contribution amount	For the construction of a road between Oaks Avenue and Howard Avenue through Council's carpark	\$500,000 subject to indexation from 12 December 2010

With the announcement of the Northern Beaches Bus Rapid Transport from Mona Vale to the City in 2014, work on developing this infrastructure has commenced. The bus interchanges are being developed by Transport for NSW which will have a unique look and feel compared to existing bus stops. Given that Transport for NSW is now responsible for construction of the Bus Rapid Transport interchanges along Pittwater Road, an amendment to item 3, described as follows:

	Description	Details	Value
3A	Dedication of land in Stratum	Dedication of land in stratum for the provision of a future bus setback area, to the requirements of Transport for NSW. The embellishment of the bus setback area prior to dedication, as required by the development consent.	Land as required by Transport for NSW. This land will be independently valued prior to exhibition.
3B	Contribution amount	For the purpose of civic improvements	\$300,000 subject to indexation from 12 December 2010

The dedication of land is to be in Stratum, as Meriton propose to construct their building over the new footpath. It is indicated by Meriton that the basement carpark will not protrude under the new footpath area; however some structural elements may partially sit under the new footpath. A sufficient area free of any intrusions has been demonstrated by Meriton to allow for the relocation of services. These details will be confirmed at the Development Application stage.

The \$300,000 contribution amount that was to be spent on the design and construction of the bus bay and setback area will now be used for the purpose of civic improvements.

The current VPA will remain in place; however a separate document, Deed of Amendment, will amend the original agreement.

Pittwater Road Skybridge

Although preliminary discussions with Meriton indicate an acceptance to land a skybridge in the Meriton development from the Cobalt development across Pittwater Road, this would need to be locked in through a VPA similar to the Cobalt development. Due to the level of detail required to establish the landing of the skybridge, this would need to be undertaken at the Development Application stage, requiring a further deed of amendment to amend the VPA.

Draft Planning Proposal

In May 2014, Meriton lodged a Planning Proposal to amend the site specific planning controls for Site B. Since that time, Council has worked with Meriton to refine the proposed Warringah Local Environmental Plan 2011 amendments, which has culminated in a Planning Proposal.

The Planning Proposal was publicly exhibited for 28 days from 30 May to 28 June 2015. During this time 46 submissions were received. The Planning Proposal is a separate and independent process and is the subject of a separate Council report.

Out of the discussion regarding the Planning Proposal, Meriton has requested amendments to the Site B VPA, as set out above. Further changes may be proposed between the parties following on from Council's consideration of the Planning Proposal.

CONSULTATION

Once the proposed changes are agreed between the parties, a Deed of Amendment will be prepared and will be placed on public exhibition for a period of 28 days. Following this, consideration of any submissions received will be reported back to Council together with the final Deed of Amendment for adoption.

FINANCIAL IMPACT

The changes to the VPA will provide additional funds for Council to undertake civic improvements.

POLICY IMPACT

Nil

