

# McCartney Young Lawyers

Directors: Michael Young | Jonathan Marquet

Our Ref: JM:20230419  
Your Ref: Patricia Docherty

12 August 2024

Byron Shire Council  
70 Station Street  
Mullumbimby NSW 2482

Dear Ms Docherty

**DA 10.2023.277.1 – Offer to Enter into a Voluntary Planning Agreement  
Property: 9 Fingal Street, Brunswick Heads (Lots 1-3 SP683352)**

1. We act for Vanfam Investments Pty Ltd (**Vanfam**).
2. I confirm that Vanfam via its town planner, Planners North, has lodged DA 10.20230.277.1, being for development at the above Property for the purposes of commercial premises and shop top housing (**DA**).

***Offer to Enter into a Voluntary Planning Agreement***

3. In support of the DA, I am instructed to make the following offer for my client and Council to enter into a voluntary planning agreement (**VPA**), if consent is granted to the DA:
  - a. Vanfam to provide a monetary contribution of \$75,976.00 to Byron Shire Council for provision of public art;
  - b. The monetary contribution must be made prior to the issue of a construction certificate for the Development;
  - c. The VPA is not required to be registered and will not require security other than the restriction on the issue of a construction certificate for the Development;
  - d. Vanfam may assign or transfer its interest in the VPA provided it procures a Deed signed by the assignee or transferee agreeing to comply with all relevant obligations in the VPA;
  - e. Vanfam to pay Council's legal costs (if any) relating to reviewing and executing the VPA up to a maximum amount of \$1,500.00 (incl GST); and

Liability limited  
by a scheme  
approved under  
Professional  
Standards  
Legislation.

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BUSINESS LAW  
PROPERTY LAW  
LOCAL GOVERNMENT  
& PLANNING LAW

- f. Any disputes to be the subject of attempted resolution by mediation prior to Court proceedings being commenced, and if circumstances occur that materially affect the operation of the VPA, the parties will discuss those changes in good faith.
4. The VPA is considered to be in the public interest because it will facilitate the provision of high value, unique public art for the benefit and enjoyment of the community and the improved amenity of public spaces.
  5. If Council intends to grant consent to the DA, my client invites Council to condition the VPA in the consent as follows:
    1. *Prior to the issue of a Construction Certificate, the developer/landowner must enter into a Voluntary Planning Agreement (VPA) with Council containing the following terms:*
      - a) *Prior to the issue of a Construction Certificate a monetary contribution of \$75,976.00 is to be paid to Council for the provision of Public Art.*
      - b) *No further security is required and registration of the VPA on the title of the Property is not required.*
      - c) *The VPA will not exclude contributions levied pursuant to sections 7.11 and 7.12 of the EP&A Act.*
      - d) *Vanfam may assign or transfer its interest in the VPA provided it procures a Deed signed by the assignee or transferee agreeing to comply with all relevant obligations in the VPA.*
      - e) *Vanfam to pay Council's legal costs (if any) relating to reviewing and executing the VPA up to a maximum amount of \$1,500.00 (incl GST).*
      - f) *Any disputes under the VPA to be the subject of attempted resolution by mediation prior to Court proceedings being commenced, and if circumstances occur that materially affect the operation of the VPA, the parties will discuss those changes in good faith.*
  6. Thank you for your consideration of this letter of offer.

Yours faithfully



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