
Planning Matters - 22 May 2018

ITEM 5.2 **Voluntary Planning Agreement: 749-757 Canterbury Road, Belmore**

AUTHOR **Planning**

PURPOSE AND BACKGROUND

To seek Council's endorsement and approval to exhibit a draft Voluntary Planning Agreement for laneway widening at 749-757 Canterbury Road, Canterbury.

ISSUE

The need to enter into a Voluntary Planning Agreement for this site arises from a deferred commencement condition imposed by the NSW Land and Environment Court.

RECOMMENDATION That -

1. Council agree to consider entering into a Voluntary Planning Agreement in respect of land at 749-757 Canterbury Road, relating to the dedication of land required for laneway widening.
2. Council exhibit the draft Voluntary Planning Agreement as shown in Attachment A, subject to any minor drafting and editorial amendments required by Council's solicitors that do not alter the substance of the Voluntary Planning Agreement.
3. The matter to be reported to Council following the public exhibition.

ATTACHMENTS [Click here for attachment](#)

- A. Draft VPA for 749-757 Canterbury Road, Belmore

POLICY IMPACT

There is no policy impact.

FINANCIAL IMPACT

There is no financial impact.

COMMUNITY IMPACT

The development relies on the approved laneway widenings to provide vehicle access into the site and provide a sufficient road width for waste collection and safe vehicle passing areas. Further, the widened laneways will also allow for adjoining sites to provide a functional laneway along this portion of Canterbury Road when redeveloped. The proposed land dedication by the developer would result in a broader public benefit.

DETAILED INFORMATION

Background

On 19 June 2017, a deferred commencement consent was issued by the Land and Environment Court following a Section 34 Conciliation Conference for the construction of a six storey mixed used development containing 46 residential apartments with basement parking at 749-757 Canterbury Road, Belmore (DA 506/2017).

The consent orders contained two deferred commencement conditions; the first condition detailing the applicant would enter into a Voluntary Planning Agreement (VPA) to dedicate land for the widening of Wilson Lane and Thompson Lane and to carry out all construction works associated with widening the lane. The second deferred commencement condition requires the applicant to provide a detailed design of the laneway and driveway and vehicular access.

As part of the court process, the applicant amended the proposed development to comply with the Council's key planning controls, including the maximum overall building height limit. No additional height or floor space was approved in exchange for the laneway widening or draft VPA.

Council's current position is that all laneway dedication is to be provided at no cost to Council, designed and constructed to the developer's expense, and full payment of Section 94 development contributions by the developer. This recently adopted position represents the best interest of the community and broader public interest so that the developer is responsible for the facilities required to ensure their development functions properly.

Council's policy on laneway dedication

At the Council meeting on 25 July 2017, the draft Canterbury Road Corridor Review was endorsed and has since been publicly exhibited. Relevantly, the draft Review identifies the provision of a continuous network of rear lanes as a key recommendation to be achieved in the short term.

Council's current position regarding laneways is that all land to be dedicated for laneway widening needs to meet the following pre-conditions:

- Dedication to Council free of cost.
- Design and construction of the laneway at the developers cost.
- No offset from the payment of Section 94 development contributions.

The draft VPA meets the above pre-conditions and the applicant has agreed to the terms of the draft VPA.

Details of the draft VPA offer

The dedication of land as detailed in the court consent and draft VPA will result in the widening of Wilson Lane and Thompson Lane. The widening of this laneway is integral to the functionality of Wilson and Thompson Lane to service the increased density sought under the Canterbury Local Environmental Plan 2012.

The draft VPA (attachment A) reflects the commitment of the applicant as consented by the Court within DA 506/2017. The deferred commencement conditions and operational conditions require that the applicant is responsible for:

- Dedication of an area of land measuring 3m (depth) along the northern (Wilson Lane) and 3m (depth) eastern (Thompson Lane) boundaries for the purpose of road widening. The new lanes shall provide a minimum 1.8m wide pedestrian footpath adjacent to the northern and eastern boundaries.
- All costs associated with the construction of this portion of the site for lane widening. Undertaking the design work for the widened road sections immediately adjacent to the site to Council's specifications.
- Construction of the laneways, including integration with the existing road, re-sheeting of the laneway if required, and appropriate transition road works with the adjoining site.
- Relocation of any services affected by the laneways at the applicant's cost.

The land to be dedicated is shown in red on the site plan below:



Council's solicitor has reviewed the draft VPA and associated documents subject of this report and has endorsed them as being legally sound for the purpose of public exhibition. The draft VPA has been prepared in accordance with Council's Voluntary Planning Agreement's policy and it meets legislative requirements in relation to planning agreements.

CONCLUSION

The draft VPA to dedicate land and construct the laneway on the dedication land at 749-757 Canterbury Road, Belmore for the future extension of Wilson Lane and Thompson Lane is supported for the purposes of public exhibition. It will provide "future proofing" of the potential to extend this lane to Wilson Lane and create continuous vehicular access between Thompson Lane and Chapel Street and as such has the potential to provide future public benefit.

Following the conclusion of the public exhibition the outcomes of the exhibition will be further reported to Council.