

ITEM 5.3 **Draft Voluntary Planning Agreement - 280 Chapel Road, Bankstown**

AUTHOR **Planning**

PURPOSE AND BACKGROUND

To consider the exhibition of the Draft Voluntary Planning Agreement and an explanatory note for the property at No. 280 Chapel Road in Bankstown instead of providing seven deficient off-street parking spaces associated with DA-562/2017 consent.

ISSUE

On 7 May 2018, the Canterbury Bankstown Local Planning Panel issued a deferred commencement consent for a mixed-use development (DA-562/2017) to demolish existing structures and construct a three-storey mixed-use development at No. 280 Chapel Road, Bankstown.

The deferred DA consent is subject to a Voluntary Planning Agreement being entered into between the property owners and Council to pay a monetary contribution instead of providing seven off-street car parking spaces on the site. The property owners have offered to enter into a Voluntary Planning Agreement.

Before Council can enter into a Voluntary Planning Agreement, the Environmental Planning & Assessment Act 1979 requires the draft VPA to be exhibited for a minimum 28 days.

RECOMMENDATION That -

1. Council exhibit the Draft Voluntary Planning Agreement and Explanatory Note for the property at No. 280 Chapel Road in Bankstown, as shown in Attachment A.
2. The matter be reported back to Council following the exhibition period.

ATTACHMENTS [Click here for attachment\(s\)](#)

- A. Draft Voluntary Planning Agreement and Explanatory Note
- B. Canterbury Bankstown Local Planning Panel - Report, 7 May 2018
- C. Canterbury Bankstown Local Planning Panel Report - Minutes, 7 May 2018

POLICY IMPACT

The draft Voluntary Planning Agreement is consistent with Council's Voluntary Planning Agreement Policy. The Policy allows Council to consider a monetary contribution to address parking shortfalls for commercial land uses in the Bankstown CBD.

FINANCIAL IMPACT

The draft Voluntary Planning Agreement will provide a monetary contribution of \$239,908.41 instead of providing seven off-street car parking spaces. The monetary contribution will be used to support the Bankstown City Centre Car Parking Strategy, which outlines the need to provide additional public car parking spaces within the Bankstown CBD.

COMMUNITY IMPACT

The monetary contribution from the draft Voluntary Planning Agreement will assist Council to provide additional public car spaces in the Bankstown CBD to be used by the general public.

DETAILED INFORMATION

Background

On 7 May 2018, the Canterbury Bankstown Local Planning Panel approved a deferred commencement consent for DA-562/2017 that proposes a three-storey mixed use development at No. 280 Chapel Road, Bankstown, subject to the following condition:

“A Voluntary Planning Agreement (VPA) to provide for deficient seven car parking spaces in accordance with the offer made by the Applicant in their letter dated 18 March 2018 to the Council shall be entered into prior to the issue of an operational consent.

The development contributions required to be paid in the operative part of the consent are not to be taken into account in the VPA, and the VPA payments are in addition to the Section payments in the operative part of the consent.

The VPA rates for the parking spaces are to be determined in accordance with the rates for parking in Bankstown Development Control Plan 2015 – Part B5, and indexed in the same way as those rates are indexed under that plan.”

A copy of the Panel report and the minutes of the meeting is shown in the Attachments B and C.

A VPA is required to be entered into prior to the issuance of an operational DA consent that will allow the property owners to seek a Construction Certificate to commence construction on the site.

However, prior to entering into a VPA, Council has to consider the terms of the draft VPA and exhibit the draft VPA for a minimum 28 days.

Guiding Principles in preparing a Draft Voluntary Planning Agreement (VPA)

Section 1.8 of Council’s Voluntary Planning Agreements Policy outlines the guiding principles to be considered when preparing a VPA, and the principles are considered to be satisfied in the following manner:

- A planning decision has not been bought or sold through the draft VPA, as the deferred DA consent issued by the Panel on 7 May 2018 is consistent with the Bankstown Local Environmental Plan 2015 and Development Control Plan 2015.
- The draft VPA is being used to provide a positive and reasonable planning outcome by providing additional public car spaces in the Bankstown CBD. The need of additional public car spaces is outlined in Council’s Bankstown CBD Car Parking Strategy.
- There is no conflict of interest as Council has no commercial interest on the subject property.
- The draft VPA will not have significant impact associated with meeting the parking requirements for the proposed development because the monetary contribution will

provide additional public car spaces in the locality for the general public and the subject site is within a walking distance of an existing multi-storey public car park at Brandon Avenue.

- The draft VPA includes a reference that the construction of the parking space will be at the sole discretion of Council and there will be no expectation by the property owners that the timing of the construction will coincide with the development for which the additional contribution has been paid.
- The total monetary contribution of \$239,908.41 (CPI adjusted until the full payment is made) is based on the rate stipulated in the Council's Voluntary Planning Agreements Policy. The current parking offset rate is \$34,272.63 per car space.

Draft Voluntary Planning Agreement

Council's lawyer has prepared the draft VPA and in summary, seeks the following:

- The parties of the draft VPA are Canterbury Bankstown Council and Duyanh Pty Ltd and Kimala Pty Limited.
- Based on the current parking offset rate of \$34,272.63 per car space, the total monetary contribution for offsetting seven car spaces is \$239,908.41.
- The property owners have requested to defer the payment of the full amount after the construction of the development but prior to the issuance of the Occupation Certificate.

Council's VPA Policy allows deferred payment subject to a bank guarantee being provided by the property owners prior to the issuance of the Construction Certificate. The draft VPA reflects the request by the property owners.

A copy of the Draft Voluntary Planning Agreement and the explanatory note is shown in Attachment A.

Next Steps

Before Council can enter into a Voluntary Planning Agreement, Section 7.4 of the Environmental Planning & Assessment Act 1979 requires the draft Voluntary Planning Agreement and an explanatory note to be exhibited for a minimum of 28 days.

Should Council support the exhibition of the draft Voluntary Planning Agreement, the draft VPA and the explanatory note will be exhibited for a minimum of 28 days.

This matter will be reported back to Council following the exhibition period.