
Planning Matters - 6 December 2016

ITEM 5.3 702-704 Canterbury Road, Belmore: Draft Voluntary Planning Agreement

AUTHOR Planning

ISSUE

The report outlines a proposal for a Voluntary Planning Agreement relating to land at 702-704 Canterbury Road, Belmore to provide for the dedication of land and construction of a laneway on this land to allow for the potential future extension of Timothy Lane.

RECOMMENDATION That -

1. The draft Voluntary Planning Agreement for land at 702-704 Canterbury Road, Belmore, be placed on public exhibition in accordance with the Environmental Planning and Assessment Act, 1979.
2. After the conclusion of the public exhibition period the outcomes be reported to Council.

BACKGROUND

On 12 December 2014 the Land and Environment Court considered an appeal relating to the deemed refusal of a proposed mixed use development at 702-704 Canterbury Road, Belmore.

As part of the Court proceedings, the applicant made an offer to enter into a Voluntary Planning Agreement (VPA) with the former Canterbury City Council. This involved the applicant dedicating land to Council to extend Timothy Lane at the rear of the site.

The Land and Environment Court upheld the appeal, and required that the applicant enter into a VPA with Council to dedicate the above land, as a deferred commencement condition necessary for the consent to become operative.

The applicant advised that the original offer made to the Land and Environment Court has not been able to be found. Since the court case the property has changed ownership, and the current applicant was not part of the original proceedings. The applicant has provided a new letter of offer to Council, as required under the Voluntary Planning Agreement Policy of the former Canterbury City Council. The offer was to dedicate land to allow for the extension of Timothy Lane, but did not include laneway construction.

The developer was advised that while there was support for dedicating the land for the laneway extension, the laneway also needed to be constructed as it provided access to the proposed development. The developer would also need to meet all costs associated with the

dedication. A revised offer and draft VPA document was submitted by the developer to meet these requirements. These are attached to this report.

REPORT

Details and Assessment of the VPA Offer

The developer is offering to dedicate land measuring 6.095m by 6.095m (approximately 37.15m² in area) for the future extension of Timothy Lane. The developer will also construct the laneway on the land in accordance with Council's specifications. This will potentially enable a connection with Joan Lane to the east and ultimately a continuous vehicular access between Nelson Avenue and Liberty Street.

The land involved, and the indicative future laneway extension, is shown on the map below:



A photo of the dedication land is also shown below:



While the extension would be conditional on the redevelopment of the land in between, the dedication allows for this potentiality to occur. The provision of an extension was an issue raised by Council as part of the Land and Environment Court appeal, which led to the VPA offer.

The developer was advised by Council of a number of specific criteria that were required in the VPA. These criteria, and the response of the developer, is outlined below:

1. The developer also constructing the laneway on the dedicated land.

The developer has agreed to this and it is included in the VPA. It is noted that the dedicated land will provide access to his development site, therefore construction of the laneway is necessary.

2. Providing a suitable means of enforcement.

Providing a suitable means of enforcement for a VPA is a requirement of Section 93F(3) (g) of the Environmental Planning and Assessment Act, 1979. The developer is proposing to achieve this through registration of the VPA on title, which Council's lawyer has advised is acceptable.

3. Road to be designed as per the specifications of Canterbury-Bankstown Council

The developer is to comply with the relevant current specifications for design and construction within the former Canterbury City Council area.

Conclusion

The draft VPA to dedicate land and construct the laneway on the dedication land at 702-704 Canterbury Road, Belmore for the future extension of Timothy Lane is supported for the purposes of public exhibition. It will provide "future proofing" of the potential to extend this

lane to Joan Lane and create continuous vehicular access between Nelson Avenue and Liberty Street, and as such has the potential to provide future public benefit.

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

POLICY IMPACT

There is no policy impact.

FINANCIAL IMPACT OF RECOMMENDATIONS

This report has no implications for the Budget.

RECOMMENDATION That -

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2. After the conclusion of the public exhibition period the outcomes be reported to Council.

ATTACHMENTS

- A. Attachment A - Draft VPA Offer 702-704 Canterbury Road, Belmore
- B. Attachment B - Plan of Dedicated Land