

Item No: C07/21-798

VOLUNTARY PLANNING AGREEMENT - 4-12 RAILWAY STREET, LIDCOMBE

Responsible Division: Environment & Planning
Officer: Director Environment & Planning
File Number: PP-4/2017
Community Strategic Plan Goal: *A resilient built environment*

SUMMARY

On 20 July 2020, Council entered into a Voluntary Planning Agreement (VPA) as part of a Planning Proposal to facilitate redevelopment of 4-12 Railway Street, Lidcombe for a mixed use development. The VPA requires land dedication for open space and road widening, and associated works in kind. The Proponent has confirmed that they will be unable to dedicate certain land to Council by the required date due to delays in obtaining approval for rehabilitation works which are required prior to the dedication of land. This report recommends that a draft amended VPA that incorporates altered timeframes to align with a revised development program be exhibited and further that the Mayor and Acting General Manager be delegated authority to execute an amended agreement provided that no significant objections to the exhibition are received.

RECOMMENDATION

That Council:

- 1. Prepare and notify for 28 days a draft amended planning agreement and explanatory note for 4-12 Railway Street, Lidcombe, extending the timeframe for the dedication of the Designated Land by 12 months.**
- 2. Delegate authority to the Mayor and Acting General Manager to execute the amended planning agreement on behalf of Council for 4-12 Railway Street, Lidcombe, subject to no significant objections on the draft agreement arising from exhibition.**

REPORT

Background

On 4 March 2020, Council considered a report regarding a Planning Proposal and Voluntary Planning Agreement (VPA) for 4-12 Railway Street, Lidcombe. The Planning Proposal involved increases to the site's height of buildings and floor space ratio controls under the Auburn LEP 2010 to facilitate redevelopment of the site for a mixed-use development. At the meeting, Council resolved to finalise the Planning Proposal and endorse and delegate authority to the Mayor and General Manager to execute the Voluntary Planning Agreement on behalf of Council for 4-12 Railway Street, Lidcombe.

The VPA was executed 20 July 2020 and the amending LEP was published on 30 July 2020.

Voluntary Planning Agreement

The table below provides a summary of the contributions to be made by the Developer under the VPA, along with the agreed timeframes for completion.

Contribution	Time for completion
Dedication of Lots 7 and 8 in DP 397 to facilitate the expansion of Friends Park ('Designated Land')	The earlier of: <ol style="list-style-type: none"> 1. The issue of the first Subdivision Certificate or Occupation Certificate issued in respect of the Development; 2. Two (2) months after completion of the Road Widening Works; 3. 30 June 2021.
Dedication of Road Widening Land ('Designated Land')	
Rehabilitation works – Lots 7 and 8 in DP 397	Two (2) months prior to Lots 7 and 8 in DP 397 being dedicated to Council
Road widening (2.5m wide, 25m in length) of Raphael Street and associated intersection upgrades	Prior to the issue of a Subdivision Certificate or Occupation Certificate issued in respect of the Development
Maintenance period for roads and streetscapes	To be conditioned in development consent, minimum 12 months.

Clause 5.1(1) of the VPA requires the Developer to dedicate the Designated Land to Council free of any trusts, estates, interests, covenants and encumbrances by the specified timeframes and, unless Council agrees otherwise, not prior to the completion of the works on the Designated Land.

A copy of the executed VPA is contained in Attachment 1, with the Developer's obligations tabled in Schedules 2 and 3, and the location of the Designated Land shown in Annexure 1.

Current status

The Developer has confirmed that they will not be able to meet their obligations under the VPA by the required date due to delays in obtaining approval for rehabilitation works for Lots 7 and 8 in DP 397.

The Developer lodged a Development Application on 9 March 2021 seeking approval for the construction of four (4) mixed-use buildings ranging in height from 2 to 18 storeys, comprising commercial/retail uses and 306 residential apartments over four (4) basement car park levels accommodating 456 car spaces, site remediation, landscaping works, and associated subdivision (DA2021/0092).

Council cannot issue a determination for the Development Application until the timeframes in the VPA are extended.

Amendment to the planning agreement

Variations to the VPA are possible under clause 21.3 and s.7.5 of the *Environmental Planning and Assessment Act*.

It is recommended that Council notify a proposed variation to the planning agreement to extend the timeframe for the dedication of Lots 7 and 8 in DP 397 by 12 months. Doing so would allow adequate time for Council to issue a determination for the rehabilitation works under DA2021/0092 and, if approved, for the Developer to carry out those works prior to the land dedication.

Subject to Council endorsement, the amended planning agreement and an explanatory note will be prepared and notified in accordance with statutory and policy requirements. It is also recommended that Council delegate authority to the Mayor and Acting General Manager to execute the amended planning agreement on behalf of Council, provided that there are no significant objections to the draft agreement arising from exhibition.

COMMUNITY ENGAGEMENT

Subject to Council endorsement, the draft planning agreement and explanatory note will be publicly exhibited for a period of 28 days in accordance with statutory and policy requirements.

POLICY IMPLICATIONS

Policy implications are outlined in the body of this report.

RISK IMPLICATIONS

Unless the timeframes in the VPA are extended, there is a risk that the land dedications and works in kind will not occur and the Developer will continue to benefit from the land value uplift arising from the LEP amendment and subsequent development consent.

FINANCIAL IMPLICATIONS

Financial implications for Council are outlined in the body of this report.

CONCLUSION

A VPA has been executed for the site on 4-12 Railway Street, Lidcombe. The Developer is unable to meet their obligations under the VPA by the required date. Therefore, it is recommended that the timeframes in the VPA be amended to align to a revised development program through an amended planning agreement.

ATTACHMENTS

1. Executed Voluntary Planning Agreement - 4-12 Railway Street, Lidcombe