

Item No: C02/24-457

## LETTER OF OFFER FOR 15 NEIL STREET, MERRYLANDS

Directorate: Environment and Planning  
Responsible Officer: Director Environment & Planning  
Community Strategic Plan Goal: *Enhancing the Natural and Built Environment*

### SUMMARY

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The subject site at 15 Neil Street, Merrylands, benefits from development consent DA2012/493/1. Pursuant to Condition 138 of DA2012/493/1, a surplus amount to the value of \$122,651.30 was granted to be used against any future development in the Cumberland local government area.

A subsequent development consent under DA2022/0131 was approved by the Cumberland Local Planning Panel on 4 August 2022 for alterations and additions to an approved mixed use development including the provision of an additional 8 residential storeys accommodating an additional 30 apartments, minor amendments to existing apartment layouts, minor amendments to the basement car park layout and modifications to the design and materials of the development. The site includes an area of open space that is identified for acquisition by Council in accordance with the Cumberland LEP.

A modification application has been received by Council (MOD2023/0552), seeking changes to the approved mixed use building and amendments to the conditions of consent. Related to the application, Council received a Letter of Offer to enter into a Planning Agreement to dedicate the open space area on the site to Council as identified in the Cumberland LEP, to use the surplus amount of Section 7.11 contributions (pursuant to Condition 138 of DA2012/493/1) as an offset to local infrastructure contributions for the site, and for the value of the land any associated works (as required by Council) within the identified open space area to be used to offset local infrastructure contributions for the site.

Following review by Council officers, it is recommended that Council endorse in-principle the offer. The offer is consistent with the Cumberland Planning Agreements Policy as it would provide a public benefit through the dedication of land for open space and associated works that is identified in local planning controls.

### RECOMMENDATION

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#### That Council:

1. **Endorse in-principle the letter of offer for 15 Neil Street, Merrylands, regarding the dedication of land for the purpose of open space and associated works (as required by Council), use of a surplus value of**

**contributions already paid, and associated offsets of local infrastructure contributions, as outlined in this report.**

- 2. Note that the Council resolution on the letter of offer will be considered as part of the assessment for the modification application on the site.**

## REPORT

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### *Context*

The site currently known as 15 Neil Street, Merrylands, benefits from development consent DA2012/493/1 for the demolition of existing structures; subdivision of land into 2 lots and construction of a 9-storey mixed use building containing 28 residential units and 2 commercial units on Lot A and a part 7 part 8 storey residential fat building containing 59 units on Lot B totalling 87 units (being 7 x 1 bedroom with study; 65 x bedroom, 7 x 2 bedroom with study and 8 x 3 bedroom); 3 levels of basement parking containing 122 car spaces, provision of new roads, site works and landscaping.

Pursuant to Condition 138 of DA2012/493/1, a surplus amount to the value of \$122,651.30 under Section 7.11 contributions was identified to be used against any future development in the Cumberland local government area.

A Planning Proposal previously undertaken for the precinct amended the planning controls on the subject site, including the height and floor space of buildings, and amended the zoning and development controls for the entire Neil Street Precinct. These controls were transferred into the current Cumberland Local Environmental Plan 2021, which provides for a floor space ratio of 8.5:1 and maximum building height of 54 metres.

The works associated with Building B, including extension and dedication of Dressler Court and McLeod Road (bounded by white lines in Figure 1 below), have since been completed. Open space area (Open Space/OS 1 in Figure 1 below) has also been dedicated to Council as part of works carried out under Stage 1. An Occupation Certificate for Building B was issued on 18 May 2021.

Following the Planning Proposal, a further development consent for Lot A (Building A) under DA2022/0131 was approved by the Cumberland Local Planning Panel on 4 August 2022 for alterations and additions to an approved mixed use development, including the provision of an additional 8 residential storeys accommodating an additional 30 apartments, minor amendments to existing apartment layouts, minor amendments to the basement car park layout and modifications to the design and materials of the development.

Recently, a modification application has been received by Council (MOD2023/0552), seeking changes to the approved mixed use building and amendments to the conditions of consent.



Figure 1: Site Layout

### ***Proposed Offer***

Council received a Letter of Offer from Paramonte Legal on behalf of HB and Sons Pty Ltd on 18 January 2024 to enter into a Planning Agreement to dedicate the open space area on the site to Council (Open Space/OS 2 in Figure 1 above) as identified in the Cumberland LEP, to use the surplus amount of Section 7.11 contributions (pursuant to Condition 138 of DA2012/493/1) as an offset to local infrastructure contributions for the site, and for the value of the land and any associated works with the identified open space area (as required by Council) to be used to offset local infrastructure contributions for the site.

It is noted by Council officers that should there be a remaining balance under Section 7.11 following the completion of the offer, this will need to be paid as a monetary contribution.

### ***Public Benefit***

The dedication of open space and associated works is consistent with the Cumberland Planning Agreements Policy as it would provide a public benefit through the construction of local infrastructure that is identified in local planning controls.

The open space is identified in the Land Reservation Acquisition Map in the Cumberland LEP and is shown in Figure 2 below.



1.

Figure 2: Land Acquisition Reservation in Cumberland LEP for Open Space

### **Next Steps**

The modification application MOD2023/0552 is being finalised and will be determined under delegation by Council officers. Subject to Council's in-principle endorsement of the offer, a condition will be included that the preparation, notification and finalisation of a Planning Agreement be undertaken in accordance with the offer. If the application is approved, a further report will be presented to Council on the draft Planning Agreement prior to public notification.

Should Council not support the offer, the assessment will be finalised with consideration of this outcome.

### **COMMUNITY ENGAGEMENT**

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Should the offer be endorsed by Council and the modification application approved, the draft planning agreement will be prepared and publicly notified in accordance with Section 7.5 of the *Environmental Planning and Assessment Act 1979* and Council's Planning Agreements Policy.

### **POLICY IMPLICATIONS**

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Policy implications are outlined in the main body of the report.

### **RISK IMPLICATIONS**

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There are minimal risk implications for Council associated with this report.

### **FINANCIAL IMPLICATIONS**

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There are no financial implications for Council associated with this report.

## CONCLUSION

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The applicant's offer to enter into a planning agreement has been considered by Council officers and is consistent with the relevant principles and requirements detailed in Council's Planning Agreements Policy, and with statutory provisions of the Environmental Planning and Assessment Act 1979. It is recommended that Council provide in-principle endorsement of the offer.

## ATTACHMENTS

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1. Letter of Offer (confidential)  
Note: Included in Closed Business Paper in accordance with Section 10A(2)(d)(i) of the Local Government Act as the information involves commercial information of a confidential nature that would, if disclosed prejudice the commercial position of the person who supplied it.