

GR1 – Voluntary Planning Agreement 55-57 Menangle Street, Picton

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263081

TRIM 9613

EXECUTIVE SUMMARY

- The purpose of this report is to seek Council's endorsement to execute a draft Voluntary Planning Agreement for 55-57 Menangle Street, Picton.
- The draft Voluntary Planning Agreement was recently re-exhibited due to changes that were made to previously exhibited versions.
- The draft Voluntary Planning Agreement was prepared in accordance with a condition of consent imposed by the Land & Environment Court in November 2016 for re-development of the site.
- Under legislation, a person who makes a relevant planning application or public submission is required to disclose any reportable political donations. The disclosure requirements extends to any person with a financial interest in the application or any associate of the person making a public submission. No disclosure of political donation has been made in association with this application.
- It is recommended that Council endorse the draft Voluntary Planning Agreement and that the General Manager be authorised to execute the Agreement on behalf of Council.

REPORT

BACKGROUND

The development consent for re-development of the site granted by the Land & Environment Court ('Court') involves the alteration of an existing building to create:

- 5 ground level shops,
- 6 shop-top housing dwellings, and
- 7 car parking spaces.

The Applicant offered to enter into a Voluntary Planning Agreement ('VPA') to offset the shortfall of 19 car parking spaces required to serve the development. In lieu of full satisfaction of the car parking requirement, the draft VPA requires the developer to provide the following public benefits:

- Landscaping of the southern area of the site near Argyle Street;
- A covenant providing for right of public use and access of the landscaped area in perpetuity; and

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- Road works to St Mary McKillop Lane beyond those required to enable the development, including:
 - Pavement reconstruction,
 - Re-grading of road at the entrance to Menangle Street,
 - A concrete dish drain in Menangle Street, and
 - Line marking and signage.

The value of the benefits to be provided has been estimated at \$346,350 consisting of:

- Open space covenant = \$103,106
- Landscaping of open space area and road works = \$193,244, and
- Road works = \$50,000.

These benefits are not given as an offset for the development contributions estimated at approximately \$68,000 plus CPI.

An earlier version of the draft VPA was prepared and exhibited in November 2014.

It became necessary to review the earlier version given Council staff undertook some urgent works in St Mary Mackillop Lane to address public safety issues. Completion of these works by Council meant the applicant would not be able to fulfil its obligations under the draft VPA.

The developer has now agreed to pay a cash contribution in the amount of \$50,000 in satisfaction of the works undertaken by Council.

In addition to providing this money, other minor changes were made to the original version of the draft VPA including amendments to the Road Works Schedule. The \$50,000 referred to above will to be used for traffic and road safety improvements in the Picton town centre.

The draft VPA still requires the developer to carry out some road works in St Mary Mackillop Lane, and to provide in perpetuity access to the southern area of the site fronting Argyle St for public open space purposes.

EXHIBITION OF THE DRAFT PLANNING AGREEMENT

Under Council's Planning Agreements Policy re-exhibition of a Draft Agreement is required if "*any change is made to it after exhibition, other than a minor change which does not affect the operation of the agreement, or the contributions provided under the agreement (subject to legal advice in any particular case if considered necessary).*"

The changes referred to above were considered significant enough to warrant re-exhibition, and the draft VPA was re-exhibited in March 2018.

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REVIEW OF SUBMISSIONS FROM THE EXHIBITION PROCESS

As noted above, the draft VPA was exhibited firstly between 9 August and 8 September 2017, and was re-exhibited (as a result of the changes that were made) between 21 March and the 20 April 2018. A total of 3 submissions were received to both exhibition periods. One of the submitters from the first exhibition sent a duplicate submission for the second exhibition period, and this has been included in the total number of (three) submissions.

The matters raised in the submissions related to the development application (DA) rather than the draft VPA. As has been noted the DA has already been approved by the Land & Environment Court and as a result Council is not able to consider these matters any further.

The matters raised in the submissions are summarised below.

Issue Raised	Comments
Lack of any proper new drainage or flood mitigation in response to the July 2016 flood. The dish drain seems to be a token effort.	These comments relate to the DA. The development of the former National Australia Bank was approved by the Land & Environment Court in November 2016.
Concerns about the impact of the contemporary style of building approved within the Picton Heritage Conservation Area.	Same as above

In summary whilst the matters raised in the submissions may have been relevant if Council had an approval role for the DA, they are not matters which are relevant to Councils consideration of the draft VPA.

FINANCIAL IMPLICATIONS

The draft VPA is considered to have positive financial implications for the community. Council will still receive development contribution of approximately \$68,000. This contribution is not offset by the draft VPA. The provision of \$50,000 to fund traffic and safety improvements is a positive financial outcome as is the provision of some usable open space in the Picton town centre.

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CONCLUSION

The draft VPA has completed its statutory processes and is now in a form that can be decided on by Council. In considering the Agreement it is important to note that the condition of consent imposed by Court required that the Draft Agreement be prepared in accordance with the letter of offer submitted by the applicant (letter dated 17 October 2016) and as it is an outcome of the Court process there is little room to require further changes to the Agreement.

Nevertheless, the Draft Agreement is considered to represent a good outcome for Council and the community through the provision of an area of open space in the Picton town centre, some road works and a monetary contribution to help fund additional road and traffic safety improvements.

As a result it is being recommended that the Agreement be executed by Council.

ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET

1. Re-exhibited Draft Planning Agreement and Explanatory Note
2. Letter of offer dated 17 October 2016

RECOMMENDATION

That Council endorse the draft Voluntary Planning Agreement for 55-57 Menangle Street, Picton to be executed by the General Manager under delegated authority on behalf of Council.