

Report of Planning and Economy to the Ordinary Meeting of Council held on Monday 20 March 2017

**PE1 - Draft Planning Agreement for Macquariedale Rd South Appin**

**PLANNING AND ECONOMY**

PE1

**Draft Planning Agreement for Macquariedale Road, South Appin**

263081

TRIM 4985-1

**EXECUTIVE SUMMARY**

- This report advises Council about a revised Draft Voluntary Planning Agreement prepared for Macquariedale Rd Planning Proposal.
- The Draft Planning Agreement is associated with a planning proposal to allow the development of the site for approximately 215 dwellings. It is substantially different to an earlier draft Planning Agreement and Planning Proposal for this land which was exhibited in August 2014.
- In particular the scale of development allowable under the planning proposal has been reduced from 250 to approximately 215 dwellings. However the benefits to the community under the revised Planning Agreement have increased from about \$5.5 million to approximately \$9.55 million.
- The report also discusses other outstanding matters in relation to the Planning proposal following the report to Council's on 18 April 2016.
- This report recommends that the Council agree to the following:
  - Public exhibition of the revised Draft Planning Agreement concurrently with the Planning Proposal, Biocertification Application and other relevant documentation when these are ready for exhibition;
  - A community engagement plan be prepared for the exhibition exercise;
  - Consider a further report following the completion of the public exhibition period.

**REPORT**

**BACKGROUND**

At its meeting on 18 April 2016 Council considered a report that provided an update on a Draft Planning Proposal and associated Draft Planning Agreement for land at Macquariedale Road, Appin. These were both exhibited in 2014, but further consideration of these matters at the time was deferred following announcements by the State Government of their investigations into the Greater Macarthur Investigation Area.

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At the April 2016 meeting, Council made the following resolution in relation to the Draft Planning Agreement:

*“If a formal letter of offer is made by the proponent to amend the draft planning agreement that this be considered by staff in accordance with the Planning Agreements Policy and further advice provided to Council. If following this process the draft planning proposal (sic) is acceptable to Council it should be exhibited at the same time as the amended planning proposal” (Council minute 53/2016).*

The Letter of Offer foreshadowed by this resolution has now been submitted by Walker Corporation and is attached. Also attached is a Draft Planning Agreement that has been prepared and which is consistent with the offer.

**THE REVISED DRAFT VOLUNTARY PLANNING AGREEMENT**

The revised Draft Voluntary Planning Agreement is significantly different to the version that was exhibited in 2014. The Proponent has advised that they have amended the Draft Agreement to address feedback received from the community to the first exhibition held in 2014. Walkers also requested some amendments to the planning proposal, with the most significant being a reduction in the lot yield from 250 to approximately 215 lots. The minimum lot size has also been increased so that at least 70% of lots will not be less than 700 sq metres, and dual occupancies are to be prohibited.

The revised Draft Agreement proposes total benefits of over \$9.55 million (equating to approximately \$44,250 per lot) as against \$5.5 million offered through the exhibited Draft Agreement. The Table below summarises the benefits to be provided under the revised Draft Agreement and compares it against what had been proposed under the exhibited Draft Agreement.

Category	Amount Under Revised Draft VPA	Amount under Exhibited Draft VPA	Comments
Cycleways (3 separate stages, providing to connections to existing cycle ways)	\$700,000	\$700,000	
Undergrounding of power lines in Appin Rd and Macquariedale Rd	\$1,400,000	See column four	The revised VPA includes this item separately. Under the exhibited VPA, it was included within the Appin Road Improvements.

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Category	Amount Under Revised Draft VPA	Amount under Exhibited Draft VPA	Comments
Macquariedale Rd upgrades (cycle ways, street trees, pavement improvements)	\$250,000	\$1,000,000	Actual works to be decided by Council in consultation with the community.
Appin Road – improvements such as trees, furniture, parking, landscaping, pedestrian refuge etc	\$500,000	\$1,300,000	Works to be decided by Council in consultation with the community.
Gordon Lewis Oval and Engineers Ground - various works to be selected from netball court upgrades, fitness circuit, pathways, drainage and irrigation	\$1,200,000	\$1,300,000	Works to be decided by Council in consultation with the community.
Intersection upgrades on Appin Rd – may include traffic signals or roundabouts at various locations	\$2,500,000	Not included	Some of these works will be required to manage the impacts of the development though the works would still benefit the existing community.
Community chest – to fund local community projects	\$2,500,000	Not included	Funds a Grants Program for Community projects to be run by Council
Green Fund – to fund environmental projects	\$500,000	Not included	Supports community led environmental projects in Appin.
Expansion of Gordon Lewis Oval – achieved through dedication of 1932 sq m to Council following clearing of vegetation (subject to approval of Biobanking Agreement)	Included but not valued	Not included	This will only occur if the Biobanking Agreement required to allow Stage 3 of the development to proceed is approved. Council's Land and Property Panel has agreed to the land dedication.

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Category	Amount Under Revised Draft VPA	Amount under Exhibited Draft VPA	Comments
Appin Inn restoration	Not included in new Draft	\$1,200,000	This is now being funded separately by Walker Corporation, outside the Planning Agreement process.
Total	\$9,550,000	\$5,500,000	

**Note:** the above benefits will be delivered in their totality only if 215 lots are approved. If not some of the benefits will be delivered proportionally to the number of lots approved.

The most significant amendments to the Draft Agreement are described in more detail below:

- An amount of \$2.5 million on works to fund intersection improvements on Appin Rd which will improve safety and traffic flow. The type of intersection treatment will be determined in consultation with the RMS and Council. Whilst the previous Agreement included some funding for works along Appin Rd, these were more concerned with amenity improvements rather than works to improve public safety. Whilst some of these works may be required as a direct requirement of the development, there will still be a public benefit as a result of them
- An amount of \$2.5 million to fund a "Community Chest" program which can be used to support local community groups. This will help provide the incoming population with sufficient community services required as a result of this and other developments in the area
- An allocation of \$500,000 to support an "Environmental Fund" which can be used to fund local environmental projects that may help mitigate the impact of this (and other) development on the natural environment. Examples of the types of projects which could be funded include wildlife crossings, bush regeneration and similar projects
- The dedication to Council of almost 2000 sq metres of land to be incorporated into the Gordon Lewis Oval. In accordance with Resolution No 4(b) from the Council meeting of 18 April 2016, this was referred to Council's Land and Property Panel, which supported the dedication, subject to it being cleared prior to dedication. This clearing is subject to approval under the biodiversity certification process.

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Most of the benefits identified in the above table will be delivered as works by the proponent, with the timing of delivery specified in the Agreement and matching the completion of various stages of the development proposal. There is some flexibility as to the specific works that are to be delivered, allowing Council and the community to consider what specific facilities in a particular category they prefer. The Draft Agreement also provides for money from one category to be transferred to another in cases where the cost of delivering the benefits in one category falls short of the estimated value.

In summary, the benefits proposed under the revised Draft Planning Agreement represent a generous offer and will deliver significant benefits to the Appin community. The applicant could have elected to pay only the Section 94 contribution of about \$20,000 per lot (totalling approximately \$4.3 million), but has offered instead to enter into a Planning Agreement to ensure that the development is provided with adequate infrastructure and services, and to help to address the community concerns about the development expressed through the previous exhibition. The value of the contribution is more than double what would be received under the Section 94 contributions. It is recommended that Council agree to the re-exhibition of the Draft Planning Agreement concurrently with the revised Planning Proposal and the Biocertification application as well as other relevant documentation.

**PLANNING AGREEMENTS POLICY**

Council's Planning Agreements Policy only applies to Draft Planning Agreements that have not been exhibited at the date of adoption of the Policy. As this Draft Planning Agreement has already been exhibited and this is a re-exhibition, Council's Planning Agreements Policy does not strictly apply. However the Council resolution from 18 April 2016 quoted at the start of the report requested that any revised letter be considered against the Policy, As a result, a consideration of the Draft Agreement against the Checklist included in the Policy has been undertaken and is attached. In summary this consideration has found the Draft Agreement to be consistent with the Policy.

**SUMMARY OF PREVIOUS COMMUNITY CONSULTATION**

It is relevant to note that the previous draft Planning Agreement and Planning Proposal attracted significant community opposition when placed on exhibition. Concerns were raised about a range of matters, particularly the following:

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- the number of small lots - this has been addressed by an amendment to the planning proposal so that 70% of the lots are of at least 700 sq metres
- the impact on Gordon Lewis Oval; - this has been addressed by removing the Appin Bypass from the planning proposal, which was thought by the community to be the main likely culprit for any future impacts to Gordon Lewis Oval. As mentioned above, the Draft Agreement also provides for the addition of almost 2000 sq metres to the Oval which should further safeguard and improve its amenity
- Impacts on the environment - this has been addressed by the inclusion in the Draft Planning Agreement of a Green Fund worth \$500,000 to help fund projects to help mitigate the impacts of development on the natural environment
- improve infrastructure (water and roads) - the VPA includes a significant amount to improve intersection performance and safety along Appin Road, subject to the approval of RMS. Walkers have undertaken investigations with Sydney Water that verified that some locations have water pressure issues. The augmentation of the water supply system is an issue to be dealt with at Development Application stage. Clearance (i.e. Section 73 Certificate) from Sydney Water for development to proceed will not be issued until agreement is reached regarding infrastructure improvements
- Restoration of the Appin Inn - There were concerns about this item being included in the earlier Draft Planning Agreement and a Section 94 offset allowed. Walkers has agreed to restore the Inn outside the Planning Agreement process and has commenced an archaeological survey of the site.

If Council agrees to the exhibition of the revised Draft Agreement this will provide further opportunity for public comment about the revised proposal and will allow Council to gauge whether the revised proposal has addressed the community's concerns about these matters.

**UPDATE ON PREVIOUS COUNCIL RESOLUTION**

Council made several other resolutions at its meeting of April 2016 regarding the Macquariedale Rd Planning Proposal. An update is provided below outlining what actions have been taken in relation to these resolutions:



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<b>Resolution</b>	<b>Update</b>
<p>That in relation to the Macquariedale Rd, Appin Planning Proposal:</p> <p>1. That in conjunction with the State Government Council consider</p> <ul style="list-style-type: none"> <li>(a) Making a master plan of Macarthur South;</li> <li>(b) Upgrading Appin Rd to dual lanes all the way from Rosemeadow;</li> <li>(c) Upgrading the school and making plans for a proposed high school;</li> <li>(d) Supply a public transport plan.</li> </ul>	<p>These matters to be considered as part of the investigations into the Greater Macarthur Growth Area and references to the above were included in Council's submission.</p>
<p>Concurrently with the above Council further consider the proposal in an amended form generally consistent with the proponent's letter dated 29 February 2016.</p>	<p>Consideration of the Planning Proposal is presently occurring.</p>
<p>2. The planning proposal be amended and be forwarded to the Minister for Planning for an amended gateway determination.</p>	<p>Amended Gateway determination has been sought.</p>
<p>3. Before a request for an Alteration of the Gateway determination is made to the Minister for Planning the following actions are undertaken:</p> <ul style="list-style-type: none"> <li>(a) RMS be consulted on whether they would support the removal of the provisions within the planning proposals that seek to preserve the Appin Bypass corridor in the Wollondilly LEP.</li> </ul>	<p>The Appin Bypass corridor has been removed from the Planning Proposal after consultation with the RMS who had no objection to its removal.</p>
<ul style="list-style-type: none"> <li>(b) Council's Land and Property Panel be consulted on the proponent's proposal to transfer a small section of land to Council.</li> </ul>	<p>Council's Land and Property Panel support the dedication of this land.</p>
<ul style="list-style-type: none"> <li>(c) that Council lodge a Biodiversity Certification Application with the Minister for Environment under the Threatened Species Conservation Act 1995 for the Macquariedale Rd Appin site to enable this application to be consulted at the same time as the amended planning proposal.</li> </ul>	<p>The Biocertification application has not yet been lodged with the Minister for Environment however its submission will occur shortly. It will be exhibited at the same time as the amended planning proposal and the Draft Planning Agreement.</p>

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<b>Resolution</b>	<b>Update</b>
4. The amended planning proposal be placed on public exhibition at the same time as exhibition for the biodiversity certification application, and draft development control plan controls.	These documents will all be exhibited together with the Draft Planning Agreement if Council agrees to it.
5. If a formal letter of offer is made by the proponent to amend the draft planning agreement that this be considered by staff in accordance with the Planning Agreements Policy and further advice provided to Council. If following this process the draft planning proposal (sic) is acceptable to Council it should be exhibited at the same time as the amended planning proposal”	This is the subject of this report.
6. The proponent and persons who made submissions regarding the Planning Proposal be notified of Council's decision and also be advised that this is for further assessment of the proposal and should not be taken as a resolution to support the proposal and draft planning agreement.	The proponent and those who made submissions were advised of Council's resolution.

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**FINANCIAL IMPLICATIONS**

There will be positive financial impacts to Council and to the Appin community if the benefits under the Planning Agreement are realised. Council will receive over \$9.5 million worth of benefits to the Appin community which is approximately \$5 million more than the contributions required under the contributions plan and approximately \$4 million more than the previous offer.

**ATTACHMENTS INCLUDED IN A SEPARATE BOOKLET**

1. Checklist for Consistency with Planning Agreements Policy
2. Map of Land Subject to Draft Planning Agreement
3. Letter of Offer
4. Draft Planning Agreement and Explanatory Note for exhibition



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**CONCLUSION**

Since it was first exhibited in 2014, the Draft Planning Agreement for Macquariedale Rd Appin has been significantly revised and provides a comprehensive package of public benefits to address the community concerns raised during the first exhibition. The quantum of benefits has increased significantly from approximately \$5.5 million to \$9.55 million. It is appropriate that the Draft Agreement (and accompanying Explanatory Note) be re-exhibited to seek community feedback on the public benefits that are now being proposed. The re-exhibition of the Draft Planning proposal and the Biocertification application should occur concurrently.

**RECOMMENDATION**

1. That Council note the revised offer made by the Proponent as part of the Macquariedale Road Planning Proposal.
2. That Council re-exhibit the Draft Planning Agreement and Explanatory Note for Macquariedale Rd South Appin concurrently with an amended Planning Proposal, Development Control Plan and Biocertification Application when these are ready for exhibition.
3. That a community engagement plan be prepared for the exhibition exercise.
4. That Council consider a further report on the Draft Planning Agreement and other exhibited material following the completion of the exhibition period.