

Item No: C04/24-496

## **VOLUNTARY PLANNING AGREEMENT - 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 (subject to indexation) was granted to be used against any future development in the Cumberland local government area. A subsequent development consent under DA2022/0131 was approved which authorised the provision of an additional 8 residential storeys accommodating an additional 30 apartments to Building A. The site includes an area of open space that is identified for acquisition by Council in accordance with the Cumberland Local Environmental Plan (LEP) 2021. A modification application (MOD2023/0552) has also been approved for changes to the approved mixed use building and amendments to the conditions of consent relating to Section 7.11 contribution.

At the Council meeting of 7 February 2024, Council provided in-principle endorsement of 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), and use of the value of open space land and works in conjunction with the surplus value of contributions already paid to offset Section 7.11 contribution imposed on DA2022/0131.

Following Council's resolution and determination of the modification application, a draft Voluntary Planning Agreement has been prepared for consideration by Council. It is recommended that Council endorses the draft Voluntary Planning Agreement, and that the draft agreement be placed on public exhibition for a period of 28 days in accordance with legislative and policy requirements. It is also recommended that Council endorse the finalisation of the Voluntary Planning Agreement and delegate the Mayor and General Manager to finalise and execute the Voluntary Planning Agreement, subject to no significant objections arising from public exhibition.

### **RECOMMENDATION**

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#### **That Council:**

- 1. Endorse the draft Voluntary Planning Agreement prepared for 15 Neil Street, Merrylands, and that the draft agreement be publicly exhibited for a period of 28 days in accordance with legislative and policy requirements; and**
- 2. Delegate authority to the Mayor and General Manager to finalise and execute the Voluntary Planning Agreement on behalf of Council for 15 Neil Street, Merrylands, subject to no significant objections on the draft agreement arising from public exhibition.**

## REPORT

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 Building A and a part 7 part 8 storey residential flat building containing 59 units on Building 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. The works associated with Building B, including extension and dedication of Dressler Court and McLeod Road, are bounded by white lines in Figure 1 below.

A subsequent development consent under DA2022/0131 was approved for the subject site 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 to Building A, 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 2021. A modification application (MOD2023/0552) was approved by Council on 15 March 2024 for changes to the approved mixed use building and amendments to the conditions of consent relating to Section 7.11 contribution.



Figure 1: Site Layout

At the Council meeting of 7 February 2024, Council provided in-principle endorsement of the letter of offer for 15 Neil Street, Merrylands, regarding the dedication of land for the purpose of open space (marked as OS 2 in Figure 1 above) that is identified in the Cumberland LEP 2021 and associated works (as required by Council), and use of the value of open space land and works in conjunction with the surplus value of

contributions already paid (pursuant to Condition 138 of DA2012/493/1) to offset Section 7.11 contribution imposed on DA2022/0131. 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.

Following Council's resolution and determination of the modification application, a draft Voluntary Planning Agreement has been prepared for consideration by Council. The draft Agreement is based on the letter of offer provided that was previously endorsed by Council and as outlined in this report. The scope of the draft Agreement is also consistent with the Cumberland Planning Agreements Policy and Guideline. The draft Agreement will enable the delivery of a public benefit through the dedication of land for open space and public domain works for the Merrylands Town Centre.

It is recommended that Council endorse the draft Voluntary Planning Agreement, and that the draft Agreement be placed on public exhibition for a period of 28 days in accordance with legislative and policy requirements. Subject to no significant objection during public exhibition, it is also recommended that Council delegates authority to the Mayor and General Manager to finalise and execute the Voluntary Planning Agreement.

## COMMUNITY ENGAGEMENT

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Should the draft Voluntary Planning Agreement be endorsed by Council, the document will be 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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Financial implications are outlined in the main body of the report.

## CONCLUSION

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A Voluntary Planning Agreement has been negotiated for 15 Neil Street, Merrylands, to derive public benefit for the Merrylands Town Centre. It is recommended that Council endorse the draft Voluntary Planning Agreement for public exhibition and to delegate the execution of the document to the Mayor and General Manager.

## ATTACHMENTS

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1. Draft Voluntary Planning Agreement - 15 Neil Street, Merrylands [↓](#)
2. Public Benefit Offer Analysis - 15 Neil Street, Merrylands (confidential)

Note: Included in Closed Business Paper in accordance with Section 10A(2)(d)(ii) of the Local Government Act as the information involves information that would, if disclosed, confer a commercial advantage on a competitor of the council.

3. Council Meeting Minutes - 7 February 2024 [↓](#)