

ITEM-97 CCL 22/11/22 - PUBLIC EXHIBITION OF PLANNING AGREEMENT FOR 30 AND 31 VISTA PARADE, KOTARA

REPORT BY: PLANNING & ENVIRONMENT
CONTACT: INTERIM EXECUTIVE DIRECTOR PLANNING & ENVIRONMENT / ACTING MANAGER PLANNING, TRANSPORT & REGULATION

PURPOSE

To place the Planning Agreement for 30 and 31 Vista Parade, Kotara (St James Primary School) on public exhibition.

RECOMMENDATION

That Council:

- 1 Places the Planning Agreement (**Attachment A**) and Explanatory Note (**Attachment B**) for 30 and 31 Vista Parade, Kotara on public exhibition for 28 days.
- 2 Considers a report on the Planning Agreement and Explanatory Note following public exhibition.

KEY ISSUES

- 3 DA2019/00966 was lodged with City of Newcastle (CN) on 30 August 2019 seeking approval for alterations and additions to the educational establishment (385 students increasing to 630 students), new childcare centre (79 places) and subdivision – Community Title (2 into 3 lots), associated site works, landscaping and signage, at 30 and 31 Vista Parade, Kotara (St James Primary School).
- 4 The Hunter & Central Coast Regional Planning Panel (HCCRPP) refused the application on 29 March 2021 based on the proposed development's impact on the surrounding road network.
- 5 CN's assessment of the application recommended it for refusal based on the development's impact on traffic, safety and residential amenity in the area.
- 6 DA2019/00966 is now subject to a Class 1 Appeal lodged in the Land and Environment Court by the applicant against the refusal from the HCCRPP.
- 7 The Planning Agreement requires the dedication of approximately 90m² of land to CN to widen Vista Parade, with the applicant to undertake road widening works and the construction of a roundabout and intersection upgrade works at the intersection of Princeton Avenue and Vista Parade at its cost. It also includes associated infrastructure, footpaths, signage and bus stop relocation. These works are required to manage the traffic impacts of the proposed development.
- 8 The Planning Agreement would not be subject to the Court proceedings and is a separate matter for CN to resolve.

- 9 The Explanatory Note provides a summary of the Planning Agreement in plain English, as required by clause 205 of *the Environmental Planning and Assessment Regulation 2021* (EP&A Regulation). The Explanatory Note contains an assessment of the merits of the Planning Agreement and how it promotes the public interest.

FINANCIAL IMPACT

- 10 The Planning Agreement requires the dedication of land to CN to widen Vista Parade. The applicant will undertake the road widening works, construction of the roundabout and intersection upgrades at its cost.
- 11 The applicant will fund the preparation of the Planning Agreement and pay required fees to CN to conduct its legal review and public exhibition.

COMMUNITY STRATEGIC PLAN ALIGNMENT

- 12 The Planning Agreement is consistent with Newcastle 2040 Community Strategic Plan. It will contribute to implementing the following objectives:

1.3 Safe, active and linked movement across the city

1.3.1 Connected cycleways and pedestrian networks

1.3.2 Road networks

4.2 Trust and Transparency

4.2.1 Genuine engagement

IMPLEMENTATION PLAN/IMPLICATIONS

- 13 The Planning Agreement seeks to implement outcomes from the Newcastle 2040 Community Strategic Plan, as identified above.
- 14 The Planning Agreement requires land be dedicated to CN prior to the issue of any Roads Act Approval.

RISK ASSESSMENT AND MITIGATION

- 15 An independent legal review of the Planning Agreement and Explanatory Note was undertaken prior to reporting and public exhibition.
- 16 The negotiation and preparation of the Planning Agreement is consistent with CN's Planning Agreements Policy and Planning Agreements Procedure. These documents outline how CN will consider, accept and implement offers made by developers to enter into Planning Agreements.
- 17 Adherence with the legislative framework outlined in the *Environmental Planning and Assessment Act 1979* (EP&A Act) and the EP&A Regulation reduces the risk to both CN and the applicant.

RELATED PREVIOUS DECISIONS

- 18 Nil.

CONSULTATION

- 19 The exhibition period provides opportunity for public consultation on the Planning Agreement and Explanatory Note. Exhibition material will be placed on the CN website in accordance with the EP&A Regulation and consistent with CN's adopted Community Participation Plan.
- 20 DA2019/00966 was exhibited from 9 September 2019 to 25 September 2019. The 13 submissions had key concerns relating to congestion during peak hours, on-street parking and additional traffic resulting from the proposal.

BACKGROUND

- 21 DA2019/00966 was lodged with CN on 30 August 2019 seeking approval for a new childcare centre, additions to the existing education establishment to increase capacity from 385 to 630 students, community subdivision (two into three lots), associated site works, landscaping and signage at 30 and 31 Vista Parade, Kotara.
- 22 The applicant requested HCCRPP defer DA2019/00966 on 2 December 2020 to lodge a Traffic Plan of Management. At the Panel meeting on 29 March 2021, DA2019/00966 was refused due to impacts the development would have on the surrounding road network and the degree of intensification proposed for the site.
- 23 DA2019/00966 is subject to a Class 1 Appeal lodged in the Land and Environment Court by the applicant against the refusal of the application.

OPTIONS

Option 1

- 24 The recommendation as at Paragraph 1 – 2. This is the recommended option.

Option 2

- 25 That Council does not endorse the Planning Agreement and Explanatory Note for public exhibition. This is not the recommended option.

ATTACHMENTS

Item 97 Attachment A: Planning Agreement – 30 and 31 Vista Parade, Kotara

Item 97 Attachment B: Explanatory Note – 30 and 31 Vista Parade, Kotara

Item 97 Attachments A-B distributed under separate cover