

8.3 Voluntary Planning Agreement - Novation Deed (Transfer of Agreement to New Landowner) - 40 Norman Road, Mudgee

REPORT BY THE PLANNING COORDINATOR
TO 21 JULY 2021 ORDINARY MEETING
GOV400088, P13384

RECOMMENDATION

That Council:

1. **receive the report by the Planning Coordinator on the Voluntary Planning Agreement - Deed of Novation (Transfer of Agreement to New Landowner) for 40 Norman Road, Mudgee; and**
2. **authorise the Mayor and the General Manager to execute the Voluntary Planning Agreement - Deed of Novation (Transfer of Agreement to New Landowner) applying to the subject site.**

Executive Summary

The purpose of this report is to enable a Voluntary Planning Agreement (VPA) – Novation Deed relating to the subdivision of 40 Norman Road, Mudgee (DA0009/2010) to be formally executed by Council.

Background

On the 9 March 2012 the DA0009/2010 for 40 Norman Road was determined by Council for the subdivision of the land into 14 lots over 3 stages. A condition was imposed requiring the payment of drainage contributions prior to the release of each stage of the subdivision (Condition 22).

On the 10 October 2012 the Applicant entered into a VPA with Council to comply with Condition 22 of the consent. The VPA required payment of a contribution being \$5,000 per lot + GST and CPI (total of \$65,000+GST and CPI).

The Agreement relates to monetary contributions provided to Council for drainage improvement works within 'Catchment A' (covering developments within Richard Street, Bellevue Road, Rifle Range Road, and Norman Road) rather than the developer providing onsite detention for stormwater as a result of the approved subdivisions in this area. A report to Council including draft VPAs' specifically for 'Catchment A Voluntary Planning Agreements' occurred on 26 September 2012 with Minute Number 7.2.7 providing authority to the Mayor and General Manager to execute the VPA relating to DA009/2010 Norman Road. Execution of the VPA was undertaken on the 10 October 2012 by the General Manager.

Since this time, a Construction Certificate has been issued for sewer extensions. A Subdivision Certificate has been issued recently – 9 April 2021.

Report

DA009/2010 (MA0012/2015) has commenced with a Subdivision Certificate issued for 1 into 2 lots (separating the existing dwelling at 40 Norman Road from the residual land) and a contribution paid in accordance with the executed VPA (condition 18 of the modified consent). Further works are however required to enable the release of the remaining residential lots.

As the residual parcel of land is being sold, the original developer, in accordance with clause 14 of the Original VPA, seeks to assign all dealings and obligations under the VPA to the new land owner. Consequently, a Novation Deed has been prepared at the full cost to the developer. A copy of the Novation Deed, including the Original Agreement is included as **Attachment A** of this report.

Once the Novation Deed is executed, all requirements of the VPA including the payment of the monetary contributions will continue to be required in accordance with the conditions of the development consent.

Community Plan implications

| Theme | Looking After Our Community |
|--------------|--|
| Goal | Effective and efficient delivery of infrastructure |
| Strategy | Provide infrastructure and services to cater for the current and future needs of our community |

Strategic implications

Council Plans and Strategies

Mid-Western Towards 2030 Community Plan
Section 94 Developer Contributions Plan (now superseded)
Mid-Western Regional Developer Contributions Plan 2019

Legislation

Environmental Planning and Assessment Act 1979

Financial implications

The VPA will continue to apply to the subject site and relates to the development (subdivision of land), whereby Council is to required to capture this amount from the developer in accordance with the approved condition of consent (total of \$65,000 + GST and CPI from 2012). In this case, the VPA relates to drainage improvements already funded by Council.

Associated Risks

There are no known risks associated with the Deed of Novation as Council will continue to collect developer contributions relating to the approved development at 40 Norman Road, Mudgee.

KAYLA ROBSON
PLANNING COORDINATOR

LINDSAY DUNSTAN
MANAGER, PLANNING

JULIE ROBERTSON
DIRECTOR DEVELOPMENT

2 July 2021

Attachments: 1. Novation Deed - 5 July 2021. (separately attached)

APPROVED FOR SUBMISSION:

BRAD CAM
GENERAL MANAGER