



Policy Title	Voluntary Planning Agreement (VPA) Policy 2023
Related Documentation	Land Dedication Policy Voluntary Planning Agreement (VPA) Procedures
Relevant Legislation/ Corporate Plan	Environmental Planning and Assessment Act 1979 Environmental Planning and Assessment Regulation 2021 NSW Government – Planning Agreements – Practice note February 2021
Responsible Officer	Executive Manager Urban Release and Engagement

**Policy details may change prior to review date due to legislative changes, therefore this document is uncontrolled when printed.**

### **Objectives**

To ensure Council uses a set of policy principles and procedures that ensure transparency, fairness and flexibility of planning decisions relating to the consideration, negotiation and execution of planning agreements associated with planning proposals and/or development applications.

### **Policy Statement**

Council will consider entering a voluntary planning agreement (VPA) where it offers improved planning outcomes and/or delivery of enhanced community benefits that cannot be achieved through our existing Section 7.11 or 7.12 contributions plans.

#### **Scope**

This Policy applies to all requests to enter into a VPA with Council, and to all VPAs entered into by Council.

Planning Agreements form part of Council’s developer contribution system, which include Section 7.11 and Section 7.12 Contributions Plans that have been adopted in accordance with the relevant provisions of the Act.

#### **When we will use VPA’s**

VPAs will be considered as part of a range of development contributions that may be made by developers or landowners for public purposes, so that development delivers a net community benefit.

#### **Offers from developers and/or landowners**

Council does not actively seek to enter into a VPA. Our preference is to impose conditions requiring payment of contributions in accordance with our existing Section 7.11 and Section 7.12 contributions plans. However, we will reasonably consider offers for VPAs if those offers provide better planning outcomes or community benefits.

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**Directorate:** City Planning & Environment  
**Section:** Strategic Planning  
**Record No:** CDO-23/259

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**Revised Date:** 11/04/2023  
**Minute Number:** 067  
**Review Date:** 30/06/2028

## When will we consider a VPA?

In accordance with the Act, we will consider a VPA in connection to:

- a change to an environmental planning instrument, or
- a development application or application for a complying development certificate, including modification of a development consent, or
- who has entered into an agreement with, or is otherwise associated with, a person to whom either of the above applies,

that proposes to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose

## How we will assess VPA's

We will assess any VPA proposal or letter of offer using a fair, transparent and accountable framework that includes public participation and compliance, as far as possible, with the Department of Planning and Environment's Practice Note on VPAs, including assessment of all agreements against the acceptability test.

In particular, the following underlying principles apply in any assessment of a planning agreement:

- Planning decisions will not be bought or sold through planning agreements.
- Council will not allow planning agreements to improperly fetter the exercise of its functions under the Environmental Planning and Assessment Act and Regulation or any other act or law.
- Council will not use planning agreements for any purpose other than a proper planning purpose.
- Development that is unacceptable on planning grounds will not be permitted because of planning benefits offered by developers that do not make the development acceptable in planning terms.
- Council will not seek benefits under a planning agreement that are wholly unrelated to particular development.
- Council will not take into consideration planning agreements that are wholly unrelated to an application, nor will Council give undue weight to a planning agreement.
- If Council has a commercial interest in the development proposal the subject of the agreement, Council will take appropriate steps to avoid any potential conflict of interest between its role as a planning (consent) authority and its interest in the development.

The acceptability test requires that planning agreements:

- Are directed towards legitimate planning purposes, which can be identified in the statutory planning controls and other adopted planning strategies and policies applying to development
- Provide for the delivery of infrastructure or public benefits not wholly unrelated to the development
- Produce outcomes that meet the general values and expectations of the public and protect the overall public interest
- Provide for a reasonable means of achieving the desired outcomes and securing the benefits
- Protect the community against adverse planning decisions

## How we will use VPA Contributions

The Act allows development contributions made under VPAs to be in the form of cash payments, dedication of land free of cost, material public benefits, or any combination of them, to be used for or applied towards a public purpose.

Typically, the types of public benefit we will seek are either those already in our Section 7.11 or Section 12 Plans or similar. That is, either land or works associated with:

- Open space and recreation
- Community facilities
- Traffic, transport and access

- Water quantity and quality management
- Cycleways
- Town centre public domain

Where monetary contributions are included as part of the VPA, they will be placed in restricted accounts and will only be used for the purposes for which they are nominated and only used within the area in which the VPA applies. The only exception to this is where monetary contributions are required towards the administration of the agreement. These contributions will be applied to any and all costs associated with administering the agreement. Upon completion of the VPA, should any administration funds remain they will be transferred to general revenue.

### VPA Procedures

Our VPA Procedures provides more detailed information on the processes and rules we use to consider and assess voluntary planning agreements.

The procedures include information on:

- the development contributions statutory scheme and best practice guidelines
- the requirements for a voluntary planning proposal and/or letter of offer
- valuing public benefit
- costs associated with the preparation of the proposal and agreement
- our assessment considerations, including probity and land dedication
- corporate strategic planning principles
- template agreement terms

### Definitions

<b>Act</b>	The Environmental Planning and Assessment Act 1979 (NSW)
<b>Complying development certificate</b>	Has the same meaning as in the Act
<b>Contributions plan</b>	A contributions plan (within the meaning of the Act) adopted by Council to enable a consent authority to impose conditions under Section 7.11 or 7.12 of the Act to a development consent.
<b>Council</b>	Campbelltown City Council
<b>Development application</b>	Has the same meaning as in the Act
<b>Development consent</b>	Has the same meaning as in the Act
<b>Letter of offer</b>	A formal offer to enter into a VPA which provides the details in Section 7.4(3) of the Act
<b>Material Public Benefit</b>	Limited to works
<b>Modification</b>	An application to modify a development consent
<b>Public benefit</b>	The benefit enjoyed by the public as a consequence of a contribution
<b>VPA</b>	A voluntary planning agreement referred to in section 7.4(1) of the Act.
<b>VPA proposal</b>	A VPA proposal made by a developer to the Council. This can include a letter of offer or draft VPA

## Legislative Context

Part 7 Division 7.1 Subdivision 2 of the *Environmental Planning and Assessment Act 1979* provides the legislative framework for planning agreements.

Part 9 Division 1 of the *Environmental Planning and Assessment Regulation 2021* has further requirements relating to the form and subject matter of planning agreements, making, amending and revocation of planning agreements, giving public notice and other procedural arrangements relating to planning agreements.

Section 203(6) of the Regulation enables the Planning Secretary from time to time to issue practice notes to assist parties to prepare planning agreements. The *Practice note - February 2021* is the most recent practice note.

## Principles

Procedures outlining measures taken to comply with Practice note - February 2021 are documented in the accompanying Voluntary Planning Agreement (VPA) Procedures.

## Responsibility

This policy is provided for implementation by all Council's Planning and Environment Section involved in the preparation and/or consideration of a planning agreement. The Executive Manager Urban Release and Engagement is responsible for its monitoring and review.

## Effectiveness of this Policy

This policy will be reviewed in accordance with Council's adopted procedure for policy development.

## END OF POLICY STATEMENT