

Memo to Councillors

Planning & Place Division

To: All Councillors

CC: Ray Brownlee, Chief Executive Officer

From: Louise Kerr
Director Planning & Place

Date: 17 December 2019

Subject: Council Meeting - Item 12.3 - Planning Proposal 10-12
Boondah Rd and 6 Jacksons Rd, Warriewood

Record Number: 2019/726593

Dear Councillors,

I refer to emails sent to councillors from Daniel Maurici dated 11 December 2019 and Helena Sekulich dated 15 December 2019 in relation to the above mentioned planning proposal. A separate memo will be sent in relation to Mr Maurici's most recent email that attached a letter from Mills Oakley dated 16 December 2019.

Mr Maurici suggests that Council has a pecuniary interest in the assessment of the planning proposal and should disqualify itself from decision making regarding this land. In response to this comment, I confirm that this is a proponent led planning proposal, that being, the proponent lodged the planning proposal to Council requesting that Council support the rezoning of the land and progress this matter for a gateway determination. At the time the proponent lodged the planning proposal they would have been aware of the different roles that Council has in relation to this land, given the history of multiple planning proposals for the site.

Council has a number of different roles in relation to this land. This includes the role of a planning authority and as the authority responsible for the implementation of the Warriewood Valley planning documents which include the identification of this land for open space.

To avoid perceptions of a conflict of roles, Council engaged an independent third party planning consultant (Rob Player from DFP). The assessment and recommendations are the work of Mr Player. Mr Player briefed the councillors regarding his assessment at the councillor briefing on Tuesday 10 December 2019 and will be in attendance to answer questions at the Council meeting on Tuesday 17 December 2019. Mr Player's assessment report on the planning proposal was also referred to the independent Northern Beaches Local Planning Panel on 9 December 2019 for its review. The advice that the Northern Beaches Local Planning Panel has provided to Council is for Council not to progress the 2019

Planning Proposal to a Gateway Determination. Council is able to make a decision in relation to this matter.

If the Council resolve not to support the planning proposal the proponent is able to apply to the Department of Planning Infrastructure and Environment to request a rezoning review that will be considered by the Sydney North Planning Panel.

Concerns were also raised by Helena Sekulich regarding the planning consultant's draft report that included recommendation 3. Draft recommendation 3 was as follows:

“Should Council decide to re-affirm its current local strategic position as outlined in the Warriewood Valley Strategic Review Addendum Report adopted 17 November 2014, amended 19 December 2017 and the Warriewood Valley Development Contributions Plan Amendment 16, Revision 3 2018 that land located in the Southern Buffer area (No. 3, 6, 8, 10 and 12 Boondah Road) be acquired by Council for open space purposes to meet the forecast population of the Warriewood Valley that Council proceed with commercial negotiations with the individual landowners to purchase such lands. (Note: Council acquired No.3 Boondah Road for open space purposes on 15 December 2017).

Council officers were of the view that the draft recommendation 3 was not appropriate for the following reasons:

- it was beyond the scope of the assessment of the Planning Proposal;
- the adopted Warriewood Valley Contributions Plan already identified this land for open space purposes; and
- Council has already negotiated with these land owners to purchase their land (as evidenced by the purchase of 3 Boondah Rd in December 2017) and will continue to do so in the future.

The above matters were raised with Rob Player (independent planning consultant) and Mr Player agreed to the amendment of the report on 29 November 2019, being the removal of recommendation 3. However, the draft version of the report was the version sent to the LPP secretariat, not the final version (with recommendation 3 removed). It is now apparent that the draft version, which included recommendation 3, was uploaded to the LPP agenda on Council's website on 3 December 2019. When the error was identified, it was subsequently removed and a memo was provided to the LPP members. It is unfortunate that the error occurred. The error was an administrative error caused by human error.

The final version was however, correctly uploaded for the Council meeting business paper.

What the Council is required to consider tonight is whether it will support or not support the proponent's Planning Proposal which seeks to rezone the land from RU2 Rural Landscape to R3 Medium Density and RE1 Public Recreation. The recommendation of the independent planning consultant, and supported by the Northern Beaches Local Planning Panel is that Council should reject the Planning Proposal and not progress the Planning Proposal to a Gateway Determination.

The Council is not being asked to determine whether the land should be acquired for open space purposes.

Should you require any further information about matters raised in this memo please contact my office on 9942 2139.

A handwritten signature in black ink, appearing to read 'Louise Kerr', with a long horizontal flourish extending to the right.

Louise Kerr
Director Planning & Place