

From: [Susan Hazel](#)
To: Pittwater@northernbeaches.nsw.gov.au
Subject: PLANNING PROPOSAL 0002/16
Date: Monday, 29 August 2016 4:55:06 PM
Attachments: [SusanGatenbyFernCreekSubmission 29 Aug 2016.docx](#)
[Untitled attachment_00027.txt](#)

To the Interim General Manager

Please find attached my submission of objection for the Planning Proposal 0002/16.

Please confirm that this submission has been received.

Interim General Manager
Northern Beaches Council

**Preliminary Notification of Planning Proposal Application at 9,11, 12 & 13 Fern Creek Road, Warriewood (Lots 11, 12 & 13 DP 1092788 and Lot 5 DP 736961).
Application Number PP0002/16**

I object to the above Preliminary Planning Proposal, which, in particular, involves the proposed rezoning of Local Council property 9 Fern Creek Road. As you are aware, Council's dealings concerning this property have been the subject of community concern.

1)

In the Manly Daily on Saturday 13 August 2016 (page 17) the link is quoted as "pittwater.nsw.gov.au/eplanning". However, Northern Beaches Council did not provide any 'direct' link to the Preliminary Planning Proposal containing the documents. It was difficult navigating the eportal to locate the link, due to a lack of instructions provided in The Manly Daily. A reasonable person would easily see that the difficulty in any interested member of the public locating the relevant documents discourages proper and adequate public scrutiny of council's proposal plan and the supporting documents.

2)

In addition, when I checked council's website on the 19/8/16 on the 'Documents on Exhibition' page this Preliminary Planning Proposal did not appear to be listed on this site at all. I contacted the Land Release Team and debated this point of exhibition transparency. It was a belated appearance at best on Wednesday 24 August 2016.

Taking into consideration that the closing date for public responses is 29 August 2016, this 'exhibition' does not represent a proper and adequate public exhibition.

3)

It has been brought to my attention at 12.30 pm today (being the closing date) that the submission email link is wrong. How many submissions have been lost or not sent? I and council can only guess.

4)

The same Council notice states that "*The application seeks to amend the Pittwater Local Environment Plan 2014 to create the southern portion of the planned Central Local Park, Warriewood Valley*".

Reading the report today I believe that this notice is neither transparent or adequately informative. It seems to me that the intent of the proposal is also to provide access to landlocked areas of land to the east and west of council-owned land *and* that seeks to provide a development yield for council-owned land which currently has no dwellings statutory yield.

Why are these two important reasons or implications not stated in the public advertisement?

5).

- In the report it makes a note of Attachment 5 – Deed of Agreement (land swap arrangements)
- In the report it makes note of Attachment 6 twice - The Probity Report.

This leaves the reader to then have to navigate the council website to locate and read these attachments. Why have they not been provided in the submission exhibition?

6)

When my family and neighbours submitted our Planning Proposal PP0007/13 we provided appropriate attachments to provide information and transparency which was attached for all the public to examine. In contract to the requirements for us, I notice that the PP0002/16 fails to include the following.

- a). Proposed Urban Design Study. This would show where the houses are to be located.
- b). Flood Assessment.
- c). Environmental Constraints Analysis.
- d). Transport Assessment.
- e). Map of properties subject to Planning Proposal. (It is very important that the proposed road is show, but it has not).

Why should a person have to search for all these documents in a separate unattached report? Do these reports even exist? If the reports do exist why are they not provided on the exhibition with direct links?

In my view, the content and accessibility of Council's Preliminary Proposal Application and the process of exhibition are not adequate, and the application should be readvertised correctly and placed back on exhibition, or else rejected by the Administrator.

BACKGROUND

9 Fern Creek Road was purchased by Pittwater Council for the purpose of a large district park (Council Meeting Minutes, 21 April 2008), as an active recreation area. It was purchased from the Warriewood Valley Section 94 Contribution Plan for that specific purpose. At least that's what the community understood. Interestingly, to the detriment of the wishes and

expectation of the community, and the original intent, council classified the property 'operational' instead of 'community'. In my opinion, this action pre-empted the potential for future commercial dealings of this property. In other words, anything, but not a district park or active recreation.

Community dissatisfaction with Council's actions in ultimately providing passive open space in the form of an elongated creek line corridor, whilst doing commercial deals with neighbours, is well documented.

This I consider was a mistake or serious error, as by purchasing this land for a District Park with developer funds should have immediately been classified as 'Community Land', and a council resolution made for the lands to be rezoned to 'Open Space'.

At the time they did not say at the council meeting that the land would be adjusted in size, and certainly it is a surprise that this has actually happened to the extent now apparent. However, it appears that from looking at the long history of this land that there are a number of 'red flags'.

It appears from this Planning Proposal application that it is to facilitate the landlocked sites to either side to gain access via a common road way,

*"Frasers Property own three parcels of land at the northern end of Sector 9, adjoining Fern Creek – 11, 12 and 13 Fern Creek Road All this land is zoned for residential development **but the parcels are land locked** and, in order to be developed, need to establish legal access. In 2013 Frasers Property (then known as Australand) put a formal land swap proposal to Council to facilitate the development of Frasers land holdings as well as to achieve Council's preferred open space layout for the sector." (excerpt from GLN Planning PP Application page 6).*

What this has meant for the sake of intended 'District Park' is that it no longer a usable district park site but has become a narrow creek line corridor of no use for playing fields or other organized sporting activities.

Despite numerous objections submitted at the time to council on the unfair nature of this matter my family was told by Council that it would proceed with this elongated park.

It can be shown that the large rectangular site as it currently stands, is easily large enough to accommodate a full-size soccer field or two or three smaller junior sized soccer fields plus parking and a facilities block.

This has placed an unfair burden on the rest of Warriewood Valley to provide active playing fields and Council unfairly targeting private landholders of Boondah Road to provide for all active open space in the valley. A number of private landholders along Boondah Road under the Warriewood Valley section 94 plain revision 1 and now draft revision 2 have been expected to 'carry the baby' in respect of all future designated active recreation playing fields in the valley. No other sectors in the valley have been required to provide their own land for active open space.

This has meant that our family land has become unfairly targeted and all the section 94 funds levied on developers who built in other parts of the valley have now been directed to the purpose of acquiring our lands and to also remove any other potential and appropriate development of our lands.

When Pittwater Council exhibited the Warriewood Valley Strategic Review it was unknown to us that it included this same land at 9 Fern Creek Road as 'medium density' and did in fact allocate a dwelling yield on this land in conjunction with the yield of adjoining lands i.e. amalgamated section 901A.

On page 80 of the exhibited WVS Review 'Recommendations for Residential Densities' it stated that 9 Fern Creek Road was not given a dwelling allocation in the 2010 Planning Framework (due to the land being purchased for a park) was now included in a 36 Dwellings per hectare development zone for sector 901A!

In an explanatory table at Appendix 5 of the exhibited review (page 130), it was stated that "Agreed with HBO and EMTP and includes development on land purchased for a park (1.5 hectares)".

At the public meeting held at Pittwater RSL at the time, to explain the outcomes of the Warriewood Valley Strategic Review exhibition, it was revealed by the Planning Manager that Council had in fact placed a dwelling yield on 9 Fern Creek Road – land that had been purchased for a park.

However instead of then rezoning 9 Fern Creek Road in the WVSR to open space as it should have been, council decided to keep it as a 'medium density' but remove the 'dwelling yield' and this was carried out in the Pittwater LEP until now.

This meant that the site now had a 'medium density' zoning but the yield table to that site stated 'No Dwellings'. This is quite clear.

As an aside certainly a very strange way to do town planning as land purchased for playing fields i.e. district park should never ever be rezoned to medium density! Clearly I see that action as contrary to proper town planning procedures and proper use of developer funds levied solely for the purchase of this park.

However, Council has now decided to reinstate a dwelling yield for this site and as stated in the application also use the site as an access to the private landlocked lands to either side i.e. the east and west.

As the Council meeting at the time held to discuss the outcome of this sites proposed rezoning which has led to the current proposal, a councillor advised that other councillors should hurry up and make a decision as they needed the land sold, as the money generated from the sale of this land with its up zoning was urgently needed to purchase land further down in the valley for

active open space i.e. these were our lands in Southern Buffer that the councillor was talking about.

I am still concerned that Council in the Warriewood Valley Strategic Review gave the land a medium density classification and at the time of the exhibition including a dwelling yield on the land. Why was this allowed to occur I ask?

If it was not for the astute observations of the Warriewood Valley Residents Association and other local residents of that area no one would have been wiser as to the upzoning of this land purchased with developers' funds for a large district park.

On a pure planning basis it can be seen that a new smaller elongated passive park is now really mostly creek line corridor and does not provide any active open space.

What we have here is that the Council stopped the "sector by sector" planning process used elsewhere in Warriewood Valley as an outcome of the WVSR and instead for sector Nine (9) decided that the all the land owners could go it alone without the sector agreement. This was now piecemeal planning at its worst.

What this meant is that lands immediately either side of 9 Fern Creek Road became landlocked as the landowners could not reach agreement as to the proper provision of roads and other access to the rest of the whole sector nine (9).

A council manager at the Council meeting when this 9 Fern Creek matter was debated said that the developers have got themselves into a bit of trouble and that they needed a hand to get out of the situation. The council report tabled also on that night contained grave planning errors of fact in relation to incorrectly saying the zoning of 9 Fern Creek Road was Open Space, which we objected as not being the case, but no disciplinary action occurred to those officers responsible for a wildly incorrect planning report.

I object to the use of section 94 funds derived from all of the developers in the valley to provide for a now non-existent district park and instead to provide for a substandard in our opinion creek line corridor park. This new shaped park in theory would have almost be provided by developers when they developed their lands anyway due to the 20 to 25 metre creek line corridor buffers that they were required to dedicate the Council.

When our Council purchased this land from a major developer for a price of \$4 million surely they must have known that they could have built a nice active recreation park to suit, however it has come to pass that this park is now cut in half or more and most of it is the roadway or medium density housing. Land swaps as proposed do not in reality provide for a proper large park that the site was purchased to provide.

As a Council Senior Officer said in the WVSR exhibition meeting at Pittwater RSL with local residents, he said the objection to 9 Fern Creek road has been noted and we will not provide a 'density' on this land. He said if they had achieved a density on the land as proposed in the exhibited WVSR document Council would have sold the land and would have put the money back into the s94 fund to acquire a park someone else in the valley.

In our opinion that sort of planning was not reasonable when planning of the valley for active open space and recreation is concerned, as it has placed a unreal expectation that our lands in the Southern Buffer were to be instead used to provide for the remaining balance of active open space to be delivered for the whole WV land release.

As the Minister for Planning Mr Stokes was quoted in *Manly Daily* on Saturday, August 20, 2016, he criticised the piecemeal planning of Warriewood Valley in relation to the upcoming Ingleside Release, and to our minds this current situation is a great example of this. I submit that the Council should now reverse its decisions and plan for a large district park or what's known as now a large local park in this area, and to now provide at least two junior soccer fields and associated parking for the residents of the valley at 9 Fern Creek Road.

I do not consider that the alternative solution proposed by Council in this rezoning is adequate and I do not think that the adjoining land to the east and west cannot be provided with access in some other form; it's just that this rezoning provides the easiest access. There are plenty of other options available which have not been tested in the GLN Rezoning Report.

It can be seen that the Council has not provided any active open space on private land in the whole Warriewood Valley land release for thousands of homes and residents. This shows that Council plans originally sought for the large district park of one over 1 ha in size that could have been available for playing fields has now been abandoned in favour of trying to acquire private landowners' properties in the southern part of the Shire i.e. Boondah Road in the Southern Buffer.

History shows Council has expended all its WV section 94 monies in buying only state owned land from the Education Department for part time use of the residents and embellishing other state government land for playing fields i.e. Narrabeen High school artificial turf oval. This has resulted in a substandard approach to active recreation in the valley and has now led to our lands being sterilised for future development. This shows to us that significant planning bias has now been directed to our lands development capabilities to our significant financial loss.

Going back to the 2006 WV Section 94 plan Amendment 15 it can be shown that council did not plan properly or fairly for active open space at that time yet it outlined a 6-year plan to 2012.

Looking at the 2006 Section 94 Plan, Council could have provided adequate playing fields in the other sectors while they had the chance and they could have provided enough adequate playing fields to include parking and associated recreation facilities. Instead all those developers were allowed to merely pay section 94 contributions and council decided to hold off making decisions for active playing fields to another day.

Council has waited more than 10 years to review these active open space issues and has had 10 years to provide alternative solutions.

- Council decided to spend its section 94 monies outside of the land release area for section 94 contributions.
- All of the section 94 funds for active open-space acquisition and embellishment have mostly in fact almost entirely been spent outside the Warriewood Valley release area and I content that there is no nexus for this spending.
- It is unfair for the private landholders of the southern buffer to have their entire sector devoted solely to the provision of active playing fields.
- Now as you can see with this District Park at 9 Fern Creek Road that even this alternative for active open space that has now been discarded.
- Instead what we end up with a series of small passive recreation pocket creek line parks dotted around the valley.

Now that there is a new Northern Beaches Council and an Administrator for the next year, I ask that this planning proposal be placed 'on hold' and that the whole issue of active playing fields and the use of council's section 94 plan and any associated landscape master plan is re-evaluated as to the impact that has placed unfairly on the landowners in the Southern Buffer.

The past Council could have provided active playing fields on private land in those sectors to the immediate west of the Warriewood Valley wetland where there was perfect flatland available for two or three playing fields full-size at the very least.

However even in those cases what we have ended up again is smaller passive parks and also large OSD constructed wetlands instead of playing fields there could have been a solution with playing fields and OST wetlands together.

However, this has not eventuated as there was no proper strategic planning for active playing fields. Instead an undocumented belief lay in the council that those lands once affected by the STP (sewerage treatment plant) buffer zone could provide all the active playing fields for the land release.

Additionally, when you look at historical air photographs from the time of the Warriewood Valley land release until the present day (easily seen on Google Earth historical tabs) it can be clearly seen that all the sites that have currently been developed have been allowed to place large amounts of landfill on their properties thereby having a bad cumulative impact on land further down in the valley being mostly land in the southern buffer as our land is the furthest land downstream.

I feel that my family has been badly affected by these decisions and I ask that the Administrator take action to address them.

Indeed, in the section 94 plan dated 2006, it says that great care should be taken to not allow landfill in the other parts of Warriewood Valley so not affect the development rights of land holders in particular the southern buffer what which at that time was proposed for industrial uses and commercial uses.

However, Council has not taken its own advice from that 2006 section 94 Plan back then and now with its successively amended plans (over 17 or 18 times) to the current day situation where our lands are nominated in blue for active recreation, I object to any form of development being allowed on land purchased for a park at 9 Fern Creek Road.

I wish for the whole park to be rezoned as active open space ie recreation under the LEP, as it is not fair that developers have been allowed to pay section 94 contributions for the provision of at that time a large District Park as shown on master plans and in the section 94 Plan but instead ended up with a small elongated pocket park along the creek line corridor, with the rest of 9 Fern Creek Road being either residential medium density, or a road access to the land to the east and west.

As a rule, I am concerned that how can a council be trusted not to carry on such behaviour with trusted funds allocated for specific purposes whatever the good community intentions expressed in this planning proposal application?

Ms Susan Gatenby

