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Memo

TO: Northern Beaches Local Planning Panel (NBLPP)

CC: Peter Robinson, Executive Manager Development Assessment

FROM: Andrew Pigott, Executive Manager Strategic & Place Planning

SUBJECT: Agenda 4.1 - 10-12 Boondah Road, Warriewood-Planning Proposal
REFERENCE: Email from the Applicant to Council (dated 10 November 2022)

DATE: 14 November 2022

TRIM Ref No: 2022/725379

Dear Panel Members,

The purpose of this memo is to provide the LPP members with an email received from Mr Daniel Maurici (the Applicant) on Thursday 10 November 2022, outlining concerns regarding the content of the Assessment Report (email attached below) and to provide a response to the matters outlined in the applicant's email.

Sent: Thursday, 10 November 2022 4:00 PM

To: Ray Brownlee <Ray.Brownlee@northernbeaches.nsw.gov.au>; Louise Kerr <Louise.Kerr@northernbeaches.nsw.gov.au>

Cc: Stanley Roth <stanley@henroth.com.au>; John Roth <jroth@henroth.com.au>; Scott Barwick <sbarwick@sjb.com.au>

Subject: 10-12 Boondah Rd, Warriewood PEX2022/0001

Importance: High

Dear Ray and Louise,

10-12 Boondah Rd, Warriewood PEX2022/0001

Further to our ongoing discussions about this matter and our aim to work collaboratively with Council to try and finally find a way forward on the land use for our properties, we have been sent the agenda for the LPP meeting on 16 November 2022 regarding our Rezoning Request.

Simply put, we are concerned that the Rezoning Request as amended is not the proposal that will be before the Panel for determination, and is not currently subject of Council's planning report.

Upon review of the planning report it seems that for some reason, my email correspondence dated 17 October 2022 to Paula Moretti (attached), that contained Paula's minutes of our meeting, explicitly amended important aspects of the Rezoning Request, recorded the collaborative interactions with council staff (on matters such as responding to the SES



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referral) and also provided detailed technical supplementary reports regarding groundwater, water quality modelling, overland flows, ecology, coastal wetland mapping, permissible planting in APZs and flood storage etc, in response to issues raised by the strategic planning team at our meeting on 21 September 2022, has not been referenced at all. It is absolutely critical that my summary email, amendments to the Rezoning Request therein and the attached supplementary information is explicitly assessed by staff and provided in full to the decision makers, being the LPP and in turn the Council so that they may form a view fully informed by the full suite of technical information that includes the supplementary material and indeed the final form of the Rezoning Request.

We do not understand how the Rezoning Request can be properly considered based on the LPP agenda report, not in the least because it does not clearly outline the amendments to the application made after the invitation to do so by Council staff. The correspondence forms part of the Rezoning Request and as advised to Council in the correspondence, was uploaded several weeks ago to the Planning Portal to supplement the original application documents.

Unfortunately it seems that our correspondence attached has been largely ignored by the LPP agenda planning report or it has been left out by mistake. Accordingly, we request that a supplementary planning report is urgently produced by your staff that addresses and provides in full the attached correspondence for the reasons outlined above and in the interests of procedural fairness, before the matter is considered by the LPP on 16 November 2022. If the reporting cannot be completed in time for the LPP meeting next week then the matter should be deferred until the report is completed. It simply cannot be that the Panel considers and determines a Rezoning Request other than the amended Rezoning Request that is currently with Council.

Would you please provide us with a response by 5pm on Monday 14th November?

Regards,

Dan Maurici
Senior Development Manager
HENROTH GROUP

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Council staff confirm that the additional information received from the applicant on 17 October 2022 has been reviewed and considered by Council staff in the assessment of the planning proposal before the LPP. The information provided to Council on 17 October 2022 was distributed to relevant internal Technical Specialists on 19 October 2022 and they have commented on the information. The information was also made available to the SES.

Comments provided by Technical Specialists and the SES have been considered in the preparation of the Assessment Report and the report recommendation. Documentation referred to includes:

- Previous Notes from the Meeting with the Applicant on 21 September 2022



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- Revised Groundwater levels
- Revised Site-plan (October 2022)
- Travers - Ecological Memo to Council (October 2022)
- Calibre - Stormwater Management Memo (October 2022)

Council officers have reviewed the Applicant's most recent email (dated 10 November 2022) and provide the following response for the information and consideration of the Panel:

1. The additional material submitted by Mr Maurici on 17 October 2022 was referred internally to Council's technical experts and reviewed in its entirety.
2. The flood-related material was also forwarded to the SES, who advised it had no further comment.
3. The LPP Assessment Report draws on internal technical advice that is fully cognisant of the additional material, including the revised Site Plan which is specifically referred to in the assessment report (p.11 of [agenda](#)).
4. The LPP Assessment Report also makes specific reference to the Calibre memo dated 15 September (p.18) and changes related to the extent of the C2 zone (p10) and the building height provisions (p10).
5. There has been no omission or error.
6. The information submitted and the changes made to the proposal are not sufficient to demonstrate strategic and site-specific merit.

The email from Mr Maurici was circulated internally to Council's technical officers who have provided the following responses:

Biodiversity: Confirmed on 11 November 2022 that the previous documents were considered, and the previous advice still stands. No further comment.

Flooding & Stormwater Management: Confirmed on 14 November 2022 that the documents submitted with the application that were considered in their assessment included:

- Water Management Report by Calibre Group, dated 2 June 2022
- SES submission dated 31 August 2022
- Response to issues raised by the SES in its preliminary advice by Calibre Group, dated 16 September 2022
- Additional material submitted by Calibre Group, dated 14 October 2022
- Upon review of Calibre Group's response, dated 16 September 2022, the SES advised it does not have any further comment.

Coast & Catchments: Confirmed on 14 November 2022 that the previous documents were considered, and the previous advice still stands. No further comment.

Height: The Applicant's offer in relation to height '*to accept an LEP control that limits the Height of Buildings to "2 story plus attic", in addition to the 15m height limit provisions already proposed*' is noted. However, no mechanism as to how to introduce this requirement into the Standard Instrument format has been provided by the applicant to address this concern. In the absence of such a solution, it appears that there would need to be a reliance on a control being introduced into a DCP which can be varied and therefore, does not provide sufficient certainty.

The information contained within this memo has been provided to the Panel for its consideration when reviewing the Assessment Report for the Planning Proposal. The issues raised by the



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Applicant in the 10 November 2022 email do not warrant an amendment to the recommendation contained within the Assessment Report.

Recommendation

The Panel note the email issued by the Applicant and the response by Council officers.

Should you require any further information about matters raised in this memo please contact my office on Ph: 8495 6273.

Andrew Pigott
Executive manager Strategic & Place Planning