



**SUBJECT: Assessment of Planning Proposal PP0007/13 - 6 Jacksons Road & 3, 6, 8, 10 & 12 Boondah Road Warriewood**

**Meeting:** Sustainable Towns and Villages Committee

**Date:** 17 March 2014

---

**STRATEGY:** Land Use & Development

**ACTION:** To establish land uses that respond to environmental, cultural, social and economic needs in a sustainable manner.

---

## PURPOSE OF REPORT

This report provides Council with an assessment of the planning proposal PP0007/13 for 6 Jacksons Road and 3, 6, 8, 10 and 12 Boondah Road Warriewood.

---

### 1.0 BACKGROUND

- 1.1 A planning proposal application prepared by SJB Planning Pty Ltd was received by Council on 19 November 2013 for rezoning of 6 Jacksons Road and 3, 6, 8, 10 and 12 Boondah Road, Warriewood.
  - 1.2 Following a preliminary review of the documentation submitted, the application was returned to the applicant on 20 November 2013 as the application was deemed incomplete. The following information was requested to accompany the application when resubmitted:
    - An economic impact assessment giving consideration of the retail centres hierarchy,
    - A revised flooding report, taking into consideration the adopted Narrabeen Lagoon Flood Study,
    - A revised traffic assessment, taking into consideration the total development potential in Warriewood Valley,
    - Consideration of infrastructure requirements commensurate with the proposal and the potential funding mechanisms.
- Given the level of outstanding information, Council officers recommended that the applicant request a pre-lodgement meeting with Council prior to resubmitting the planning proposal application.
- 1.3 The planning proposal was later resubmitted by SJB Planning Pty Ltd and formally accepted by Council on 16 December 2013. The application did not provide the above mentioned studies.
  - 1.4 This planning proposal application has been assessed and a report finalised for Council's consideration within 90 days of lodgement. The 90<sup>th</sup> day from the lodgement date of 16 December 2013 is 17 March 2014.
  - 1.5 In circumstances where the Council does not determine an application within 90 days of lodgement or the Council determines not to progress the planning proposal to a Gateway determination, the applicant may request a pre-gateway review of the application. A pre-gateway review is enabled under Section 56(5) of the *Environmental Planning and Assessment Act 1979* (the Act) and allows the Minister for Planning and Infrastructure (the Minister) to arrange for a review of a Planning Proposal by the Joint Regional Planning Panel (JRPP) or the Planning Assessment Commission (PAC).

- 1.6 If a decision is made that the proposal is to be referred to the JRPP/PAC for review, these bodies will provide advice based on the merits of the proposal and make a recommendation to the Minister as to whether the proposal should progress to a Gateway determination under Section 56 of the Act. The Minister (or his delegate) will make the final decision on whether the proposal should proceed to a Gateway determination.
- 

## **2.0 THE SITES**

- 2.1 Six properties are proposed to be rezoned under this planning proposal. The sites fall within the Warriewood Valley Release Area, within the sector known as the Southern Buffer (see **Attachment 1** for location map of the subject properties within the Southern Buffer).
- 2.2 The Southern Buffer is located at the junction of Pittwater Road and Jacksons Road and adjoins the Warriewood Wastewater Treatment Plant to the north and Warriewood Square and the Warriewood Wetlands to the west. Boondah Road which runs north to south dissects the sector.
- 2.3 The application proposes a masterplan covering substantial area of land surrounding their landholdings, including lands owned by Council, Crown Lands and Sydney Water. No consultation was had with Council regarding the masterplan.
- 2.4 The six properties proposed to be rezoned under this planning proposal are privately owned properties, with an approximate combined site area of 6.23 hectares.
- 

## **3.0 STRATEGIC CONTEXT – PITTWATER LOCAL PLANNING STRATEGY**

- 3.1 Council's primary land use document is the *Pittwater Local Planning Strategy – Planning for Pittwater towards 2031* (Local Planning Strategy) which was adopted by Council in August 2011.

The Local Planning Strategy translates the aims and objectives of the current *Metropolitan Plan for Sydney 2036* (Metropolitan Plan) into a range of local actions and targets for Pittwater. The housing and employment targets outlined in the Local Planning Strategy have been informed by the *Draft North East Subregional Strategy 2007*, the *SHOROC Regional Employment Study 2008* and the *SHOROC Employment Lands Study Addendum 2011*.

### **3.2 Centres and Corridors**

- 3.2.1 Consistent with the Metropolitan Plan the Local Planning Strategy endorses a centres-based approach to planning for Pittwater.
- 3.2.2 The Local Planning Strategy identifies Mona Vale as a town centre and highest order centre in Pittwater, reflecting the pivotal role that the Mona Vale town centre plays for the existing and future economic growth in Pittwater. The Local Planning Strategy recommends that Mona Vale continues to operate and continues to be promoted as the highest order centre in Pittwater.
- 3.2.3 Warriewood Square is identified as a 'stand-alone shopping centre'. The Metropolitan Plan does not recommend the provision of new stand-alone shopping centres, but outlines that through good planning, existing stand-alone shopping centres may have the potential to be converted to more traditional town centres over time. The Local Planning Strategy identifies that expansion of Warriewood Square into a larger retail and town centre may be viable, however Mona Vale would still remain Pittwater's highest order centre.

### 3.3 Employment & Housing Targets

- 3.3.1 The Local Planning Strategy conforms that the target of 4,600 dwellings and 5,740 jobs can be delivered in Pittwater LGA by 2031.
- 3.3.2 The Local Planning Strategy confirms that the designated housing targets can be accommodated primarily within Pittwater's already established residential areas, including Warriewood Valley.
- 3.3.3 Based on the *SHOROC Employment Lands Study Addendum 2011*, the Local Planning Strategy translates Pittwater's job target into projected demand for retail, commercial, industrial and special uses floor space. The Local Planning Strategy outlines Pittwater's progress toward the achievement of these targets, confirming that:
- Approximately 100,000sqm of retail floor space is still to be provided to meet the forecast demand (this floor space is not needed to be provided within the Pittwater LGA)
  - Demand target for commercial floor space has been delivered
  - Demand target for industrial floor space has been delivered
- 3.3.4 As commercial and industrial floor space targets have been met, the Local Planning Strategy does not recommend any changes to current planning controls/zonings.
- 3.3.5 In regard to the need for additional retail floor space, the Local Planning Strategy considers various options to meet this demand. Consideration is given to the creation of a new retail centre in the Southern Buffer. The Southern Buffer has been identified by both the *Draft North East Subregional Strategy* and the *SHOROC Employment Study* as potential key employment land for Pittwater.
- 3.3.6 The Local Planning Strategy supports further investigation of a new centre in the Southern Buffer as a means of meeting Pittwater's projected retail floor space demands.

---

## 4.0 ASSESSMENT PROCESS

### 4.1 Engagement of an independent probity advisor

- 4.1.1 Due to Council's significant interests in the lands adjoining and adjacent to the subject sites, an independent probity advisor was engaged to make arrangements to ensure the probity of the assessment and determination process. On 20 December 2013 Council engaged Procure Group Pty Ltd as the probity advisor for the planning proposal.
- 4.1.2 Two internal teams have been established within Council to ensure the separation of functions and restrict access to confidential information in relation to the planning proposal. Council has established a technical team to handle matters related to the assessment of the proposal and a property team to response to the planning proposal on behalf of Council as a landowner.
- 4.1.3 A Probity Plan has been prepared by Procure Group Pty Ltd aimed to provide a framework to guide the assessment of the planning proposal in a manner that is consistent with probity principles. The Probity Plan is attached to this report (see **Attachment 2**)
- 4.1.4 A Probity Report providing an audit of the assessment process has been prepared by Procure Group Pty Ltd. At the time of finalising this report Procure Group's Probity Report was not finalised in time to be included in tonight's agenda and will be circulated separately.

## 4.2 Engagement of an independent planning consultant and other technical consultancies

4.2.1 As a primary step to address the probity issues associated with the planning proposal, an independent planning consultant was engaged to undertake an assessment of the planning proposal. On 20 January 2014 Council engaged Don Fox Planning (DFP) to undertake an assessment of the planning proposal. DFP's assessment report has been tabled separately to the Council's agenda.

4.2.2 To assist DFP in their assessment of the proposal, a number of technical consultants were engaged to review the supporting documentation submitted with the planning proposal:-

- AECOM Australia Pty Ltd was engaged to review GTA Consultants' Transport Assessment
- Cardno (NSW/ACT) Pty Ltd was engaged to review Brown Consulting's Flood Assessment
- In the absence of an Economic Impact Assessment, Hill PDA was engaged to undertake an economic review of the planning proposal.

These reports are considered in and appended to DFP's assessment report.

4.2.3 DFP was instructed to assess the application against NSW Planning & Infrastructure's *A Guide to Preparing Local Environmental Plans* (April 2013) which outlines criteria that must be reasonably satisfied to justify the progression of the planning proposal to the Gateway. The assessment criteria are as follows:

a. *Has strategic merit as it:*

- *Is consistent with the relevant local strategic endorsed by the Director-General or*
- *Is consistent with the relevant regional strategy or Metropolitan Plan or*
- *Can it otherwise demonstrate strategic merit, giving consideration to the relevant section 117 Directions applying to the site and other strategic considerations (e.g. proximity to existing urban areas, public transport and infrastructure accessibility, providing jobs closer to home etc)*

b. *Has site specific merit and is it compatible with the surrounding land uses, having regard to the following:*

- *The natural environment (including known significant environmental values, resources or hazards) and*
- *The existing uses, approved uses and likely future uses of land in the vicinity of the proposal and*
- *The services and infrastructure that are or will be available to meet the demands arising from the proposal and any proposed financial arrangements for infrastructure provision.*

## 4.3 Notification Process

4.3.1 The Planning Proposal was placed on non-statutory notification from 6 January 2014 to 2 February 2014 in accordance with Council's notification procedures. An advertisement also appeared in the Manly Daily on 7 January 2014.

- 4.3.2 Neighbouring landowners and community groups in the area, including the Warriewood Valley Rezoning Association and Warriewood Residents Association Incorporated, were notified of the proposal and invited to make comment during the notification period.
- 4.3.3 A total of 22 submissions were received from the community.
- 4.3.4 State agencies and servicing authorities were also notified of the application and asked to provide comment.
- 4.3.5 All submissions and comments were made available on Council's website.
- 4.3.6 An analysis of and response to comments and submissions to the proposal is contained in Appendix H of DFP's Assessment Report.

---

## 5.0 PLANNING CONSULTANT'S ASSESSMENT

- 5.1 An assessment of the planning proposal has been prepared by DFP. This report has been tabled separately to Council's agenda.
- 5.2 DFP, following their assessment, have concluded that the planning proposal should not be supported on the following grounds:
- *“While the Planning Proposal is consistent with regional and subregional planning and transport strategies, particularly in relation to the opportunities for providing housing and employment close to existing facilities or facilities that could be realised in the Masterplan, the proposal is not considered to be consistent with the Warriewood Valley Strategic Review which is a strategy endorsed by Council and DoPI;*
  - *Further, the proposal is inconsistent with the concept of expanding Warriewood Square shopping centre to become a new town centre, or integrating a new town centre on adjoining land which has clear and direct linkages with Warriewood Square, as envisaged by a number of strategic documents;*
  - *Is inconsistent with Section 117 Direction 4.3 – Flood Prone Land, with which the Planning Proposal is inconsistent on a number of key issues as outlined in Appendix I of this report;*
  - *The approach to managing flooding constraints in order to justify an urban zone on the subject land is not supported as it has unacceptable implications including:*
    - *Risk to property and life by providing over 1000 car parking spaces in the flood storage area which is susceptible to a probability of flood inundation;*
    - *Insufficient accommodation of flood evacuation measures have been considered/proposed; and*
    - *Level changes between the Planning Proposal site and adjoining public domain areas (roads and public open space) resultant adverse urban design outcomes.*
    - *Level changes between an elevated Boondah Road and Sydney Water land.*
  - *The ecological recommendations in the Travers Ecological Analysis report are not adopted in the Masterplan. All land is zoned B4 creating the expectation that EECs could be redeveloped and therefore no certainty is provided in the ongoing protection of the vegetation.*
  - *The 45m corridor on Lot 3 DP 26902 recommended in the Travers (report as a compensatory measure for ecological corridors including EEC removed elsewhere) is proposed to be zoned B4 – Mixed Use and the Masterplan does not guarantee satisfactory ecological outcomes.*
  - *The rezoning of No. 6 Jackson Road (Lot 9 DP 806132) to relocate Boondah Road is not supported on the basis of unacceptable ecological and traffic impacts, including a road design conflict with the roundabout serving Warriewood Square shopping centre. Further, as no satisfactory ecological outcomes are achieved for this land, it should not be rezoned to permit the development as proposed.*

- *The vehicular connection to Vuko Place from Boondah Road is not supported on the basis of unacceptable ecological and traffic impacts, and as consent from Sydney Water as the land owner would be required (which has been refused). An alternative, less intensive option such as a pedestrian footpath or cycleway should be considered.*
- *The Planning Proposal also proposes that Sites A and C not only be zoned B4 - Mixed Use, but the LEP also contain a clause to permit "residential accommodation" on those sites. The Masterplan does not envisage mixed use development on Site A and therefore that approach is not necessary. If Site C contained such a provision it would allow residential development with ground level active retail frontage, contrary to the Masterplan. Therefore this component is not supported and alternative zones for these Sites should be investigated.*
- *An Economic Impact Assessment is required to determine potential impacts of the Planning Proposal on surrounding retail/commercial centres, and to determine the potential for oversupply of commercial floor space within Pittwater LGA.*
- *The Masterplan supporting the Planning Proposal will result in unacceptable adverse outcomes for public open space and recreation areas within the Southern Buffer, including:*
  - *A net reduction in the availability of public open space and recreational facilities resulting from direct (i.e. net reduction in playing field areas) and indirect (i.e. generating a significant increase in demand for public open space areas which cannot be provided) impacts upon the existing public open space and recreation land including Boondah Reserve and Jacksons Road Reserve;*
  - *Failure to provide or dedicate any suitable public open space areas which can be used for recreational purposes;*
  - *Removal of car parking facilities along Boondah Road without identifying replacement or compensatory car parking facilities;*
  - *Removal of strategically significant land from a precinct which presently suffers from an undersupply of public recreational open space and will be subject to a future increase in demand for these areas.*
- *The urban design outcomes of the Masterplan supporting the Planning Proposal are not supported having regard to the following:*
  - *Adequate connectivity between the Site and surrounding retail and commercial development is not achieved and therefore the concept of an 'expanded Warriewood Square' would not be realised, resulting in two competing "stand-alone" shopping centres; and*
  - *The extent of active retail street frontages proposed at the raised ground floor level presents a significant challenge upon which hinges the success and vibrancy of the proposed town centre. Further investigation of this potential outcome is required.*
- *Insufficient consultation with adjoining landowners has been undertaken to guide the Masterplan supporting the Planning Proposal, therefore the Planning Proposal does not adequately represent the interests of all affected land owners."*

---

## **6.0 ASSESSMENT OF INFRASTRUCTURE CONSIDERATIONS**

### **6.1 Infrastructure delivery in Warriewood Valley**

6.1.1 The provision of infrastructure, which ensures public safety, reasonable amenity and adequate provision of services for development, is a fundamental component of the land release process. In the case of the Warriewood Valley, a strategy and plan to provide appropriate infrastructure and services has been an integral component of the land release process since its commencement in 1993.

- 6.1.2 The sites proposed to be rezoned under this Planning Proposal fall within land to which the *Warriewood Valley Section 94 Contribution Plan (No. 15 Amendment No. 16)* (the Section 94 Contributions Plan) applies. The Plan provides the funding mechanism for infrastructure and services for the general use of the new residents and occupants in the release area, where they cannot be directly and equitably provided through the development process.
- 6.1.3 Having regard to the maximum density of 32 dwellings per hectare now adopted for Warriewood Valley and the additional infrastructure demands resulting from increased population, the *Warriewood Valley Strategic Review Report 2012* has confirmed that a monetary contribution rate commencing at \$50,000 (2011/12 dollars) per dwelling, indexed annually thereafter, could deliver the remaining infrastructure for Warriewood Valley, namely:
- Traffic and transport infrastructure
  - Network of multi-function creek line corridors
  - Community facilities – note this would now be an extension to an existing building, not a new community facility
  - Public recreation and open space (land acquisition [4.6 hectares] and embellishment) for playing fields
  - Pedestrian and cycleway network
- 6.1.4 A review of the Section 94 Contributions Plan is underway based on a contribution rate commencing at \$50,000 (2011/12 dollars) per dwelling and the identified works schedule. On completion of this review, the Plan will be reported to Council (anticipated April 2014) with the intention of placing the plan on public exhibition.

## 6.2 **Assessment of additional infrastructure requirements**

- 6.2.1 With respect to this Planning Proposal, a preliminary assessment of additional infrastructure needs expected to be generated by this proposal has been undertaken. The additional commercial development and increased resident population of 980 people (350 dwellings x 2.8 persons per household in Warriewood [occupancy rate adopted in current Section 94 Contributions Plan]), above what is currently anticipated under the Strategic Review, would require an increase in infrastructure associated with traffic and transport, open space and community facilities. The additional dwellings and commercial development would require:
- Major intersection upgrade to the Pittwater Road/Jacksons Road intersection
  - Major additional acquisition and embellishment of land for public recreation – estimated to be in the order of 2.77 hectares of land suitable for open space (based on 2.83 hectares of open space land per 1000 persons)
  - A new community facility – the additional resident population will exceed the threshold which would allow augmentation of an existing community facility to sufficiently meet the needs of the incoming population.
- 6.2.2 Council's preliminary assessment of the additional infrastructure requirements required by this Planning Proposal has raised serious doubts as to whether the additional infrastructure needs generated by this development would be able to be provided in the release area or able to be reasonably funded without compromising the contribution rate of \$50,000 (2011/12) per dwelling.

## 6.3 **Ability to deliver additional infrastructure requirements**

- 6.3.1 There is grave concern that the infrastructure and services originally planned for Warriewood Valley may not be able to be expanded, sufficient to provide for the increased development. Development of Warriewood Valley is now over half complete and it is unclear as to whether additional infrastructure can actually be provided without significant impact on amenity and safety and/or additional costs.

- 6.3.2 Of particular concern is the ability of Council to find suitable land up to 4.6 hectares to purchase for playing fields commensurate to the development approved by the Planning Assessment Commission and that anticipated under the Warriewood Valley Strategic Review, let alone an additional 2.77 hectares of open space demand created this development. The additional demand created as a result this development will require up to 7.37 hectares of land suitable for playing fields, reasonably near to, and available for the use of, future residents in Warriewood Valley.
- 6.3.3 In recent years there has been difficulty in providing land suitable for active open space in the Warriewood Valley area to meet the needs of the current planned dwelling yields. There is a shortage of available land suitable for active open space in the vicinity of the release area, without moving into area of existing residential development (where the cost of acquisition would be prohibitive) or forfeiting the development opportunity for land otherwise assigned for residential development.
- 6.3.4 In order to address this issue, Council has already had to adopt a range of innovative measures, including alliances with local schools and surface treatments to increase usability of the assets, to provide increased recreation opportunities in an attempt to meet contemporary standards of provision. While these strategies have offset some of the land needed to meet the requirements under the Section 94 Contributions Plan, additional land still need to be purchased to meet the demands of the current planned population.
- 6.3.5 As already mentioned, this proposal will result in a larger resident population than planned for, meaning that augmentation of an existing community facility in Warriewood Valley will no longer be sufficient. A new facility and associated land is estimated to cost in the order of \$10 million.
- 6.3.6 The applicant has provided no insight in to how the reasonable expectations of the future residents of this development for access to playing fields and community facilities will be accommodated.

---

## **7.0 FORWARD PATH**

- 7.1 Council, in determining this application, may:
- Refuse the application, or
  - Support the application as submitted and forward the application to NSW Planning & Infrastructure for a Gateway determination.
- 7.2 Council is reminded that in circumstances where the Council does not determine an application within 90 days of lodgement or the Council determines not to progress the planning proposal to a Gateway determination, the applicant may make a request a pre-gateway review of the application.

---

## **8.0 CONCLUSION**

- 8.1 DFP's assessment of the planning proposal concludes that the application is inconsistent with regional and subregional planning and transport strategies as well as local planning strategies for the area. DFP's assessment has also found that insufficient consideration has been given to the site specific environmental constraints affecting the subject sites.



- 8.2 It is therefore recommended that Council refuse to progress the planning proposal PP0007/13 to a Gateway determination with NSW Planning & Infrastructure for the reasons outline by DFP in their assessment report.

---

## **9.0 SUSTAINABILITY ASSESSMENT**

### **9.1 Supporting & Connecting our Community (Social)**

The application proposes a development that will unacceptably increase flood risk to life and property. The application also proposed unacceptable and unsafe access arrangements.

### **9.2 Valuing & Caring for our Natural Environment (Environmental)**

The proposal has not demonstrated that there will be no detrimental impacts on riparian corridors and the range of existing native vegetation communities, which includes Endangered Ecological Communities. The proposal does not appear to have considered the need for any biodiversity corridors.

### **9.3 Enhancing our Working & Learning (Economic)**

In the absence of an Economic Impact Assessment indicating otherwise, Hill PDA predict that there is likely to have detrimental economic impact son all centres in the locality, ranging from insignificant impacts to strong impacts.

### **9.4 Leading an Effective & Collaborative Council (Governance)**

Due to Council's significant interests in the lands adjoining and adjacent to the subject sites, an independent probity advisor was engaged to make arrangements to ensure the probity of the assessment and determination process. As a primary step to address the probity issues, an independent planning consultant was engaged to undertake an assessment of the Planning Proposal.

### **9.5 Integrating our Built Environment (Infrastructure)**

The application will create additional infrastructure demands above what Council has already planned to provide within the release area. The additional infrastructure needs generated by this development would not be able to be accommodated within the release area or in reasonable proximity, or able to be reasonably funded without compromising the contribution rate of \$50,000 (2011/12) per dwelling.

---

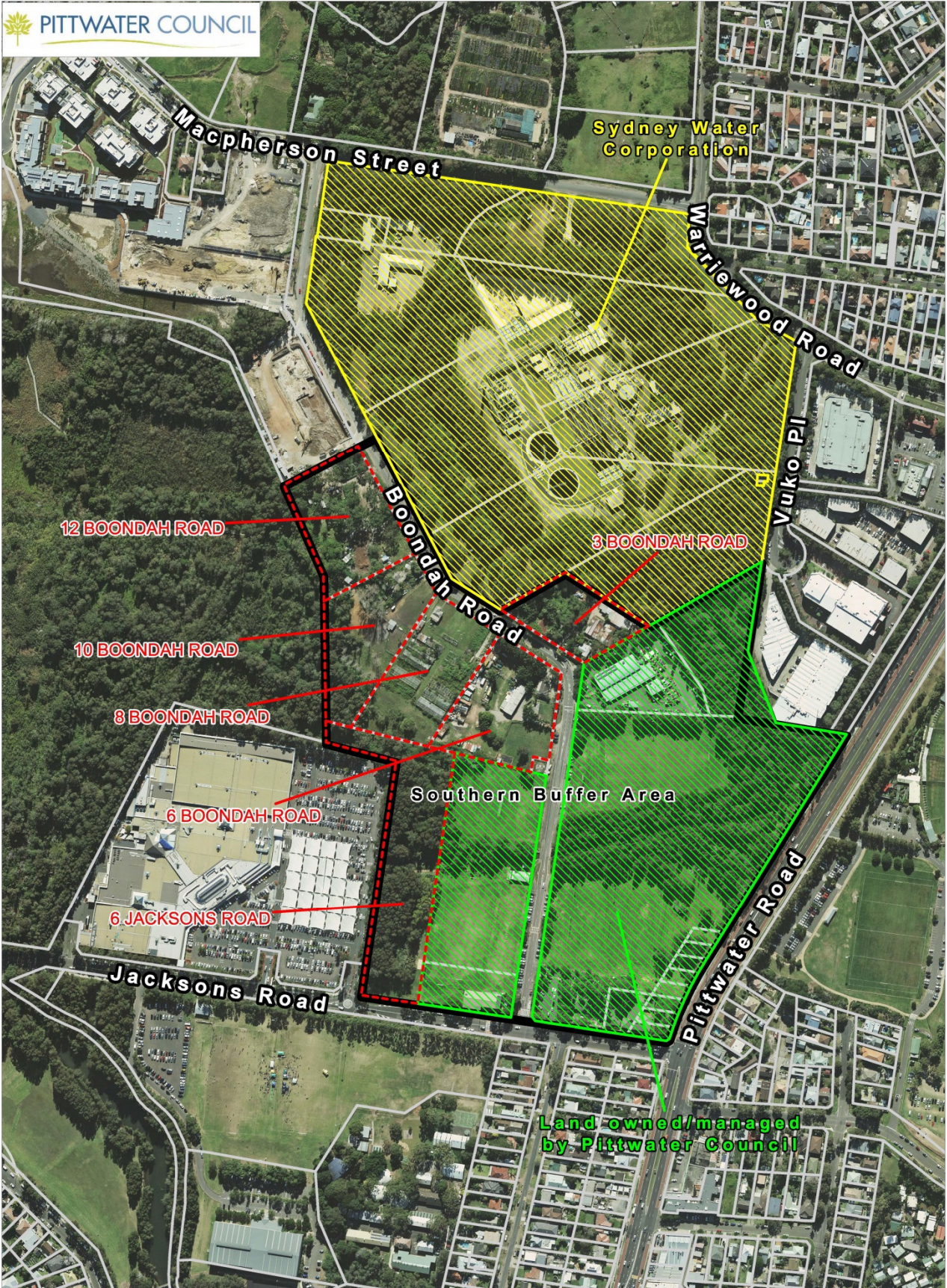
## **RECOMMENDATION**

1. That Council note the contents of Don Fox Planning's Assessment of Planning Proposal PP0007/13 for 6 Jacksons Road and 3, 6, 8, 10 and 12 Boondah Road, Warriewood.
2. That the Planning Proposal PP0007/13 not be supported for referral to NSW Planning & Infrastructure for Gateway determination based on the reasons provided by Don Fox Planning as outlined below:
  - a. It does not meet the strategic objectives of the Draft North East Subregional Plan, SHOROC Employment Lands Study, Pittwater Local Planning Strategy and Warriewood Valley Strategic Review Report through the expansion of Warriewood Square shopping centre to provide a new town centre;
  - b. It will result in unacceptable adverse outcomes for public open space and recreation areas within the Southern Buffer;

- c. It is inconsistent with Section 117 Direction 4.3 Flood Prone Land;
  - d. The approach to managing flooding constraints to justify an urban zone on flood prone land is not supported;
  - e. It fails to retain and protect high value biodiversity land (including EECs) and provides insufficient justification for their removal or consideration of ecological recommendations;
  - f. It is unable to achieve connectivity between the Site and adjoining commercial areas (including relocated Boondah Road and Vuko Place connection) on the basis of unacceptable ecological and traffic impacts;
  - g. It does not address potential negative economic impacts upon surrounding retail centres, or address the potential oversupply of commercial floor space;
  - h. The urban design outcomes of the Masterplan are not supported; and
  - i. It does not adequately represent the interests of all affected land owners.
3. That any future Planning Proposal for land within the Southern Buffer should incorporate all of the land within the Southern Buffer and also incorporate the Warriewood Square shopping centre site.
4. That, based on the outcomes of the assessment of this Planning Proposal, the recommendations of Don Fox Planning be considered in the future update to the Pittwater Local Planning Strategy and the future review of the Warriewood Valley Planning Framework 2010.

Report prepared by  
Tija Stagni, Senior Planner Land Release

Andrew Pigott  
**MANAGER PLANNING & ASSESSMENT**



Aerial Photography - May 2013  
 Licensed from Vekta  
 This plan is not survey accurate,  
 & aerial photography is indicative only.

**Lands Subject to Planning Proposal PP0007/13**

**6 Jacksons Road & 3, 6, 8, 10 & 12 Boondah Rd Warriewood**





## **Pittwater Council**

### **Assessment of a Planning Proposal for Land in the Southern Buffer**

#### **Probity Plan**

**February 2014**

## Background

Pittwater Council (Council) has received a Planning Proposal Application (PP0007/13) (Planning Proposal) seeking to rezone land within the area known as the Southern Buffer of the Warriewood Valley Release Area. The Planning Proposal was lodged with Council on 16 December 2013.

The application, prepared on behalf of the private landowners, seeks to rezone lands at 6 Jacksons Road and 3,6,8,10 and 12 Boondah Rd, Warriewood, NSW, 2102. The masterplan submitted with the Planning Proposal includes lands owned by Pittwater Council and Crown lands under Council's care, control and management. It also includes land owned by the Sydney Water Corporation.

A review of the Warriewood Valley Section 94 Plan (the Section 94 Plan) is being finalised following the adoption of the Warriewood Valley Strategic Review Report. The lands the subject of this application has been identified in the Section 94 Plan, for potential purchase for open space areas (playing fields). The Section 94 Plan will be reported to a Council meeting early in 2014, with the view to placing the Section 94 Plan on public exhibition.

In the circumstances where significant Council land is affected by the Planning Proposal, Council has determined to make arrangements to ensure the probity of the Planning Proposal assessment and determination process.

## Purpose

The purpose of the Probity Plan is to provide a framework to guide the assessment of the Planning Proposal in a manner that is consistent with probity principles.

The assessment process must be conducted in a manner that satisfies the relevant "probity fundamentals" as stated in the NSW Independent Commission against Corruption (ICAC) document *Probity and Probity Advising – Guidelines for Managing Public Sector Projects*. These probity fundamentals are:

- maintaining impartiality
- managing conflicts of interest
- maintaining accountability and transparency
- maintaining confidentiality.

## Assessment of the Planning Proposal

The ICAC in its publication *Corruption Risks in the Development Approval Process* (September 2007) provided guidance to councils on ways in which a conflict of roles can be dealt with if Council owns land within a precinct. Councils are required to implement arrangements which ensure that this conflict of roles is avoided at the Planning Proposal assessment phase.

As the primary step to address this probity issue, Council has engaged a planning consultant, *Don Fox Planning (DFP)* to undertake the assessment of the Planning Proposal application. To assist DFP, Council has commissioned the peer review of technical studies prepared and submitted with the Planning Proposal. It is anticipated that Council will consider the Planning Proposal at a meeting in March 2014. The report and

recommendations to the Council meeting will be prepared by DFP. The only role to be performed by Council officers will be to review the DFP report to ensure the accuracy of information.

The Planning Proposal has been advertised on the Council website and all submissions made in response have been published in accordance with Council practice.

Council has established a Technical Team to handle matters related to the assessment of the Planning Proposal. The members of this team may provide comments to DFP on technical reports related to the assessment process

The members of the Technical Team are – Steve Evans; Chris Hunt; Andrew Pigott and Land Release Unit (Liza Cordoba, Tija Stagni, Anja Ralph and Robbie Platt); Mark Beharrell & Matt Hansen (Natural Environment & Education); Jennifer Pang (Catchment Management); Mark Shaw, Mark Salvaterra, Paul Davies (Urban Infrastructure) ; Jenny Cronan & Joseph Tramonte (Reserves & Recreation ); Lindsay Godfrey (Community & Library); and Lilian Whiteman (S94 Officer).

Council has established a Property Team to respond to the Planning Proposal on behalf of Council. The Property Team will prepare a formal response to the Planning Proposal on behalf of Council as a landowner.

The members of the Property Team are Paul Reid (Corporate Strategy & Commercial) who will lead the Team. The other members of the team are Glenn Davis (Corporate Strategy & Commercial); Matt Edmonds (Planning & Assessment); Roy Einarsen (Urban Infrastructure); Les Munn and Steve Lawler (Reserves & Recreation).

## **Separation of functions and access to information**

Council had implemented the following internal arrangements to ensure the separation of functions and access to confidential information within Council.

- The application is available on Application Tracking, on Council's website including submissions received and comments from external/state agencies eg Roads and Maritime Services
- Members of the Property team were advised to view the documents associated with this Application using "Application Tracking" via Council's website.
- Access to Council's Records – instructions between Technical Team and any consultants engaged to undertake a peer review have been restricted to a specific classification only able to be viewed by Land Release
- Draft documents prepared for the Assessment of this application are not available in Council Records until such time as they are to be reported to a Council meeting and not until the Council Agenda is prepared. They will have the same restricted classification to only allow viewing and editing by Land Release.
- Commentary from the technical team will be overviewed by Chris Hunt, as the Director of Urban & Environment Assets.
- The Technical Team has been reminded not to speak to members of the Property Team regarding this application, in particular those working in Reserves & Recreation.

- Commentary in regard to future infrastructure provision will need to be provided through the Section 94 Committee, via Lillian Whiteman.

## **Conduct Guidelines**

Each member of the Council teams and any other Council officers involved has a responsibility to ensure that their personal behaviour does not adversely impact on the integrity of the assessment process. Each person is to:

- act in accordance with the Pittwater Council Model Code of Conduct (as applicable), the Probity Plan and other approved processes
- avoid conflicts of interest
- maintain the confidentiality of confidential information
- act at all times in a professional manner
- avoid the acceptance of gifts, hospitality or other benefits that may be perceived to affect the integrity of the assessment process
- avoid contact with landowners that may be perceived to affect the integrity of the assessment process
- not make public comment about the process without appropriate authorisation
- report any breaches of the Probity Protocol, or other probity concerns, to the probity adviser immediately
- maintain appropriate records of decision-making.

Members of the Council teams and any other Council personnel with involvement in the assessment process shall be provided with a copy of the Probity Protocol and requested to sign the attached declaration.

**Probity Plan Declaration**  
**Assessment of Planning Proposal PP0007/13**

Name:.....

Position: .....

I:

**Probity Plan**

- Have read and understood the Probity Plan for the assessment of the Planning Proposal

**Confidentiality**

- Agree to ensure that Confidential Information is kept confidential
- Understand that I can only access information related to my role related to the Planning Proposal
- Understand that improper use or disclosure of Confidential Information may cause harm to Pittwater Council
- Will take all reasonable steps to ensure that any Confidential Information is kept confidential

**Conflicts of Interest**

I am not aware of any related interest, pecuniary or non-pecuniary, that may create, or appear to create, a conflict of interest. I will immediately bring to the attention of \_\_\_\_\_ (Team Leader) any change in circumstances.

**OR**

I have the following related interest/s to declare.

Interest: \_\_\_\_\_

Agreed Management Strategy: \_\_\_\_\_

\_\_\_\_\_  
Team Leader Signature

\_\_\_\_\_  
Date

I hereby declare that I have read and understood the terms of this Probity Declaration.

.....  
Signature

.....  
Date