



northern
beaches
council

Supplementary Memo No.2

TO: Northern Beaches Local Planning Panel

CC: Peter Robinson, Executive Manager Development Assessment

FROM: Andrew Pigott, Executive Manager Strategic & Place Planning

SUBJECT: 10-12 Boondah Road, Warriewood - Planning Proposal PEX2022/0001
Letter to Chair of NBLPP from SJB Planning dated 23 November 2022
(TRIM 2022/751795)

DATE: 9 December 2022

TRIM REF No: 2022/755512

ATTACHMENTS: 1. List of Documents Considered in Assessment of Planning Proposal
(Trim 2022/740319)
2. Overlay of Coastal Wetland Mapping and Site Plan
(TRIM 2022/755006)

Dear Panel Members,

This memo provides a response to the correspondence from SJB Planning dated 23 November 2022.

Consideration of all material submitted

As previously advised, the assessment report presented to the NBLPP on 16 November 2022 (item 4.1) considered all of the material submitted by the proponent and its representatives in support of their rezoning request from the date of lodgement up to and including additional material received on 17 October 2022. To remove any doubt, this included consideration of the proposed changes relating to the proposed C2 Zone boundary and building height provisions, and all technical information related to flooding, water quality management and biodiversity.

Attachment 1 provides a list of the documents submitted by Henroth and their consultants, as well as the external advice received from SES, which has been considered in the assessment of the Planning Proposal.

In relation to the observations subsequently made in SJB Planning letter dated 23 November 2022, the following comments are offered:

A. Flood Evacuation and Safety

As Boondah Road will be impassable in floods greater than 1%AED + climate change, the proposal relies on a private alarm system for early evacuation and, for those unable to evacuate in time, the



northern
beaches
council

proposal relies on shelter in place as a flood risk management strategy. In a PMF (probable maximum flood) event, for those unable to evacuate in time, the proposal relies on shelter in place on the upper levels of the proposed townhouses.

Preliminary advice received from the SES in its letter dated 31 August 2022 raised significant concerns regarding the planning proposal (refer Attachment 1 Report to NBLPP at Item 4.1 on 16 November 2022). The Calibre memo dated 16 September 2022 which, amongst other things, clarified that Boondah Road is proposed to be raised to 1%AED + climate change, was referred to the SES who advised it does not have any further comment. This indicates that Calibre's additional information did not alleviate the concerns of the SES.

The views of the SES, as the lead agency in NSW for planning for, responding to, and co-ordinating recovery from floods, should be paramount in land use decisions for flood-prone land. Our reading of the SES' preliminary advice is that the agency does not support future development (in this case new residential development enabled by rezoning) on flood prone land where early evacuation, private alarm systems and shelter in place strategies are necessary to manage flood risk. In other words, the Council should not support rezonings which place new communities in locations that expose people and property to risks associated with major floods, and increase the potential burden on emergency services.

Council's flood engineers advised as follows:

When assessing a flood risk Council considers the full range of flood events up to the PMF event. During this event, the roads will be cut off and evacuation will not be possible. As such, for events larger than 1% AEP + CC and up to the PMF event the proposal relies on Shelter in Place as the flood strategy to manage flood risk.

The DCP does allow for shelter in place when flood free evacuation during a PMF event is not possible, however as this is a rezoning application and not a development application, Council needs to consider SES's concerns and other relevant policies and guidelines. Shelter in place is generally only suitable to allow existing dwellings that are currently at risk to reduce their risk.

The SES notes that development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation.

The additional information submitted by the proponent does not address the key concerns raised by the SES, as summarised in the report to the NBLPP 16 November 2022:

- zoning should not enable development that will result in an increase in risk to life, health or property of people living on the floodplain
- the SES does not support early evacuation as a strategy for future development
- evacuation must not require people to drive or walk through flood water
- development strategies relying on deliberate isolation or sheltering in buildings surrounded by flood water are not equivalent, in risk management terms, to evacuation
- shelter in place is not a flood management strategy endorsed by the SES for future development, such an approach is only suitable to allow existing dwellings that are currently at risk to reduce their risk



northern
beaches
council

- SES is opposed to imposition of development consent conditions requiring private flood evacuation plans rather than application of sound land use planning and flood risk management
- SES is opposed to development strategies that transfer residual risk, in terms of emergency response activities, to the SES and/or increase capability requirements of the SES
- consent authorities should consider the cumulative impacts any development will have on risk to life and the existing and future community and emergency service resources.

B. Flood Management

The Calibre memo dated 14 October 2022 was reviewed by Council's flood engineers and has been considered as part of the assessment reported to the Panel.

In response to the SJB letter dated 23 November 2022, Council's flood engineers advised as follows:

The Pittwater Development Control Plan (DCP) includes flood-related controls in section B3.11 Flood Prone Land. For land affected by flooding in High and Medium Risk Flood Precincts, the controls require that development must demonstrate for flood events up to 1% AEP: no adverse impacts on flood levels or velocities caused by alterations to the flood conveyance, no adverse impacts on surrounding properties, and no net loss of flood storage. To comply with the required Flood Planning Levels the Planning Proposal involves filling the land below the townhouses to RL4.4 m AHD. The existing ground levels range from 2-4m AHD. It is likely that without compensatory cutting there will be a net loss of flood storage. The memo from Calibre Group, dated 14 October 2022 notes that flood storage is not a concern primarily because 1) the site is very low on the floodplain any impact will be spread over the large downstream and adjacent portion of the floodplain of 300Ha and 2) there is very little remaining land zoned for development in the floodplain.

The DCP also includes flood-related controls for Warriewood Valley Release Area under C6.1. The applicant has focused on modelling to demonstrate no adverse impacts on surrounding properties and compliance with specific DCP controls for Warriewood Valley Release Area under C6.1.

Although compliance maybe possible under the DCP C6.1 control, development that results in a net loss of flood storage is contrary to specific controls in B3.11 Flood Prone Land established by Council to manage flood risk.

From a strategic planning perspective, cumulative loss of flood storage is an important consideration for any development proposal, particularly where that land is not currently zoned for the type and intensity of development that is proposed. Any net loss of flood storage requires other properties to absorb the storage lost from the site as a result of filling to achieve flood planning levels for the proposed new houses and roads.

C. Flood Planning

With regards to flood planning, the objectives and basis for granting development consent are set out in Clause 5.21 of Pittwater Local Environmental Plan 2014 (PLEP). Council must be satisfied that the objectives can be met, having regard to key considerations and criteria set out in Clause 5.21. This requirement is not negated by DCP controls.



northern
beaches
council

It is relevant to consider at the planning proposal stage whether development concepts put forward would be able to comply. It would be remiss of Council to not consider the prospects of satisfying the statutory flood planning provisions, when assessing a rezoning proposal that would significantly alter the permissible density of development and future residential population on flood susceptible land.

Council's flood engineers advise:

While Clause 5.21 of PLEP is a matter to be addressed when determining a development application, Council needs to ensure at the planning proposal stage that the proposed development is able to meet the objectives of the clause which include:

- to minimise the flood risk to life and property associated with the use of land,
- to enable the safe occupation and efficient evacuation of people in the event of a flood

Council must be satisfied the development:

- will not adversely affect the safe occupation and efficient evacuation of people or exceed the capacity of existing evacuation routes for the surrounding area in the event of a flood

Council must consider:

- whether the development incorporates measures to minimise the risk to life and ensure the safe evacuation of people in the event of a flood

During events greater than 1% plus CC, safe evacuation is no longer possible and emergency services would be unable to access the property. This could potentially increase the risk to life and health of people at the site during a medical emergency and hence does not meet the objective of Clause 5.21 of PLEP. As previously mentioned, the SES is also concerned about this issue.

D. Biodiversity Impact

The Travers Bushfire & Ecology letter to Council dated 12 October 2022 states that the Masterplan has been re-designed to further avoid impacts on the areas mapped as Coastal Wetland.

The attached Overlay (**Attachment 2**) depicts the Site Plan (as revised) and Coastal Wetland and Coastal Wetland Proximity Area mapping under SEPP (Resilience and Hazards) 2021. The Site Plan, along with plans in the Calibre memo dated 14 October 2022 still indicate buildings, roads, excavation and filling, asset protection zones, jellyfish filters, stormwater discharge points, landscaping, and the tentative location of a bioretention basin within areas of mapped coastal wetland. Although conceptual in nature, these plans present inconsistencies with the proposed C2 zone boundary.

The remainder of the site is land identified as "proximity area for coastal wetlands" and based on the information provided, uncertainty remains in regards to the potential significance of impact on the biophysical, hydrological and ecological integrity of the adjacent coastal wetland, and the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

In order to function as an effective ecological buffer, Council's technical specialists for bushland and biodiversity have also advised that the required 15m wide extensively landscaped buffer to the wetland, should not overlap with the bush fire APZ. The approval of other development adjoining the Warriewood Wetlands has included vegetated buffers that are not part of any required bush fire asset protection zones, and this should also be a requirement for this site.



northern
beaches
council

Riparian Impact

In relation to the 15m buffer strip (Warriewood Wetland riparian buffer) required by DCP control 6.6, Council identified three fundamental issues with the proposed development:

- APZ management in the buffer zone
- Bulk earthworks and regrading in the buffer zone
- Water quality devices located in the buffer zone

The Bush Fire Report (Travers) recommends the APZ is managed as an inner protection area (IPA) (tree canopy cover 15%, low shrub cover, 100mm mown grass). Extensive landscaping (mass of native trees, shrubs and groundcovers) in the 15m buffer strip is not achievable under APZ vegetation management. The proposed APZ treatment is inconsistent with the DCP controls. The buffer strip under APZ management will not support the required buffer function to protect the wetland.

In addition, Council does not support the proposed earthworks (cut and fill) in the 15m buffer strip because of the impacts on the buffer/wetland connectivity. Note all water quality devices are to be located outside of the 15m setback from Warriewood Wetlands and the Swamp Oak Floodplain Forest of the New South Wales North Coast, Sydney Basin and South East Corner Bioregions.

The Council's technical experts in the Coast & Catchments and Bushland & Biodiversity teams are aligned in their views that the current proposal has potential to impact the biophysical, hydrological or ecological integrity of the adjacent coastal wetland, and the quantity and quality of surface and ground water flows to and from the adjacent coastal wetland.

E. Affordable Housing

The proposal is not in accordance with Council's Affordable Housing Policy which states that "*Council is committed to a 10% affordable rental housing target for all strategic plans and planning proposals for urban renewal or greenfield development.*" This housing is to be in Council ownership in perpetuity.

The proposed LEP amendments do not include any amendments to give effect to an affordable housing contribution in accordance with Council's Affordable Housing Policy and its Affordable Housing Contributions Scheme

F. Height

The proponent is introducing a further change to the planning proposal in suggesting an alternative approach whereby a maximum building height limit is imposed as a maximum RL to AHD based on flood planning level plus 9.5m. This proposal may have merit. However, in the absence of a precise LEP provision being proposed, it is difficult to assess. Were the Planning Proposal to proceed, this matter could be explored in more detail.

G. Acquisition Obligations

The comments from SJB are noted. Confirmation is required from the Department of Planning and Environment that it would not require the proposed C2 zoned land to be included on the Land Acquisition Map. This could be explored if the Planning Proposal was to proceed.



northern
beaches
council

H. Strategic and Site-Specific Merit

For the reasons outlined above, it is not considered that the Proposal has demonstrated strategic or site specific merit.

Housing Delivery

The proponent makes reference to the approval of Council's Local Housing Strategy by the Department of Planning and Environment set out in the Department's letter to Council dated 16 December 2021.

As outlined in the assessment report to the Panel on 16 November 2022, Council has made significant progress towards its housing targets through a methodical, principles-based approach to increasing housing capacity and diversity in and around its most accessible centres.

To this end, on the 22 November 2022, the Council endorsed for public exhibition the revised Draft Brookvale Structure Plan which sets out a framework to guide future development in the Brookvale strategic centre and envisages accommodating an additional 1,300 new dwellings over the next 15 years. The public exhibition commenced on 1 December 2022. This planning for Brookvale would see delivery of an amount of dwellings which readily makes up for the shortfall resulting from the State Government's decision earlier this year not to proceed with the Ingleside Place Strategy. These new dwellings will significantly increase housing diversity through renewal in an accessible, transit-supportive location that supports employment and an efficient urban pattern.

A 'real world urgency of securing housing supply' referred by the proponent is not reason to proceed with rezoning of land to enable housing development that increases community exposure to flood risk, and results in unacceptable impacts on biodiversity.

Recommendation

The Panel note the letter from SJB Planning and the response by Council officers contained in this memo. Nothing in the additional material warrants a change to the recommendation.

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

A handwritten signature in black ink that reads "A Pigott".

Andrew Pigott
Executive Manager Strategic & Place Planning

Full list of documents submitted to Council and considered in assessment of Planning Proposal PEX2022/0001 10-12 Boondah Rd, Warriewood as reported to LPP on 16 November 2022

Documents submitted by the applicant

Submitted with original Planning Proposal request, uploaded to ePlanning Portal 24 June 2022:

- Planning Proposal by SJB Planning, dated June 2022 [TRIM: 2022/434473](#)
- Urban Design report (various plans) by Buchan Group, dated June 2022 [TRIM: 2022/434480](#)
- Water Management Report by Calibre Group, dated 2 June 2022 [TRIM: 2022/434482](#)
- Biodiversity certification application form, signed by accredited assessor G.Plunkett 8 April 2022 [TRIM: 2022/434466](#)
- Biodiversity Certification Assessment Report by Travers Bushfire & Ecology, dated 5 May 2022 [TRIM: 2022/434467](#)
- Conservation Measures Implementation Plan by Travers Bushfire & Ecology, dated 6 May 2022 [TRIM: 2022/434469](#)
- Bush Fire Strategic Study by Travers Bushfire & Ecology, dated 8 June 2022 [TRIM: 2022/434468](#)
- Traffic Impact Assessment by The Transport Planning Partnership, dated 3 June 2022 [TRIM: 2022/434477](#)
- Preliminary Site Investigation (Contamination) by Douglas Partners, dated May 2022 [TRIM: 2022/434475](#)
- Planning Proposal submission form, auto-generated by NSW Planning Portal, undated [TRIM: 2022/434474](#)

Later submission, uploaded to ePlanning Portal 29 July 2022

- letter from Scott Barwick of SJB Planning, dated 29 July 2022 - correction to applicant name and attachment Council Notes of Pre-lodgement Meeting held on 22 July 2021 [TRIM: 2022/462205](#)

Later submission, uploaded to ePlanning Portal 29 September 2022

- email from Dan Maurici of Henroth Group, dated 19 September 2022 providing link to revised BCAR documents and attaching memorandum by Calibre dated 16 September 2022 [TRIM: 2022/593414](#)
- revised Biodiversity Certification Assessment Report by Travers Bushfire & Ecology, dated 16 September 2022 [TRIM: 2022/593805](#)
- revised Conservation Measures Implementation Plan by Travers Bushfire & Ecology, dated 16 September 2022 [TRIM: 2022/593803](#)
- memorandum by Calibre, dated 16 September 2022, in response to SES preliminary advice [TRIM: 2022/593802](#)

Later submission

- email from Scott Barwick of SJB Planning, dated 29 September 2022 confirming revised BCAR and CMIP uploaded to portal, and statement regarding future ownership of proposed C2 zoned land [TRIM: 2022/618245](#)

Later submission, uploaded to ePlanning Portal 26 October 2022

- email from Dan Maurici of Henroth Group, dated 17 October 2022 outlining changes to the Planning Proposal request and attaching various supporting documents [TRIM: 2022/659679](#)
- revised Site Plan by Buchan Group, Rev 3, dated 5 October 2022 [TRIM: 2022/659700](#)
- letter by Travers Bushfire & Ecology, dated 12 October 2022 including link to revised BCAR documents, summary of updates and formal request for comment [TRIM: 2022/659708](#)

- memorandum by Douglas Partners, dated 16 August 2019, Groundwater Measurements [TRIM: 2022/659709](#)
- memorandum by Calibre, dated 14 October 2022, to support Water Management Report with information regarding earthworks strategy, stormwater quality management strategy and groundwater level impacts. [TRIM: 2022/663656](#)
- notes from meeting with applicant held on 21 September 2022, prepared by Council [TRIM: 2022/663656](#)

Later submission

- email from Dan Maurici of Henroth Group, dated 21 October 2022 confirming no changes to proposal regarding affordable housing [TRIM: 2022/669564](#)

Documents received from external referral bodies

- Letter from NSW State Emergency Service, dated 31 August 2022, providing preliminary advice [TRIM: 2022/543296](#)
- email from NSW State Emergency Service, dated 13 October 2022, advising no further comment [TRIM: 2022/650938](#)

Legend

-  Cadastre
- Coastal Wetlands and Proximity Area LABEL**
-  Coastal Wetlands
-  Coastal Wetlands Proximity Area
- siteplan.JPG**
- RGB**
-  Red: Band_1
-  Green: Band_2
-  Blue: Band_3

ATTACHMENT 2



northern beaches council

Scale (A4) - 1:1,200
GDA 94 MGA Zone 56

Date Printed: 27/10/2022
Produced By: Spatial Information



0 5 10 20 Meters

The publisher of and/or contributors to this map accept no responsibility for injury, loss or damage arising from its use or errors or omissions therein. While all care is taken to ensure a high degree of accuracy, users are invited to report any map discrepancies and should use this map with due care.

© Northern Beaches Council 2022