

AGENDA

Notice is hereby given that an Ordinary Meeting of Council will be held at the Civic Centre, Dee Why on

Tuesday 28 August 2018

Beginning at 6:30pm for the purpose of considering and determining matters included in this agenda.



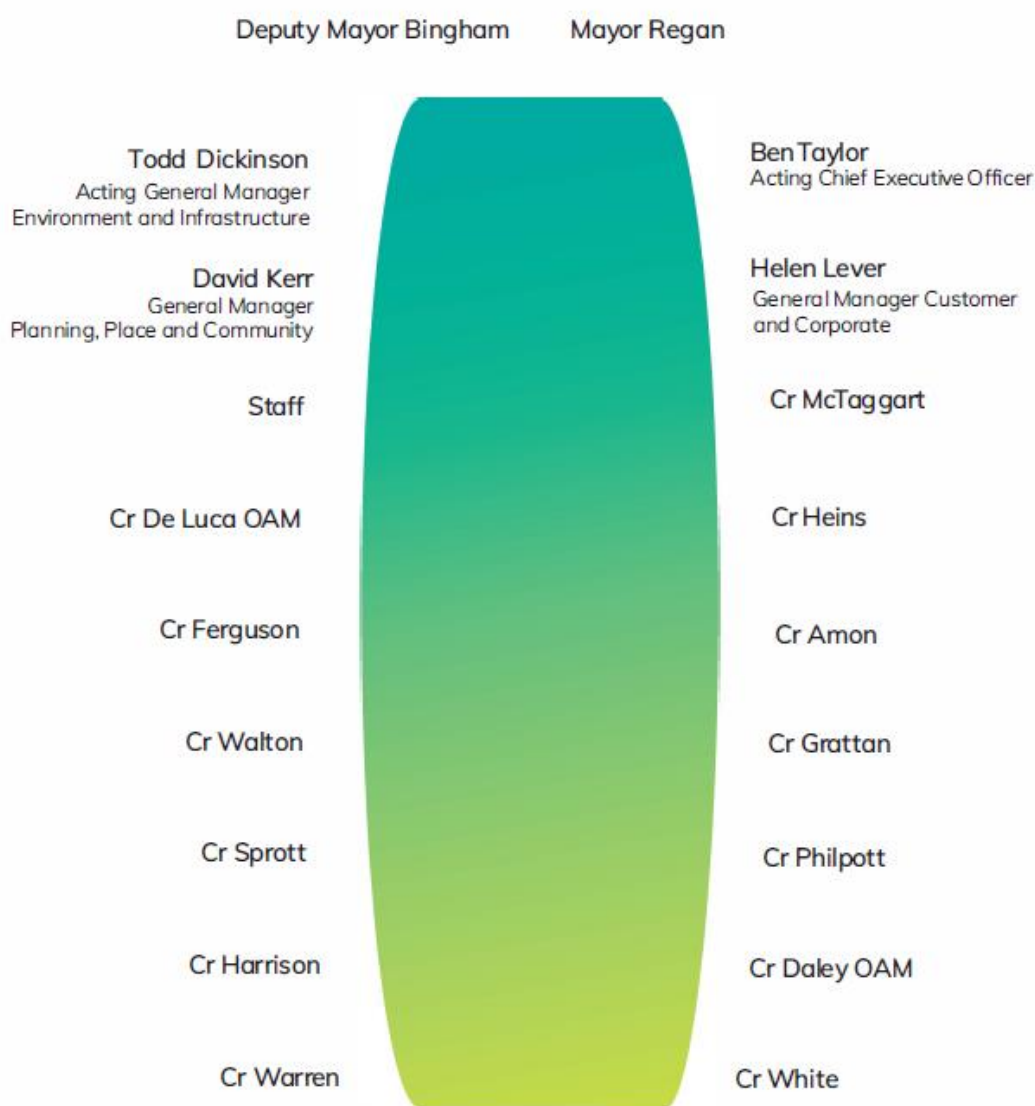
Ben Taylor
Acting Chief Executive Officer

OUR VISION

Delivering the highest quality service valued and trusted by our community

OUR VALUES

Trust Teamwork Respect Integrity Service Leadership



**Agenda for an Ordinary Meeting of Council
to be held on Tuesday 28 August 2018
at the Civic Centre, Dee Why
Commencing at 6:30pm**

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ITEM 11.4	PLANNING PROPOSAL (PP0003/17) AT 2-4 NOOAL STREET AND 66 BARDO ROAD, NEWPORT
REPORTING MANAGER	EXECUTIVE MANAGER STRATEGIC AND PLACE PLANNING
TRIM FILE REF	2018/483072
ATTACHMENTS	1 📄 Draft Planning Proposal - PP0003/17 at 2-4 Nooal Street and 66 Bardo Road, Newport (Included In Attachments Booklet)

EXECUTIVE SUMMARY

PURPOSE

This report is to inform Council of the advice received from the Northern Beaches Local Planning Panel with regards to Planning Proposal PP0003/17 and to confirm the Planning Proposal will be submitted to the Department of Environment and Planning for a Gateway Determination in accordance with the decision of the Sydney North Planning Panel.

SUMMARY

In September 2017, Council received a Planning Proposal to amend the Pittwater Local Environmental 2014 (PLEP) to add 'Seniors Living' as an additional permitted use at 2-4 Nooal Street and 66 Bardo Road, Newport.

Council, at its meeting of 27 November 2017 resolved not to support the Planning Proposal and formally notified the applicant on 11 December 2018.

On 28 February 2018, the applicant sought a Rezoning Review with the Sydney North Planning Panel. At its meeting of 2 May 2018, the Sydney North Planning Panel recommended that the Planning Proposal should be proceed to a Gateway Determination subject to amendments.

In accordance with the Minister for Planning's Local Planning Panel Directions, the Planning Proposal must be referred to the relevant local planning panel first, before being forwarded to the Department of Planning and Environment and the Minister for a Gateway Determination. Subsequently the proposal has been prepared for the Panel's advice.

On 14 June 2018 Council agreed to be the Relevant Planning Authority for the Planning Proposal. This requires the preparation of a Planning Proposal, and subsequent management of this Proposal through the plan making process.

The Minister for Planning has provided a Local Planning Panel Direction to require all Councils to refer Planning Proposals to the Local Planning Panel for advice. Accordingly, the current Planning Proposal was referred to the Northern Beaches Local Planning Panel. This report provides the advice of the Northern Beaches Local Planning Panel to Council.

RECOMMENDATION OF GENERAL MANAGER PLANNING PLACE AND COMMUNITY

That:

- A. Council note the advice received from the Northern Beaches Local Planning Panel.
 - B. Council now submits the Planning Proposal to the Department of Planning and Environment for a Gateway Determination as required by the Sydney North Planning Panel.
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REPORT

BACKGROUND

Council received a Planning Proposal on 4 September 2017 to amend the Pittwater Local Environmental Plan 2014 (PLEP 2014) for land at 2-4 Nooal Street and 66 Bardo Road, Newport. The Planning Proposal sought to add an additional permitted use on the site through Schedule 1 of the PLEP to permit 'Seniors Housing'. The subject properties would have retained their E4 Environmental Living Zoning.

Council at its meeting of 27 November 2017 resolved to not support the Planning Proposal. Council resolved:

That:

- A. *Council does not submit the Planning Proposal lodged for 2-4 Nooal Street and 66 Bardo Road, Newport for a Gateway Determination for the following reasons:*
 - a. *It is inconsistent with the Pittwater Local Planning Strategy (2011)*
 - b. *It does not have strategic merit or site specific merit when assessed in accordance with the NSW Planning & Environment's Planning Proposal: A guide to preparing planning proposals (2016)*
 - c. *It does not align with the goals and targets of the Revised Draft North District Plan.*
 - d. *It is inconsistent with the following State Environmental Planning Policies;*
 - i. *Housing for Seniors or People with a Disability*
 - ii. *Coastal Protection*
 - iii. *Draft Coastal Management*
 - e. *Is inconsistent with the following Local Planning Directions;*
 - i. *2.1 – Environmental Protection Zones*
 - ii. *4.3 - Flood Prone Land*
 - iii. *7.1 – Implementation of the Metropolitan Strategy*
 - iv. *Draft Coastal Management Local Planning Direction.*
 - f. *It is inconsistent with the objectives of the E4 Environmental Living Zone in Pittwater Local Environmental Plan 2014.*
 - g. *It seeks to permit medium density residential development that is inconsistent with the established low density character of the area.*
 - h. *It would set an unacceptable precedent.*
- B. *The proponent and interested parties who made a submission be advised of Council's decision.*

The applicant subsequently sought and was granted a Rezoning Review by the NSW Department of Planning & Environment. At its meeting of 2 May 2018, the Sydney North Planning Panel heard the matter and on the following day determined the Planning Proposal should proceed with amendments. Rather than pursuing an amendment to Schedule 1 of the Pittwater Local Environmental Plan 2014 to introduce seniors housing as an additional permitted use, the Sydney

North Planning Panel supported a rezoning from E4 Environmental Living to R2 Low Density Residential.

At its meeting of 2 May 2018, the Sydney North Planning Panel heard the matter. Council provided written commentary to the panel beforehand indicating their reasons for refusal and provided an oral submission on the day as to why it should not be supported. The following day the Panel determined the Planning Proposal should proceed with substantial amendments that were not communicated or discussed previously. Rather than pursuing an amendment to Schedule 1 of the Pittwater Local Environmental Plan 2014 to introduce seniors housing as an additional permitted use the Panel supported a straight rezoning from E4 Environmental Living to R2 Low Density Residential, and a recommendation to investigate expanding the subject area to include 13 additional properties up to Irrubel Road.

Significant concerns were raised regarding this decision. An extract from Council's letter to the Planning Minister in relation to this matter is provided below:

This decision represents an egregious overreach by the Panel. In making this decision, the Panel are in breach of the Planning Panel Operational Procedures which state as follows:

"The Panel's determination should provide a clear decision on whether the planning proposal before it should proceed, or not proceed, for a Gateway determination rather than recommending improvements".

Clearly the Panel have not followed their own Operational Procedures. Rather than making a decision on the proposal before it, the Panel have significantly expanded the scope of the proposal. In making this recommendation the Panel has exceeded their authority.

Further, the Panel are ignoring the newly published North District Plan which states that "Councils are in the best position to investigate and confirm which parts of their local government areas are suited to additional medium density opportunities". The Panel are seemingly attempting to step into the role of Council and undertake strategic planning on our behalf on a Planning Proposal by Planning Proposal basis. The Pittwater LEP 2014 is less than 5 years old and Northern Beaches Council is on track to achieve our housing target. We are committed to preparing a housing strategy to address growth. The demand for seniors housing is recognised however, there are literally hundreds of other sites within the northern beaches where seniors housing is permitted. These sites can yield thousands of seniors housing apartments. Accordingly, to change the zone of these lots is unnecessary and unwarranted.

The development and gazettal of the Pittwater LEP was undertaken following extensive investigation, research and community consultation. The first objective of the E4 Environmental Living zone is as follows:

- *To provide for low-impact residential development in areas with special ecological, scientific or aesthetic value.*

Every residential property that fronts the Pittwater Waterway is zoned E4 Environmental Living on the basis of 'aesthetic value'. The Panel have taken it upon themselves to arbitrarily dismiss this and make a decision which sets a precedent that will undermine the consistency and integrity of this zone and all it sets out to achieve.

There are also serious site specific issues related to this recommendation. Nine of the additional lots recommended to be rezoned are subject to medium or high risk flooding affectation. Additionally, the State Environmental Planning Policy (Housing for Seniors or People with a Disability) (SEPP (HSPD)) contains site related requirements that include the need for a site to be within 400m of a bus stop. All of the additional sites are beyond 400m from the nearest bus stop. Accordingly, these properties should not be developed for seniors housing in accordance with SEPP (HSPD).

Having regard for the above, we request an immediate review of this decision.

An extract from the response from the Department of Planning and Environment is provided below:

The Panel unanimously determined that the proposed instrument should be submitted for a Gateway determination because the proposal demonstrated clear strategic and site-specific merit. The Panel supported the planning proposal's objective to allow for seniors housing on the site; however, it recommended an alternative mechanism to the proponent's submission to achieve this objective, being rezoning of the site.

The Panel considered that an R2 Low Density Residential zone would be more appropriate to achieve the proposal's intended outcome rather than an additional permitted use in Schedule 1 of the Pittwater Local Environmental Plan 2014.

In the reasons for their decision, the Panel recommended to the delegate of the Greater Sydney Commission, the additional investigation and rezoning of land in the immediate vicinity of the site, including the 10 lots north of the subject land.

Through the rezoning review process, the planning panel determines whether a proposed instrument should be submitted for a Gateway determination based on the strategic and site-specific merits of the proposal. The panel's recommendations are then taken into consideration when the planning proposal is submitted to the Department for Gateway determination.

The Department is currently assessing the submitted planning proposal for a Gateway determination. I would like to assure you that whilst this includes consideration of the Panel's recommendation, it also considers the information in the planning proposal. The planning proposal does not include the additional land referred to by the Panel and this will mean that the relevant planning and environmental studies are not available for assessment and a subsequent Gateway determination decision by the Delegate of the Greater Sydney Commission.

Given the substantial changes proposed by the Sydney North Planning Panel, Council sought to be the Relevant Planning Authority (RPA) for this Planning Proposal. This means Council is now responsible for the preparation of a Planning Proposal and subsequent Management of this proposal through the plan making process. Council has subsequently prepared the Planning Proposal (Attachment 1).

In accordance with the Minister for Planning's Directions, the RPA must now submit a Planning Proposal to the relevant local council planning panel for advice, before it is submitted to the Department for a Gateway Determination. This Direction was not in place when this Planning Proposal was first assessed by Council, and as such the Planning Proposal was not referred to the local planning panel at that time. The Minister's Direction came into effect on 1 June 2018, however there are no savings provisions and as such it does apply to planning proposals prepared, but not submitted to the Minister, before 1 June 2018.

Accordingly, the Planning Proposal was submitted to the Northern Beaches Local Planning Panel for advice. The Panel considered the Planning Proposal at its meeting of 1 August 2018. The advice of the panel is outlined below:

1. *The proposal has not demonstrated strategic merit given the isolated nature of the site. It is inconsistent with the Pittwater Local Planning Strategy (2011).*
2. *The proposal fails to provide any public benefit or improvement.*
3. *There is no physical contribution to local affordable housing proposed.*
4. *The proposal does not represent orderly and economic planning.*

5. *The site is adversely affected by flooding as shown in the Pittwater Overland Flow Mapping and Flood Study and is therefore an inappropriate site for any increase in housing density or development for aged and disabled persons.*
6. *It does not align with the goals and targets of the North District Plan (March 2018).*
7. *The lack of strategic direction in the proposed amplifies the likelihood of similar applications in this environmentally sensitive area.*

Council must now submit the Planning Proposal to the Department of Planning and Environment for a Gateway Determination in accordance with the decision of the Sydney North Planning Panel.

CONSULTATION

If the proposal was to proceed through Gateway and receive a determination to proceed, an additional round of statutory public exhibition would be undertaken for 28 days.

TIMING

If the proposal receives a Gateway Determination to proceed, it is anticipated that it will take approximately 9 months to exhibit the proposal, finalise and then publish the proposed LEP amendment.

FINANCIAL CONSIDERATIONS

There are no substantive financial considerations with the preparation of the Planning Proposal.

SOCIAL CONSIDERATIONS

This proposal is subject to community opposition. 23 submissions objecting to the proposal were received during the non-statutory public exhibition period from surrounding land owners as well as the Newport Residents Association.

ENVIRONMENTAL CONSIDERATIONS

The proposal is considered to have potential negative environmental impacts on the aesthetic qualities and amenity of the locality.

GOVERNANCE AND RISK CONSIDERATIONS

Governance and risk considerations are standard procedural considerations in relation to actions arising from the recommendations of this report.

MINUTES

ORDINARY COUNCIL MEETING

held at the Civic Centre, Dee Why on

TUESDAY 28 AUGUST 2018

**Minutes of part of an Ordinary Meeting of Council
held on Tuesday 28 August 2018
at the Civic Centre, Dee Why
Commencing at 6:33pm**

ATTENDANCE:

Councillors

Michael Regan (Mayor)
Candy Bingham (Deputy Mayor)
Rory Amon (*left at 11:43pm*)
Pat Daley OAM (*left at 9:29pm*)
Vincent De Luca OAM
Kylie Ferguson
Sarah Grattan
Roslyn Harrison
Sue Heins
Alex McTaggart
Penny Philpott
Stuart Sprott
David Walton
Natalie Warren (*arrived 7:11pm and left at 10:10pm*)
Ian White

Officers

Ben Taylor	Acting Chief Executive Officer
Helen Lever	General Manager Customer and Corporate
David Kerr	General Manager Planning Place and Community
Todd Dickinson	Acting General Manager Environment and Infrastructure
Eskil Julliard	General Counsel
Kylie Walsh	Executive Manager Community, Arts & Culture
Sonya Gallery	Executive Manager Governance and Risk
Campbell Pfeiffer	Executive Manager Property
Andrew Pigott	Executive Manager Strategic and Place Planning
Natasha Schultz	Executive Manager Waste Management & Cleansing
Melissa Lee	Manager Governance
Anna Moore	Senior Governance Advisor
Jasmine Evans	Governance Officer
Don Morales	Information Management Technology Officer

Notes

The meeting commenced at 6:34pm, adjourned at 8:36pm, resumed at 8:46pm, moved into closed session at 10:12pm, resumed in open session at 11:48pm and adjourned at 11:51pm.

The meeting is scheduled to reconvene at 7:00pm, Tuesday 4 September 2018.

5.13 Item 12.2 Notice of Motion No 50/2018 – Beaches Link Tunnel

Terry le Roux and Marco Corrent addressed Council in support of the motion.

5.14 Item 15.2 Notice of Rescission No 04/2018 - RFT 2017/208 - District Park New Sport and Community Facility

Matt Ingersole and Cade Jenkins addressed Council in support of the motion.

6.0 ITEMS RESOLVED BY EXCEPTION**212/18 RESOLVED*****Cr Regan / Cr Heins***

That items 8.1, 8.2, 8.3, 9.3, 9.4, 9.5, 9.6, 11.1, 11.3, 11.4, 11.6, 11.7, 11.8, 11.9 and 11.10 are dealt with by exception with the recommendations of the Chief Executive Officer / General Managers being adopted.

VOTING

FOR: Crs Bingham, Daley, De Luca, Grattan, Harrison, Heins, McTaggart, Philpott, Regan, Sprott, Walton, Warren and White

ABSENT: Crs Amon and Ferguson

CARRIED**8.1 MONTHLY INVESTMENT REPORT - JUNE 2018****213/18 RESOLVED*****Cr Regan / Cr Heins***

That Council receives and notes the Investment Report as at 30 June 2018, including the certification by the Responsible Accounting Officer.

RESOLVED BY EXCEPTION**8.2 MONTHLY INVESTMENT REPORT - JULY 2018****214/18 RESOLVED*****Cr Regan / Cr Heins***

That Council receives and notes the Investment Report as at 31 July 2018, including the certification by the Responsible Accounting Officer.

RESOLVED BY EXCEPTION**8.3 STRONGER COMMUNITY FUND - QUARTERLY UPDATE - JUNE 2018****215/18 RESOLVED*****Cr Regan / Cr Heins***

That Council note the Stronger Communities Fund June 2018 Quarterly Update.

RESOLVED BY EXCEPTION

11.3 AMENDMENT OF MERITON VOLUNTARY PLANNING AGREEMENT**221/18 RESOLVED*****Cr Regan / Cr Heins***

That:

- A. Council endorse the draft Second Deed of Amendment to the Planning Agreement between Northern Beaches Council, Karimbla Properties (No.41) Pty Ltd and Meriton Properties Pty Ltd.
- B. Pursuant to s377 of the *Local Government Act 1993*, Council delegate authority to the Chief Executive Officer to execute the Second Deed of Amendment to the Planning Agreement and Draft Explanatory Note between Northern Beaches Council, Karimbla Properties (No.41) Pty Ltd and Meriton Properties Pty Ltd.

RESOLVED BY EXCEPTION**11.4 PLANNING PROPOSAL (PP0003/17) AT 2-4 NOOAL STREET AND 66 BARDO ROAD, NEWPORT****222/18 RESOLVED*****Cr Regan / Cr Heins***

That:

- A. Council note the advice received from the Northern Beaches Local Planning Panel.
- B. Council now submits the Planning Proposal to the Department of Planning and Environment for a Gateway Determination as required by the Sydney North Planning Panel.

RESOLVED BY EXCEPTION**11.6 MINUTES FROM THE COMMUNITY SAFETY COMMITTEE - 7 JUNE 2018 AND 2 AUGUST 2018****223/18 RESOLVED*****Cr Regan / Cr Heins***

That Council note the Minutes of the Community Safety Committee meetings held on 7 June 2018 and 2 August 2018.

RESOLVED BY EXCEPTION**11.7 EAST ESPLANADE RESERVE COMMUNITY SAFETY MANAGEMENT PLAN****224/18 RESOLVED*****Cr Regan / Cr Heins***

That:

- A. Council note the implementation of the Council resolution of 27 March 2018.