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| DATE OF DECISION | 8 September 2020 |
| PANEL MEMBERS | Sandra Hutton (Chair), Susan Budd, Stephen Gow, Marcus Sainsbury, Graham Brown |
| APOLOGIES | None |
| DECLARATIONS OF INTEREST | Peter Debnam, Julie Savet Ward, Brian Kirk, Steve Kennedy, Annelise Tuor and Peter Biscoe all declared a conflict of interest having deliberated on a planning proposal at the subject site previously. |

REZONING REVIEW

2020SNH004 – Northern Beaches – RR_2020_NBEAC_001_00 at 10 and 12 Boondah Road and 6 Jacksons Road, Warriewood (AS DESCRIBED IN SCHEDULE 1)

Reason for Review:

- ☒ The council has notified the proponent that the request to prepare a planning proposal has not been supported
- ☐ The council has failed to indicate its support 90 days after the proponent submitted a request to prepare a planning proposal or took too long to submit the proposal after indicating its support

PANEL CONSIDERATION AND DECISION

The Panel considered: the material listed at item 4 and the matters raised and/or observed at briefings and site inspections listed at item 5 in Schedule 1.

Based on this review, the Panel determined that the proposed instrument:

- ☐ **should** be submitted for a Gateway determination because the proposal has demonstrated strategic and site specific merit
- ☒ **should not** be submitted for a Gateway determination because the proposal has
- ☒ not demonstrated strategic merit
 - ☐ has demonstrated strategic merit but not site specific merit

The decision was unanimous.

REASONS FOR THE DECISION

The Panel noted that the Rezoning Review relates to a unique 2019 request to prepare a Planning Proposal ('proposal') for 10 and 12 Boondah Road and 6 Jacksons Road Warriewood that is distinctly different in its context to those previously assessed and considered by both Northern Beaches Council and other Rezoning Reviews undertaken by the Sydney North Planning Panel.

The Panel accepts that part of the land has the potential for an alternative use/s than those permitted under the current zoning. Whilst parts of the proposal may have a certain component of strategic merit for residential outcomes given the location of the site within a mapped Urban Release Area (URA) and its location in proximity to shopping, passive and active recreation and transportation (including the newly delivered B-line bus route) and nearby development to the north, that is insufficient justification for overcoming the lack of overall strategic merit of the proposal in the Panel's opinion.

- The proposal has not demonstrated that it reasonably meets Strategic Merit, taking into consideration the Strategic Merit Test consistent with Planning Circular PS 18-012 and the NSW Planning and Environment's Local Environmental Plans; a guide to preparing local environmental plans 2018 and Planning Proposals; a guide to preparing planning proposals 2018.

- The proposal is considered inconsistent with the relevant Strategic Planning Framework which includes the Warriewood Valley Strategic Review report and the Warriewood Valley Strategic Review Addendum Report adopted 17 November 2014 by the Northern Beaches Council and referenced in Clause 6.1 Warriewood Valley Release Area of the Pittwater Local Environmental Plan 2014. In the Panel's opinion, the proposal will not give effect to that strategic planning framework.
- The proposal will exacerbate a documented existing under supply of active open space land in the Warriewood Valley URA through both the increased demand arising from the additional residential population and the loss of an area of land (being 10 and 12 Boondah Road) that has been identified and planned by Council for Open Space provision in the relevant local strategic planning documents and other supporting plans. This is the Panel's view even in the absence of the lands being identified for such acquisition purpose within an Environmental Planning Instrument.
- It is the Panel's opinion that the proposed rezoning of 6 Jacksons Road to RE1 Public Recreation zone and construction of new playing field facilities, to achieve one of the stated objectives of the request to Council of making provision for active open space in the locality, including in areas identified as Coastal Wetlands as part of *State Environmental Planning Policy (Coastal Management) 2018*, would be unacceptable. The Panel also noted that this proposition would similarly involve direct impacts to areas of remnant Swamp Oak Floodplain Forest - an Endangered Ecological Community (EEC) of important biodiversity value.

The Panel notes the applicant's instruction during briefing that the Voluntary Planning Agreement (VPA) offer associated with the proposal is withdrawn. In any event, the Council has also rejected the VPA offer. The VPA offer (for dedication and embellishment) itself is not a relevant matter for consideration by the Panel.

The applicant advised that the proposal to rezone 6 Jacksons Road to RE1 Public Recreation remains part of the proposal.

The Panel is of the view that the component of the proposal that seeks to rezone 6 Jacksons Road to RE1 Public Recreation (excluding dedication and embellishment that was otherwise part of the VPA) does not relate to usable or unconstrained land for active open space acceptable to Council as the public authority, and does not suitably counter a sufficient strategic merit response to the proposed loss of 10 and 12 Boondah Road from strategically identified future active public open space land area availability in the URA.

- The Panel is of the view that the scale of the proposal is unlikely to substantially give effect to the endorsed North District Plan and is inconsistent with priorities N3, N4 and N16.



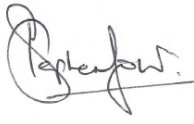


For noting, it is the Panel's opinion that the proposal is also inconsistent with parts of Council's recently adopted Towards 2040 Local Strategic Planning Statement. Notwithstanding, the Panel does not place weight on inconsistency with the LSPS which had not been exhibited at the time of lodgement of the request to prepare a rezoning or endorsed at the time Council determined to not support preparation of a Planning Proposal.

Given the Panel's opinion on Strategic Merit, further consideration of Site Specific Merit is not determinative in the Rezoning Review. Notwithstanding, the Panel notes the following:

- The Panel agreed with the applicant that some of the reported inconsistencies with Ministerial Directions 9.1, for example 1.2 Rural Zones and 4.1 Acid Sulfate Soils were capable of being adequately justified.
- The Panel identified that further work would likely have been required to satisfy themselves on the proposal responses to:

- flood planning;
 - coastal management (and specifically the intention for the proposal to intensify development on land mapped as Coastal Wetland);
 - avoidance of direct biodiversity impacts as a result of the proposal, and the related biodiversity impacts that stem from a need to respond to resultant bushfire planning requirements (even if relating to 10 and 12 Boondah Road only); and
 - a basic due diligence for Aboriginal heritage considerations.
- The Panel was concerned that the proposal as submitted to the Council did not adequately address the relevant provisions of SEPP 55 that could be relied upon to proceed to a gateway determination, noting that an assessment was provided to Council prior to their decision to not proceed with the request.
 - The above matters, and other reported inconsistencies identified by Council's planning expert relating to regional and district plans, may have been able to be addressed prior to and/or post gateway, with adjustments to the proposal to suit, and may not have precluded, at a high level, some future residential outcome over part of the northern lands in the Southern Buffer. The Panel is not satisfied that the form and density of development approved to the north should be the 'benchmark' for development of the site in question and that it may be premature to support a form of development without a better understanding of a local housing strategy that determines the local scale expression of housing actions and priorities from the North District Plan.

In conclusion, the proposal does not reasonably meet the Strategic Merit Test in the opinion of the Panel, and it does not provide the appropriate balance between planning for housing in the right locations within the LGA and planning for siting and provision of active public open space to service the URA as identified in other adopted local strategies and plans. The opportunity to revisit that balance may be appropriate if Council exhibit and complete housing and recreational land reviews that identify outcomes to which a new proposal would give strategic effect.

| PANEL MEMBERS | |
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|  Sandra Hutton (Chair) |  Susan Budd |
|  Stephen Gow |  Marcus Sainsbury |
|  Graham Brown | |

| SCHEDULE 1 | | |
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| 1 | PANEL REF – LGA – DEPARTMENT REF - ADDRESS | 2020SNH004 – Northern Beaches – RR_2020_NBEAC_001_00 at 10 and 12 Boondah Road and 6 Jacksons Road, Warriewood |
| 2 | LEP TO BE AMENDED | Pittwater Local Environmental Plan 2014 |
| 3 | PROPOSED INSTRUMENT | The proposal seeks to amend the Pittwater Local Environmental Plan 2014 to rezone 10 and 12 Boondah Road and 6 Jacksons Road, Warriewood from RU2 Rural Landscape to R3 Medium Density Residential and RE1 Public Recreation and amend the planning controls applying to the sites. |
| 4 | MATERIAL CONSIDERED BY THE PANEL | <ul style="list-style-type: none"> Rezoning review request documentation Briefing report from Department of Planning, Industry and Environment |
| 5 | BRIEFINGS AND SITE INSPECTIONS BY THE PANEL/PAPERS CIRCULATED ELECTRONICALLY | <ul style="list-style-type: none"> Site Visit – due to COVID-19 Risk Management, panel members Sandra Hutton and Susan Budd undertook independent site visits. Photos taken by Sandra Hutton of the site and surrounds were distributed to panel members for their reference. Briefing with Department of Planning, Industry and Environment (DPIE): 17 August 2020 <ul style="list-style-type: none"> Panel members in attendance: Sandra Hutton (Chair), Susan Budd, Stephen Gow, Marcus Sainsbury, Graham Brown DPIE staff in attendance: Ashley Richards Briefing with Council and Proponent: 17 August 2020 <ul style="list-style-type: none"> Panel members in attendance: Sandra Hutton (Chair), Susan Budd, Stephen Gow, Marcus Sainsbury, Graham Brown DPIE staff in attendance: Ashley Richards Council representatives in attendance: Louise Kerr, Andrew Pigott, Phil Jemison, Duncan Howley, Rob Player (consultant planner for council) Proponent representatives in attendance: Dan Maurici, Scott Barwick, Troy Eyles, Michael Sheather-Reid |