

Dee Why Town Centre Masterplan Planning Proposal

Probity plan

NORTHERN BEACHES COUNCIL

May 2018

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1 Introduction

1.1 Purpose

The purpose of this probity plan is to document the controls to be applied by Northern Beaches Council (**Council**) to the Dee Why Town Centre Masterplan Planning Proposal Process.

The Dee Why Town Centre Planning Proposal (**Planning Proposal**) seeks to amend the Warringah Local Environmental Plan 2011 (WLEP 2011) in order to implement the recommendations of the Dee Why Town Centre Masterplan (2013) including:

- Planning controls for a wider area of the Town Centre
- "Floor space ratio" standards for all sites to control the extent of development
- A 3m height limit increase (one storey) across the town centre in exchange for a one storey reduction in podium height limit.
- Special provisions for four new Key Sites in exchange for community infrastructure (e.g. a new road through the existing Woolworths site)

Some of the proposed new planning controls, including floor space ratio controls and height controls, will apply to Council's Civic Centre site comprising the Council Chambers, Library, car park and surrounding landscaped areas.

The Planning Proposal was placed on Public Exhibition from 24 February to 25 March 2018 and received 25 submissions. Of the 25 submissions, three related to Council owned property.

An additional submission from the Office of Environment and Heritage objected to the proposed 3 metre increase in height for buildings on the Civic Centre site on grounds of heritage impact (the Civic Centre site is subject to a nomination to be included on the State Heritage Register).

The three public submissions raised concerns regarding the existing planning controls and future redevelopment of a Council-owned car park (known as 'Site A') including floor space planned for use as a new NSW Police Local Command. This Council owned carpark site is **not** part of the current Planning Proposal (the controls for this site were established via a separate LEP Amendment process in 2008) however Council has previously resolved to sell the site.

Council has a conflict of roles (which has been acknowledged) because it is the owner of sites within the area subject to the Planning Proposal, and at the same time is responsible for the process of review of public submissions in response to the exhibition of the Planning Proposal. Council's role is to recommend an amended WLEP 2011 to the Department of Planning and Environment who will make the final amended WLEP 2011.

Council needs to establish appropriate probity arrangements to provide for separation between

- + the Property Team which is responsible for Council property within the Town Centre;
- + the Strategic and Place Planning Team which will review responses to the Planning Proposal and make a recommendation to the Council; and
- + the process for reviewing submissions to the Planning Proposal that relate to Council-owned property.

1.2 Probity fundamentals

The NSW Independent Commission Against Corruption (**ICAC**) in a Position Paper titled *Corruption Risks in NSW Development Approval Processes (2007)* concluded:

In addition, consent authorities should take steps to manager conflicting development and regulatory roles. The approach taken will depend on the type and scale of development. The options available include the use of external consultants or officers from another Council, segregation of duties within Council, and referral to an IHAP. (note: the reference is to independent hearing and assessment panels as contemplated in 2007).

Whilst ICAC developed this statement of principle in the context of development applications, the fundamental principles enunciated apply in the circumstances related to consideration of the Planning Proposal; and are applied in this probity plan.

Additionally, the review of submissions made in response to the Planning Proposal must be conducted in a manner that satisfies the “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:

- obtaining value for money
- maintaining impartiality
- managing conflicts of interest
- maintaining accountability and transparency
- maintaining confidentiality.

1.3 Council probity arrangements

In order to address the three elements of the probity arrangements identified in 1.1 Purpose, in a manner consistent with 1.2 Probity Fundamentals, Council will:

- Ensure appropriate separation between the Property Team and the Strategic and Place Planning Team in relation to the review of submissions received in response to the Planning Proposal;
- The Strategic and Place Planning Team will review the 22 submissions which relate to all lands not owned by Council within the Dee Why Town Centres;
- An independent Planning Consultant will be engaged by Council to review the submissions that relate to Council-owned land; and
- The final decision in relation to the Planning Proposal and any amendments to WLEP 2011 shall be made by the Department of Planning and Environment.

1.4 Conduct guidelines

Significant probity issues may arise unless the Council officers involved, and any consultants engaged by Council, are aware of potential probity risks and take conscious action to avoid them. These guidelines are intended to assist those involved to observe appropriate standards of probity.

Council officers and consultants have a responsibility to ensure that their personal behaviour does not adversely impact on the integrity of the processes for dealing with the site. Each person is to:

- act in accordance with the conduct guidelines (as applicable), 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, or may be perceived to, affect the integrity of Council processes
- avoid contact with landowners or community members that may be perceived to affect the integrity of the review process
- not make public comment without appropriate authorisation
- report immediately any breaches of the probity plan, or other probity concerns, to the probity adviser
- maintain appropriate records of decision-making.

For the purpose of this probity plan, conflict of interest is defined as follows:

A conflict between the professional duty and private interests of a person where that person has private interests or associations which could improperly influence their professional duties and responsibilities.

1.5 Amendment

The Chief Executive may approve amendments to this probity plan with the reasons for amendment being clearly documented.

2 Roles and responsibilities

2.1 Councillors

The role of the Councillors as elected members of the Council is to establish the policy agenda of Council and to determine Council's final position in relation to the Planning Proposal. Councillors shall be briefed on the content of the probity plan to ensure that community interaction regarding the Planning Proposal is consistent with probity requirements.

2.2 Chief Executive

The Chief Executive is generally responsible for the efficient and effective operation of the Council's organisation and for ensuring the implementation of decisions of the Council. The Chief Executive is also responsible for the day-to-day operational management of the Council and has authority to exercise such of the functions of the Council as are delegated by the Council to the chief executive.

2.3 General Managers

The two relevant General Managers are responsible for Planning, Place and Community (with responsibility for the review of the Planning Proposal) and Environment and Infrastructure (which includes responsibility for Council owned property).

The role of the General Managers with regard to probity includes:

- Ensuring that the processes for which they have responsibility are carried out in accordance with the probity plan and Council procedures
- Ensuring the implementation of policies and Council codes of practice by Council officers reflects Council values with respect to probity management
- referring any probity issues identified and assisting in their resolution in conjunction with the Probity Adviser

2.4 Planning consultant

Council has decided to engage an external planning consultant to undertake the review of the submissions that related to Council owned property, including, for completeness, the carpark and the potential police facility. The consultant shall be briefed on the requirements of the probity plan. The consultant may interact with relevant Council officers in a manner consistent with the separation of functions established by this probity plan.

2.5 Probity adviser

The probity adviser, who is independent of Council's processes, is to:

- assist Council in developing an appropriate probity framework
- review and advise on the application of the probity fundamentals outlined in section 1.2.

As Council's internal processes progress, the probity adviser may be engaged to:

- confirm that processes undertaken are accountable, defensible, fair and transparent and conducted in accordance with the probity fundamentals
- attend relevant meetings and all meetings with landowners or community representatives
- provide probity reports to the Chief Executive at key milestones.

The probity adviser will have unfettered access to relevant Council documentation and may attend any relevant meeting. All Council offices and the consultant are to assist the probity adviser with respect to any enquiries made.

Council officers or consultants who are unclear about any aspects of their probity responsibilities, or the relevant conduct guidelines; or have concerns about probity issues, are urged to discuss them with the probity adviser immediately any issue or question arises or is likely to arise.

3 Procedures

3.1 Confidentiality

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

- Access to Council's Records – the records of the Property Team and Strategic and Place Planning Team shall be stored in separate files with access limited to each relevant Team member.
- Only Council officers who have signed the Probity Plan Declaration (attached) shall have access to relevant documentation.
- Hard copy documentation shall be stored securely and not in a manner accessible to all Council officers.
- The team members in both teams shall be reminded not to speak to members of the other team in relation to the Planning Proposal and/or submissions received by Council.
- The Planning Consultant shall have access to relevant documentation from both Teams.

3.2 Conflict of interest management

The ICAC defines conflict of interest as:

A conflict between the public duty and private interests of a public official where the public official has private interests which could improperly influence their official duties and responsibilities.

Note that perceptions of conflict of interest may be as damaging as actual conflicts. The table below outlines some aspects relating to managing conflicts in relation to the Council processes for dealing with the Planning Proposal.

1. No conflicts of interest allowed	Council officers must have no conflicts of interest that would adversely affect the impartiality of the decision-making process and are responsible for bringing to the attention of the probity adviser any actual or potential conflicts of interest. Any related interests that may appear to create a conflict of interest must also be brought to attention in order that these matters may be appropriately managed in a transparent and accountable manner.
2. Declarations of interests	Each Executive Manager is responsible for ensuring that officers involved matters related to the Dee Why Town Centre Masterplan Planning Proposal sign the Probity Plan declaration before accessing any confidential information or offering comments, views, or advice.

3.3 Record keeping

Records must be maintained in order to allow for independent audit and review. The maintenance of appropriate records increases the accountability and transparency of the processes. Each Executive Manager, with assistance from administration staff, is responsible for the maintenance of records.

3.4 Probity Plan Declaration

Dee Why Town Centre Masterplan Planning Proposal

Name:.....

Position:

I:

Probity Plan

- Have read and understood the Probity Plan for the review of submissions in response to the exhibition of the Dee Why Town Centre 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 Northern Beaches 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 the relevant Executive Manager any change in circumstances. _____

OR

I have the following related interest/s to declare.

Interest:

.....

Agreed management strategy:

.....

General Manager Signature

Date

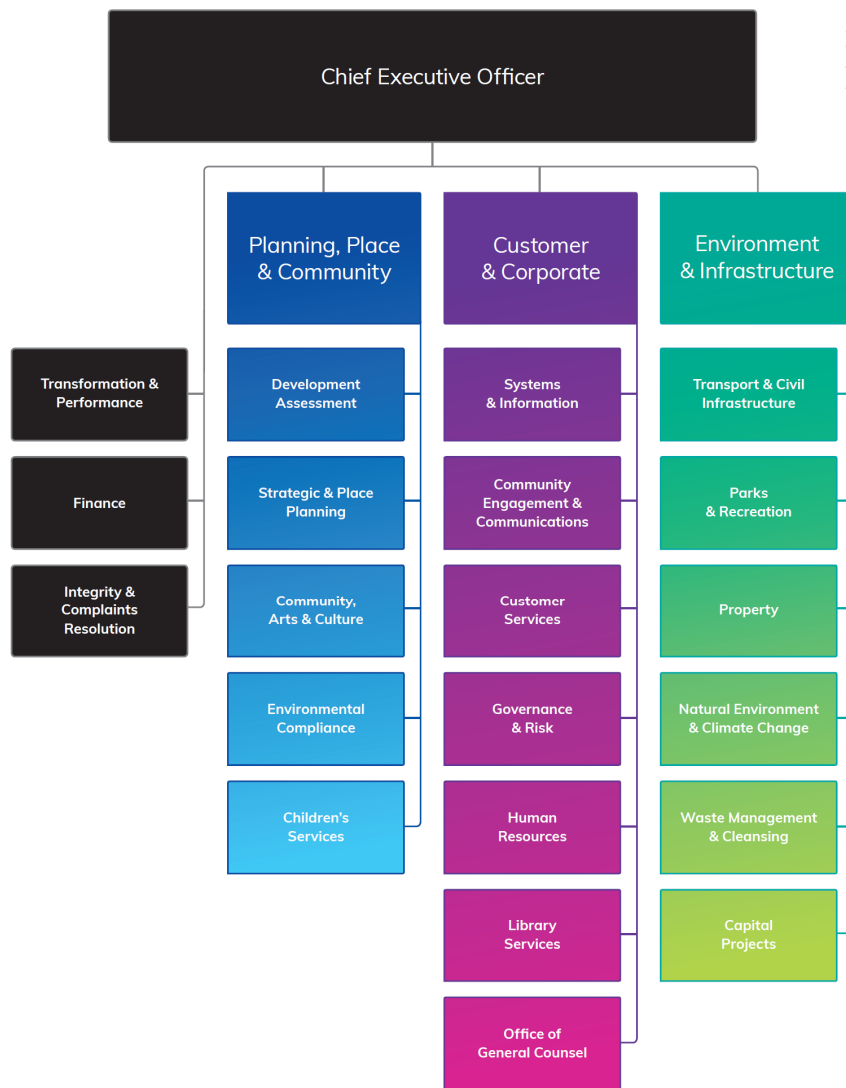
I hereby declare that I have read and understood the terms of this Probity Declaration.

.....
Signature

.....

Date

Appendix - Council Structure



Updated: 01/11/2017

