

Ms Helen Lever
Acting Chief Executive Officer
Northern Beaches Council
Dee Why
NSW 2099

12 September 2018

Dear Ms Lever

Probity Report – Dee Why Town Centre Masterplan Planning Proposal

Procure Group Pty Ltd (**Procure**) was engaged on 17 May 2018 by Northern Beaches Council (**Council**) to provide independent probity advisory services in relation to the assessment of submissions received in response to the public exhibition of the Dee Why Town Centre Masterplan Planning Proposal (**Assessment**).

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.

The Assessment has been completed and a report prepared for the elected Councillors. This report provides a review of the assessment process which, in relation to Council-owned property, was conducted by an independent planner.

Statement of Responsibility

This probity report has been prepared to assist Council in its decision making regarding the Dee Why Town Centre Masterplan Planning Proposal. Procure has compiled this report based on:

- (a) Council documentation it has been given and which it has reviewed; and
- (b) Discussions with relevant Council officers.

The conclusion of this report is based upon the work performed as documented in it. While Procure has identified probity risks and considered the controls, environment and action taken by Council to address those risks, probity issues may nevertheless have arisen that have not been identified. While Procure may provide input into processes followed, Council retains responsibility for the probity of its personnel and processes. The report cannot be relied upon by any other party or for any other purpose.

Background

Council publicly exhibited the Dee Why Town Centre Masterplan Planning Proposal (**Planning Proposal**) and amendments to the Warringah Development Control Plan 2011 (**WDCP 2011**) from 24 February to 25 March 2018.

The 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; and
- 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.

In response to the Public Exhibition, Council 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'), as well as floor space in a building 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) but is adjacent to Civic Centre which is subject to the Planning Proposal.

Council has a conflict of roles because it is the owner of sites within, and adjacent to, 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 determine the final amended WLEP 2011.

Council acknowledged the need 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.

The review of submissions has been completed and a report prepared for the elected Councillors. A number of changes are proposed to the Dee Why Town Centre Planning Controls in response to the public feedback and recommendations from the external assessment of submissions relating to Council-owned property.

Work Performed

In undertaking this review, Procure has completed the following tasks:

- + Noted that with Procure's assistance, a probity plan was developed to ensure that the probity risks identified as the result of Council owning property subject to the Planning Proposal were addressed. The probity plan was approved on 7 June 2018 by the Executive Manager, Planning and Place;
- + Noted that the probity plan included:
 - + Conduct guidelines for all participants;
 - + An outline of roles and responsibilities for key participants including the elected Councillors, the Chief Executive, the relevant General Managers and the external planning consultant;
 - + Processes for ensuring confidentiality and for managing conflicts of interest; and
 - + A probity plan declaration which addressed knowledge of the probity plan, confidentiality requirements and the declaration of conflicts of interest;
- + Further noted that the probity plan required Council to take the following steps to address the specific probity risks related to Council-owned property:
 - + *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 Centre;*
 - + *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.*
- + Reviewed the following documents:
 - + Planning Proposal, Dee Why Town Centre Masterplan, Warringah Local Environmental Plan 2011, January 2018, as exhibited;
 - + Revised Planning Proposal, Dee Why Town Centre Masterplan, Warringah Local Environmental Plan 2011, August 2018, to be recommended to Councillors;
 - + List of Submissions received in response to the Dee Why Town Centre Planning Proposal and Masterplan as assessed by Council officers;
 - + Report of the External Assessment of the submissions received in relation to Council-owned properties subject to the Planning Proposal;

- + Chronology of steps taken to prepare, exhibit and report on the Dee Why Town Centre Masterplan Planning Proposal;
- + Report prepared for the meeting of elected Councillors to be held on 25 September 2018;
- + Correspondence from the Office of Environment and Heritage; and
- + Three public submissions received in relation to Council-owned property.
- + Noted that in relation to the requirements of the probity plan, Council officers have:
 - + Provided signed probity plan declarations from the Strategic and Place Planning staff with responsibility for the review of submissions and preparation of the report to Councillors; and
 - + The Executive Manager, Property, confirmed to Procure on 12 September 2018 that he had signed the probity plan declaration and that no members of his team had had any role in the consideration of submissions related to the Council-owned property. He also advised that the Property Team had not provided any comment in relation to the report to the elected Councillors.
- + Confirmed that the independent planner engaged to review the submissions related to Council-owned property had signed the probity plan declaration. Reviewed the report prepared by the independent planner and confirmed that it dealt with all relevant issues raised in public submissions;
- + Reviewed the report and attachments prepared by Council officers for consideration by the elected Councillors and confirmed that it provided a detailed statement of the process followed and included the report and recommendations prepared by the independent planner; and
- + Further noted that the recommendations of the Council officers will be considered in open Council and include a recommendation for a further period of public exhibition. This provides for a fully transparent process.

Conclusion

Based upon our work performed as detailed in this report, no issues of a probity nature have come to our attention that would lead us to conclude that the process followed by the Northern Beaches Council in the assessment of public responses to the Dee Why Town Centre Masterplan Planning Proposal, has not been conducted in a transparent and accountable manner, with due regard to probity and consistent with the probity plan.

Please contact Vic Baueris of Procure should you have any questions in relation to this report.

Yours sincerely,



Simon Taylor
Director
Procure Group Pty Ltd