



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 23 MARCH 2010 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A
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NOTE: For Full Details, See Council's Website –
www.kmc.nsw.gov.au under the link to business papers

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

NOTE: Persons who address the Council should be aware that their address
will be tape recorded.

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 9 March 2010

Minutes numbered 50 to 56

MINUTES FROM THE MAYOR

PETITIONS

GENERAL BUSINESS

- i. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to have a site inspection.*
- ii. *The Mayor to invite Councillors to nominate any item(s) on the Agenda that they wish to adopt in accordance with the officer's recommendation allowing for minor changes without debate.*

GB.1 **National General Assembly of Local Government - 2010** **1**

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File: S03788

For Council to determine its elected delegates to the 2010 National General Assembly of Local Government.

Recommendation:

That Council determine if it wishes to send delegates to the 2010 National General Assembly of Local Government.

GB.2 **Investment Report as at 28 February 2010** **13**

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File: S04887

To present to Council investment allocations and returns on investments for February 2010.

Recommendation:

That the summary of investments and performance for February be received and noted.
That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

GB.3 **Draft Updated Ku-ring-gai Local Approvals Policy** **31**

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File: S07151

To recommend the adoption of the updated draft policy for local approval applications known as the draft Ku-ring-gai Local Approvals Policy.

Recommendation:

That Council adopt the draft updated Ku-ring-gai Local Approvals Policy.

- GB.4 **Draft Ku-ring-gai Compliance Policy** 60
- .
- File: S07151
- To recommend the adoption of the draft Ku-ring-gai Compliance Policy.
- Recommendation:**
- That Council adopt the draft Ku-ring-gai Compliance Policy.
- GB.5 **161 Warrimoo Avenue, St Ives Chase - Construction of Tiered Spectator Seating** 82
- .
- File: DA0012/10
- Ward: St Ives
 Applicant: Mr David William Howard
 Owner: Ku-ring-Council
- To determine Development Application No. DA0012/10 for the construction of tiered spectator seating, associated tree removal, pathway construction and changes to fencing.
- Recommendation:**
- Approval.
- GB.6 **Draft Sponsorship and Donations Policy** 124
- .
- File: S05650
- To advise Council of the development of a draft Sponsorship and Donations Policy for public exhibition.
- Recommendation:**
- That Council place the draft Sponsorship and Donations Policy on public exhibition.
- GB.7 **Sustainability Reference Committee Notes of Meeting held 1 March 2010** 135
- .
- File: S07619
- To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on 1 March 2010.

Recommendation:

That the notes and attachments of the Sustainability Reference Committee meeting held on 1 March 2010 be received and noted.

GB.8 Tender T18/2010 - Communities of Practice Partner for the Enabling Effective Community Education & Engagement as a Driver for Sustainability in Local Government (EECEE) Program 172

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File: S06972

To report on the results of the public tender for a Communities of Practice consultant for the Enabling Effective Community Education and Engagement as a Driver for Sustainability in Local Government (EECEE) program.

Recommendation:

That all tenders be rejected and that Council enter into negotiations with Anecdote for the contract.

GB.9 West Pymble Pool Redevelopment - Second Independent Financial Plan 178

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File: S04066

For Council to consider the independent financial plans prepared for the West Pymble Indoor Aquatic and Leisure Facility.

Recommendation:

That Council note the findings of the second financial plan and continue to progress the West Pymble Indoor Aquatic and Leisure Facility. This would include the lodgement of a development application, reaffirming its inclusion in Council's long term financial plan and continue to inform the community as to the status of the project.

GB.10 Underground Easement Across Girl Guide NSW and ACT land North Turramurra

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File: S05260

Report by Director Strategy and Environment dated 12 March 2010 to be circulated separately.

EXTRA REPORTS CIRCULATED AT MEETING**BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS**

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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Environmental Planning & Assessment Act 1979 (as amended)

Section 79C

1. Matters for consideration - general

In determining a development application, a consent authority is to take into consideration such of the following matters as are of relevance to the development the subject of the development application:

a. The provisions of:

- i. any environmental planning instrument, and*
- ii. any draft environmental planning instrument that is or has been placed on public exhibition and details of which have been notified to the consent authority, and*
- iii. any development control plan, and*
- iv. any matters prescribed by the regulations,*

that apply to the land to which the development application relates,

- b. the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,*
- c. the suitability of the site for the development,*
- d. any submissions made in accordance with this Act or the regulations,*
- e. the public interest.*

PETITION

REQUEST THAT THE EDGES OF BEECHWORTH ROAD, PYMBLE FROM DAKARA CLOSE TO END OF CUL-DE-SAC BE RESURFACED - (THIRTY-FIVE [35] SIGNATURES)

"We, the undersigned, request that the edges of Beechworth Road from Dakara Close to the end of the cul-de-sac be resurfaced.

The recent filling of potholes does not make the road any safer and we hear by request the damage be re-assessed. There are no footpaths therefore walkers risk injury walking on the deteriorating road edge. We understand the Council includes Beechworth Road in the 2013-2014 Road Rehabilitation Program. This seems a long time to wait.

A lot of the damage to the road has been done by trucks and heavy vehicles servicing the developments in Beechworth Road. I note in the North Shore Times, Friday, 12 February, 2010 that the North Shore Councils have \$80 million in unspent development levies and quoting Mr Glenn Byrnes, the Council's NSW Acting Executive Director, Ku-ring-gai Council has "\$56.5 million in unspent section 94 levies at the end of the last financial year." We notice the levies are to be used for developments but surely some of the money could be used to repair the damage to Beechworth Road."

RECOMMENDATION

That the Petition be received and referred to the appropriate officer of Council for attention.

NATIONAL GENERAL ASSEMBLY OF LOCAL GOVERNMENT - 2010

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to determine its elected delegates to the 2010 National General Assembly of Local Government.

BACKGROUND:

The General Assembly will be held from 14 to 17 June 2010 in Canberra.

COMMENTS:

A Program for the Assembly is **attached**. Council must determine their voting delegate for the debating session.

RECOMMENDATION:

That Council determine if it wishes to send delegates to the 2010 National General Assembly of Local Government.

PURPOSE OF REPORT

For Council to determine its elected delegates to the 2010 National General Assembly of Local Government.

BACKGROUND

The annual General Assembly, will be held in Canberra from 14 to 17 June 2010.

COMMENTS

This year's General Assembly theme is 'The 3Ps or Workforce Participation Population and Productivity.

These themes address the 3 main drivers of economic growth.

Council is entitled to one voting delegate in the main debating session.

A Program is also **attached**.

For all information on the Assembly, visit www.nga.alga.asn.au/event/2010.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The costs are as follows:

Registration:	\$810 (Early Bird payment by 30 April 2010)
	\$960.00 (Standard payment received by 31 May 2010)

Accommodation and travel expenses are additional.

The Conference budget is fully spent at this stage of the year. An allocation of funds can be made in the next quarterly budget review.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

- A. That Council determine if it wishes to send delegates to the 2010 National General Assembly of Local Government.
- B. That Council determine one voting delegate should Council send delegates to the Assembly.
- C. That the General Manager or his delegate be permitted to attend the General Assembly.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

Attachments: National General Assembly 2010 Program - 2010/044611

National General Assembly 2010

President's Welcome

The 2010 National General Assembly of Local Government (NGA) will be held in Canberra from 14 to 17 June 2010.

This year's NGA will be held against the backdrop of a federal election, the Henry review into taxation and the Prime Minister's repeated commitment to addressing the three main drivers of economic growth – workforce participation, population and productivity or “the 3 Ps”.



The Australian Government is increasingly engaging with local government as a partner in key policy areas. This was perhaps best demonstrated through the rollout of the Community Infrastructure Fund in local communities to reinvigorate the economy during the Global Financial Crisis. The coming years are a period of great opportunity for local government to build on this collaborative relationship and focus on a long term local-federal government partnership.

The recently released Intergenerational Report 2010 (IGR3) focused on the 3 Ps and emphasises the substantial challenges for economic growth and long-term fiscal sustainability in the coming decades.

The macro-economic and policy settings identified in the IGR3 report highlights the challenges which will face all levels of government and the need to embrace a collaborative approach.

The Australian Government has indicated on several occasions that it is wanting to genuinely work with local government. During a recent interview with Kerry O'Brien on the 7.30 Report, Treasurer Wayne Swan reiterated this commitment stating that “for the first time in our political history we now have a national Government that wants to work with state government and local government.”

This year's NGA is the perfect platform for local government to develop strategies at the local and regional levels to respond to the challenges highlighted in the IGR3 report to ensure that Australia's future prosperity is secured and shared equally.

Discussions and debate at the NGA will focus around the three themes of productivity, population and participation. Next week ALGA will invite councils to submit motions for consideration at the NGA with the release of a discussion paper on the three themes. All councils are encouraged to contribute to the shaping of local government's national direction by submitting motions to this year's NGA.

As the federal election will almost certainly be held soon after our NGA, local government is in a

unique position to exert influence on the election platforms of the major parties. To this end, the NGA will feature a session with prominent political commentators discussing the election and the opportunities and risks for local government. The leaders of all main political parties will also address the NGA.

I look forward to seeing you in Canberra this June.

Geoff Lake
ALGA President

National General Assembly 2010

Program

Monday 14 June

5.00 – 7.00pm Welcome Reception

Tuesday 15 June

9.00 - 9.30am Opening Ceremony
9.30 – 10.00am Prime Minister, the Hon Kevin Rudd MP (invited)
10.00 – 10.30am Keynote Address
10.30 – 11.00am Morning tea
11.00-12.30pm Election Campaign Commentary
12.30-1.30pm Lunch
1.30 – 1.45pm Population Introductory Address
1.45 – 3.00pm Population Debate
3.00 – 3.30pm Afternoon Tea
3.30 – 4.30pm Population Debate (continued)
4.30 – 5.00pm Local Government Minister, the Hon Anthony Albanese MP (invited)
7.00 – 11.00pm Dinner – The Great Hall, Parliament House

Wednesday 16 June

9.00 – 10.30am Constitutional Reform Update
10.30 – 11.00am Morning Tea
11.00 – 12.00noon Women in Politics
12.00 – 12.30pm Participation Introductory Address
12.30 – 1.30pm Lunch
Concurrent Sessions

1.30 – 3.00pm

- Fit for the Future
- Abandon or Adapt
- Not in my backyard

3.00 – 3.30pm Afternoon Tea
3.30 – 4.30pm Participation Debate
4.30 – 5.00pm Leader of the Greens, Senator Bob Brown (invited)
7.00 – 11.00pm Dinner

Thursday 17 June

9.00 – 9.30am Productivity Intro
9.30 – 10.00am Leader of the Nationals, the Hon Warren Truss MP (invited)
10.00 - 10.30am Productivity Debate
10.30 – 11.00am Morning Tea
11.00 – 11.30pm Leader of the Opposition, the Hon Tony Abbott MP (invited)
11.30 – 12.15pm Productivity Debate
12.15 – 12.30pm Closing Address

NGA 2010

Population, Participation and Productivity



14-17 June 2010
National Convention Centre



Registration Form

By submitting this form you agree to the terms of the cancellation policy set out in the conference information brochure.
All prices quoted are in Australian Dollars and are inclusive of GST

The data in this form is not recorded until the SUBMIT button is pushed. The **SUBMIT** button is at the **bottom** of this form.
NOTE: You will receive a confirmation via email of your registration (which will also be your tax invoice) within seven days from Conference Co-ordinators. If you do not receive written confirmation please contact Conference Co-ordinators on +61 (0)2 6292 9000 or via email at nga@confco.com.au.

THIS FORM IS FOR NEW REGISTRATIONS ONLY. TO MAKE AN AMENDMENT CONTACT CONFERENCE CO-ORDINATORS

Personal Details

Title	<input type="text"/>	First Name	<input type="text"/>	Surname	<input type="text"/>
Position	<input type="text"/>				
Council/Organisation	<input type="text"/>				
Address	<input type="text"/>				
Suburb	<input type="text"/>	State	<input type="text"/>	Postcode	<input type="text"/>
Phone	<input type="text"/>	Fax	<input type="text"/>	Mobile	<input type="text"/>
Delegates Email	<input type="text"/>				

This email will be used to send your confirmation letter to you and any event updates

Name for Badge

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Special Requirements eg Diet



Please Specify

Association	Search	ALCOA Notes

☐☐

Registration Fees

----Select Registration Type----

----Select Registration Type----

0

----Select Accompanying Partners Registration Fees----

-----Select Accompanying Partners Registration Fees-----

0

Title

11/11/2016

First Name

Last Name

Partners Special Requirements eg diet[illegible]

State of the Regions Report - On-line License Purchase

You may purchase either of the following licenses

Single License: Single user access to the on-line version **\$250.00**

Organisational License: Access to the online version for unlimited number of users within a single council, library, educational institution, government department or Organisation **\$700.00**

--- Select which license you would like to purchase ---

Total

0

Social Functions Included in Fees

One ticket to each of the following functions is included in the full National General Assembly Registration and/or accompanying partners registration fee. Please confirm if you will be attending by selecting the appropriate boxes. To purchase additional tickets to any of the functions please indicate the number required.

REGISTERED DELEGATES AND PARTNERS: Welcome Reception, Monday 14 June

I/we will attend ☐ Delegate ☐ Partner Number of Additional Tickets @ \$44.00 each

Total

0

REGISTERED PARTNERS: Tour 1, Tuesday 15 June

I/we will attend ☐ N/A Delegate ☐ Partner Number of Additional Tickets @ \$100.00 each

Total

0

REGISTERED PARTNERS: Tour 2, Wednesday 16 June

I/we will attend ☐ N/A Delegate ☐ Partner Number of Additional Tickets @ \$100.00 each

Total

0

Optional Social Functions (additional fee applies)

Tickets to these functions are **not included** in the National General Assembly registration fee or accompanying partners registration fee. To purchase tickets to any of the following functions please indicate the number required.

NGA Dinner at Parliament House, Tuesday 15 JUNE

Number of Tickets required @ \$120.00 each

Total

0

Buffet Dinner, Wednesday 16 JUNE

Number of Tickets required @ \$90.00 each

Total

0

GRAND TOTAL

0

Registration and Social Function Payment Details

- ☐ I am forwarding a cheque made payable to ALGA
- ☐ Please issue an invoice (Invoices are automatically issued on receipt of registrations)
- ☐ I have transacted an Electronic Funds Transfer to the ALGA Conference Account. **Transaction reference number**
ALGA Account: **Bank:** Commonwealth **Branch:** Curtin **BSB No:** 062 905 **Account No:** 10097760.
NOTE This account is specifically for conference payments ONLY

- ☐ Please charge my credit card the total noted above ☐ MasterCard ☐ VISA ☐ American Express Expiry Date
- Card Number Card Signatories Name

NOTE: Credit cards are not automatically charged when you submit this form. Cards are processed within 5 working days of submission.

ACCOUNTS CONTACT

If you would like a copy of your invoice sent directly to your accounts section please provide an email and contact name below.

Accounts Contact: Title First Name Surname

Accounts Email

**IF YOU DO NOT REQUIRE ACCOMMODATION
PROCEED TO THE SUBMIT BUTTON AT THE BOTTOM OF THE PAGE**







Accommodation

To book your accommodation at the rates listed below complete this section of the registration form. Bookings are subject to availability and should be made prior to 21 May 2009. All cancellations or amendments must be made in writing to Conference Co-ordinators and will be acknowledged by facsimile. Please note your credit card details are required to guarantee your room. Neither Conference Co-ordinators nor the hotel will make any charges against your credit card unless you fail to give 21 days notice in writing of your cancellation. Full payment of your account will be required at the time of your departure.

CROWNE PLAZA Hotel Information

SUPERIOR ROOM	\$280 per night	 Single	 Twin	 Double
DELUXE ROOM	\$320 per night	 Single	 Twin	 Double







WALDORF APARTMENTS Hotel Information

STUDIO	\$230 per night	 Single	 Twin	 Double
1 BEDROOM APARTMENT	\$250 per night	 Single	 Twin	 Double

NOVOTEL Hotel Information

STANDARD ROOM	\$250 per night	 Single	 Twin	 Double
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MEDINA JAMES COURT Hotel Information

1 BEDROOM APARTMENT \$160 per night	\$320 per night	 Single	 Twin	 Double
2 BEDROOM APARTMENT \$201 per night	\$320 per night	 Single	 Twin	 Double

RYDGES LAKESIDE Hotel Information

STANDARD ROOM	\$209 per night	 Single	 Twin	 Double
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HOTEL REALM Hotel Information

STANDARD ROOM	\$245 per night	 Single	 Twin	 Double
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DIAMANT HOTEL Hotel Information

STANDARD ROOM	\$200 per night	 Single	 Twin	 Double
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Please indicate your second and third choices of accommodation below should your first choice not be available.

2nd Choice

3rd Choice

Date of Arrival

 (dd/mm/yy)

Date of Departure

 (dd/mm/yy)

Estimated Time of Arrival

Sharing with (if applicable)

Special Requirements

☐

I understand that neither Conference Co-ordinators or the hotel will make any charges against my card unless I fail to give at least 21 days notice in writing of my cancellation. Cancellations or reductions to your booking made less than 21 days prior to your arrival will require payment in full unless the room(s) can be resold. Full payment of the account will be required at the time of departure.

Accommodation Credit Card Guarantee Details

☐ Please use the credit card details provided above (to pay for my registration) to guarantee my accommodation

OR Please use the following credit card to guarantee my room ☐ MasterCard ☐ VISA ☐ American Express Expiry

Card Number Card Signatories Name

Cancellation Policy

☐ I understand that by submitting this registration form I agree to the terms of the cancellation policy. [Click here to view the cancellation policy.](#)

Print Form

Submit Form

Reset Form

If your submission is successful a page will display that thanks you for your registration and provides further details. **If the Thank-you page does not display** contact Conference Co-ordinators on +61 2 6292 9000 or email nga@confco.com.au

INVESTMENT REPORT AS AT 28 FEBRUARY 2010

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council investment allocations and returns on investments for February 2010.

BACKGROUND:

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2005 and Council's Investment Policy which was adopted by Council on 28 August 2007.

COMMENTS:

The Reserve Bank of Australia (RBA) retained the official cash rate at 3.75% in February 2010. Subsequent to this reporting period, the RBA increased the official cash rate to 4.00% in March 2010.

RECOMMENDATION:

That the summary of investments and performance for February be received and noted. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

PURPOSE OF REPORT

To present to Council investment allocations and returns on investments for February 2010.

BACKGROUND

Council's investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2005 and Council's Investment Policy which was adopted by Council on 28 August 2007.

COMMENTS

During the month of February, Council had a net cash inflow of \$2,177,895 and a net investment gain (interest and capital) of \$395,340.

Council's total investment portfolio at the end of February 2010 is \$82,251,707. This compares to an opening balance of \$75,066,501 as at 1 July 2009, an increase of \$7,185,206.

Implications and recommendations of the Cole report

As previously reported to Council, in April 2008 the Department of Local Government (DLG) issued Circular 08-10 'Council Invested Funds and the Cole Inquiry Report', which advised that the report by Michael Cole on a review of NSW Local Government investments had been released. The Circular summarised the recommendations contained within the report and the implementation process for those recommendations that the DLG was undertaking.

A new Ministerial Order dated 31 July 2008 has been legislated. Draft investment policy guidelines for consultation were released by the DLG on 25 May 2009 (Circular No. 09-20).

On 13 October 2009, Council resolved to appoint Denison Financial Advisory Pty Limited as its new investment advisor and they commenced on 1 December 2009. A Councillor briefing session was held on 23 February 2010, with Council's investment advisors attending, to discuss a revised investment strategy and policy.

PERFORMANCE MEASUREMENT

Council's investment portfolio is monitored and assessed based on the following criteria:

- **Management of General Fund Bank Balance**

The aim is to keep the general fund bank balance as low as possible and hence maximise the amount invested on a daily basis.

- **Funds Performance against the UBS Bank Bill Index**

This measures the annualised yield (net of fees and charges) for Council's portfolio. The weighted average return for the total portfolio of funds is compared to the industry benchmark of the UBS Bank Bill Index.

Item 2

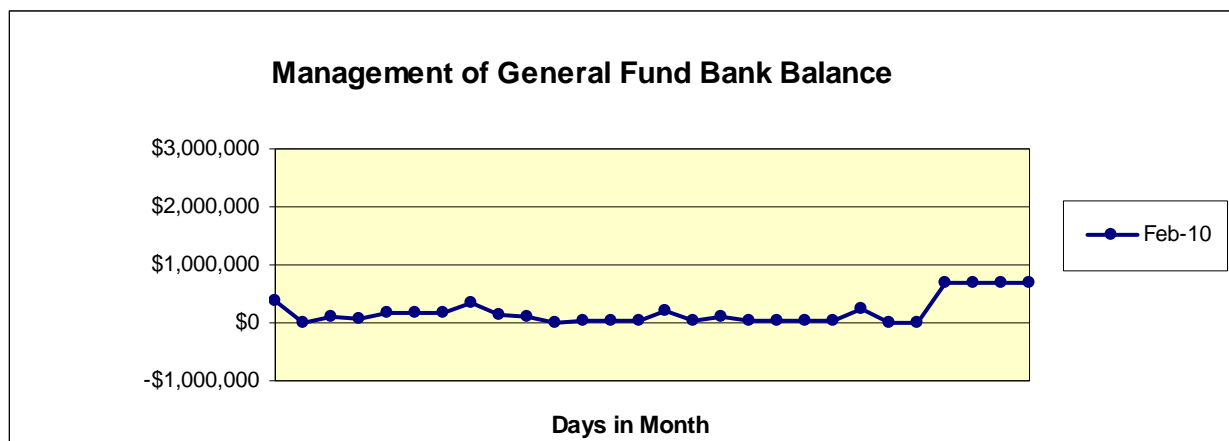
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9 March 2010

- **Allocation of Surplus Funds**

This represents the mix or allocation of surplus funds in appropriate investments that maximise returns and minimise risk.

Management of General Fund Bank Balance

During February Council had a net inflow of funds of \$ 2,177,895.

**Investment Portfolio**

Council's investment portfolio consists of the following types of investments:

1. Floating Rate Notes (FRN)

FRNs are a contractual obligation whereby the issuer has an obligation to pay the investor an interest coupon payment which is based on a margin above bank bill. The risk to the investor is the ability of the issuer to meet the obligation.

The following investments are classified as FRNs

ANZ sub-debt AA-	purchased 18/12/07 at discount
ANZ sub-debt AA-	purchased 20/12/07 at discount
Bendigo Bank BBB	purchased 9/11/07 at par
ANZ sub-debt AA-	purchased 17/1/08 at par
HSBC Bank AA-	purchased 14/3/08 at par
BOQ senior-debt BBB+	purchased 08/09/08 at discount
Phoenix Notes A (downgraded from AA+ by S&P)	purchased 31/07/07 at par
St. George Bank FRN AA	purchased 11/09/09 at discount
ING Bank Australia FRN A+	purchased 14/09/09 at discount

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With the exception of Phoenix Notes, these FRNs are all sub-debt or senior debt which means that they are guaranteed by the bank that issues them with sub-debt notes rated a notch lower than the bank itself. The reason for this is that the hierarchy for payments of debt in event of default is:

1. Term Deposits
2. Senior Debt
3. Subordinated Debt
4. Hybrids
5. Preference shares
6. Equity holders

In the case of default, the purchaser of subordinated debt is not paid until the senior debt holders are paid in full. Subordinated debt is therefore more risky than senior debt.

These types of investment are classified as Held to Maturity assets and they are therefore measured at amortised cost using the effective interest method in accordance with AASB 139: Financial Instruments: Recognition and Measurement.

In terms of reporting, these investments are shown at their purchase price which is then adjusted up or down each month in accordance with the amortisation of the discount or premium. The effect of this is to show the investment at face value at maturity.

2. Fixed Interest Notes, Term Deposits, Transferable Deposits and Bonds

Fixed interest notes and term deposits pay a fixed amount of interest on a regular basis until their maturity date. The following investments are held by Council:

Westpac Fixed sub-debt AA-	purchased 25/02/08 at discount
Investec Bank Term Deposit BBB	purchased 03/09/08 at par
St George Bank Term Deposit (11 Months) AA	purchased 02/09/09 at par
National Australia Bank Term Deposit (11 months) AA	purchased 02/09/09 at par
National Australia Bank Term Deposit (6 Months) AA	purchased 15/09/09 at par
Westpac Term Deposit (1 Year) AA	purchased 03/12/09 at par
National Australia Bank Term Deposit (1 Year) AA	purchased 04/12/09 at par
Westpac Bank Term Deposit (5 Year) AA	purchased 12/01/10 at par
St George Bank Term Deposit (3 Year) AA	purchased 18/02/10 at par

As with FRNs, these investments are shown at purchase price with the discount or premium amortised over the period to maturity.

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Council has one fixed interest deposit:

Bendigo Bank BBB+	purchased 27/02/09 and held at par
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A Transferable Certificate of Deposit is a bank deposit (ie fixed interest) that may be transferred from one party to another. Council has three transferable deposits.

ANZ Transferable Deposits AA-	purchased 22/04/08 at par
Deutsche Bank Transferable Certificates of Deposit A+	purchased 04/09/09 at discount
Commonwealth Bank Transferable Certificates of Deposit AA	purchased 11/09/09 at premium

A bank bond is a debt security, in which the authorised bank owes the holders a debt and is obliged to repay the principal and interest (the coupon) at a later date, termed maturity.

The revised Ministerial Investment Order dated 31 July 2008 section (d) states that councils may invest in "bonds issued by an authorised deposit-taking institution (as defined in the Banking Act 1959), but excluding subordinated debt obligations".

Council has two fixed rate bank bonds with senior debt obligations:

BOQ Bank Bond BBB+	purchased 04/09/08 at discount
Suncorp Metway Bank Bond A+	purchased 04/09/08 at premium

3. Collateralised Debt Obligations (CDO)

The following investments are classified as CDOs:

Titanium A+ (downgraded from AAA by S&P)	purchased at discount
Maple Hill 11 CCC- (downgraded from AA by S&P)	purchased at par
Oasis Portfolio Note CCC- (downgraded from AAA by S&P)	purchased at par

(Please refer to Comments on Individual Investment Performance section for details)

A CDO is a structured financial product whose returns are linked to the performance of a portfolio of debt obligations. It is split into tranches, whereby the riskiest or lowest tranche, the "equity tranche", receives the highest returns. Higher rated tranches offer protection against the risk of capital loss, but at proportionately diminishing returns.

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These investments are also classified as held to maturity assets and are therefore measured at amortised cost using the effective interest method in accordance with AASB 139: Financial Instruments: Recognition and Measurement. These investments are reported in the same manner as FRNs.

4. Constant Proportion Debt Obligations (CPDO)

The following investment is classified as a CPDO:

ABN AMRO CPDO PP AA-	purchased at par
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This is an investment whose returns were based on trading credit default swap (CDS) contracts. A CDS is a contract between two parties where one agrees to accept the risk that a company will default on its loan repayment obligations in return for payment of a fee. Only contracts on investment grade organisations in the CDX (US) and ITraxx (Europe) indices are permissible. The risk to Council was that if enough of the companies default on their loan payment obligations, Council's regular payments of interest may be reduced or cease. On 3 March 2009 this occurred resulting in a cash-out event meaning no more coupon payments will be made on this investment until maturity in September 2016. Opportunities are being investigated to trade out of the note and re-invest in a higher yielding asset. It should be stressed that the return of principal is guaranteed by ABN AMRO bank (rated AA-).

5. Growth Investments

Investments that have been purchased on the basis of an anticipated growth in asset value rather than returns being based on an interest coupon have been classified as Growth Investments. The following investments are included in this category:

- Longreach CPWF AAA
- Longreach STIRM A+ (downgraded from AA- by S&P)
- Longreach s26 Property A+ (downgraded from AA by S&P)
- KRGC TCorp LTGF unrated

These investments are valued at fair value where the capital gain is credited to the Income Statement and a capital loss is debited to the Income Statement. All of these investments except the KRGC TCorp LTGF are principal guaranteed. The value shown in the monthly investment report is based on the redeemable Net Asset Value (NAV). The NAV is the total current market value of all securities plus interest or dividends received to date. This is the price or value of the investment at the time of preparing the report. Although the investments are principal guaranteed, reports are based on the NAV even when it falls below the par value.

The principal is guaranteed by the investment issuer monitoring the net asset value and selling the investments if the NAV falls below the level where a risk free investment will return the principal at the maturity date. Thus the worst case scenario, provided that the issuer remains solvent, for these investments is that overall return will be returns received to date plus return of principal at maturity date and no further interest payments for the remaining period. An exception to this is the Longreach CPWF product, where the principal is guaranteed as well as a 2% semi annual coupon.

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While accounting and reporting for these investments is in accordance with the above, the following information is provided for each:

Longreach CPWF: This investment pays a guaranteed 2% coupon semi-annually and is principal guaranteed by Rabobank who are rated AAA. Actual returns depend upon growth of the investment. The worst case performance scenario is a 2% coupon and principal returned at maturity.

Longreach STIRM: This investment pays a fixed coupon of 2.5% and a floating coupon of 125% of the quarterly performance. A cap is applied to the total coupon at BBSW+25bps with any additional income going into the NAV. The worst case performance scenario is no coupon is paid due to 100% of investors' funds being redeemed from the STIRM strategy and invested in a discount security to guarantee principal is returned at maturity.

Longreach Global Property: This investment pays a fixed coupon of 7% pa payable semi annually. This coupon is contingent on 100% of funds being invested in the Global Property basket. The worst case performance scenario is no coupon is paid and 100% is redeemed from the Global Property basket and invested in a discount security to guarantee principal is returned at maturity.

KRGC TCorp LTGF NSW Treasury Corporation: This is a fund managed by the NSW Treasury Corporation which invests in a range of Australian shares 31%, international shares 31%, bonds, listed property and cash 38%. The return is based on the fund's unit price at month end supplied by the fund. There is no principal guarantee with this fund and it is unrated.

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Funds Performance against the UBS Bank Bill Index

Issuer	Investment Name	Investment Rating	Invested @ 28th February 2010 \$'000's	Period Return (%)	Annualised YTD Return (%)	Performance Since purchase/inception (%)	% of Total Invested	Valuation M=Mark to Market H=Hold to Maturity	Maturity
Working Capital (0-3 Months)									
BlackRock Investment	BlackRock Diversified Credit	A	1,446	0.78	6.82	*	1.76	M	0-3 mths
Westpac Bank	Council Westpac Business Cheque Plus Account	AA	3,507	0.30	3.32	*	4.26	M	0-3 mths
Short Term (3-12 mths)									
National Australia Bank	National Australia Bank 6 Months Term Deposit	AA	4,000	0.39	4.75	*	4.86	M	3-12 mths
St. George Bank	St. George Bank 11 Months Term Deposit	AA	3,000	0.42	5.20	*	3.65	M	3-12 mths
National Australia Bank	National Australia Bank 11 Months Term Deposit	AA	3,000	0.42	5.20	*	3.65	M	3-12 mths
Westpac Bank	Westpac Bank 1 Year Term Deposit	AA	2,500	0.55	6.80	*	3.04	M	3-12 mths
National Australia Bank	National Australia Bank 1 Year Term Deposit	AA	2,500	0.55	6.80	*	3.04	M	3-12 mths
Bendigo Bank	Bendigo Bank Term Deposit	BBB+	500	0.32	3.90	4.23	0.61	H	3-12 mths
Select Access Investments	Titanium AAA	A+	2,000	0.41	4.51	6.82	2.43	H	3-12 mths
Bank of Queensland	Bank of Queensland Bond	BBB+	1,974	0.67	8.30	8.29	2.40	H	3-12 mths
Bank of Queensland	Bank of Queensland FRN	BBB+	1,987	0.44	4.93	5.57	2.41	H	3-12 mths
ING Bank Australia	ING Bank Australia FRN	A+	995	0.40	4.48	4.48	1.21	H	3-12 mths
Short - Medium Term (1-2 Years)									
Suncorp Metway	Suncorp Metway Bond	A+	2,017	0.65	8.06	8.05	2.45	H	1-2 yrs
Longreach/Rabobank	Longreach CPWF	AAA	2,902	1.82	2.32	-0.96	3.53	M	1-2 yrs
NSW Treasury Corp	KRGC Tcorp LTGF	UNRATED	1,900	1.30	24.49	-1.50	2.31	M	1-2 yrs
St. George Bank	St. George Bank FRN	AA	3,729	0.38	4.36	4.36	4.53	H	1-2 yrs
ABN AMRO/Nomura	Pheonix Notes	A	2,000	0.51	5.71	7.95	2.43	H	1-2 yrs
Medium Term (2-5 Years)									
UBS AG London	Longreach STIRM	A+	1,119	1.72	21.67	3.93	1.36	M	2-5 yrs
ANZ Bank	ANZ Sub FRN	AA-	2,965	0.42	4.66	6.36	3.60	H	2-5 yrs
Westpac Bank	Westpac Subdebt	AA-	956	0.79	9.78	9.78	1.16	H	2-5 yrs
HSBC Australia	HSBC MTN (Medium Term Notes)	AA-	4,000	0.54	5.99	7.65	4.86	H	2-5 yrs
ANZ Bank	ANZ Transferable Deposit	AA-	2,000	0.46	4.95	6.40	2.43	H	2-5 yrs
Investec Bank	Investec Term Deposit	BBB	3,000	0.55	6.21	6.93	3.65	H	2-5 yrs
Commonwealth Bank	Commonwealth Bank TCD FRN	AA	2,029	0.40	4.43	4.43	2.47	H	2-5 yrs
Deutsche Bank	Longreach S26 Prop	A+	790	0.95	6.47	-7.68	0.96	M	2-5 yrs
Deutsche Bank	Deutsche Bank TCD FRN	A+	1,960	0.46	5.19	5.19	2.38	H	2-5 yrs
CBA/Helix Capital Jersey	Oasis Portfolio Note	CCC-	2,000	0.40	4.49	6.77	2.43	H	2-5 yrs
HSBC Bank	Maple Hill 11	CCC-	3,000	0.52	5.86	8.05	3.65	H	2-5 yrs
St. George Bank	St. George Bank 3 Year Term Deposit	AA	3,000	0.57	7.10	*	3.65	M	2-5 yrs
Westpac Bank	Westpac Bank 5 Year Term Deposit	AA	5,000	0.64	8.00	*	6.08	M	2-5 yrs
Long Term (5 Years+)									
Bendigo Bank	Bendigo Bank FRN	BBB	500	0.44	4.89	6.73	0.61	H	5 yrs +
ANZ Bank	ANZ Sub FRN	AA-	2,976	0.43	4.57	6.36	3.62	H	5 yrs +
ANZ Bank	ANZ Subdebt 2018	AA-	1,000	0.45	4.88	6.58	1.22	H	5 yrs +
ABN AMRO Bank London	CPDO PP	AA-	6,000	0.00	0.00	4.41	7.30	H	5 yrs +
TOTAL /WEIGHTED AVERAGE			82,252	6.73	5.63		100		
Matured/Traded Investments - Weighted YTD Average Return (%)					4.23				
Weighted Average Overall Return Year To Date (%)					5.35				
Benchmark Return: UBSWA Bank Bill Index(%)					3.81				
Variance From Benchmark (%)					1.54				

* Cannot be calculated with 100% accuracy

The weighted average return for the total portfolio year to date was 5.35% compared to the benchmark of the UBS Bank Bill Index of 3.81%.

Income Investments and Growth Investments

Since Council's investment policy was changed in August 2006, a wider range of investments has been made involving diversification of the portfolio into different investment types, longer maturities and different markets. Council's investments now include several growth investments,

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where returns are principally derived from growth in the value of capital invested, rather than income payments. These investments can be expected to show higher volatility in price movement on a month to month basis. With the exception of the NSW Treasury Corporation investment, Council has only purchased growth investments which have a capital protection provided by a bank of at least AA ratings. As these investments are long term and not intended to be traded monthly, volatility is of less concern.

Comments on Individual Investment Performance

Longreach CPWF 1-2006: This investment is in property, infrastructure and utilities and was made on 27 September 2006. From inception to the end of February 2010, the investment has returned -0.96% with a 0.6% increase in net asset value for February 2010 and an annualised year to date return of 2.32%.

The Fund's Unit NAV at month end provided to the investment manager by the calculation agent was \$0.9721. This NAV represents a 0.6% increase from previous month end. This valuation represents the price at which a unit holder could have redeemed funds units at month end inclusive of fund ordinary expenses.

The estimated yield of this investment was around 4.54% and Denison Financial Advisory recommended that Council trade out of the note. During February it was sold and a St George Bank 3 Year Term Deposit at 7.10% pa was purchased.

Longreach Series 26 Global Property: This investment was made in June 2007 in a basket of property spread globally across seven geographical areas. Due to the volatility and poor performance of the property market during the current global economic crisis the allocation in the property basket is now zero with 100% of the funds in the discount debt security, and Deutsche Bank has informed Longreach that Series 26 Global Property has completely de-levered. The funds are now notionally invested in a fixed income bond until maturity.

All other aspects of the note are unchanged:

- Capital protection at maturity
- Buy back facility through Deutsche Bank

The current estimated unit price of Series 26 is \$79.27 up from \$78.58 in January. The principal guarantee mechanism means that the note will be matured to \$100.00 in June 2014. As the capital loss on the note has been brought to account through the income statement in accordance with the relevant accounting standards, the note will now provide for a return of approximately 5.59% over the next 4.33 years. In the current market 5.59% is considered a reasonable return. It is recommended at present, to hold on to this investment in the short term, however if opportunities arise to trade out of the note into higher yielding investments they will be considered.

General information on the fund is included in the monthly Noteholder Performance Report attached.

Longreach Series 23 STIRM: This investment is a capital protected note with exposure to a short term interest rate yield enhancement strategy. The redeemable NAV of the notes is estimated at \$112.60 whereas at the end of last month it was \$111.92. An annualised year to date return on the

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investment is estimated at 21.67% and 3.93% since inception. General information on the fund is included in the monthly Noteholder Performance Report **attached**.

NSW Treasury Corporation: The investment was made in October 2006. This is a fund managed by the NSW Treasury Corporation which invests in a range of Australian shares 31%, international shares 31%, bonds, listed property and cash 38%. The fund's annualised return is 24.49% and is -1.50% since purchase.

Blackrock Diversified Credit Fund: In August 2008, Blackrock Investment Management informed Council of its decision to close the Blackrock Diversified Credit Fund. This action was taken due to the Cole Report recommending removal of the option for local councils to invest in managed funds. The fund was specifically created for and targeted towards NSW local councils' requirements. At that time Council had approximately \$9.5M invested in the fund.

Since then, the fund has been slowly winding down by selling its assets; however the illiquidity of markets over the past year has resulted in the wind down taking considerably longer than first anticipated.

In closing down the fund, BlackRock is required to conduct the sell down process in an orderly fashion to achieve the best possible outcome. Whilst liquidity has not improved dramatically, BlackRock has managed to sell down more of the portfolio.

BlackRock is still attempting to sell down the remaining portfolio which is comprised of largely domestic assets. The domestic credit markets are still highly illiquid and BlackRock will liquidate this portfolio at the earliest opportunity being cognisant of getting "reasonable" value for the securities sold. All the securities held within the portfolio will continue to pay coupons and BlackRock sees no further credit impairment of the portfolio.

There was no distribution during February 2010 and the balance of funds remaining in Blackrock was \$1.45M.

ABN AMRO CPDOs PP: This is an investment whose returns were based on trading credit default swap (CDS) contracts. Only contracts on investment grade organisations in the CDX (US) and ITraxx (Europe) indices were permissible. The risk to Council was that if enough of the companies default on their loan payment obligations, Council's regular payments of interest would be reduced or cease. In the event of this occurring (cash-out event), the note reverts to a risk free bond investment to guarantee principal on maturity.

Widening credit spreads since late 2008 meant that a cash-out event occurred and Council was advised of this by ABN AMRO Morgan on 3 March 2009. It needs to be stressed that the total principal is protected, but Council will not be receiving any more coupon payments until maturity in September 2016. Opportunities are currently being investigated to trade out of the note and re-invest in a higher yielding asset.

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CDOs:

As a result of the global financial market crisis and in particular the collapse of Lehman Brothers the following CDO investments have been downgraded as follows:

Maple Hill 11 CCC- (downgraded from AA by S&P)
Oasis Portfolio Note CCC- (downgraded from AAA by S&P)
Titanium A+ (downgraded from AAA by S&P)

The risk of losing principal in a CDO is based on the number of defaults in the portfolio of debt obligations combined with weighting of the entity in the portfolio and the recovery rate of the entities that default. The following information is provided for these three CDOs:

Maple Hill 11

- Losses absorbed: 2.37%
- Losses remaining: 3.37% (partly due to higher initial subordination, as advised by Denison)
- Recovery: Floating
- Portfolio: 139 (unequal weight)
- Credit events to date: 5 (Lehman Brothers, Fannie Mae, Freddie Mac, Idearc & CIT Group)
- Credit events supported: 11.5 average sized, assuming average 33% recovery
- Credit events remaining: 7 average sized, assuming average 33% recovery. The note can withstand 5% of the portfolio defaulting, resulting in 3.3% loss after recovery.

Oasis Portfolio Note

- Losses absorbed: 4.30%
- Losses remaining: For the AAA tranche 1.14%
- Recovery: Fixed Rate at 40%
- Portfolio: 118 reference entities (unequal weight and started with 120)
- Credit events to date: Lehman Brothers, Fannie Mae, Washington Mutual, Kaupthing Bank & CIT Group
- Credit events supported: Variable = 14 minimum sized; 8.5 average weightings; 4 maximum sized
- Credit events remaining: Depends on the weighting of the credit event, maximum size (1.5% exposure) or 2 more minimum size (0.5% exposure). The note can withstand 1.13% of the portfolio defaulting, 2% before recoveries.

As this note has a 40% fixed recovery the default of Fannie Mae had a much larger impact on the note's subordination. Fannie Mae and Kaupthing Bank each represented 1.5% of the references and Lehman Brothers was 1.25%.

Titanium

- Following the release of S&P CDO Evaluator 5.0 (a set of analytical tools that evaluates an entire CDO transaction), Titanium was downgraded from AAA to A+ by S&P on 24 November 2009.
- Losses absorbed: 0.71%
- Remaining losses supported: 6.56%
- Recovery: Floating

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- Portfolio: 125 names (unequal weight)
- Credit Events Supported: 13.6 average sized, assuming 33% recovery
- Credit Events Remaining: 12.2 average sized, assuming 33% recovery
- Credit Events Supported: 18.6 average sized, assuming the higher 51% recovery historically achieved by Deutsche Bank
- Credit Events Remaining: 16.7 average sized, assuming 51% recovery
- Credit events to date: Lear Corp, CIT Group and FGIC Corp.

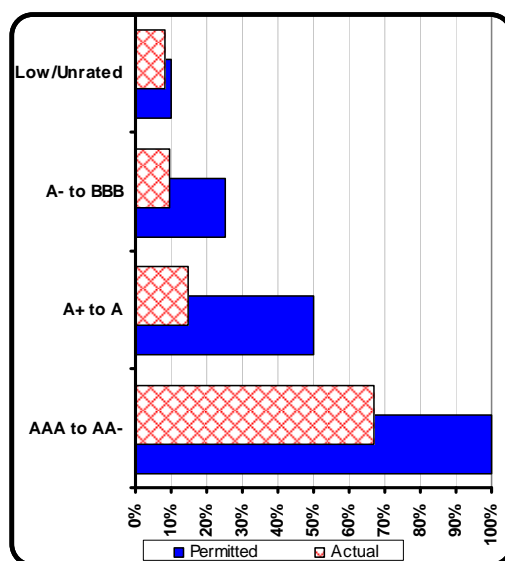
There was one credit event in Titanium during the month of February 2010. As expected, FGIC Corp followed its insurance subsidiary Financial Guaranty into default. It was 0.45% of the Titanium portfolio. Deutsche Bank has provided a preliminary estimate of 5% for the recovery on FGIC, which would reduce credit support by 0.4%, this estimate is used for deriving the figures above. No effect on rating is anticipated at this point.

There were no credit events in the other CDOs during the month of February 2010.

Allocation of funds

The following charts show the allocations of Council's investment funds by the categories shown:

- 1) **Credit Rating:** Actual level of investment compared to proportion permitted by policy.



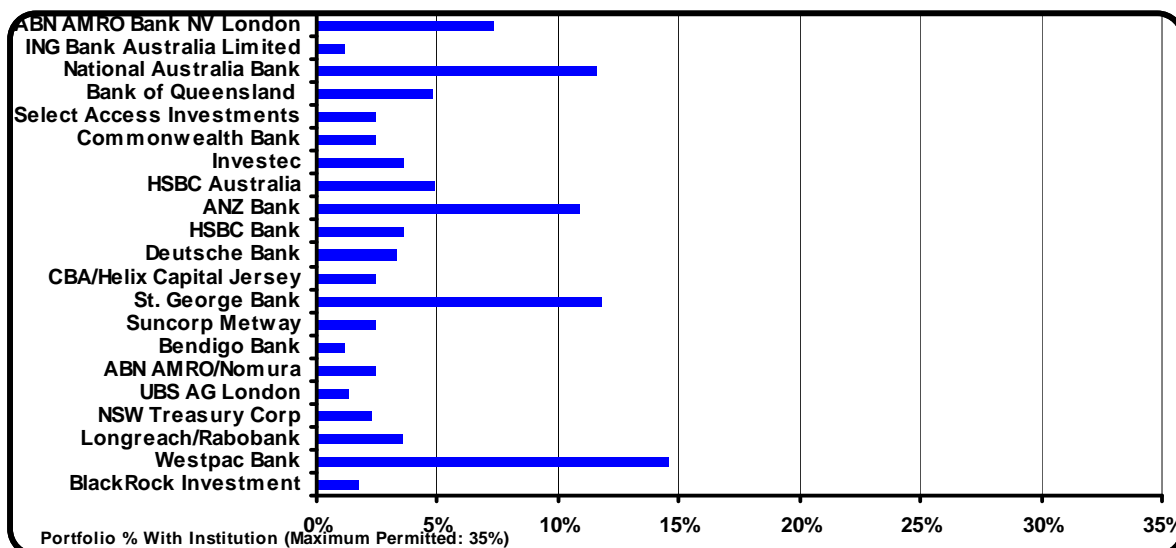
Investment Rating	Proportion
AAA to AA-	66.95%
A+ to A	14.99%
A- to BBB	9.68%
Less than BBB	8.38%

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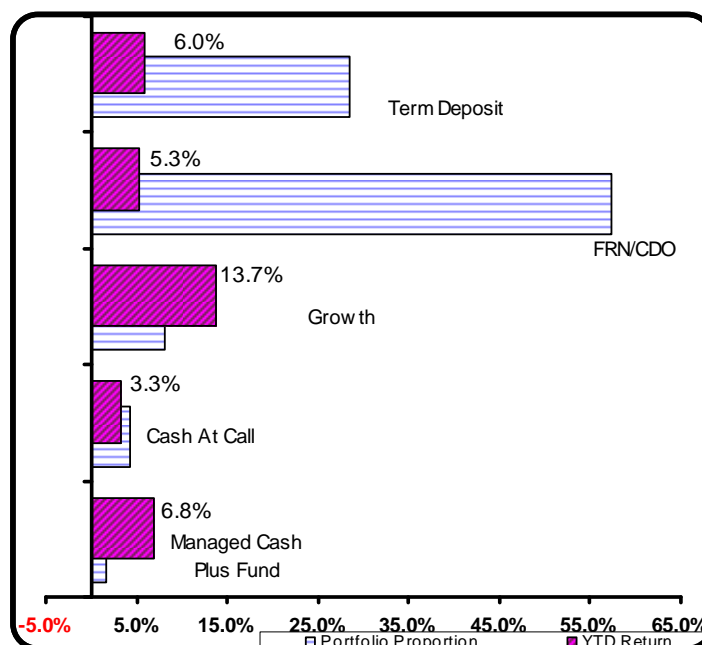
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2) **Proportional Split of Investments by Investment Institution:** Actual portion of investments by investment institutions.

Council's Investment Policy requires that the maximum proportion of its portfolio invested with any individual financial institution is 35%.



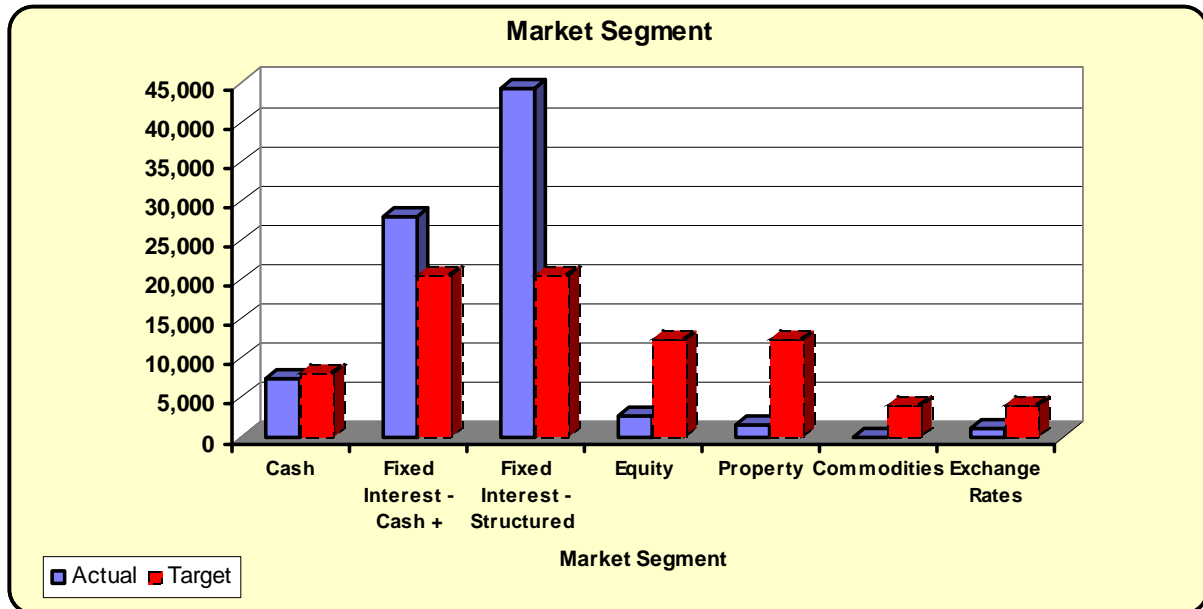
3) **Investment type and YTD return:** Actual proportion of investments by type and year to date return.



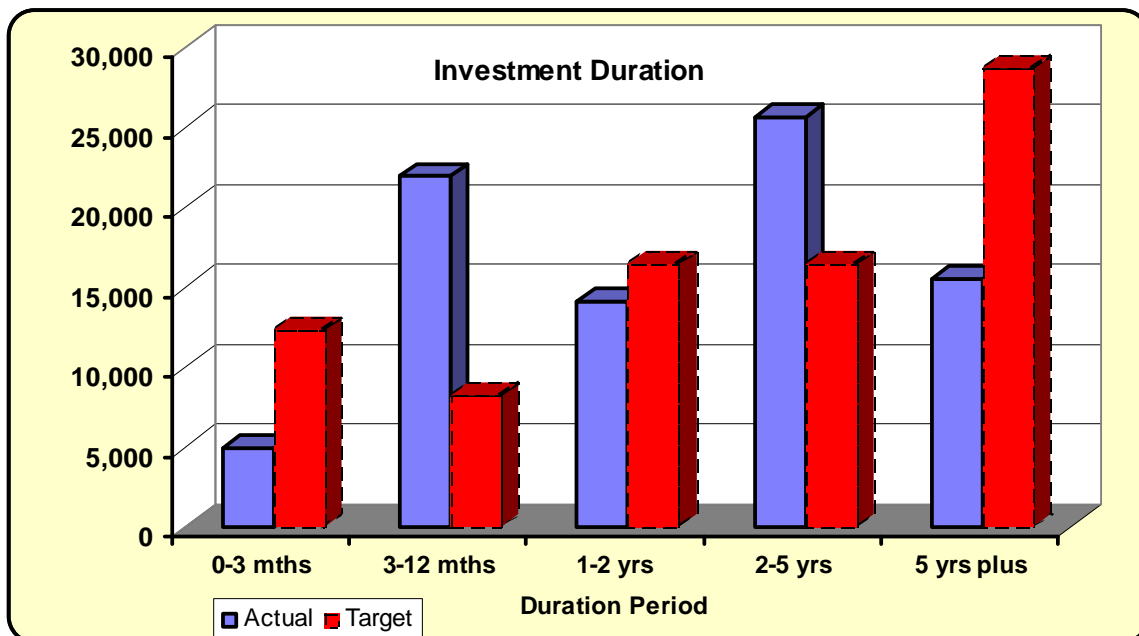
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- 4) **Market Segment:** Strategic allocation of investments by market segment compared to current level.



- 5) **Duration:** Strategic allocation of investments by duration compared to current level.



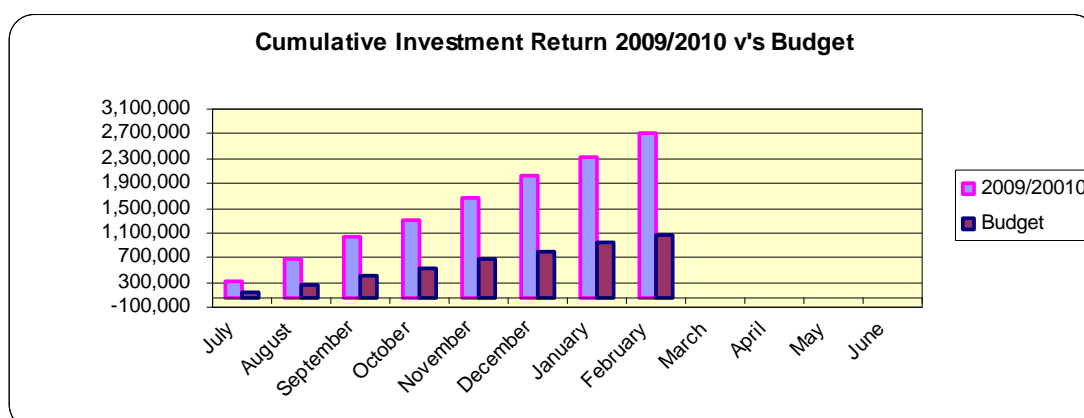
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9 March 2010**Cumulative Investment Return**

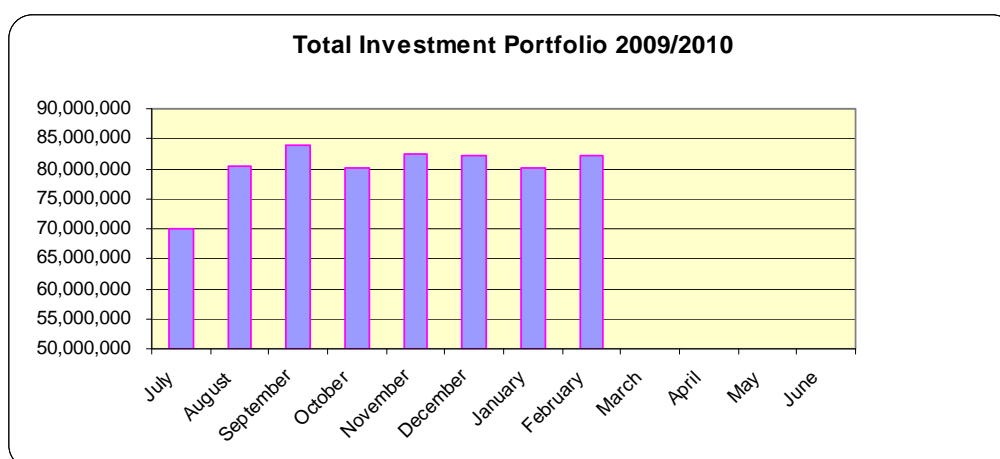
The following table shows Council's total return on investments for February and financial year to date, split into capital and interest components and compared to budget:

\$000's	Month	Financial YTD
Interest	335	4,102
Cap Gain	73	677
Cap Loss	-13	-2,055
Net Return	395	2,724
Budget	135	1,079
Variance	260	1,645

At the end of February 2010, the net return on investments totalled \$2,724,000 against a year to date budget of \$1,079,000 giving a positive variance of \$1,645,000. At the end of February, year to date returns on investments were 5.35% compared to 5.21% in January, an increase of 0.14%.

**Total Investment Portfolio**

The following chart compares the year to date investment portfolio balances for 2009/2010.



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During February 2010 Council's investment portfolio increased by \$2,177,895.

Some key points in relation to investments and associated markets during February are:

International Market

- US Quarter 4 GDP was revised upwards from +5.7% pa to +5.9%, although still dominated by one-offs such as temporary tax investment incentives. Leading economic indicators remain very strong, rebounding +4.8% over the past 6 months.
- Chairman of the US Federal Reserve, Ben Bernanke, gave the first hint that the interest rate cycle is beginning by raising the discount rate for banks borrowing from the Federal Reserve (although not the official rate) by 25bp., However, Federal Reserve commentary continues to reiterate "exceptionally low for an extended period".
- US CPI inflation remains low at +1.6% YoY (Year over Year), near the August 2009 cyclical low of +1.4%. Energy remains the weak link, with oil prices doubling over the year. Some commentators point out that falling house prices depress the CPI without any real effect on the cost of living of existing homeowners, but the price of services is labour-driven and services inflation has also been negative.
- Global stock markets were mixed, Australia up, the Eurozone (but not the rest of Europe) down with Hong Kong and North America especially strong. Portugal, Italy, Greece and Spain were not surprisingly the weakest with falls of 4 to 8%.
- Those high 12 month returns are not limited to the recovering major economies, even the most depressed emerging markets produced a strong rebound. Three-figure returns are found even in such distressed economies as Indonesia, Hungary, Russia, Kazakhstan, Lithuania and Ukraine (after having their power cut off by Russia). Even with these returns, only Indonesia (+19% pa) shows positive 3 year returns.

Domestic Market

- The RBA left cash rates unchanged (3.75%) at its February meeting, they followed through on their promise of being data dependant and were unwilling to tighten when confronted with some material uncertainty.
- There are now some clear signs that the Australian Government is winding up stimulus programmes and moving to tighten fiscal policy through other means such as new taxes. This is consistent with the removal of emergency measures elsewhere in the world.
- Very high wages growth, the AWOTE (Average Weekly Ordinary Time Earnings) rose +5.9% in the year to November 2009.
- Housing finance slumped -4.7% seasonally adjusted in December, possibly due to phasing out of first homeowner subsidies. But approval for new construction is soaring, adding +2.2% seasonally adjusted to be up a massive +53% YoY (Year over Year).
- Seasonally adjusted unemployment fell from 5.5% to 5.3% in January, with 52,700 jobs created.
- Retail trade fell -0.7% seasonally adjusted in December, with the trend at its weakest since October 2008.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The budget for interest on investments for 2009/2010 is \$1,617,800. Of this amount approximately \$1,149,180 is restricted for the benefit of future expenditure relating to developers' contributions, \$468,620 transferred to the internally restricted Infrastructure & Facility Reserve, and the remainder is available for operations.

At the end of February 2010, the net return on investments totalled \$2,724,000 against a year to date budget of \$1,079,000 giving a positive variance of \$1,645,000.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

None undertaken or required.

SUMMARY

As at 28 February 2010:

- Council's total investment portfolio is \$82,251,707. This compares to an opening balance of \$75,066,501 as at 1 July 2009, an increase of \$7,185,206.
- Council's year to date net return on investments (interest and capital) totals \$2,724,000. This compares to the year to date budget of \$1,079,000, giving a positive variance of \$1,645,000.

RECOMMENDATION

- A. That the summary of investments and performance for February 2010 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

Tony Ly
Financial Accounting Officer

Tino Caltabiano
**Manager Finance &
Responsible Accounting Officer**

John Clark
Director Corporate

Attachments: Investments arranged by Longreach Capital Markets and held by Ku-ring-gai Council - Valuation 26 February - 2010/043880

Longreach Global Capital Pty Limited
 ABN: 27 080 373 762
 AFSL: 247 015
 Phone: (02) 9241-1313
 Email: info@longreachcp.com.au

Investments arranged by Longreach Capital Markets and held by
 Ku-ring-gai Council
 Valuation Date 26-Feb-10



Email to: tly@kmc.nsw.gov.au

Capital Protection Status Issue Description	Maturity Date	Issuer Calculation Agent	S+P Rating	Principal Outstanding:	NAV:	Issue Status	Allocation to active asset Class	Comment
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Capital Protection at Maturity

Series 23 5 year Capital Protected Short Term Interest Rate Model (STIRM)	10-Feb-12	UBS AG, London Branch UBS AG, London Branch	A+/Stable	\$1,000,000	112.6000 Hold to Maturity	Exposed to Active asset class	100%	Hold to Maturity NAV. Exit price available upon request
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Series 26 7 year Capital Protected Global Property Basket Linked Note	07-Jun-14	Deutsche Bank AG, London Branch Deutsche Bank AG, London Branch	A+/Stable	\$1,000,000	79.2700 Hold to Maturity	Fully Delevered	n/a	Hold to Maturity NAV. Exit price available upon request
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Important Information

Unless otherwise indicated, the valuations in this report represent the mid point valuations provided by the Calculation Agent and do not take into account any unpaid fees due on the issue or any other costs that the issuer may charge by way of a bid/offer spread to buy back the stock. Redemption prices can be obtained from Longreach Global Capital Pty Limited.

All issues can be redeemed early. Issues identified as Capital Protected At Maturity will be subject to market prices at that time and redemption prices may be below par.

Issues that have been fully delevered will not pay any further interest. Other issues still may pay interest, subject to the issue's terms and conditions. Please refer to issue documentation for more information.

This monthly report has been prepared by Longreach Global Capital Pty Limited (ABN 27 080 373 765, AFSL 247015) exclusively for use by wholesale clients (within the meaning of section 761G of the Corporations Act 2001) of Longreach CP Limited, Longreach Capital Markets Pty Limited and Longreach Global Capital Pty Limited and may not be distributed to external parties without the prior written consent. The report has been prepared solely for informational purposes and includes certain information that has been obtained from independent sources that Longreach considers to be both accurate and reliable. To the maximum extent permitted by law, neither Longreach Capital Markets Pty Limited nor Longreach Global Capital Pty Limited will be liable in any way for any loss or damage suffered by you through use or reliance on this information. Our liability for negligence, breach of contract or contravention of any law, which can not be lawfully excluded, is limited, at our option and to the maximum extent permitted by law, to resupplying this information or any part of it to you, or to paying for the resupply of this information or any part of it to you.

DRAFT UPDATED KU-RING-GAI LOCAL APPROVALS POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To recommend the adoption of the updated draft policy for local approval applications known as the draft Ku-ring-gai Local Approvals Policy.

BACKGROUND:

On 8 December 2009, Council resolved that the draft updated Local Approvals Policy be endorsed for placing on public exhibition.

COMMENTS:

The draft updated policy was publicly exhibited from 1 February 2010 to 1 March 2010.

RECOMMENDATION:

That Council adopt the draft updated Ku-ring-gai Local Approvals Policy.

PURPOSE OF REPORT

To recommend the adoption of the updated draft policy for local approval applications known as the draft Ku-ring-gai Local Approvals Policy.

BACKGROUND

Council adopted its inaugural Local Approvals Policy in August 1995. That policy provided an outline of the matters relevant to obtaining an approval from Council under the Local Government Act 1993 and set the framework for types of activities and circumstances relevant for such applications.

Since its adoption, much of its content has been superseded by legislative changes and latter documents, mainly DCP46 – Exempt & Complying Development and more recently SEPP (Exempt and Complying Codes). Notwithstanding, there are still many applications to Council for approval under Section 68 of the Local Government Act and other miscellaneous provisions which require assessment.

The Department of Local Government investigators at their recent *Promoting Better Practice* review of Ku-ring-gai Council, suggested that Council should update its current Local Approval policy to set an integrated framework for dealing with local activity applications.

On 8 December 2009, Council resolved that the updated draft Local Approvals Policy be endorsed for placing on public exhibition.

COMMENTS

The updated draft Local Approvals Policy was exhibited from 1 February 2010 to 1 March 2010. The policy is attached.

CONSULTATION

Section 160 (1) of the Local Government Act, 1993 requires that public notice of not less than 28 days be given of pending Local Approval Policies.

A public advertisement, advising the community of the draft policy and inviting comment, was placed in the North Shore Times on February 29 January 2010 and Friday 19 February 2010 and the draft policy was available for viewing on Council's website, and at Chambers, during the exhibition period.

No submissions were received from the public during the exhibition period.

FINANCIAL CONSIDERATIONS

The policy will not result in any financial or budgetary changes to adopted programs.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All departments were advised of the draft policy and invited to make comment. Comments were received from Operations Department during the exhibition period in regard to municipal clean up services, however, pursuant to Clause 48 of the Local Government (General) Regulation 2005 municipal clean up services are exempted from the need for approvals.

Comments were also received from Council's Community Services Department, seeking clarification regarding the need for individual stall holder approvals at public events. Stall holders at community events are exempted from the need to obtain individual approvals unless they are selling unpackaged, perishable or potentially hazardous foodstuffs.

SUMMARY

The updated draft Local Approvals Policy has been exhibited in accordance with regulatory requirements, no submissions were received from the community, comments made by internal department managers have been addressed and it is considered that the policy is now ready for adoption.

RECOMMENDATION

That Council adopt the draft updated Ku-ring-gai Local Approvals Policy.

Anne Seaton
Manager Compliance & Regulation

Michael Miocic
Director Development & Regulation

Attachments: Draft updated Ku-ring-gai Local Approvals Policy - 2010/043113



Draft updated

Local Approvals Policy

Development & Regulation Department
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Purpose

This policy has been developed to supplement and facilitate the approvals process by establishing the criteria for approvals required under Clause 68 of the Local Government Act and other miscellaneous activities.

Objectives

The document provides an outline of the matters relevant to obtaining an approval from the Council under the Local Government Act, and sets the framework for types of activities and circumstances relevant for such applications.

General aims of the policy

The policy aims to;

- promote an integrated framework for dealing with applications for approval
- ensure consistency and fairness in the manner in which Council deals with applications for approval
- encourage and assist effective participation of local communities in decision making
- make Council's policies and requirements for approvals readily accessible and intelligible to the public
- assist Council to fully pursue its charter under section 8 of the Act;
- apply common or consistent requirements and procedures to all types of approvals
- establish a system of community participation which can effectively resolve disputes and conflicts as they arise

Where the policy applies

The policy applies to all land within the Ku-ring-gai local government area.

The types of approvals to which the policy applies

The policy applies to approvals for activities listed in the Table to section 68 of the Local Government Act 1993.

Under Section 68, Approval by Council is required for the following activities:

Part A Structures or places of public entertainment	
1	Install a manufactured home, moveable dwelling or associated structure on land
2, 3	(Repealed)
Part B Water supply, sewerage and stormwater drainage work	
1	Carry out water supply work
2	Draw water from a council water supply or a standpipe or sell water so drawn
3	Install, alter, disconnect or remove a meter connected to a service pipe
4	Carry out sewerage work
5	Carry out stormwater drainage work

6	Connect a private drain or sewer with a public drain or sewer under the control of a council or with a drain or sewer which connects with such a public drain or sewer
Part C Management of waste	
1	For fee or reward, transport waste over or under a public place
2	Place waste in a public place
3	Place a waste storage container in a public place
4	Dispose of waste into a sewer of the council
5	Install, construct or alter a waste treatment device or a human waste storage facility or a drain connected to any such device or facility
6	Operate a system of sewage management (within the meaning of section 68A)
Part D Community land	
1	Engage in a trade or business
2	Direct or procure a theatrical, musical or other entertainment for the public
3	Construct a temporary enclosure for the purpose of entertainment
4	For fee or reward, play a musical instrument or sing
5	Set up, operate or use a loudspeaker or sound amplifying device
6	Deliver a public address or hold a religious service or public meeting
Part E Public roads	
1	Swing or hoist goods across or over any part of a public road by means of a lift, hoist or tackle projecting over the footway
2	Expose or allow to be exposed (whether for sale or otherwise) any article in or on or so as to overhang any part of the road or outside a shop window or doorway abutting the road, or hang an article beneath an awning over the road
3	(Repealed)
Part F Other activities	
1	Operate a public car park
2	Operate a caravan park or camping ground
3	Operate a manufactured home estate
4	Install a domestic oil or solid fuel heating appliance, other than a portable appliance
5	Install or operate amusement devices
6	(Repealed)
7	Use a standing vehicle or any article for the purpose of selling any article in a public place
8, 9	(Repealed)
10	Carry out an activity prescribed by the regulations or an activity of a class or description prescribed by the regulations

Definitions

Expressions used in this policy are defined in the Dictionary as contained within the Local Government Act 1993

Other relevant documents

The following documents are related, either directly or indirectly to this policy;

- Local Government Act 1993
- Ku-ring-gai Development Control Plan 46 (Exempt & Complying Development)
- Ku-ring-gai Development Control Plan – 28 (Advertising Signs)
- Ku-ring-gai Development Control Plan – 47 (Water Management)

- State Environmental Planning Policy (Exempt & Complying Development Codes) 2008
- Local Government (manufactured home estates, caravan parks, camping grounds and moveable dwellings) Regulation 2005
- Local Government (General) Regulation 2005
- Ku-ring-gai Traffic and Transport Policy, March 2009

Copies of all relevant legislation may be found at <http://www.legislation.nsw.gov.au>

Copies of Ku-ring-gai's Development Control Plans may be found at <http://www.kmc.nsw.gov.au>

PART 1 EXEMPTIONS FROM THE NEED TO OBTAIN APPROVAL

This part specifies those activities which may be undertaken without obtaining the separate approval of Council. The exemptions apply to those activities which are of a minor or common nature and which have comparatively minimal impact. This does not, however, prevent a person applying for approval to carry out an exempted activity specified in this part.

It is a condition of exemption that the person carrying out an activity specified in this part must comply with:

- I. The relevant exemption circumstances / requirements listed in the exemption table and
- II. The relevant performance standards prescribed in the Building Code of Australia or relevant Australian Standard.

The exemption provisions do not apply to buildings or structures proposed to be erected over an existing easement or sewer main.

Notes

The exemptions do not relate to Development Applications or consents required under any other legislation.

Should any doubt exist as to whether a particular activity requires approval, consultation should be arranged with Council officers prior to work commencing.

Exempted activities

In relation to exempted activities, a person must give due consideration to the following:

- The amenity of adjoining land owners
- The location of a structure related to site boundaries, sewers, easements, right-of-ways, other structure, etc.
- The provision of adequate drainage
- Any potential fire risks
- Avoiding creating a harbourage for vermin
- Structural stability
- External finishes

Limit of activities carried out by exemption

If subsequent activities involve an increase over and above the exemption circumstances shown in the exemption table, then approval will be required for the further activity. For example, if a tent/ marquee of up to 100 sq. metres is erected for a period of one week, and an extension in time to allow the period to stand for 3 weeks is sought, this would require approval as the time period exceeds the limits of the exempted activities criteria.

Areas in which exemptions apply

The exemptions listed in the Exemptions Table apply to all land within the Ku-ring-gai area.

EXEMPTIONS TABLE		
Type of activity	Exemption circumstances/ requirements	Advisory Note
Install a manufactured home, moveable dwelling or associated structure on land	<ul style="list-style-type: none">• The structure is not located on public land except where the provisions of Clause 74 of Local Government Regulation 2005 takes precedence.• The structure is not occupied for more than 30 days in one 12 month period.• When occupied, all liquid waste shall be drained to a public sewer main or Council approved sewage treatment system.• When occupied the structure is located a minimum of 2 metres from any side or rear property boundary.• Storm waters shall be collected and diverted from any neighbouring property so as not to cause nuisance.	Consideration should be given to location, having regard to the amenity of adjoining occupants.
Carry out water supply or sewage works	Prior to works commencing all work must be approved by Sydney Water or their nominee	Sydney Water is the approval authority within the Ku-ring-gai area
Carry out stormwater drainage work	<ul style="list-style-type: none">• Repairs to existing systems.• Work required in association with development consent.	Should repair work be required on Council land, consultation with Council officers should be undertaken prior to works commencing.
For fee or reward, transport waste over or under a public place	The transporting of waste over or under a public place for fee or reward if: the activity is licensed under the <u>Protection of the Environment</u>	Clause 48 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.

	<p><u>Operations Act 1997</u>, or</p> <p>(ii) the activity is being carried out in the Sydney metropolitan area as defined in Part 3 (Interpretative provisions) of Schedule 1 to that Act, or</p> <p>the waste is being transported through the area of the council and is not being collected or deposited in that area.</p> <p>Note. A person who transports waste for fee or reward in circumstances that do not require a pollution control licence issued by the Environment Protection Authority must comply with the relevant requirements of the Regulations made under the <u>Protection of the Environment Operations Act 1997</u></p>	
Place waste in a public place	If it is done in accordance with arrangements instituted by council via service arrangements to individual properties or by way of public litter control and deposits of litter or dog wastes in specialty provided bins.	<p>Clause 48 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.</p> <p>Protection of Environment Operations Act regulatory and compliance provisions must be observed.</p>
Install a clothing recycling bin	Bins are located only within a building and no interference with required exits, paths of travel and fire fighting services.	This exemption does not apply to car park buildings.
Engage in a trade or business on community land	<ul style="list-style-type: none"> ▪ Activity is by a non-profit community based organisation. ▪ The activity occurs in specialty designated areas as determined by Council from time to time or in conjunction with a community event such as St Ives Show, Festival on the Green, Dog day Out, Australia Day etc ▪ The activity does not involved the sale of unpackaged and potentially hazardous food. Note: Seek advice from Council's Environmental Health Officers. 	<ul style="list-style-type: none"> • The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken. • Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken, under the provision of this exemption. • If food is being sold the "food business" may need to notify the NSW Food Authority of their details.

Direct or procure a theatrical, musical or other entertainment for the public on community land	<p>If the entertainment is associated with a current development consent or existing use of public lands.</p> <p>The activity occurs in conjunction with a community event such as St Ives Show, Festival on the Green, Dog day Out, Australia day etc Activity is by a non-profit community based organisation.</p> <p>The activity does not clash with any other previously booked event on the same land.</p>	<ul style="list-style-type: none"> • If the event contains fireworks appropriate permission must be gained from Work Cover NSW, and local fire authority to be notified of the event by the organiser. • The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken. • Council accepts no liability for any injury or damage associated with any activity undertaken , or purportedly undertaken , under the provision of this exemption.
For fee or reward, play a musical instrument or sing on community land	Up to 12 separate performances by any one individual or group may be held in any 12 month period, before a permit is required.	The activity must be held only within pre determined areas. persons should consult with Council prior to the activity. Regulatory staff to be alerted to schedule.
Operate a public car park	<p>A public car park may be operated without the prior approval of the council if approval for its erection or operation has already been given by the council in connection with another approval or development consent and the car park complies with any applicable conditions of that approval or development consent.</p> <p>In this clause, <i>development consent</i> has the same meaning as it has in the <u><i>Environmental Planning and Assessment Act 1979</i></u>.</p>	Clause 66 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.
Construct a temporary enclosure for the purpose of entertainment	If the enclosure is associated with a current development consent or existing use of public lands.	
Set up, operate or use a loudspeaker or sound amplifying device on community land	Use must be associated with a current development consent, license or existing use rights for either land use or activity	Protection of Environment Operations Act regulatory and compliance provisions must be observed.
	A loudspeaker or sound amplifying device may be set up, operated or used on community land without the prior approval of	Clause 49 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed

	the council if it is done in accordance with a notice erected on the land by the council or if it is done in the circumstances specified, in relation to the setting up, operation or use as the case may be.	
Deliver a public address or hold a religious service or public meeting	Use must be associated with a current development consent, or existing use rights for either land use or activity.	Protection of Environment Operations Act regulatory and compliance provisions must be observed.
Install a domestic oil or solid fuel heating appliance, other than a portable appliance	A domestic oil or solid fuel heating appliance (other than a portable appliance) may be installed without the prior approval of the council if details of the appliance are included in plans and specifications for the relevant building approved under Part 4A of the <u>Environmental Planning and Assessment Act 1979</u> .	Clause 70 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed.
Install or operate amusement devices	<p>Amusement devices not required to be registered under the <u>Occupational Health and Safety Regulation 2001</u> may be installed or operated without the prior approval of the council.</p> <p>Note. See the Table to clause 113 of the <u>Occupational Health and Safety Regulation 2001</u> for the items of plant that are required to be registered.</p>	<ul style="list-style-type: none"> • Clause 71 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed. <p>The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.</p>

<p>Install or operate a small amusement device</p>	<p>A small amusement device may be installed or operated without the prior approval of the council if:</p> <ul style="list-style-type: none"> ▪ the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and is not dangerous because of its slope or irregularity or for any other reason, and ▪ the device is registered under the <u>Occupational Health and Safety Regulation 2001</u>, and the device: <ul style="list-style-type: none"> ▪ is to be or has been erected, and ▪ it to be or is being operated, in accordance with all conditions (if any) relating to its erection or operation set out in the current certificate of registration issued for the device under that Regulation, and ▪ there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and ▪ in the case of a device that is to be or is installed in a building, fire egress is not obstructed. 	<ul style="list-style-type: none"> • <i>small amusement device</i> means an amusement device that is designed primarily for the use of children 12 years of age or under and includes such amusement devices as mini-Ferris wheels, battery operated cars and miniature railways but, in the case of rotating amusement devices, includes only those devices that have a maximum rotation of 14 revolutions per minute • Clause 75 Local Government (General) Regulation 2005 provides this exemption for circumstances prescribed • The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken.
<p>Use a standing vehicle or any article for the purpose of selling any article in a public place</p>	<ul style="list-style-type: none"> • The activity is undertaken by non profit community based organisations. • The activity occurs in designated areas as determined by Council from time to time or in conjunction with a community event such as St Ives Show, Festival on the Green, Dog Day Out, Australia Day etc. • If food is being sold, then the "food business" must be registered with the NSW Food Authority. 	<ul style="list-style-type: none"> • The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 that covers the activities involved and the context in which they will be undertaken. • Council accepts no liability for any injury or damage associated with any activity undertaken , or purportedly undertaken , under the provision of this exemption. • If food is being sold the "food business" may need to notify the NSW Food Authority of their details.

PART 2 CRITERIA COUNCIL MUST CONSIDER WHEN DETERMINING APPLICATIONS

General matters for consideration under regulations

The regulations to the Local Government Act 1993 prescribe a number of matters that must be considered by Council when dealing with an activity application, as detailed under the respective headings below.

Consideration criteria – sewage and stormwater drainage activities

Clause 13 of the Local Government (General) Regulation 2005 specifies that Council must not approve an application for an approval allowing sewage or stormwater drainage work to be carried out unless it is satisfied that the activity as proposed will comply with applicable standards as set out in the regulation.

Clause 15 of the Local Government (General) Regulation 2005 specifies that Council must consider the following matters when determining applications for sewage and stormwater drainage approvals:

- (a) the protection and promotion of public health
- (b) the protection of the environment
- (c) the safety of its employees
- (d) the safeguarding of its assets
- (e) any other matter that it considers to be relevant in the circumstances

Part 2 of Schedule 1 of the Local Government (General) Regulation 2005 specifies mandatory standards, including that such works must comply with the New South Wales Code of Practice – Plumbing and Drainage.

Location, size and visibility of building waste storage containers that are notified to the Council from time to time by the Roads Traffic Authority.

Consideration criteria – to discharge waste into sewers; concurrence required

Clause 28 of the Local Government (General) Regulation 2005 specifies that Council must not grant an approval under section 68 of the Act to discharge trade waste into a sewer, unless the Director General of the department concerned has concurred with the approval.

Consideration criteria – Place a building waste container on a road

Clause 27 of the Local Government (General) Regulation 2005 specifies that Council in determining an application for approval to place on a road a building waste storage container, must take into consideration any requirements or guidelines relating to the location, size and visibility of building waste storage containers that are notified to the council from time to time by the Roads and Traffic Authority.

Consideration criteria – applications relating to public roads

Clause 50 of the Local Government (General) Regulation 2005 specifies that Council in determining an application under Part E of the table to section 68 of the Act must take into account:

- 1) the provisions of the Roads Act 1993, and
- 2) any relevant standards and policies of public authorities applying to the use of the road, including Council's Traffic and Transport Policy

Consideration criteria – applications relating to operation of public car parks

Clause 51 of the Local Government (General) Regulation 2005 specifies that Council, in determining an application for approval to operate a public car park, must take into consideration:

- (a) the Roads and Traffic Authority's views about the application
- (b) the effect of the car park on the movement of vehicular traffic and pedestrian traffic
- (c) whether the number of vehicles proposed to be accommodated is appropriate having regard to the size of the car park and the need to provide off-street parking facilities within the car park for the temporary accommodation of vehicles
- (d) whether the means of ingress and egress and means of movement provided or to be provided within the car park are satisfactory
- (e) whether there will be adequate provision for pedestrian safety and access for people with disabilities
- (f) whether the internal design of parking facilities and system of traffic management are satisfactory
- (g) whether, in the case of a car park that is a building, adequate ventilation is provided or to be provided
- (h) the Occupational Health and Safety Act 2000, and the regulations made under that Act, as regards the safety of persons who will be employed at the proposed car park or of persons who will go there
- (i) whether there will be adequate provision for the management of stormwater and the minimisation of stormwater pollution

Consideration criteria – applications relating to approval to install or operate an amusement device.

Clause 72 of the Local Government (General) Regulation 2005 specifies that Council must not grant an application for an approval to install or operate an amusement device unless it is satisfied:

- (a) that the ground or other surface on which the device is to be or has been erected is sufficiently firm to sustain the device while it is in operation and

is not dangerous because of its slope or irregularity or for any other reason, and

- (b) that the device is registered under the Occupational Health and Safety Regulation 2001, and
- (c) that the device is to be or has been erected in accordance with all conditions (if any) relating to its erection set out in the current certificate of registration issued for the device under that Regulation, and
- (d) that there exists for the device a current log book within the meaning of Chapter 5 of that Regulation, and
- (e) that there is in force a contract of insurance or indemnity for the device that complies with clause 74 of the Regulation, which in turn requires a contract of insurance or indemnity that indemnifies to an unlimited extent (or up to an amount of not less than \$10,000,000 in respect of each accident) each person who would be liable for damages for death or personal injury arising out of the operation or use of the device and any total or partial failure or collapse of the device against that liability

Other criteria to be considered– including relevant adopted policies.

Placement of used clothing bins or recycled goods bins on public places.

- 1) Permission may only be granted to bona fide charitable organisations and clothing collected must be sorted and distributed by the charity named on the bin.
- 2) Council approval to locate used clothing bins within Ku-ring-gai is restricted to those organisations that guarantee all clothing proceeds are for welfare services with the clothing collected, sorted and distributed by the charity named on the bin.
- 3) Approval for location of used clothing bins must be obtained prior to the placement of the bin.
- 4) Approval to the location of the used clothing bin must be renewed with Council on an annual basis.
- 5) Council will allow only one bin per location.
- 6) Council will not permit bins to be located on sites where there is an unreasonable impact on the amenity of the area or the streetscape.

Additional criteria to be imposed on the approval if granted should include:

- The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed, that covers the activities involved and the context in which they will be undertaken.

- Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Control and Placement of Building Materials on Footways and Nature Strips Policy

Council will not permit the storage or placement of building materials and the like on a footway, nature strip, mall where such materials can be located on the building site.

Council will not permit the storage of building materials on footways, nature strip, or mall if such placement may endanger the safety of pedestrians or create a hazard to vehicular traffic.

No building materials shall be placed on the footway or nature strip until a permit has been obtained from Council beforehand.

Under no circumstances shall building materials or equipment be stored on road shoulders or carriageway of any street or road.

Should Council grant approval to an application and issue a permit the following conditions and requirements shall be complied with:

- A clear and unobstructed passage, to allow the free flow of pedestrian traffic, at least 1200mm in width shall be provided along the footway or nature strip.
- All materials shall be neatly stacked and secured and all precautions shall be taken to safeguard the public from danger.
- Council may require the placement of barriers and/or hazard warning lights to be set up and maintained around the materials at appropriate locations.
- Council may require that the height or width of accumulation or stacks of materials be reduced should it be considered that a danger to pedestrian or vehicular traffic exists.
- Any person who contravene or does not comply with any of these requirements or any conditions contained within a permit which may be issued by Council may be liable to legal proceedings and a penalty under the Roads Act 1993.
- The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed, that covers the activities involved and the context in which they will be undertaken.
- Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Control and Placement of Waste Containers on Footways, Nature Strips and Roads Policy

- 1) Council will not permit the storage of waste containers or waste trailers on a footway, nature strip, mall or road shoulder where waste containers or waste trailers can be located on private property.
- 2) Council will not permit the storage of waste containers and waste trailers on footways, or road shoulders etc if such placement may endanger the safety of pedestrians or create a hazard to vehicular traffic.
- 3) No waste container or waste trailer shall be placed on the footway, nature strip, mall or road shoulder until a permit has been obtained therefore beforehand.
- 4) Acceptable dimensions for waste containers to be placed on road shoulders or footpaths, footways, nature strips or malls are as follows:

Location	Length	Dimensions (in metres)	
		Width	Height
on road shoulders	3.0 to 5.4	1.5 to 2.5	1.0 to 2.0
on footpaths, nature strips or malls	2.0 to 5.4	1.5 to 2.5	1.0 to 2.0

- 5) Where approved, the placement of a waste container or waste trailer on a road shoulder, footway or mall, shall comply with the following requirements to facilitate the visibility factors:-
 - Two rear marking plates, complying with the requirements which apply to heavy vehicles and trailers described in Paragraph 56A of Schedule F of the Motor Traffic Regulations shall be fitted to the rear panel of the waste container or waste trailer. Such plates shall be fitted as high as possible one on each side of the rear panel, to give approaching vehicles the earliest possible warning of a containers or trailers presence on the road or footpath.
 - The waste container or waste trailer shall be placed in such a position to ensure that marking plates are visible to oncoming traffic.
 - Reflecting tape shall be fixed and displayed on side panels and rear edges of the waste containers or waste trailers. Such reflecting tape shall be at least 15cm wide and extend the full height of the sections indicated.
 - Waste containers or waste trails shall be of bright colours (eg yellow, orange or white) to enable them to be easily discernible particularly during hours of darkness.
 - The name, address and phone number of the owner/supplier of the waste container shall be clearly and permanently marked on the container.
 - Waste containers or waste trailers shall be in good condition and in a clean condition prior to placement.

- 6) The waste container or waste trailer shall be removed from the public place at the first available opportunity. Should a space on the building site become available to accommodate the waste container or waste trailer the applicant/user shall make immediate arrangements and have the container relocated to that space.
- 7) All waste stored in the waste container or waste trailer shall not protrude beyond the panels of the containers.
- 8) All waste containers or waste trailers shall be adequately covered to prevent spillage of contents or litter or debris being windblown from the container.
- 9) No pollutive, hazardous, volatile, or explosive materials shall be placed in the container.
- 10) Any spillages of debris or waste materials around the container or trailer shall be immediately swept up and placed in the container.
- 11) No liquid waste shall be placed in the container.
- 12) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000 or as prescribed, that covers the activities involved and the context in which they will be undertaken.
- 13) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Mobile Food Vending Vehicles

When considering an application for a mobile food vehicle, regard should be given of local established business premises, and affect if any that a mobile vendor would have on the established business.

Where approved, mobile food vehicles, shall comply with the following requirements, as appropriate:

- 1) The vehicle and its operation shall comply with the Food Act and Regulations (as amended), Food Standards Code and the NSW Food Authority's Mobile Food Vending Vehicles Guideline wherever applicable.
- 2) Application shall be made in writing annually for the licensing of the vehicle with Council as an "Approved Mobile Food Vehicle".

- 3) Licensing shall be subject to a satisfactory report by Council's Environmental Health Officer to the effect that the vehicle fully complies with Council's requirements.
- 4) The vehicle shall be presented to Council annually for re-inspection and renewal of the licence.
- 5) The operation of the vehicle within a Public Reserve, Park, Oval or other Council controlled area is not permitted unless the prescribed fee is paid to Council, and the receipt presented to the caretaker of the ground or other authorised officer.

Note: In this regard, proposed entry to a ground may be denied by Council owing to the particular conditions of hire extended to the hirer of the ground.

- 6) Council's current licence shall be kept in the mobile food vehicle at all times.
- 7) The food business must notify the NSW Food Authority of their food activity details.
- 8) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed that covers the activities involved and the context in which they will be undertaken.
- 9) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Works zones

Works zones are to be mandatory for all development sites containing any works greater than a single dwelling house, or works within commercial town centres.

Where approved, works zones, shall comply with the following requirements, as appropriate:

- 1) Works zones are to comply with the provisions of the Australian Road Rules (Rule 181) and the Road Transport (Safety and Traffic Management) (Road Rules) Regulation 1999.
- 2) RTA approval must be obtained if the site is within 50 metres of traffic lights or a main road or if traffic on a State road may be affected.
- 3) A traffic control plan (TCP) will be required to demonstrate how the proposed Works zone will operate and its adequacy. A traffic management

plan (TMP) may be required for proposed closures longer than a few minutes, such as to manoeuvre a vehicle.

- 4] The applicant is responsible for installing and maintaining approved Works zone signs and at the end of the building work, when, when the work zone is no longer required, for reinstating previous signs. Additional fees may be applicable if signs are reinstated by Council.
- 5] Works zones, of a minimum length of 18 metres are required for most sites, for a minimum period of 10 weeks. All applicable fees must be paid prior to approval being granted.
- 6] Adequate traffic control is to be employed during all stages if the work in accordance with Australian Standards and adopted traffic management plans and traffic control plans.
- 7] The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$20,000,000, indemnifying Council, that covers the activities involved and the context in which they will be undertaken.
- 8] Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Temporary road closures

Temporary road closures, for the purpose of occupying part of a road for work related activities, such as cranes and pumps, require approval. Temporary closures are permitted under Section 115, Roads Act, 1993.

A Traffic Management Plan (TMP) will be required to demonstrate how the closure or planned disruption to road users will operate safely and adequately.

Residents must be consulted prior to closures. Any concerns raised must be resolved or accommodated by the applicant. A copy of the consulting correspondence distributed, details of concerns received and how these concerns will be addressed must be forwarded to Council prior to such planned activities.

The applicant must obtain approval from NSW Police.

RTA approval must be obtained if the site is within 50 metres of traffic lights or a main road or if traffic on a State road may be affected.

All applicable fees must be paid prior to approval being granted.

The applicant must maintain a current public liability insurance policy for the amount of \$20,000,000, indemnifying Council in the event of injury to any member of the public.

Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Erection of a hoarding or barricade upon Council land

All construction sites are to be made secure to prevent unauthorised entry, as a minimum, the construction of a securely fixed barricade or Type A Hoarding, shall be erected.

All structures are to be compliant with NSW Work Cover guidelines and appropriate Australian Standards.

With the exception of developments within town centres, the hoarding may be of open cyclone mesh, a minimum of 2 metres in height, with dust prevention measures in place as appropriate.

In commercial areas or town centres, the hoardings shall be constructed of solid timber panels, regular in size, a minimum of 16mm in thickness and 2.0metres in height, securely fixed with no protruding bolts and nails, the panelling fixed flush and evenly.

Solid metal fencing utilised in Type A hoardings may be permitted only when it is new fencing and it is constructed in a continuous form without open connection points or exposed sharp or jagged edges.

The remaining footpath widths shall be 1500mm wide. Lesser distances may be permitted in some instances.

A Type B, overhead protective hoarding shall be erected in the following circumstances:

- Where the proposed building or demolition works are greater than one storey above footpath level, and less than 4 metres from the street alignment;
- Where material is to be hoisted over a public way with a commercial or town centre area.
- Where the height of the building , or the position of the site is such that danger is likely to occur from falling objects; or
- Where officers of Council deem that a hoarding is necessary for the protection of the public.

Where approved, hoardings and barricades, shall comply with the following requirements, as appropriate;

- 1) A safe pedestrian circulation route with a pavement free of trip hazards must be maintained at all times on or adjacent to the footpaths fronting the

construction site.

- 2) The use of the roadway for the storage of building materials is not permitted.
- 3) Where it is proposed to install a gate in the panels of the hoarding the gates shall be constructed to swing inwards only.
- 4) Where any hoarding panel is temporarily removed, the panel must be placed within the boundary of the hoarding.
- 5) Hoardings shall be adequately secured to the site during demolition, excavation or construction work to ensure it does not collapse during adverse weather conditions or because of activities on site.
- 6) The existing footpath levels and gradients shall be maintained at the street alignment of the property.
- 7) Where the site falls towards the street any sediment controls provided shall be installed independent of the hoarding structure.
- 8) The hoarding shall be installed in a manner that does not impede access to utility service pits or hydrants.
- 9) All existing street signs shall be retained. Should parking restrictions be required a separate application shall be made to Council's Traffic Committee.
- 10) No advertising of any kind shall be affixed to the hoarding. Embellishments such as the Builders name and contact details; Principle Certifiers details; and Danger Construction Site Do Not Enter, are acceptable.
- 11) Should a hoarding be erected over a manhole cover, provision shall be made for access to the manhole cover.
- 12) Uprights shall not be inserted into the roadway or footpath but shall be tenoned into sole plates and braced.
- 13) The applicant shall be responsible to undertake repairs of damage occasioned to Council's infrastructure due to the placement of the hoarding.
- 14) Lighting connected to mains power supply is to be provided in Type B Hoardings to ensure the enclosed passageway is well lit for pedestrians and equal to the levels and distribution pattern of the existing street lighting in the area. Where pedestrian hazards associated with the hoarding are present, significantly higher lighting levels are required. All lighting associated with Hoardings must not impact on surrounding traffic.

- 15) In Type B Hoardings the underside of the deck is to be lined and be impenetrable to water. A suitable drainage system is to be provided discharging rainwaters to Council's drainage system or other approved discharge point. The roofs of sheds are to slope inwards to the site or be provided with appropriate drainage. No waters will be permitted to discharge on to a footpath so as to cause a nuisance to pedestrians or to unretained excavated materials
- 16) All site office and work sheds are to be located onsite. Where this is not possible, a Type B Hoarding is to be erected to facilitate this requirement. Sheds placed above Type B Hoardings are to be tied down to the deck by suitable structural fixings and certified by a structural engineer. The Type B Hoarding is to be provided with a boarding material to conceal the office sheds from public vision.
- 17) Upon removal of all hoardings, Council's footpath, roadway and ancillary infrastructure assets such as litter bins, public seating and signage is to be restored fully to its original condition.
- 18) All trees situated on Council's reserve or adjacent to the proposed hoarding are to be identified upon the plans submitted for approval. The design of the hoarding, such as location of posts, counter weights, crossings, overhead decking etc is to ensure impact on these trees is minimised.
- 19) No tree cutting, lopping or removal to enable the construction of the hoarding is permitted without the consent of Council.
- 20) Where impact of trees is identified due to the hoarding, preservation measures will be required depending on the circumstances. Such measures may include the provision of irrigation; tree protection measures and increased natural light through a modified hoarding design.
- 21) Sheds situated above a Type B hoarding are to be provided with at least one stair exit to the ground. For hoardings greater than 30 metres in length, two exits are to be provided. The distance to alternative exits must not be greater than 80 metres. The width of the corridors, passageways or stairs must be at least 750mm. At least one easily accessible portable fire extinguisher must be provided in the site office.
- 22) The hoardings are to have all advertising material not associated with the development removed within 48 hours of detection or Council direction to remove. A notice "Bill posters will be prosecuted" is to be affixed to the hoarding structure at regular intervals. Advertising upon the hoarding is subject to a Development Application to Council. In the event of non-compliance with these requirements to remove advertising posters, Council reserves the right to remove or paint over the posters and invoice the applicant for actual costs incurred by Council.

- 23) Graffiti is to be removed or painted over on all hoarding structures within 48 hours of detection or Council notification. Hoardings must be provided with appropriate coverings to assist in graffiti removal or measures to reduce the occurrence of graffiti. In the event of non-compliance with these requirements, Council reserves the right to remove or paint over the graffiti and invoice the applicant for actual costs incurred by Council.
- 24) Erection of hoardings may only occur during Council's normal adopted hours for building works and as contained in conditions of development consent.
- 25) Type B hoardings erected for longer than six months are to be re certified by the applicant's inspecting structural engineer to ensure the structural integrity of the erected structure has been maintained. A certificate of structural integrity is to be forwarded to Council within one week of the six month anniversary of the structure being erected.
- 26) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed that covers the activities involved and the context in which they will be undertaken.
- 27) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Installation of a domestic oil or solid fuel heating appliance, other than a portable appliance

When considering an application, regard should be given for the location of the proposed appliance and the potential affect on the amenity of near neighbours, both visually and by way of emissions.

Where approved, the heating device, shall comply with the following requirements, as appropriate;

- 1) Installed in accordance with the manufacturer's specifications and the requirements of the Building Code of Australia and Australian Standard 2918.
- 2) Timber used as fuel shall be dry, seasoned, untreated wood.
- 3) Timber stored on site, shall be stacked under cover in a dry ventilated place and in such manner as to not cause a nuisance to neighbours or visually detract from the streetscape.
- 4) The heating appliance and flue shall be cleaned on a regular basis to ensure good airflow.

- 5) To ensure efficient burning the operator shall be directed to use small logs and place them to ensure good airflow around the fuel, and should not allow the appliance to smoulder overnight.
- 6) Where the subject premises are located within a designated bushfire prone area, the discharge point on the flue shall be fitted with a copper gauze with openings of a size to prevent the possible discharge of air borne embers that may give rise to a fire external to the house.

Out of hours work

When considering an application regard should be given for:

- The location of the site.
- The potential affect on the amenity of near neighbours.
- Any potential traffic problem that may arise due to a lane or road closure, particularly in peak traffic times.
- The specific reason why the work cannot be undertaken during normal working hours, such should generally relate to public amenity or safety reasons, engineering constraints such as size of concrete slab, RTA requirements regarding size of delivery vehicles and times they may travel on roadways.
- What consideration has been given to minimise the impact and inconvenience on near dwellings, churches, businesses within 100metres of the site.

No approval will be granted for accelerated work programs, demolition and excavation works, with the exception of delivery of large plant to assist in such process, or noisy construction works.

Where approved, out of hours work shall comply with the following requirements;

- 1) Activity on site shall proceed only after sufficient measures have been taken to ensure that no unreasonable impact on near neighbours is made by noise, vibration, or light spill.
- 2) Permits will be immediately cancelled without notice should public or residential amenity be detrimentally affected.
- 3) A copy of the approval must be maintained on site and produced as requested by the Police or Council staff.
- 4) All residences, institutions and businesses with a 200 metres radius of the development site shall be informed of the times the works will be conducted by way of a letterbox drop at least five days prior to the works taking place.
- 5) In the event the works are urgent due to mechanical failure, the residents, institutes and businesses with a 200 metres radius of the development site shall be informed of the times the works will be conducted by way of

personal service of the notification immediately following receipt of the approval.

- 6) The applicant must not carry out notification to surrounding residents or occupants unless Council has first granted a permit.
- 7) All efforts shall be taken by the responsible person organising the activity to ensure all works are undertaken within the approved extended hours. Any works undertaken outside the approved extended hours window will be considered unauthorised and subject to on the spot penalties.

Hoisting or pumping materials across footway or standing plant on a public roadway

When considering an application, regard should be given for

- The location of the proposed plant
- The potential affect on the amenity of nearby neighbours
- The need or not for local police, RTA, or traffic committee consent if full or part road closure is proposed
- Traffic control plan
- Method of providing protection / pedestrian access during the proposed works
- The protection of any Council assets including street trees, furniture, pavements.

Where approved, the plant, shall comply with the following requirements, as appropriate;

- 1) The applicant shall be responsible and accept responsibility to undertake repairs of damage occasioned to Council's infrastructure as a direct result of the prescribed activity.
- 2) The section of the public thoroughfare over which materials are being hoisted are to be partially barricaded off and the area policed by responsible persons to monitor the movement of the equipment/materials and direct pedestrians in a safe manner.
- 3) The section of the public thoroughfare over which service lines are being laid across the footpath a ramped timber crossing free of trip hazards encasing the conduit shall be installed and firmly secured on each side of the service conduits for the full width of the footpath to provide a safe pedestrian access whilst the conduits are in place.
- 4) A safe pedestrian circulation route with a pavement free of trip hazards must be maintained at all times on or adjacent to the footpaths fronting the construction site.

- 5) Signboards with suitable wording shall be displayed at each end of the barriers, warning public of the imminent danger.
- 6) The use of the roadway for the storage of building materials is not permitted.
- 7) Traffic control personnel and signage shall be in place at all times. This shall be in accordance with AS 1742.3-1996.
- 8) In the event the plant is required for a longer period than stated on the application form the extended period will attract additional fees in accordance with Council's Schedule of Fees and Charges. The additional fees shall be paid to Council prior to the extended period commencing.
- 9) The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed that covers the activities involved and the context in which they will be undertaken.
- 10) Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

Operating a temporary food stall

When considering an application generally the stall should be associated with an approved community event or permissible use of public land.

Where approved, the temporary food stall, shall comply with the following requirements, as appropriate;

1. The stall and its operation shall comply with the Food Act, Regulations (as amended), Food Standards Code, and the NSW Food Authority's Food Handling Guidelines for Temporary Events.
2. The food business must notify the NSW Food Authority of their food activity details.
3. The party undertaking the activity must maintain a current public liability insurance policy, with a minimum insured value of \$10,000,000, or as prescribed that covers the activities involved and the context in which they will be undertaken.
4. Council accepts no liability for any injury or damage associated with any activity undertaken, or purportedly undertaken in connection with such action or activity.

PART 3 OTHER MATTER RELATING TO APPROVALS,

Refund of fees

In certain circumstances where an application is not fully processed by Council, an applicant may be eligible for the refund of fees. Refund requests must be made by the applicant in writing. Such requests will be determined in accordance with the table below.

Full refund <ul style="list-style-type: none">• Applications withdrawn by the applicant immediately after lodgement, prior to any administrative processing taking place (other than receipting of fees).
40% refund <ul style="list-style-type: none">• Applications withdrawn by the applicant where approval or refusal has not been issued.

Standard conditions

The Local Government (General) Regulation 2000 prescribes standard conditions for activity approvals involving public entertainment, sewage and stormwater drainage. The Local Government (Manufactured Home Estate, Caravan parks, Camping Grounds and Moveable Dwellings) Regulation 2005 prescribes standard conditions for approvals for caravan parks and camping grounds.

The standard conditions prescribed by the regulations are quite detailed and they have not been reproduced within this document. Copies of the regulations are available from the internet at <http://www.legislation.nsw.gov.au/>

When does an approval or exemption lapse?

An approval under Section 68 of the Local Government Act 1993 or Section 92 of the Environmental Planning and Assessment Act, 1979 lapses five years after the date from which the approval operates, unless:

- 1) The approval states otherwise; or
- 2) The activity has been physically substantially commenced within the meaning of the applicable act.

An extension of an approval may be granted if:

- 1) A request is received by Council in writing prior to the date on which the approval would have lapsed; and ,
- 2) Council determines that the approval should be extended.

Exemptions

Any exemption under this Local Approvals Policy, or the regulations, has no effect unless all the specified conditions of the exemption are met. Any breach of the conditions would mean that the exemption provisions no longer apply to the activity or activities involved.

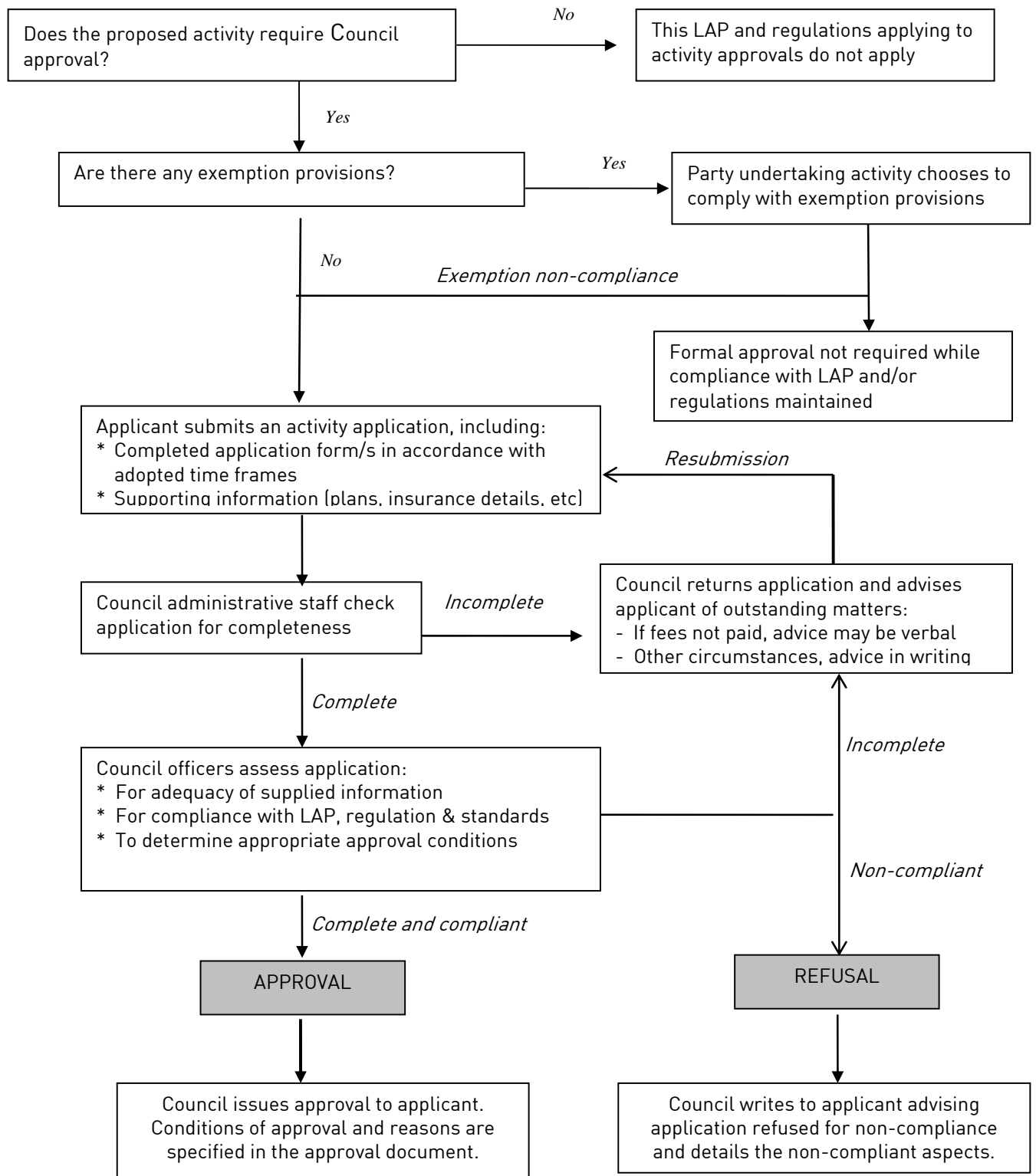
Exemption provisions within the Local Approvals Policy cease to have effect once the policy lapses.

Application Forms

Copies of Ku-ring-gai's Local Approval Application forms may be found at <http://www.kmc.nsw.gov.au>

How are applications processed?

The flow chart below summarises how activity applications are processed by Ku-ring-gai Council and how this Local Approvals Policy (LAP) relates to such applications.



DRAFT KU-RING-GAI COMPLIANCE POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To recommend the adoption of the draft Ku-ring-gai Compliance Policy.
BACKGROUND:	On 8 December 2009, Council resolved that a draft Compliance Policy be endorsed for the purpose of public exhibition.
COMMENTS:	The draft policy was exhibited from 1 February 2010 to 1 March 2010.
RECOMMENDATION:	That Council adopt the draft Ku-ring-gai Compliance Policy.

PURPOSE OF REPORT

To recommend the adoption of the draft Ku-ring-gai Compliance Policy.

BACKGROUND

Council has responsibility to act as a regulator and an enforcement agency in respect of a large number of legislative acts and regulations.

The NSW Department of Local Government has issued NSW councils with a number of directive circulars regarding the need for each council to develop a compliance policy to ensure consistent and fair enforcement of regulatory powers.

The draft Ku-ring-gai Compliance Policy sets the standards and guidelines to be applied by Council officers when carrying out their duties.

The draft Compliance Policy is in accordance with NSW Ombudsman's Enforcement Guidelines for Council's (2002) and Model Enforcement Policy.

The aim of the policy is to:

- Ensure a consistent approach to compliance related enforcement within the Ku-ring-gai area.
- Undertake regulatory enforcement in a fair, open and consistent manner.
- Provide Council officers with guidelines to enable them to make appropriate decisions, consistent with advice, policy and legislation.
- Inform the community of the principles by which enforcement actions are taken.

The draft Compliance Policy was presented to the Department of Local Government investigators at their recent *Promoting Better Practice* review of Ku-ring-gai Council. The investigators remarked that the draft policy was satisfactory as it included reference to all relevant legislation within one consolidated policy document and addressed all relevant guiding principles, fulfilling the requirements of Council's obligations.

On 8 December 2009, Council resolved that the draft Ku-ring-gai Compliance Policy be endorsed for placing on public exhibition.

COMMENTS

The draft Compliance Policy was exhibited from 1 February 2010 to 1 March 2010. The draft policy is attached.

CONSULTATION

An advertisement, advising the community of the draft policy and inviting comment, was placed in the North Shore Times on Friday 20 January 2010 and Friday 19 February 2010. The draft policy

Item 4

**S07151
15 March 2010**

was available for viewing on Council's website and at Council Chambers during the exhibition period.

No submissions were received from the public during the exhibition period.

FINANCIAL CONSIDERATIONS

The draft Compliance Policy will not result in any financial or budgetary changes to adopted programs.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

All departments were advised of the draft policy and invited to make comment during the exhibition period. No comments were received.

SUMMARY

The draft Compliance Policy has been exhibited in accordance with standard requirements. No submissions were received from the community or internal departments.

RECOMMENDATION

That Council adopt the draft Ku-ring-gai Compliance Policy.

Anne Seaton
Manager Compliance & Regulation

Michael Miocic
Director Development & Regulation

Attachments: **Draft Ku-ring-gai Compliance Policy - 2010/043072**



Draft Compliance Policy

Development & Regulation Department
March 2010

Doc distribution	Internal only	Doc status		File No	
Document owner	Manager Reg & Compliance	Contact officer/s	Directors		
Approval date		Approved by			
Effective date	March 2010	Review period		Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft					

Introduction

One of the principle functions of Council is to act as a regulator and an enforcement agency in respect of a large range of legal duties applied by acts of parliament, regulations and Orders made under them, including various local policies.

The legislation which the Department of Development & Regulation is responsible for enforcing is extensive and cannot be fully listed here, but the following exemplify the range and diversity:

- Environmental Planning & Assessment Act 1979
- Local Government Act 1993
- Protection of the Environment Operations Act 1997
- Companion Animals Act 1998
- Public Health Act 1991
- Roads Transport Act 2005
- Roads Act 1993
- Swimming Pools Act 1998
- Building Code of Australia
- Noxious Weeds Act 1993
- Food Act 2003
- Impounding Act 1993
- Australian Road Rules

Copies of all relevant legislation may be found at <http://www.legislation.nsw.gov.au>.

This policy sets out the standards and guidance that will be applied by the Department when acting in its role as regulator and enforcement agency.

This policy applies to enforcement and regulation across the whole community including residents, visitors, businesses and other groups.

Aims

The aims of this policy are to:

- ensure a consistent approach to compliance related enforcement within the Council area
- undertake regulatory enforcement in a fair, open and consistent manner
- provide officers with guidelines to enable them to make decisions in the field, consistent with advice, policy and legislation
- inform the community of the principles by which enforcement actions are taken

Objectives

The objectives of this policy are to:

- help achieve the objectives of relevant legislation and management plans
- maximise compliance with legislation

- enhance the community's capacity to protect the environment and enhance biodiversity
- seek general acceptance by all stakeholders that the policy is appropriate

Guiding principles

In undertaking its regulatory and enforcement role, Council and staff will have regard to the following guiding principles:

- Any decision regarding enforcement action will be impartial and objective. In dealing with any enforcement situation, the actions will be proportionate to the scale and seriousness of any non compliance.
- There will be consistency of enforcement whilst recognising individual circumstances which may modify the appropriate action to be taken in each case.
- Council and its staff believe that the vast majority of individuals and businesses wish to comply with the legal requirements placed upon them and should be assisted in doing so.
- Special regard will be given to persons from culturally and linguistically diverse backgrounds so as to ensure that they understand the compliance and enforcement role of Council. These actions are to be taken in accordance with the objectives of Council's Access and Equity Policy 2003.

The decision to take enforcement action must be based on sound grounds. Some key considerations include:

- whether the available evidence establish a prima facie case for action
- whether the public interest would be served
- whether Council has a duty to act
- sufficiency of evidence is crucial but not the sole criteria for commencing action

The Department of Development and Regulation will implement its compliance role by:

- community education and engagement to promote voluntary compliance
- monitoring activities across the area to deploy pro-active programs and to identify potential breaches in a timely manner
- investigating alleged breaches
- taking appropriate action when a breach occurs
- review and reporting

What to consider prior to enforcing the law

There are many factors to take into account before exercising discretion to enforce. Relevant factors should be considered and weighed up. Factors include:

- the seriousness of the alleged breach or offence, or whether it is of a "technical" nature
- the extent of the breach

- the public risk
- the actual or potential harm to the environment
- the availability and efficacy of alternatives to taking enforcement action
- whether the breach is continuing
- the prevalence of the alleged breach and the need for deterrence
- the length of time since the alleged event
- the age, physical or mental well being of the alleged offender/s or witness/es
- whether taking legal action may be counter productive in any way
- the length and expense of taking court action
- the likely outcome, assuming a conviction, including unduly harsh or oppressive consequences
- the existence of mitigating factors
- prior warnings, breaches or convictions
- public duty
- the public interest
- potential liability to an action in negligence

Council should be careful not to let subjective considerations cloud a decision to commence a prosecution. A decision to prosecute should not be influenced by such factors as:

- the race, politics, gender, sexual orientation, religious beliefs, or community affiliations of the offender, victim or witness
- the person's status in the community
- any aspects of discrimination against the alleged offender
- the political or other affiliations of those responsible for the enforcement process

Community education and engagement

Providing education and information to the community encourages voluntary compliance.

Council will promote compliance by;

- removing barriers to compliance (eg lack of knowledge regarding legislative requirements and how to comply with them) and promoting the principles of the legislation
- overcoming factors that encourage non-compliance(e.g. lack of public support for, or the misunderstanding of development or environmental objectives)
- raising awareness of the benefits of complying with the legislation and the potential consequences of not complying

Council will, in conjunction with government agencies, peak bodies, the community and industry groups seek to facilitate access to information and activities promoting compliance.

Monitoring

Monitoring compliance with legislation is an essential part of the Council's regulatory role. Monitoring helps the Council to:

- determine the level of compliance and trends for regulated activities,
- detect possible breaches and identify where action may be required to avoid or mitigate environmental harm
- identify whether and what type of education campaigns or enforcement action may be required
- assess the effectiveness of its operations and programmes and also to identify opportunities for improvement

Council will undertake three types of monitoring:

1. Detection

Through regular patrols compliance within the greater community will be monitored.

2. Audit and review of approvals

A large number of development consents are issued with specific conditions that go with the life of the building. Officers of Council will conduct audits and reviews from time to time to verify compliance with development consent conditions.

3. Reports of possible breaches

Council receives reports of alleged breaches from external sources including members of the public and other government bodies. All alleged breaches detected or reported are recorded in Council's CRS system, assessed, investigated and considered for action in accordance with this policy.

Investigating alleged breaches

All alleged breaches are prioritised for investigation. This provides for the most efficient allocation of resources. High priority tasks are those that present a risk to public health or safety.

All alleged breaches are recorded in Council's CRS system and undergo initial desktop assessment. The assessment may comprise:

- a review of Council's records for applications, approvals, previous compliance investigations and any other documentation relating to the land as well as the people that may be involved. Relevant material such as recent and historic photographs, maps, plans, previous reports may also be examined, and
- an assessment of the likely impact of the alleged breach is made having regard for the information before the officer.

Further investigation may be warranted following the outcome of the desktop assessment and this may involve a site inspection and collection of information from the landholder, developer, neighbour, or reporter of the alleged breach. Before undertaking a site inspection, wherever possible, officers will contact the landholder to arrange to visit the property. All inspections must be carried out in accordance with Powers of Entry provisions contained within the appropriate Act that Council is administering.

During an investigation, Compliance and Regulatory officers will gather evidence of the incident in Order to establish whether an offence has occurred and the identity of the person/s that may be responsible. This evidence may take the form of photographs, witness statements, records of interview, samples or other physical evidence.

Council's compliance and Regulatory Officers will undertake their investigations in a professional manner that is :

- objective , fair and impartial
- consistent with the presumption of innocence
- within their delegated authority
- in accordance with the law
- respectful of individuals

The process of managing alleged breaches is set out in **Appendix 1**

Taking appropriate action

If, after full investigation, it is considered that a breach has occurred, Council officers will take appropriate action depending on the significance of the breach. In determining the significance, Council officers will consider:

- the degree of harm or effect resulting from the breach
- the severity of the breach
- the public interest
- any mitigating factors

Council has available a wide range of measures it can use in response to breaches such as warning letter, penalty notices, remediation Orders and prosecution.

Options available for compliance actions are set out in **Appendix 2**

The action must have regard to the offence committed.

Actions may include:

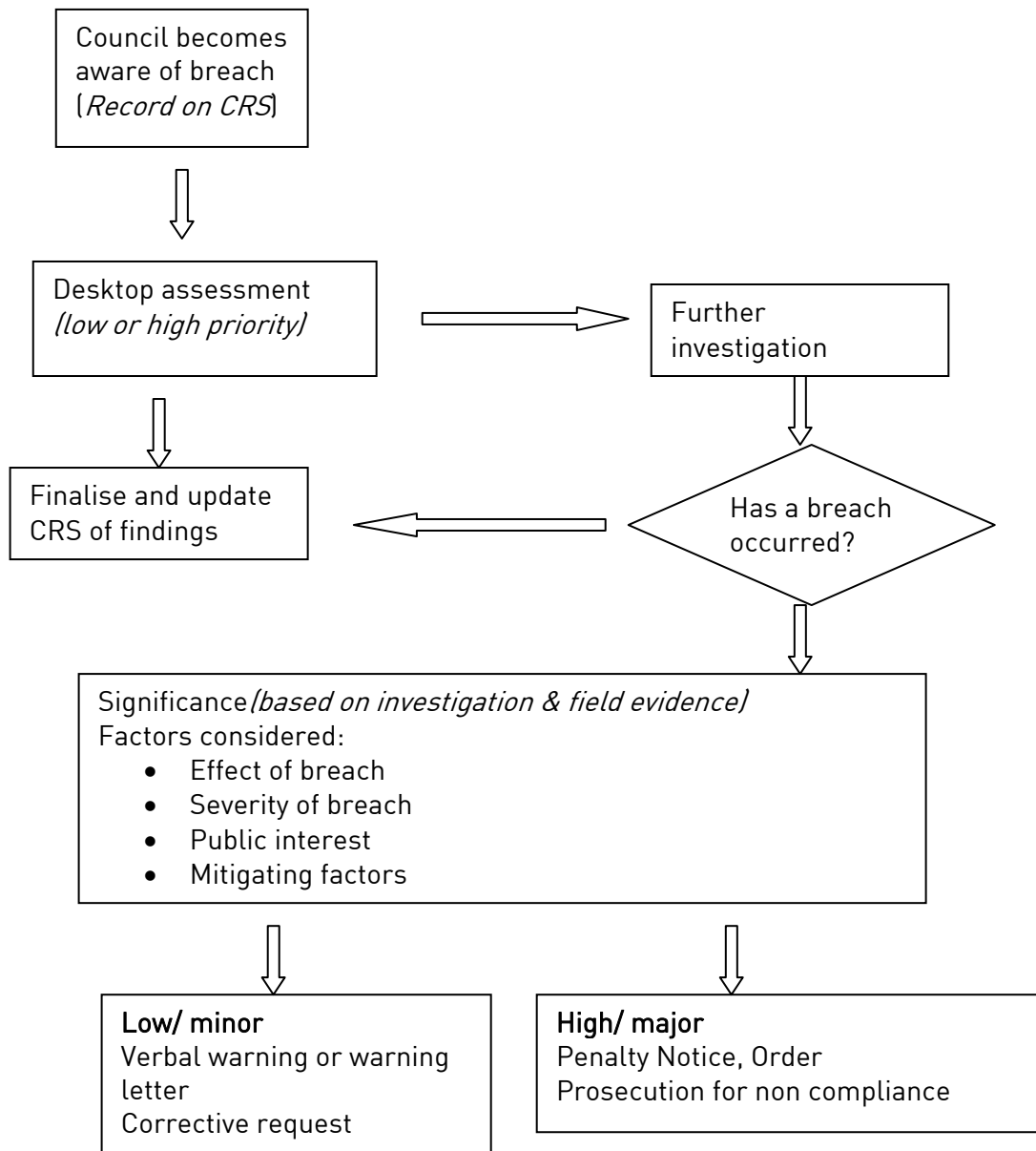
- verbal or written notice of warning
- issue of penalty notice/s under SEINS scheme
- Notice of Intention to Issue an Order and Order
- emergency Order
- prevention notice

- clean up notice
- civil action
- criminal proceedings

Review and reporting

Council is committed to implementing this policy in a transparent and accountable manner. Council will review implementation of this policy and its compliance programme annually. The policy will be updated on Council's web site and transcripts of important points will be translated in relevant community languages.

Appendix 1: Managing breaches



Appendix 2: Available compliance measures under legislation

Compliance Option	EP&AA	LGA	POEO	CAA	PHA	RTA	RA	SPA	BCA	NWA	FO	IA	ARR
Advisory letter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Warning letter	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>			<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		
Corrective request	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>				<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>		
Impound materials		<input checked="" type="checkbox"/>					<input checked="" type="checkbox"/>						
Penalty notice	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>		<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>
Draft Order	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>						<input checked="" type="checkbox"/>		
Order	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>								
Prosecution	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>	<input checked="" type="checkbox"/>

EP&AA = Environmental Planning & Assessment Act 1979

LGA = Local Government Act 1993

POEO = Protection of the Environment Operations Act 1997

CAA = Companion Animals Act 1998

PHA = Public Health Act 1991

RTA= Roads Transport Act 2005

RA= Roads Act 1993

SPA= Swimming Pools Act 1998

BCA= Building Code of Australia

NWA= Noxious Weeds Act 1993

FO= Food Act 2003

IA = Impounding Act 1993

ARR = Australian Road Rules

Appendix 3: Schedule of sample compliance practices

1. Non complying development/unauthorised works/illegal land use

In the assessment of the unauthorised / non complying works or illegal use, the Officer shall have regard to the scale of the works and categorise as either “minor” or “major”.

If the site is one controlled by a Private Certifying Authority (PCA), the complaint should be referred to the PCA for management. Council should only act if the PCA is found to be negligent in their duties or the PCA issues a Notice of Intention to serve an Order and then refers the matter to Council for the issue of the Order.

What are minor non complying or unauthorised development works

- a. These may include works that fall within the parameters of complying development” but the owner failed to obtain a Complying Development Certificate.
- b. These may include works that fall just outside the parameters of Complying Development where the owner has failed to obtain development consent and the associated construction certificate.
- c. The non complying works do not substantially alter the development as initially approved and where an application to modify the development consent (Section 96) could be considered.

What are major non complying or unauthorised development works

- a. These works generally include significant alterations and additions to a development where the owner has failed to obtain prior development consent and associated construction certificate, and where there are substantial structural concerns and changes in land use.
- b. These works include significant departures from a consent, where the works so substantially alter the development as approved, that an application to modify the development consent in terms of Section 96 of the EP&A Act is not available.

Regulatory action for minor works

- a. For works where owner failed to obtain a Complying Development Certificate:
 - Issue a Penalty Infringement Notice
 - Require an application for a Building certificate so as to regularise the structure so that it may remain.

- b. For works that fall just outside the parameters of Complying Development where the owner has failed to obtain development consent and the associated construction certificate:
- Issue a Penalty Infringement Notice
 - Serve a Notice of Intention to issue an Order, seeking to have the unauthorised works removed. This gives the recipient the opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.
 - Prior to/or upon receipt of the representations refer the case to a Development Assessment Officer with a request that they carry out an assessment of the works against the heads of consideration as detailed in Section 79C of the EP&A ACT. (The purpose of this being to determine if support for the works would have been given if appropriate application had been made. This brings transparency to the regulatory process and provides a sound footing if the matter is to progress to court action.)
 - If the response from the Development Assessment Officer is positive:
 - the owner may be required to undertake any other ancillary works that may be recommended, for example landscaping, installation of privacy screen, opaque glazing etc. (This may be done via the issue of a formal Order detailing the required works.)
 - the owner will be required to lodge an application for a Building Certificate so as to regularise the structure so that it may remain.
 - If the response from the Development Assessment Officer is negative, Orders shall be issued requiring the removal of the unauthorised works or cessation of the unauthorised activity. The Order shall have due regard for any representations made against the notice of intention to issue an Order.

The recipient of the Order may either comply or appeal the terms of the Order.

The Order should be checked by the appropriate officer at the expiration of the period referred to in the Order. If the terms of the Order are not complied with the matter is to be referred to Council's legal team for court action to commence.

- c. The non complying works do not substantially alter the development as initially approved and where an application to modify the development consent (Section 96) could be considered:
- Issue a Penalty Infringement Notice.
 - Serve a Notice of Intention to issue an Order, seeking to have the unauthorised works removed. This gives the recipient the

opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.

- In this instance, the owner has the ability to lodge an application to modify the development consent in accordance with Section 96 of the EP&A Act to regularise the works.
- The Order is placed on hold until the application under Section 96 of the EP&A Act is determined.
- If the Section 96 application is approved, the Order process is cancelled.
- If the Section 96 application is refused, the Order process is pursued.
- Orders shall be issued requiring the removal of unauthorised works or cessation of unauthorised activity. The Order shall have due regard for any representations made against the Notice of Intention to issue an Order.

The recipient of the Order may either comply or appeal the terms of the Order.

The Order should be checked by the appropriate officer at the expiration of the period referred to in the Order. If the terms of the Order are not complied with, the matter is to be referred to Council's legal team for court action to commence.

Regulatory action for major works

For works that include significant alterations and additions to a development where the owner has failed to obtain prior development consent and associated construction certificate, and/ or where there are substantial structural concerns, changes in land use, and / or where the works so substantially alter the development as approved, that an application to modify the development consent under Section 96 of the EP&A Act is not available:

- Serve a Notice of Intention to issue an Order, seeking removal of the unauthorised works or cessation of an unauthorised/illegal activity. This gives the recipient the opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.
- Prior to/ or upon receipt of the representations refer the case to a Development Assessment Officer with a request that they carry out an assessment of the works against the heads of consideration as detailed in Section 79C of the EP&A ACT. (The purpose of this being to determine the level of compliance, if any, with the relevant DCP, amenity issues and any other legislation applicable, that may effect the works, and a comment if support for the works would have been given if appropriate application had of been made. This brings transparency to the regulatory process and provides a sound footing if the matter is to progress with court action.)

- The owner should be requested to supply documentary evidence testifying to the structural adequacy of the works and compliance with Building Code of Australia.
- Should the response of the Development Assessment Officer be negative, the Order should be issued giving consideration to any representations. The recipient has the ability to comply with the Order or appeal the terms of the Order in the Land & Environment Court. In the event there is no appeal and the Order is not complied with, prosecution action to commence. Generally Class 4 Proceedings seeking Orders to remove the unauthorised works and Class 5 proceedings for a monetary penalty are taken in the Land & Environment Court.

2. Unclean unhealthy or unsafe premises

The officer shall have regard for the scale of the non compliance and the public interest.

Actions may be pursued under the Local Government Act, Food Act, Public Health Act, Swimming Pool Act or Noxious Weeds Act, depending on the matter at hand.

Matters usually before officers include regulated premises such as food shops, hairdressing and barber shops, beauty salons, mobile vendors, boarding houses, air handling systems, overgrown, dilapidated and neglected premises. Residential premises considered to be occupied in squalor conditions, may require special assistance from external authorities that provide mental health support for occupants as well.

Regulatory action for minor breaches

Minor breaches may include defective fittings within food preparation areas e.g. broken tiles, keeping of animals, defective guttering or downpipe not connected, untidy yard, cultivation of noxious plants, etc.

Generally, the following steps should be taken:

- Conduct field assessment and issue verbal or written direction.
- Send letter of warning and seek co- operation in having the matter attended to.
- Serve a Notice of Intention to issue an Order seeking to have the premises reinstated into safe, clean and healthy condition. This gives the recipient the opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.
- Assess representations made by the recipient of the Order.
- Issue Order having due regard for any representations made against the Notice of Intention to issue an Order.

- Non compliance with Order may result in the Issue a Penalty Infringement Notice.

Regulatory action for significant breaches

Significant breaches may include dirty food preparation areas, inappropriate storage of food intended for sale and consumption, broken sewage or stormwater services, overgrown or dilapidated premises, etc.

Generally, the following steps should be taken:

- Conduct field assessment and issue verbal or written direction.
- Serve a Notice of Intention to issue an Order, seeking to have the premises reinstated into safe, clean and healthy condition. This gives the recipient the opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.
- If the premises are a food shop or place used to prepare food for sale, issue an Improvement Notice or Prohibition Order in accordance with Section 58 of the Food Act 2003.
- Assess representations made by the recipient of the Order.
- Issue Order having due regard for any representations made against the Notice of Intention to issue an Order.

The recipient of the Order may either comply or appeal the terms of the Order. The Order should be checked by the appropriate officer at the expiration of the period referred to in the Order. If non compliance continues, the matter is to be referred to Council's legal team for court action. A Penalty Infringement Notice for non compliance with the Order may be issued if considered appropriate, alternatively, Council officers may seek to have the court impose a monetary penalty.

If a person fails to comply with an Order, Council officers may wish to carry out the outstanding works. Section 678 of the Local Government Act makes provisions for this but generally this action is taken only with the consent of the court, in that way Council may recover all expenses incurred by charging as a debt against the property.

Breaches of the Swimming Pool Act

Breaches of this Act represent a real threat to the safety of young children within the community, for this reason there is no leniency shown in the application of this legislation. All breaches should be dealt with in the following manner:

- Issue Order, clearly stating the reasons for the Order and the defects to be corrected.
- Reinspect at expiration of the period referred to in the Order.

- Issue Penalty Notice if Order found not to be complied with.
- Require Order to be complied with within further 30 days.
- If non – compliance continues refer matter to Council’s legal team.

3. Noise complaints

The majority of noise complaints received by Council relate to air conditioning systems, swimming pool pumps, power tools and barking dogs.

Noisy equipment

Generally, the following steps should be taken:

- Conduct field assessment and attempt to take a noise reading of the offending article, if appropriate.
- Send letter of warning and seek co- operation of user to comply with legislation and guidelines as contained within the Protection of Environment Operation Act 1997 (POEO ACT) and POEO Noise Control Regulations 2008.
- Issue a POEO Act Prevention Notice, a \$320 administration fee is imposed on this notice. (21 day appeal period is mandatory).
- Issue a Noise Abatement Direction, Noise Control Notice or Noise Control Order (POEO Act)
- Issue a Penalty Infringement Notice for an on the spot fine.

Barking dogs

Under the Companion Animals Act, a dog may be declared a nuisance if it is found to be “making a noise, by barking or otherwise, that persistently occurs to such a degree or extent that it unreasonably interferes with the peace, comfort or convenience of any person in any other premises.”

A numerical standard was adopted in internal operating procedures in 2008 to assist officers with investigation of barking dog complaints. The standard being; “A dog may be considered to be causing a nuisance if it barks, howls or otherwise makes persistent noise for greater than 8 minutes in any one daylight hour or greater than 4 minutes in any night time hour.”

Complaints concerning barking dogs are often a sign of other significant neighbourhood disputes. Care must be taken by the Council officer to ensure an objective assessment is made. Generally, the following steps should be taken:

- Initial site inspection is to be taken to verify details of complaint, registration status of dog, and verbal warning is to be given to the owner

that there is an alleged problem. Suggest to the owner that appropriate remedial behavioural training needs to be instigated.

- A letter of warning is to be issued to the dog owner, along with a brochure setting out responsibilities and appropriate noise control regulations. At the same time, a letter is to be sent to the complainant, acknowledging receipt of their complaint and suggesting that they allow 3 weeks for behavioural training of the dog in question.
- If a second complaint is lodged after the initial 3 week period, Council's Animal Control Officer will contact the dog owner and advise that Council is actively monitoring the dog, at the same time a "barking dog diary" is sent to the complainant. The complainant is requested to complete the diary over a 2 week period, and return it to Council duly signed.
- If the diary is not returned by the due date, the matter is finalised and the complainant advised that no similar complaint will be investigated for a period of 6 months.
- If the diary is duly completed and returned, Council's Animal Control Officer may conduct more patrols to coincide with the recorded diary times to gather further evidence in respect of the degree of nuisance.
- If the Animal Control Officer finds no evidence of the dog causing a nuisance, the matter is finalised.
- If the Animal Control Officer finds that the dog is causing a nuisance, a Nuisance Order is issued and enforced, accordingly. Nuisance Orders are in force for 6 months and the dog owner must ensure that the dog does not bark so as to cause a nuisance within this time. If the Nuisance Order is not complied with, fines for the first offence and for any subsequent offences may be issued.

4. General complaints about buildings under construction or demolition

The majority of complaints received by Council in respect of building sites relate to noise, dust, hours of work, local traffic problems, concerns with asbestos or unsafe work practices.

If the site is one controlled by a Private Certifying Authority (PCA), the complaint should be referred to the PCA for management. Council should only act if the PCA is found to be negligent in their duties, or the PCA issues a Notice of Intention to serve an Order and then refers the matter to Council for the issue of the Order.

If the matter concerns unsafe work practices or hazardous materials it should be referred to Work Cover NSW.

Generally, the following steps should be taken:

- Conduct field assessment and establish the level of nuisance or non compliance.

- Issue a verbal direction to cease the offensive activity and make good.
- Issue a POEO Act Clean up Notice.
- Issue a POEO Act Prevention Notice, a statutory administration fee is imposed on this notice. (21 day appeal period is mandatory).
- Issue Penalty Infringement Notice/s for offences.
- Serve a Notice of Intention to issue an Order, seeking to have the nuisance or non compliance made good. This gives the recipient the opportunity to make representations as to why the Order should not be served or have the contents of the Order altered.
- Issue the Order, having due regard for any representations made against the Notice of Intention to issue an Order.

The recipient of the Order may either comply or appeal the terms of the Order.

The Order should be checked by the appropriate officer at the expiration of the period referred to in the Order. If non compliance continues, the matter is to be referred to Council's legal team for court action to commence.

5. Parking surveillance and enforcement

The principle objective of this activity is to achieve an appropriate balance between public safety, traffic flow and equitable access in the management and regulation of vehicle parking facilities available to the general public, for the benefit of the community and local business and people who frequent the Kuring-gai local government area.

Council is responsible for both "on-street" and "off-street" parking surveillance. "On-street" is parking on public roads, whilst "off- street" relates to parking within Council managed public car parks or other off road areas.

Council's Rangers carry out regular patrols of public parking areas and roads in the local government area. They also respond to complaints from the public in relation to illegally parked vehicles.

Priorities in this surveillance work include:

- Patrolling on street parking around different school zones – randomly selecting different schools on a daily basis during the school term.
- Patrolling all on street parking restrictions throughout the area on a daily basis.
- Random, daily surveillance of time limits and bay markings in off-street parking areas within the local area.

- Surveillance to ensure correct use of bus, taxi and loading zones, as well as no stopping zones, especially around Ku-ring-gai's major transport hubs and town centres.
- Public education of motorists in respect of their obligations under the Australian Road Rules.

Observed offences are generally photographed by Rangers. The photographs are taken for the purpose of 'supporting evidence'. The captured images are stored in Council's secure record data base TRIM and are not available for access by unauthorised persons.

Penalty Notices are normally placed on the parked vehicles. If the Penalty Notice cannot be placed on the vehicle, the officer will gather the evidence; obtain ownership details from the RTA and mail out the Penalty Notice, with an accompanying letter informing the last registered owner of the offence details and the process for payment and/or challenge of the Penalty Notice.

Typical offences subject of penalty action may include:

- Overstaying sign posted time limits.
- Breaches of on street restrictions applicable to "No Stopping", Bus, Taxi and Loading zones;
- Parking in accessible (disability) parking spaces without the authority to do so, or permit not being displayed as set out in the 'conditions of use'.
- Breaches of on street parking and restrictions around school zones.
- Failure to comply with conditions of off-street parking.

Penalties for parking offences and all other offences are set by legislation administered by the NSW State Government and not by local Council.

Details of current NSW legislation can be found on the Internet at the following Web address, <http://www.legislation.nsw.gov.au>. Interested persons should check the NSW Road Rules 2008 for on street offences and Local Government Act, 1993 for off street offences.

The use of discretion

Council's Rangers have very limited discretion in their enforcement of signposted or marked restrictions in relation to vehicle parking. Failing to take action in relation to an observed offence may create hazards or risks for the community. In addition, it may expose Council and the officers concerned to accusations of partiality and, potentially, a claim for damages where an unsafe situation has arisen. Such inaction may also be in breach of Council's Code of Conduct.

Council's authorised officers should exercise limited discretion, including issuing warnings, where obvious exceptional and mitigating circumstances are apparent

to the officer when observing an offence. Critically, however, public safety must *not* be comprised.

Service agreement with State Debt Recovery Office (SDRO)

Council has a commercial agreement with the NSW State Debt Recovery Office (SDRO) for the administration and processing of all Penalty Notices issued, as well as the enforcement of outstanding fines and Penalty Notice amounts. Council's current agreement is termed as a 'Premium Service Level Agreement' and is valid for the period September 2009 – September 2014.

Under this arrangement, the SDRO provides an assessment and review service independent of Council, reducing local administration costs, and reducing potential conflicts of interest. The SDRO also offers extensive advice to people who have received penalties on relevant issues and appeal options available to them. Guidelines are available at the following web address <http://www.sdoro.nsw.gov.au>. The guidelines include matters considered when reviewing an appeal.

All enquires relating to the appeal of a Penalty Infringement Notice should be directed to the SDRO in the first instance.

In the event that a person elects to have the matter determined through the Local Court process, Council's reporting officer will usually attend to give evidence. In the event of a written representation where the recipient of the Penalty Notice may have raised unusual circumstances, the SDRO may seek advice from Council and request a review of its decision. The Development and Compliance Unit of Ku-ring-gai Council will determine these decisions.

Handling complaints

As indicated, the administration of all offences and penalty notices is managed under an arrangement with Council and the SDRO.

Accordingly, a letter attached to all mailed Penalty Notices issued by Council advises the recipient of the fine to direct all enquiries regarding the Penalty Notice to that organisation. Council's Customer Service staff and Rangers also give this advice to the public when they receive phone calls or other representations on penalties issued.

Where a member of the public lodges a complaint with Council about the conduct of a Council officer in connection with enforcement of public parking rules, the complaint will be processed in accordance with Council's Corporate Complaint Handling Procedures.

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	161 WARRIMOO AVENUE, ST IVES CHASE - CONSTRUCTION OF TIERED SPECTATOR SEATING
WARD:	St Ives
DEVELOPMENT APPLICATION N^o:	0012/10
SUBJECT LAND:	161 Warrimoo Avenue, St Ives Chase
APPLICANT:	Mr David William Howard
OWNER:	Ku-ring-Council
DESIGNER:	Blue World Architecture
PRESENT USE:	Recreational (playing fields)
ZONING:	Open Space - Recreation Existing 6(a)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, DCP 31 – Access, DCP 40 – Construction and Demolition Waste Management, DCP 43 – Car Parking, DCP 47 – Water Management, DCP 56 – Notification, Sports Ground Generic Plan of Management
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	Environmental Planning and Assessment Act 1979, Protection of the Environment Operations Act 1997, SEPP 55 – Remediation of Land, SREP 20 – Hawkesbury-Nepean River
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	14 January 2010
40 DAY PERIOD EXPIRED:	23 February 2010
PROPOSAL:	Construction of tiered spectator seating
RECOMMENDATION:	Approval.

DEVELOPMENT APPLICATION N^o 0012/10
PREMISES: 161 WARRIMOO AVENUE, ST IVES CHASE
PROPOSAL: CONSTRUCTION OF TIERED SPECTATOR SEATING
APPLICANT: MR DAVID WILLIAM HOWARD
OWNER: KU-RING-COUNCIL
DESIGNER: BLUE WORLD ARCHITECTURE

PURPOSE FOR REPORT

To determine Development Application No. DA0012/10 for the construction of tiered spectator seating, associated tree removal, pathway construction and changes to fencing.

This application was called to full Council for determination by Councillor Hall on 22 January 2010 for the reason that the proposed works are to be undertaken on Council owned land.

EXECUTIVE SUMMARY

Issues:	Noise, removal of trees, access, neighbouring residential amenity, visual impact
Submissions:	Yes – 11 submissions received
Pre-DA consultation:	No
Land & Environment Court Appeal:	No
Recommendation:	Approval

HISTORY

Site history:

'Warrimoo Oval' and is used as a large recreational reserve that contains numerous facilities, including a scout hall, St Ives Football Club facilities, 3 tennis courts, playing fields and a playground. The site is classified as 'Community Land' as per the provisions of the *Local Government Act 1993*.

The area site is presently used by a number of sporting clubs, including Hornsby Ku-ring-gai and Hills District Cricket, North Shore Junior Cricket, Gordon District Cricket Club, Ku-ring-gai and District Soccer Association. The St Ives Football Club is the applicant for the proposed development.

At the Ordinary Meeting of Council of 28 July 2009, Council considered a report advising Council of community project funding to be provided for certain projects in the Ku-ring-gai Local Government Area under the NSW Government Community Building Partnership program. The purpose of the program being to support local jobs, stimulate growth and improve community facilities. The

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report identified works at Warrimoo Oval for a small tiered spectator stand and clubhouse on the eastern side of the oval.

At this meeting, Council resolved as follows:

(Moved: Councillors Holland/McDonald)

That Council support applications from community groups for projects identified in the report to the NSW Government for funding from the Community Building Partnership program.

With respect to the above resolution, it is noted that funding for the project is to provided from the St Ives Football Club & NSW Government grants only. Ku-ring-gai Council has no funding agreement with the St Ives Football Club for the proposed facility.

Development application history

Pre-Development Application consultation

11 August 2009	The applicant provided concept plans to Council's Director Operations and requested that the General Manager consent to the lodgement of a development application. At this time a number of options were forwarded to Council for consideration.
2 December 2009	Development Application No. 0815/09 was lodged with Council.
7 December 2009	DA0815/09 was rejected by Council officers for reasons of unsatisfactory and conflicting plans, inadequate description of development and inadequate statement of environmental effects. The applicant was advised to improve their plans and documentation should they wish to pursue this application.

Processing of current development application

14 January 2010	Subject development application lodged with Council.
21 January 2010	Neighbour notification commenced and referral agencies notified.
22 January 2010	Development application called to Council by Councillor Tony Hall
22 February 2010	Proposal referred to Hornsby Police for comment.
11 March 2010	Amended plans lodged proposing deletion of the proposed amenities room at the rear of the proposed spectator seating.

THE SITE AND SURROUNDING AREA

The site

Zoning: Open Space - Recreation Existing 6(a)

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Visual Character Study Category:	Post 1968
Lot Number:	Lot 2
DP Number:	DP 505480
Area:	Approximately 3.5 hectares (35,433m ²)
Side of Street:	Eastern
Stormwater Drainage:	To the existing system on site
Heritage Affected:	No
Integrated Development:	No
Bush Fire Prone Land:	Part Bush Fire Prone Vegetation Category 1 and Part Bush Fire Prone Vegetation Buffer
Endangered Species:	No
Urban Bushland:	Site adjoins remnant bush land (no impact)
Contaminated Land:	No

SITE DESCRIPTION

The subject site is legally identified as Lot 2 in DP 505480 and is known as 161 Warrimoo Avenue, St Ives Chase. The site is also known as 'Warrimoo Oval' and is used as a large recreational reserve that contains numerous facilities, including a scout hall, St Ives Football Club facilities, 3 tennis courts, playing fields and a playground.



The site can be described in three parts; the first being scout hall and existing football club facilities situated adjacent to the western boundary, playing fields in the centre of the site and three tennis courts situated in the eastern portion of the site. The proposed spectator seating is to be erected adjacent to existing tennis court amenities building on the eastern edge of the playing fields, approximately 150 metres from the frontage with Warrimoo Avenue and 90 metres from adjoining residential development in Dawn Close.

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The north-west western part of the site fronts Warrimoo Avenue where there is a vegetated road verge and a large number of street trees. Adjacent to this boundary, is the existing scout hall, St Ives Football Club facilities and a gravel car park. Vehicular access is via a formed layback and gravel drive situated in the northern corner of the site.

The northern boundary of the site adjoins a residential development in Aurora Drive and Dawn Close, being a strata title development comprising a large number of attached dwellings and a number of two storey units. There is an existing gravel driveway and landscape strip adjacent to the northern boundary. There is a controlled boom gate located at the start of this drive which restricts access to a second parking area in the eastern part of the site adjacent to the existing tennis courts.

The part of the site that is the subject of the development application is contained within the eastern portion of Warrimoo Oval, adjacent to the existing tennis court amenities building to the east of the playing fields.

The site falls away from Warrimoo Avenue, towards the eastern boundary and adjoining bushland. The reserve however is partially terraced, with the existing main gravel car park and playing fields formed into flat areas with embankments to north-western, southern and eastern edges of the playing fields and the eastern car park and tennis courts situated below the playing fields. The eastern part of the site falls away steeply to adjoining bushland.

The site is classified as both Bush Fire Prone Vegetation Category 1 and Bush Fire Prone Vegetation Buffer but is largely cleared of large vegetation. A stand of trees exists on the eastern side of the playing fields.

Site photos



Photo 1: Site of proposed works. Existing trees & fencing to be removed.



Photo 2: Tennis Court amenities building to be retained. The existing structure abuts the rear of the proposed spectator seating.

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Photo 3: Existing site facilities, change rooms and storage facilities.



Photo 4: View from playing fields north towards adjoining residential development in Dawn Close.

Surrounding development:

The surrounding area is characterised by low and medium density residential development within a ridge-top bushland setting. Residential development consists of single and two (2) storey detached dwellings and a group housing development to the north at Aurora Drive and Dawn Close which comprises a large number of attached dwellings and a number of two storey units.

The site is situated approximately 400metres to the north-east of neighbourhood shops on the corner of Warrimoo Avenue and Dalton Road.

THE PROPOSAL

Consent is sought for the construction of covered spectator seating on the eastern side of the existing playing fields.

The proposed seating is to be constructed of pre-fabricated concrete, metal roofing and steel beams. The proposed structure has an overall height of 7.6 metres above existing ground level and measures by 12.4 metres by 5.7 metres. The proposed structure has a total of 5 tiers for seating (accommodating some 100 spectators) and stair access to the northern edge.

New concrete pathways are proposed to the northern edge of the seating structure connecting to existing pathways from the existing gravel car park. A concrete concourse is proposed at the front of the seating structure to a maximum width of 1.25metres.

The spectator seating is to be erected adjacent to existing tennis court amenities building on the eastern edge of the playing fields, approximately 150 metres from the reserve frontage with Warrimoo Avenue, 90 metres from adjoining residential development in Dawn Close and 30 metres from nearby bushland.

The proposed seating structure requires the removal of an existing 1.0metre high chain mesh fence to the outside edge of the existing playing fields and removal of four (4) trees (being a Forest Oak and three Cheese Trees).

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Amended plans – 11 March 2010

In response to concerns regarding the use of the amenities room shown at the rear of the seating structure, the applicant deleted the amenities room from the proposal.

CONSULTATION - COMMUNITY

In accordance with Development Control Plan No. 56 Notification, owners of surrounding properties were given notice of the application. In response, submissions from the following were received:

- | | | |
|-----|---|--|
| 1. | Mrs FL Simpson | 9/8 Aurora Drive ST IVES CHASE NSW 2075 |
| 2. | Mrs DJ Grezoux | 12/8 Aurora Drive ST IVES CHASE NSW 2075 |
| 3. | Mrs N Doyle | 169 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 4. | Mr LR La Hei & Mrs WA La Hei | 163 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 5. | The Community Association of
DP 270318 1 | 65 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 6. | Ms C Ravele | 182 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 7. | Mr CG Hartmann & Mrs JM Hartmann | 6/6 Aurora Drive ST IVES CHASE NSW 2075 |
| 8. | Mr IC Glover & Mrs DN Glover | 186 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 9. | Mr P Coss | 2 Alana Place ST IVES CHASE NSW 2075 |
| 10. | Mr AD Pegg & Mrs Y Pegg | 184 Warrimoo Avenue ST IVES CHASE NSW 2075 |
| 11. | Mrs JM Suey | 15/8 Aurora Drive ST IVES CHASE NSW 2075 |

The following concerns were raised in the submissions received:

The use of the facility must not unduly impact upon neighbouring residential amenity

The proposed development consisting of formalised covered seating and on-going use of the playing fields for sporting purposes will not unduly impact upon neighbouring residential amenity. The operation of the fields for training and matches for all sports shall continue to be conducted in accordance with Council's Generic Sportsgrounds Plan of Management.

The proposed development is a waste of rate payer's money

Council does not have any financial involvement in proposed development application. The application has been assessed from a impartial, independent viewpoint that has only focused on the merit based matters for consideration set out in Section 79C of the *Environmental Planning & Assessment Act, 1979*.

The proposed spectator seating will become a focal point for, and contribute to ongoing vandalism & antisocial behaviour at the site

Council has consulted with the Ku-ring-gai Local Area Command Crime Prevention Office concerning recorded incidents of vandalism and anti-social behaviour at the site.

It is apparent from this consultation that Warrimoo Oval has in the past been the focus of anti social behaviour. There have been a number occasions where police have been called out to the area to address incidents of alcohol and drug use, excessive noise and car hoons at the site, particularly at the rear car park and existing tennis shelter but also in surrounding streets.

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The continuation of such incidents in the area is considered likely, irrespective of the works proposed in this DA, as there are no significant changes in the trend of incidents at the site. The site is currently isolated at the rear (east) where hiding places are available for anti social behaviour.

Whilst it is acknowledged that there have been past incidents of anti-social behaviour at the site, it is not considered that proposal will exacerbate or significantly impact upon these activities. Notwithstanding, it is suggested that the Council, request the Ku-ring-gai Local Area Command undertake a Community Safety Audit, with staff from Council's Open Space Services and recommendations for improvements to the locality be provided to Council for further consideration.

Adverse noise impacts associated with the proposed player amenities room

In response to concerns of residents, the proposed player amenities rooms has been deleted from the amended proposal.

Adverse noise impacts on surrounding residential properties from increase activity at the site

The proposed structure, being a modest open sided spectator stand for an existing sporting field, will not present any significant noise increase over and above existing noise levels experienced in the area.

The boom gate at the entry to the access road for the rear parking lot is rarely locked

This matter shall be referred to Council's Manager Open Space Services, for investigation. However, the proposal does not rely upon controlled access to the rear parking lot and will not adversely impact upon existing access arrangement at the site.

The proposed spectator seating structure would contribute to a lack of parking in the locality.

Council's Development Engineer has considered the proposal against the requirements of Council's DCP 43 (car parking) and has concluded that the development will not significantly alter existing parking demand in the locality.

The proposal is out of character with the surrounding areas and is an overdevelopment of the site

The proposed grandstand is a low scale structure that is unobtrusive in appearance and will have minimal impacts on surrounding areas. The scale and form of the development meets the needs of local sporting clubs and is consistent with the continued use of the site for recreational purposes. Moreover, the overall scale of the proposal has been reduced considerably with the deletion of the amenities room.

The proposed spectator seating would result in the closure of the children's play area.

There is no basis for this objection, the proposed structure is situated greater than 15 metres from the existing children's play area, and would not result in closure of this space.

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Objection to the proposed removal of trees

The removal of four trees to facilitate the proposed seating structure is necessary in order to best locate the structure for optimal viewing of sport at the site. Council's Landscape Development Officer has considered the proposed removal of trees at the site (being a Forest Oak and three Cheese Trees) and does not object. However, **Condition 34** requires the applicant to provide replenishment trees at the site to offset the proposed tree removal.

CONSULTATION - WITHIN COUNCIL

Engineering

Council's Development Engineer, Masa Kimura, has considered the proposal against the requirement of DCP Nos. 43 & 47 and has commented on the proposal as follows:

"The site drains to bushland located at the rear of the property.

This DA has been assessed against Council's Water Management DCP47.

As the proposal is not likely to intensify the use or patronage of the site, no additional car-parking spaces will be required in accordance with Council's Car Parking Development Control Plan 43.

In summary, Development Engineers are satisfied with the engineering aspects of the proposed development, subject to the placement of engineering conditions of consent on any approval issued."

Planner's comment:

Council's Development Engineer has raised no objection to the proposed development and has recommended conditions of consent be imposed addressing stormwater control measures to be implemented at the site. **(Condition Nos. 8, 9, 14, 16, 26 to 28 & 35)**

Landscaping

Council's Landscape Development Officer, Robyn Askew, commented on the proposed development as follows:

Tree impacts

No objection is raised to the removal of the following trees which were planted specimens some time after the oval was developed. (tree numbers relate to arborists report);

Schedule

Tree/Location

Tree 1 – Allocasuarina torulosa (Forest Oak)

/ Near the fixed timber bench seating

Tree 2 – Glochidion ferdinandi (Cheese tree)

/ Western side of existing pavilion

Tree 3 – Glochidion ferdinandi (Cheese tree)

Comments

7 metres high, unstable

7 metres high in good condition

8 metres high in good

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Schedule

Tree/Location

/ Western side of existing pavilion

Tree 4 – Glochidion ferdinandi (Cheese tree)

/ Western side of existing pavilion

Comments

condition

8 metres high in good

condition

Landscape plan/tree replenishment

No landscaping is required as the proposed structure will not have any impact on the streetscape or adjoining properties and the site is within a designated high fire risk area.

Fire

The structure is located within Warrimoo Oval which has been designated high fire risk and buffer zone areas. The RFS have raised no issues in relation to fire protection, however the applicant's fire consultant has recommended that a Fuel Management Plan be prepared to ensure the ongoing maintenance of the existing maintained grounds.

Conclusion

The Landscape Section finds the proposal acceptable in relation to landscape issues, subject to conditions.

Planner's comment:

Council's Landscape Development Officer has raised no objection to the proposed development. To mitigate the impact of tree loss at the site, a condition is recommended to require tree replenishment to be undertaken at the site by the applicant in consultation with Council's Open Space Department. **(Condition 34)**

Strategy - Open Space Section

Council's Team Leader Open Space Planning, Roger Faulkner, commented on the proposed development as follows:

"There is no site specific plan of management for Warrimoo Oval. The site is managed in accordance with the Sports Grounds Generic Plan of Management (adopted by Council July 2003).

The proposed spectator seating structure in the DA is consistent with the objectives of the Sportsgrounds Generic Plan of Management. The POM identifies the provision of appropriate amenities and facilities at sportsgrounds as being crucial in providing a safe and enjoyable destination for all users of sports grounds whether they be players, spectators or casual users. Amenities and facilities are defined as including clubrooms, changerooms, toilets, storage, cricket nets, basketball half courts, playgrounds, park furniture, spectator seating and sun shelters.

The performance targets in the POM for Amenities/Facilities/Storage are:

- Suitable amenities and facilities for all users of sports grounds, maintained to agreed Council standards; and*

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- *Enjoyment for spectators maximised through provision of facilities appropriate to the site and level of usage, taking into account potential impacts on amenity for adjoining residents.*

Subject to conditions, Strategy staff do not believe the proposed development will prevent Council from improving facilities at the site in the future.

Also, the replacement or demolition of the existing tennis courts amenities structure at the rear of the proposed tiered seating in the DA is not proposed in the near future."

Planner's comment:

Council's Team Leader Open Space Planning has raised no objection to the proposed development and has requested that conditions be imposed to restrict access and prevent litter and debris from collecting at the rear of the spectator seating structure. **(Condition 5)**

CONSULTATION – OUTSIDE COUNCIL

NSW Rural Fire Service (RFS) – Bush Fire Prone Land

The site is classified as by both Bush Fire Prone Vegetation Category 1 and Bush Fire Prone Vegetation Buffer. In accordance with Section 79BA of the EP and A Act, 1979, the application has been referred to the RFS for assessment in terms of bush fire threat. In response, the RFS advised the following:

"The Service has reviewed the plans and documents received for the proposal and subsequently raises no concerns in relation to bush fire"

Planner's comment:

The applicant has provided a bushfire hazard assessment report prepared by *Building Code & Bushfire Hazard Solutions Pty Ltd* which outlines minimum building standards for structures in bushfire prone areas as well as bushfire protection measures to be implemented at the site in response to the proposed development.

Subject to compliance with the recommended conditions of consent and the bushfire hazard assessment report, the proposal is deemed to be satisfactory with regard to the bushfire protection requirements of the NSW Rural Fire Service. **(Conditions 1 & 4)**

NSW Police – Ku-ring-gai Local Area Command

Council has consulted with the Ku-ring-gai Local Area Command Crime Prevention Office concerning recorded incidents of vandalism and anti-social behaviour at the site. In response, the NSW Police have undertaken a Safer by Design Evaluation of the proposed development.

A summary of this review is provided as follows:

"Summary

The oval has in the past been the focus of anti social behaviour for local residents. It has also created policing challenges with car hoons, alcohol, noise and drug use. There have been numerous occasions where police have been called due to incidents described above both at

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the oval (rear car park and shelter as well as surrounding streets) It is a well known location to residents and police.

Concerns have been expressed by local residents in the past due to this type of behaviour and appears to be a growing trend. A meeting was held with local residents, KMC staff and police (28 April 2008) regarding the issues of anti social behaviour, alcohol and noise from cars doing burnouts in the car park.

At this meeting a number of recommendations were made and a site inspection on the 2nd of March, 2010 revealed no attempt has been made to commence those recommendations.

Crime analysis & CPTED evaluation

Current crime trends / area crime

- ***Statistical context***

Single Crime type

- *Graffiti*
- *Traffic related incidents in and around the oval.*
- *Alcohol and some evidence of drug taking.*

- ***Quantitative measure of recorded crime (likelihood)***

The continuance of such crime in the area is rated as likely as there are no significant changes in the trend evident at this stage. The isolation of the rear area provides covert hiding places for anti social behaviour the development does nothing to reduce or address this.

- ***Area rating (unadjusted rating)***

This area has a risk rating, which would be considered 'low to medium' relative to overall crime in the surrounding areas.

- ***Noise***

Traffic and noise

Local residents have raised concerns regarding previously about increased nocturnal noise from traffic and patrons who frequent the oval.

Vehicles

Vehicles have been the subject of noise complaints in the late evening and early hours of the morning, and may need to be considered in conjunction with the application.

- ***Anti social behaviour***

The issues of anti-social behaviour and criminal events from persons frequenting the area have been raised. These are a realistic consideration with historical traits of these incidents well known to police and local residents.

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There are no strategies and measures in the application that will address these areas. It is foreseeable that these will continue unless addressed.

Consider a community safety audit

Community safety audits are informal site surveys that can be conducted by local residents, business owners, Council and members of the public. These audits help identify areas likely to stimulate fear and criminal opportunity.

These audits give the community a chance to survey public areas, and inform private and public agencies of existing or potential problem areas that could (reasonably) be made safer with the goal of minimising the opportunity for crime, anti-social behaviour and fear of crime.

A successful community safety audit requires the co-ordination of a cross section of the community to participate, provision of equipment to ensure Work Cover compliance, auditing tools and completion of a report.

In this instance, evaluation of the site would require a review of the area in its current state and another audit at a later date should the proposal be granted. Requirement of such an audit may cause delay for the Council and proponent in the development process.

It is not considered practical or necessary to conduct a community safety audit in the current state. Crime statistics are recorded and mapped, variations and trends are constantly analysed for specific locations. Notwithstanding this, should the proposal be granted, a community safety audit may be considered should agencies or the public require one.

Other comments

The car park front gate is ineffective. Although it can be locked, residents and police know cars regularly drive through to the car park via the grass area between the sandstone boulders when and if the gate is closed. This area is to be better secured with either adequate fencing or extra boulders placed to STOP this access.

Police have been called to the location mainly Thursday to Sunday nights due to reports of anti social behaviour or cars hooning (burnouts). A suggestion of speed humps along the access lane and 'telegraph' poles were to be placed in the rear car park. This was to inhibit the opportunity for this activity. A properly constructed series of dividers [should] be established in order to guide cars to their respective parking spaces and provide suitable traffic flow and guidance.

Conclusion

The purpose of this assessment is to enhance the safety of members of the community and their property with consideration of preventing and / or minimising any conflict between the proposed users and surrounding landholders.

Should the DA proposal for the erection of the seating area and amenities block be approved by Ku-ring-gai Council, further consideration should be given to including the NSW Police assessment suggestions. This assessment is submitted to minimise the alignment of conditions favoured by criminals.

Planner's comment:

It is apparent from this consultation that Warrimoo Oval has in the past been the focus of anti social behaviour. There have been a number occasions where police have been called out to the area to address incidents of alcohol and drug use, excessive noise and car hoons at the site, particularly at the rear car park and existing tennis shelter, but also in surrounding streets.

The continuation of such activities in the area is considered as 'likely' as there are no significant changes in the trend of incidents at the site.

Whilst it is acknowledged that there have past incidents of anti-social behaviour at the site, it is not considered that proposal will exacerbate or significantly impact upon these activities at the site.

Notwithstanding, it is suggested that separate to the DA process, Council request the Ku-ring-gai Local Area Command to undertake a community safety audit in consultation with Council's Open Space Planning Section and that any recommendations for improvements to the locality be provided to Council for further consideration.

STAUTORY PROVISIONS

This application is 'Local Development' under Part 4 of the EP and A Act, 1979 and requires development consent pursuant to the KPSO.

Disability Discrimination Act 1992

The provisions of the *Disability Discrimination Act 1992* (DDA), requires an assessment of the accessibility of a proposed development at the DA stage with the aim of ensuring the development is accessible to all persons, regardless of disabilities.

The DDA does not specify a series of controls with which to comply but rather is a complaints based mechanism that recognises the need for access to be equitable for all, particularly in terms of community facilities.

The works associated with the proposed seating structure do not include the installation of new amenities within the site but do involve the construction of new concrete paths and a concrete concourse at the front of the seating structure. It is considered that the proposed works will improve access to this part of the playing fields.

Council can be satisfied that that adequate, equitable and reasonable access will be afforded around the areas of the site affected by the proposed development application. The proposal is therefore deemed to be consistent with the requirements of the DDA.

STATE ENVIRONMENTAL PLANNING POLICIES (SEPPs)

State Environmental Planning Policy No 19 – Bushland in Urban Areas (SEPP19)

SEPP 19 exists to ensure proposed development does not unduly impact upon remnant bushland vegetation. Warrimoo Oval adjoins remnant bushland to the east. As such, the provisions of

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SEPP19 require consideration of the potential impacts of the proposal upon this remnant bushland against the Aims set out within Clause 2 of the SEPP.

The specific matters for consideration include the need to protect remnant plant communities, wildlife corridors, vegetation links, geological features, existing landforms and the recreational and educational potential of the bushland.

As noted by Council's Landscape Assessment Officer, the proposal involves the removal of several trees and will not have any material impact upon the vegetation of the adjoining bushland areas. Council's Development Engineer is also satisfied that the stormwater management measures to be utilised will not be of any undue impact upon this bushland.

Therefore, in respect of the above, the proposed development is assessed as being satisfactory having regard to the matters for consideration set out in SEPP 19.

State Environmental Planning Policy No. 55 – Remediation of Land (SEPP55)

SEPP 55 requires consideration of the potential for a site to be contaminated. Should any evidence exist to suggest a site may be contaminated, Clause 7 of SEPP 55 requires consideration as whether the land is suitable for the proposed use in its contaminated state.

Council's available records indicate that, historically the site was occupied by bushland vegetation, and is unlikely to be associated with any form of land contamination.

Therefore, given that the site has no history to suggest the land may be contaminated and given the proposed development for use a recreational facility is consistent with the manner in which the site is currently used, further investigation is not warranted in this case.

REGIONAL ENVIRONMENTAL POLICIES

Sydney Regional Environmental Plan No. 20 (Hawkesbury-Nepean River)

Matters for consideration include bio-diversity, ecology and environmental protection, public access to and scenic qualities of foreshores and waterways, maintenance of views, control of boat facilities and maintenance of a working harbour.

The proposal is not in close proximity to, or within, views of the Hawkesbury River or any wetland associated with the catchment. The proposed works are relatively minor in scale and will not result in any material detrimental impacts upon harbours, the rivers or any associated wetland, either environmentally or visually.

Therefore, in respect of the above, the proposed development is assessed as being satisfactory having regard to the matters for consideration set out by this instrument.

LOCAL POLICIES

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Part A: Permissibility

The subject site is zoned Open Space - Recreation Existing 6(a) as defined by Clause 23 of the KPSO. Subject to development consent, this zoning permits the use of the land as a "Recreational area". The relevant definition provided by the KPSO states:

"Recreation area" means:

- (a) a children's playground;*
- (b) an area used for sporting activities or sporting facilities;*
- (c) an area used to provide facilities for recreational activities which promote the physical, cultural or intellectual welfare of persons within the community, being facilities provided by:*
 - (i) the Council; or*
 - (ii) a body of persons associated for the purpose of promoting the physical, cultural or intellectual welfare of persons within the community,*

but does not include a racecourse or a showground.

The proposed spectator seating structure will provide a sporting facility for the purpose recreational activities in the locality. The facility will be utilised by sporting groups that currently use the playing fields which will promote physical activity within the community.

The proposed use is deemed to be consistent with the definition of *"recreation area"* and is permissible in this zone.

Aesthetic appearance

Clause 33(a) of the KPSO requires that consideration be given to aesthetic appearance of the proposed works as viewed from public spaces.

The proposed spectator stand is a low scale structure that is unobtrusive in appearance and will have minimal impacts on surrounding areas. The scale and form of the development meets the needs of local sporting clubs and is consistent with the continued use of the site for recreational purposes.

The proposed development is considered to be acceptable with regard to the requirements of Clause 33(a) of the KPSO.

Development of land within Zone No. 6(a)

Clause 60A of the KPSO states:

The Council shall not consent to the carrying out of development on land owned or controlled by the Council and within Zone No 6(a) unless the Council has made an assessment of:

- (a) the need for the proposed development on the land;*
- (b) the impact of the proposed development on the existing or likely future use of the land; and*
- (c) the need to retain the land for its existing or likely future use.*

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The proposal has been identified by the St Ives Football Club as a facility that will positively contribute to the sporting, recreational and social needs of the community. The facility will also cater for the needs of all people who utilise the site for a sporting purpose.

The proposed development will have a minimal impact on the existing and likely future uses of the land and is satisfactory having regard to the relevant matters for consideration set out by this Clause.

POLICY PROVISIONS

Development Control Plan No. 31 – Access (DCP31)

Matters for consideration under DCP31 have been taken into account in the assessment of this application against the DDA and are considered to be satisfactory, subject to recommended consent conditions.

Development Control Plan No. 40 – Construction and Demolition Waste Management (DCP40)

The key objectives of this DCP are to encourage building design and construction techniques which will minimise waste generation, implement the principles of the waste hierarchy of avoiding, re-using and recycling building and construction materials, and commercial waste, minimise the environmental impacts of waste, promote the principles of ecologically sustainable development, meet Council's responsibilities in relation to the Northern Sydney Regional Waste Plan and assist in achieving the Federal and State Government's waste minimisation targets.

The applicant has submitted a waste management plan that outlines the manner in which the waste generated by the facility will be dealt with. A condition is also recommended requiring the installation of waste collection receptacles in consultation with Council's Manager Waste Collection Services. This is in addition to existing waste collection points adjacent to the existing tennis courts and elsewhere on Warrimoo Oval.

The measures outlined by the waste management plan are consistent with the matters for consideration set out by DCP40. In this respect, it is recommended that conditions be imposed requiring waste be managed in accordance with this plan **(Conditions 1 and 15)**.

Development Control Plan No. 43 – Car Parking (DCP43)

DCP43 sets rates for the provision of parking for a number of uses. The DCP also contains assessment criteria for design of parking areas, particularly in terms of parking space sizes and vehicle manoeuvrability.

The proposed parking arrangements have been assessed by Council's Development Engineer who is satisfied that site incorporates adequate vehicular access and parking arrangements.

Therefore, in respect of the above, the application has been assessed as being satisfactory having regard to the relevant matters for consideration set out by DCP43.

Development Control Plan No. 47 – Water Management

The purpose of DCP47 is to ensure that stormwater run-off associated with the proposed development is appropriately managed so as not to unduly impact upon both the subject site and downstream properties.

The proposed development has been assessed against DCP47 by Council's Development Engineer who is satisfied that the stormwater management measures proposed in the application are consistent with the matters for consideration set out by DCP47, subject to the imposition of the conditions.

Sports Ground Generic Plan of Management (SGGPOM)

The SGGPOM relates to Council owned land zoned Open Space - Recreation Existing 6(a) and has been prepared by Council in accordance with the requirements of the *Local Government Act, 1993*. This plan was adopted by Council in July 2003 and should be taken into consideration by Council in the assessment of applications involving new sportsground facilities.

The key aim of this plan is to encourage, promote and facilitate recreational pursuits in the community, including organised activities, while ensuring such activities are managed in a manner that does not adversely impact upon neighbouring residences. The plan requires that consideration be given to issues such as noise generation, impacts of illumination, traffic and parking demand through the setting of various performance targets. The SGGPOM also allows for the negotiation of leases between Council and those wishing to use Council owned sports grounds.

The site is subject to the SGGPOM and is categorised as a sportsground. The proposed covered seating will provide a facility that will promote and facilitate recreational and sporting activity within the community and would not present any significant detrimental impact on the amenity of neighbouring residential properties. Additionally, the proposed facility will be compatible with existing various uses of Warrimoo Oval and will be utilised by many different users of the sportsground.

The proposal is therefore satisfactory with regard to the aims and objectives set out by the SGGPOM.

LIKELY IMPACTS

All likely impacts have been addressed throughout this report.

SUITABILITY OF THE SITE

The introduction of the proposed covered seating structure is considered to be a suitable use of the site. The proposed sporting facility is a permissible land use within the Open Space - Recreation Existing 6(a), the use of the site for the proposed purpose is compatible with the existing uses of Warrimoo Oval and the development will not result in any unreasonable impact upon neighbouring residential amenity.

ANY SUBMISSIONS

All submissions received have been considered in the assessment of this application.

PUBLIC INTEREST

The approval of the application is considered to be in the public interest.

CONCLUSION

Having regard to the provisions of Section 79C of the Environmental Planning and Assessment Act, 1979, the proposed development is considered to be satisfactory. Therefore, it is recommended that the application be approved, subject to conditions.

RECOMMENDATION

THAT the Council, as the consent authority, grant development consent to DA 0012/10 for construction of a covered spectator seating structure and associated works on land at 161 Warrimoo Avenue, St Ives Chase, for a period of two (2) years from the date of the Notice of Determination, subject to the following conditions:

CONDITIONS THAT IDENTIFY APPROVED PLANS:

1. Approved architectural plans and documentation (new development)

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council's stamp, except where amended by other conditions of this consent:

Plan no.	Rev	Description	Drawn by	Dated	Received
DA01	C	Site plan	Blue World Architecture	11-3-10	11-3-10
DA02	C	Lower ground floor plan	Blue World Architecture	11-3-10	11-3-10
DA03	C	Upper floor plan	Blue World Architecture	11-3-10	11-3-10
DA04	C	Section	Blue World Architecture	11-3-10	11-3-10
DA05	C	North elevation	Blue World Architecture	11-3-10	11-3-10
DA06	C	West elevation	Blue World Architecture	11-3-10	11-3-10
DA07	C	South elevation	Blue World Architecture	11-3-10	11-3-10
DA08	C	East elevation	Blue World Architecture	11-3-10	11-3-10
DA09	C	Near site & roof plan	Blue World Architecture	11-3-10	11-3-10

Document(s)	Prepared by	Dated	Received
Bushfire Hazard Assessment Report	Building Code & Bushfire Hazard Solutions P/L	30-11-09	14-01-10
Arborist Report	Priority Tree Services	Nov 2009	14-01-10

Reason: To ensure that the development is in accordance with the determination.

2. Inconsistency between documents

In the event of any inconsistency between conditions of this consent and the drawings/documents referred to above, the conditions of this consent prevail.

Reason: To ensure that the development is in accordance with the determination.

CONDITIONS TO BE SATISFIED PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION:

3. Road opening permit

The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a road opening permit being obtained from Council (upon payment of the required fee) beforehand.

Reason: Statutory requirement (Roads Act 1993 Section 138) and to maintain the integrity of Council's infrastructure.

4. Construction requirements for development in bushfire prone areas

The development shall comply with the requirements of 'Planning for Bushfire Protection 2006' and Australian Standard AS3959 and accord with the recommendations of the Bushfire Hazard Assessment Report prepared by Building Code & Bushfire Hazard Solutions P/L dated 30 November 2009.

The design and construction of the proposed Grandstand must comply with the requirements of 'Planning for Bushfire Protection 2006' and Australian Standard AS3959.

Reason: To ensure the development is carried out in accordance with 'Planning for Bushfire Protection 2006' and Australian Standard AS3959.

5. Install barriers to seating structure under-croft areas

To prevent access to the exposed areas below the seating structure and to prevent the build up of leaf litter, debris and windborne garbage, a solid barrier shall be installed along its northern, eastern and southern edges. A barrier shall also be constructed between the rear of the seating structure and the existing brick amenities building to the immediate east.

The required barriers shall consist of materials to match the approved schedule of colours & materials and shall be non-combustible in accordance with the requirements of Australian Standard AS3959. Details of the required barrier shall be provided to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To ensure restrict access to the underside of the development, to prevent the build up of litter & debris and to ensure the development is carried

out in accordance with 'Planning for Bushfire Protection 2006' requirements and Australian Standard AS3959.

6. Notice of commencement

At least 48 hours prior to the commencement of any development (including demolition, excavation, shoring or underpinning works), a notice of commencement of building or subdivision work form and appointment of the principal certifying authority form shall be submitted to Council.

Reason: Statutory requirement.

7. Notification of builder's details

Prior to the commencement of any development or excavation works, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder intending to carry out the approved works.

Reason: Statutory requirement.

8. Construction and traffic management plan

Prior to the commencement of any works on site, the applicant must submit for review by Council's engineers a construction and traffic management plan. The following matters must be specifically addressed in the plan:

1. A plan view of the entire site and frontage roadways indicating:

- dedicated construction site entrances and exits, controlled by a certified traffic controller, to safely manage pedestrians and construction related vehicles in the frontage roadways
- turning areas within the site for construction and spoil removal vehicles, allowing a forward egress for all construction vehicles on the site
- the locations of proposed work zones in the frontage roadways
- location of any proposed crane and concrete pump and truck standing areas on and off the site
- a dedicated unloading and loading point within the site for all construction vehicles, plant and deliveries
- material, plant and spoil bin storage areas within the site, where all materials are to be dropped off and collected
- an on-site parking area for employees, tradespersons and construction vehicles as far as possible

2. Traffic control plan(s) for the site

All traffic control plans must be in accordance with the RTA publication "Traffic Control Worksite Manual" and prepared by a suitably qualified person (minimum 'red card' qualification). The main stages of the development requiring specific construction management measures are to be identified and specific traffic control measures identified for each stage.

Approval is to be obtained from Council for any temporary road closures or crane use from public property. Applications to Council shall be made a minimum of 4 weeks prior to the activity proposed being undertaken.

3. A detailed description and route map of the proposed route for vehicles involved in spoil removal, material delivery and machine floatage must be provided.

Light traffic roads and those subject to a load or height limit must be avoided where alternate routes exist.

A copy of this route is to be made available to all contractors and shall be clearly depicted at a location within the site.

The plan must provide evidence of RTA concurrence where construction access is provided directly from or within 20m of an arterial road.

The plan must provide a schedule of site inductions to be held on regular occasions and as determined necessary to ensure all new employees are aware of their construction management obligations. These must specify that construction-related vehicles are to comply with the approved requirements.

The plan must provide measures for minimising construction related traffic movements during school peak periods.

For those construction personnel that drive to the site, the applicant shall attempt to provide on-site parking so that their personnel's vehicles do not impact on the current parking demand in the area.

The construction and traffic management plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition. The construction management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of, and during, works on-site including excavation.

As the plan has a direct impact on the local road network, the plan shall be submitted to and reviewed by Council's Development Engineer. Written acknowledgment from Council's Engineer shall be obtained (attesting to this condition being appropriately satisfied) and submitted to the Principal Certifying Authority prior to the commencement of any works on site.

Reason: To ensure that appropriate measures have been considered during all phases of the construction process in a manner that maintains the environmental amenity and ensures the ongoing safety and protection of people.

9. Temporary construction exit

A temporary construction exit, together with necessary associated temporary fencing, shall be provided prior to commencement of any work on the site and shall be maintained throughout the duration and progress of construction.

Reason: To reduce or eliminate the transport of sediment from the construction site onto public roads.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE:

10. Long service levy

In accordance with Section 109F(i) of the Environmental Planning and Assessment Act a Construction Certificate shall not be issued until any long service levy payable under Section 34 of the Building and Construction Industry Long Service Payments Act 1986 (or where such levy is payable by instalments, the first instalment of the levy) has been paid. Council is authorised to accept payment. Where payment has been made elsewhere, proof of payment is to be provided to Council.

Reason: Statutory requirement.

11. External finishes and materials (new building)

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the external finishes of the building are in accordance with those submitted with the development application. The materials are to be complimentary to the approved architectural appearance of the development. Nothing in this condition is to be construed as permitting the replacement of previously submitted materials with inferior or inadequate materials or finishes.

Note: Details of the colour, finish and substance of all external materials, including schedules and a sample board of materials and colours, are to be submitted.

Reason: To protect the streetscape and the integrity of the approved development.

12. Outdoor lighting

Prior to the issue of a Construction Certificate, the Certifying Authority shall be satisfied that any outdoor lighting will comply with AS4282: 1997 Control of the Obtrusive Effects of Outdoor Lighting.

Note: Details demonstrating compliance with these requirements are to be submitted prior to the issue of a Construction Certificate.

Reason: To provide high quality external lighting without adverse affects on public amenity from excessive illumination levels.

13. Access for people with disabilities

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that access for people with disabilities from the public domain to the seating structure is provided. Consideration must be given to the means of dignified and equitable access.

Compliant access provisions for people with disabilities shall be clearly shown on the plans submitted with the Construction Certificate. All details shall be provided to the Principal Certifying Authority prior to the issue of the Construction Certificate. All details shall be prepared in consideration of the Disability Discrimination Act and the relevant provisions of AS1428.1, AS1428.2, AS1428.4 and AS 1735.12.

Reason: To ensure the provision of equitable and dignified access for all people in accordance with disability discrimination legislation and relevant Australian standards.

14. Excavation for services

Prior to the issue of the Construction Certificate, the Principal Certifying Authority shall be satisfied that no proposed underground services (ie: water, sewerage, drainage, gas or other service) unless previously approved by conditions of consent, are located beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

Note: A plan detailing the routes of these services and trees protected under the Tree Preservation Order shall be submitted to the Principal Certifying Authority.

Reason: To ensure the protection of trees.

15. Recycling and waste management

Prior to the issue of the Construction Certificate, the Certifying Authority shall be satisfied that the development provides garbage and recycling bins in accordance with Council's collection requirements. The number and location of garbage collection and recycling points shall be provided in accordance with Council's Operations Waste, Drainage & Cleansing Department requirements.

Written approval of the required garbage and recycling facilities shall be obtained from Council's Manager Waste, Drainage & Cleansing Department prior to issue of the Construction Certificate.

Reason: Environmental protection.

CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF THE CONSTRUCTION CERTIFICATE OR PRIOR TO DEMOLITION, EXCAVATION OR CONSTRUCTION (WHICHEVER COMES FIRST):

16. Infrastructure restorations fee

To ensure that damage to Council property as a result of construction activity is rectified in a timely matter:

- a) All work or activity taken in furtherance of the development the subject of this approval must be undertaken in a manner to avoid damage to Council property and must not jeopardise the safety of any person using or occupying the adjacent public areas.
- b) The applicant, builder, developer or any person acting in reliance on this approval shall be responsible for making good any damage to Council property, and for the removal from Council Property of any waste bin, building materials, sediment, silt, or any other material or article.
- c) The Infrastructure Restoration Fee must be paid to the Council by the applicant prior to both the issue of the Construction Certificate and the commencement of any earthworks or construction.
- d) In consideration of payment of the Infrastructure Restorations Fee, Council will undertake such inspections of Council Property as Council considers necessary and also undertake, on behalf of the applicant, such restoration work to Council Property, if any, that Council considers necessary as a consequence of the development. The provision of such restoration work by the Council does not absolve any person of the responsibilities contained in (a) to (b) above. Restoration work to be undertaken by the Council referred to in this condition is limited to work that can be undertaken by Council at a cost of not more than the Infrastructure Restorations Fee payable pursuant to this condition.
- e) In this condition:

“Council Property” includes any road, footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, letter bins, trees, shrubs, lawns, mounds, bushland, and similar structures or features on any road or public road within the meaning of the Local Government Act 1993 (NSW) or any public place; and

“Infrastructure Restoration Fee” means the Infrastructure Restorations Fee calculated in accordance with the Schedule of Fees & Charges adopted by Council as at the date of payment and the cost of any inspections required by the Council of Council property associated with this condition.

Reason: To maintain public infrastructure.

17. Public liability insurance – works on public land

Any person or contractor undertaking works on public land must take out public risk insurance with a minimum cover of \$10 million in relation to the occupation of, and approved works within Council's road reserve or public land, as approved in this consent.

The policy is to note and provide protection for Ku-ring-gai Council as an interested party and a copy of the policy must be submitted to Council prior to the commencement of any development (including demolition) or prior to the issue of the Construction Certificate (whichever comes first). The policy must be valid for the entire period that the works are being undertaken on public land.

Note: Applications for hoarding permits, vehicular crossings etc will require evidence of insurance upon lodgement of the application.

Reason: To ensure the community is protected from the cost of any claim for damages arising from works on public land

CONDITIONS TO BE SATISFIED DURING THE DEMOLITION, EXCAVATION AND CONSTRUCTION PHASES:

18. Prescribed conditions

The applicant shall comply with any relevant prescribed conditions of development consent under clause 98 of the Environmental Planning and Assessment Regulation. For the purposes of section 80A (11) of the Environmental Planning and Assessment Act, the following conditions are prescribed in relation to a development consent for development that involves any building work:

- The work must be carried out in accordance with the requirements of the Building Code of Australia
- In the case of residential building work for which the Home Building Act 1989 requires there to be a contract of insurance in force in accordance with Part 6 of that Act, that such a contract of insurance is in force before any works commence.

Reason: Statutory requirement.

19. Approved plans to be on site

A copy of all approved and certified plans, specifications and documents incorporating conditions of consent and certification (including the Construction Certificate if required for the work) shall be kept on site at all times during the demolition, excavation and construction phases and must be readily available to any officer of Council or the Principal Certifying Authority.

Reason: To ensure that the development is in accordance with the determination.

20. Demolition, excavation and construction work hours

Demolition, excavation, construction work and deliveries of building material and equipment must not take place outside the hours of 7.00am to 5.00pm Monday to Friday and 8.00am to 12 noon Saturday. No work and no deliveries are to take place on Sundays and public holidays.

Excavation or removal of any materials using machinery of any kind, including compressors and jack hammers, must be limited to between 7.30am and 5.00pm Monday to Friday, with a respite break of 45 minutes between 12 noon 1.00pm.

Where it is necessary for works to occur outside of these hours (ie) placement of concrete for large floor areas on large residential/commercial developments or where building processes require the use of oversized trucks and/or cranes that are restricted by the RTA from travelling during daylight hours to deliver, erect or remove machinery, tower cranes, pre-cast panels, beams, tanks or service equipment to or from the site, approval for such activities will be subject to the issue of an "outside of hours works permit" from Council as well as notification of the surrounding properties likely to be affected by the proposed works.

Note: Failure to obtain a permit to work outside of the approved hours will result in on the spot fines being issued.

Reason: To ensure reasonable standards of amenity for occupants of neighbouring properties.

21. Construction noise

During excavation, demolition and construction phases, noise generated from the site shall be controlled in accordance with the recommendations of the approved noise and vibration management plan.

Reason: To ensure reasonable standards of amenity to neighbouring properties.

22. Site notice

A site notice shall be erected on the site prior to any work commencing and shall be displayed throughout the works period.

The site notice must:

- be prominently displayed at the boundaries of the site for the purposes of informing the public that unauthorised entry to the site is not permitted
- display project details including, but not limited to the details of the builder, Principal Certifying Authority and structural engineer
- be durable and weatherproof
- display the approved hours of work, the name of the site/project manager, the responsible managing company (if any), its address and 24 hour contact phone

Item 5

number for any inquiries, including construction/noise complaint are to be displayed on the site notice

- be mounted at eye level on the perimeter hoardings/fencing and is to state that unauthorised entry to the site is not permitted

Reason: To ensure public safety and public information.

23. Use of road or footpath

During excavation, demolition and construction phases, no building materials, plant or the like are to be stored on the road or footpath without written approval being obtained from Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.

Reason: To ensure safety and amenity of the area.

24. Toilet facilities

During excavation, demolition and construction phases, toilet facilities are to be provided, on the work site, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.

Reason: Statutory requirement.

25. Road reserve safety

All public footways and roadways fronting and adjacent to the site must be maintained in a safe condition at all times during the course of the development works. Construction materials must not be stored in the road reserve. A safe pedestrian circulation route and a pavement/route free of trip hazards must be maintained at all times on or adjacent to any public access ways fronting the construction site. Where public infrastructure is damaged, repair works must be carried out when and as directed by Council officers. Where pedestrian circulation is diverted on to the roadway or verge areas, clear directional signage and protective barricades must be installed in accordance with AS1742-3 (2002) "Traffic Control Devices for Work on Roads". If pedestrian circulation is not satisfactorily maintained across the site frontage, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.

Reason: To ensure safe public footways and roadways during construction.

26. Services

Where required, the adjustment or inclusion of any new utility service facilities must be carried out by the applicant and in accordance with the requirements of the relevant utility authority. These works shall be at no cost to Council. It is the applicants' full responsibility to make contact with the relevant utility authorities to ascertain the impacts of the proposal upon utility services (including water, phone,

Item 5

gas and the like). Council accepts no responsibility for any matter arising from its approval to this application involving any influence upon utility services provided by another authority.

Reason: Provision of utility services.

27. Erosion control

Temporary sediment and erosion control and measures are to be installed prior to the commencement of any works on the site. These measures must be maintained in working order during construction works up to completion. All sediment traps must be cleared on a regular basis and after each major storm and/or as directed by the Principal Certifying Authority and Council officers.

Reason: To protect the environment from erosion and sedimentation.

28. Drainage to existing system

Stormwater runoff from all new impervious areas and subsoil drainage systems shall be piped to the existing site drainage system. The installation of new drainage components must be completed by a licensed contractor in accordance with AS3500.3 (Plumbing Code) and the BCA. No stormwater runoff is to be placed into the Sydney Water sewer system. If an illegal sewer connection is found during construction, the drainage system must be rectified to the satisfaction of Council and Sydney Water.

Reason: To protect the environment.

29. Canopy/root pruning

Canopy and/or root pruning of the following tree/s which is necessary to accommodate the approved building works shall be undertaken by an experienced Arborist/Horticulturist, with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Schedule

Tree/Location

Tree 5 – *Eucalyptus haemastoma* (Scribbly Gum)
/ Adjacent to the south-western corner of the
existing pavilion

Tree works

Pruning of branches to
allow construction of the
roof

Reason: To protect the environment.

30. Treatment of tree roots

If tree roots are required to be severed for the purposes of constructing the approved works, they shall be cut cleanly by hand, by an experienced Arborist/Horticulturist with a minimum qualification of Horticulture Certificate or Tree Surgery Certificate. All pruning works shall be undertaken as specified in Australian Standard 4373-2007 – Pruning of Amenity Trees.

Reason: To protect existing trees.

31. Approved tree works

Approval is given for the following works to be undertaken to trees on the site:

Schedule Tree/Location	Approved tree works
Tree 1 – <i>Allocasuarina torulosa</i> (Forest Oak) / Near the fixed timber bench seating	Remove
Tree 2 – <i>Glochidion ferdinandi</i> (Cheese tree) / Western side of existing pavilion	Remove
Tree 3 – <i>Glochidion ferdinandi</i> (Cheese tree) / Western side of existing pavilion	Remove
Tree 4 – <i>Glochidion ferdinandi</i> (Cheese tree) / Western side of existing pavilion	Remove

Removal or pruning of any other tree on the site is not approved, excluding species exempt under Council's Tree Preservation Order.

Reason: To ensure that the development is in accordance with the determination.

32. No storage of materials beneath trees

No activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order at any time.

Reason: To protect existing trees.

33. Removal of refuse

All builders' refuse, spoil and/or material unsuitable for use in landscape areas shall be removed from the site on completion of the building works.

Reason: To protect the environment.

34. Replenishment trees to be planted

To offset the removal of trees at the site of construction, a total of four (4) replacement trees shall be planted, at no cost to Council, in suitable locations within the Warrimoo Oval reserve.

The species, size and location of the replenishment trees shall be selected in consultation with Council's Open Space Section, shall consist of locally occurring native species, or suitably complimentary exotic species, and having regard for the applicant's Bushfire Hazard Assessment referred to in Condition No. 1.

The replenishment trees shall be maintained in a healthy and vigorous condition at all times until they attain a height of 5.0 metres whereby they will be protected by Council's Tree Preservation Order.

Reason: To maintain the treed character of the area.

**CONDITIONS TO BE SATISFIED PRIOR TO THE ISSUE OF AN OCCUPATION
CERTIFICATE:**

35. Infrastructure repair

Prior to issue of the Occupation Certificate, the Principal Certifying Authority must be satisfied that any damaged public infrastructure caused as a result of construction works (including damage caused by, but not limited to, delivery vehicles, waste collection, contractors, sub contractors, concrete vehicles) is fully repaired to the satisfaction of Council Development Engineer and at no cost to Council.

Reason: To protect public infrastructure.

D Hoy
Executive Assessment Officer

R Kinninmont
**Team Leader
Development Assessment - Central**

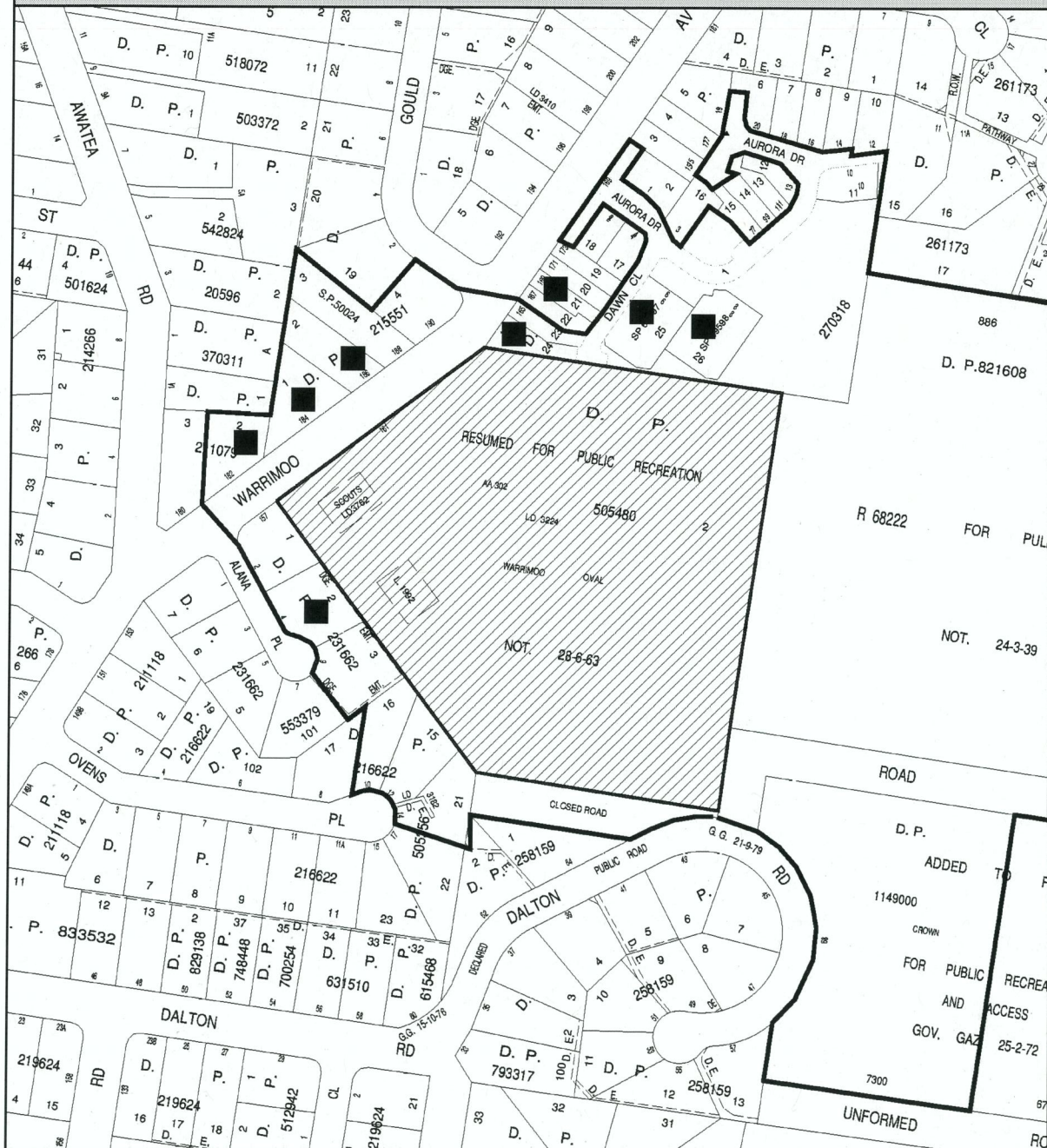
C Swanepoel
**Manager
Development Assessment Services**

M Miocic
**Director
Development & Regulation**

Attachments: **Attachment 1: Location sketch – 2010/045695**
 Attachment 2: Zoning extract - 2010/045691
 Attachment 3: Architectural plans – 2010/045696

LOCATION SKETCH

161 Warrimoo Avenue, ST IVES CHASE
DEVELOPMENT APPLICATION No DA0012/10



Scale : 1:2500

11-03-2010



AGREEMENT



OBJECTION



SUBJECT LAND



PETITION



SUBMISSION



CIRCULATED AREA



Zoning Extract

161 Warrimoo Avenue, ST IVES CHASE - DA0012/10



ZONES		RESERVATIONS	GENERAL
2. RESIDENTIAL (a) RESIDENTIAL A (b) RESIDENTIAL B (c) RESIDENTIAL C (c1) RESIDENTIAL C1 (c2) RESIDENTIAL C2 (d) RESIDENTIAL D (d3) RESIDENTIAL D3 (e) RESIDENTIAL E (f) RESIDENTIAL F (g) RESIDENTIAL G (h) RESIDENTIAL H		5. SPECIAL USES (a) SPECIAL USES A (Schools etc) (a1) SPECIAL USES A1 (b) SPECIAL USES (Railway)	OPEN SPACE (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE
3. BUSINESS (a) RETAIL SERVICES FLOOR SPACE RATIOS A1 2.0:1 A2 1.0:1 A3 0.75:1 (b) COMMERCIAL SERVICES FLOOR SPACE RATIOS B1 1.0:1 B2 1.0:1		6. OPEN SPACE (a) RECREATION EXISTING (b) RECREATION PRIVATE (c) RECREATION PROPOSED	SPECIAL USES SPECIAL USES (Parking etc) ROADS (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING
LEGEND (a) RESIDENTIAL A (b) RESIDENTIAL B (c) RESIDENTIAL C (c1) RESIDENTIAL C1 (c2) RESIDENTIAL C2 (d) RESIDENTIAL D (d3) RESIDENTIAL D3 (e) RESIDENTIAL E (f) RESIDENTIAL F (g) RESIDENTIAL G (h) RESIDENTIAL H		LEGEND (a) SPECIAL USES A (Schools etc) (a1) SPECIAL USES A1 (b) SPECIAL USES (Railway)	LEGEND (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE
LEGEND (a) RETAIL SERVICES FLOOR SPACE RATIOS A1 2.0:1 A2 1.0:1 A3 0.75:1 (b) COMMERCIAL SERVICES FLOOR SPACE RATIOS B1 1.0:1 B2 1.0:1		LEGEND (a) RECREATION EXISTING (b) RECREATION PRIVATE (c) RECREATION PROPOSED	LEGEND (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING
LEGEND (a) SPECIAL USES A (Schools etc) (a1) SPECIAL USES A1 (b) SPECIAL USES (Railway)		LEGEND (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE	LEGEND (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING
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LEGEND (a) SPECIAL USES A (Schools etc) (a1) SPECIAL USES A1 (b) SPECIAL USES (Railway)		LEGEND (a) OPEN SPACE (Public Parks & Recreation) (b) COUNTY OPEN SPACE	LEGEND (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING

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Date:11-03-2010

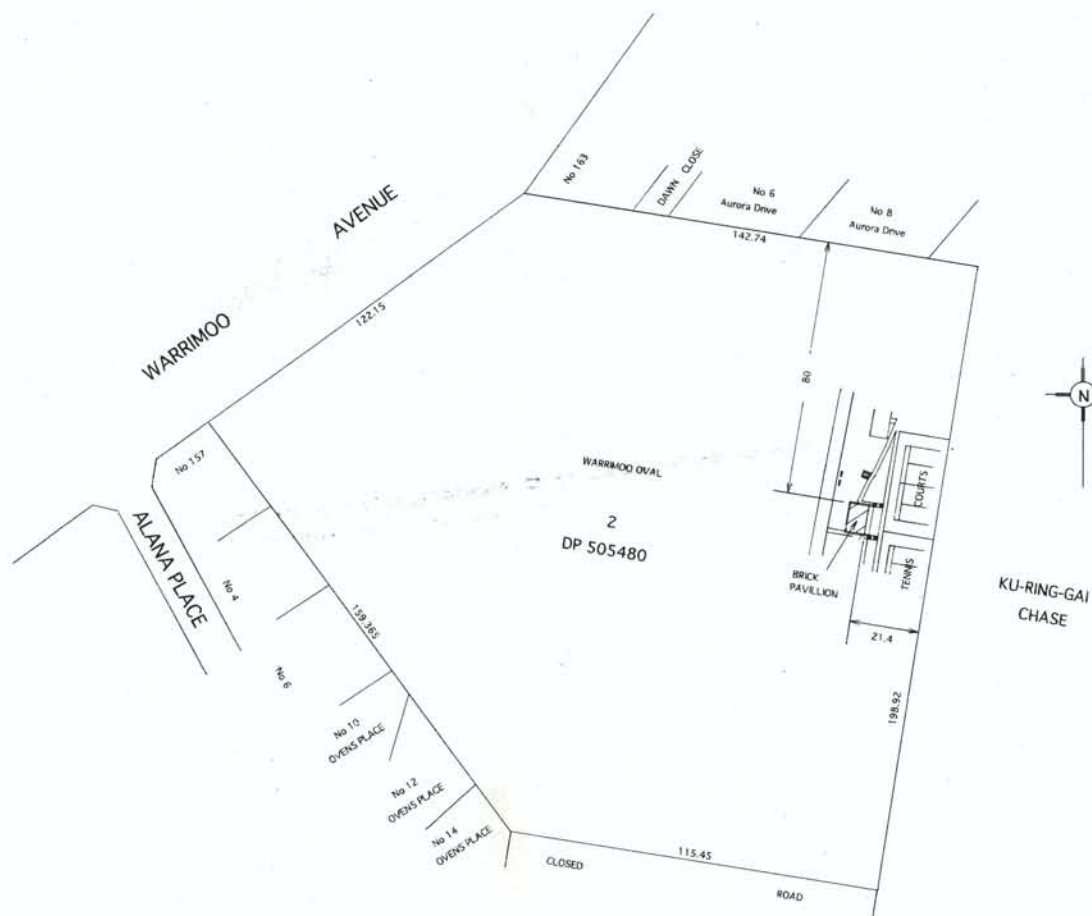
**Blue World
Architecture**

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e admin@blueworld.com.au

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ST IVES FOOTBALL CLUB PROPOSED WARRIMOO SEATING AND AMENITIES BUILDING

Development Application



SITE PLAN



AERIAL LOCATION PHOTOGRAPH

Document			
LOCATION PLAN			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	NTS
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA01

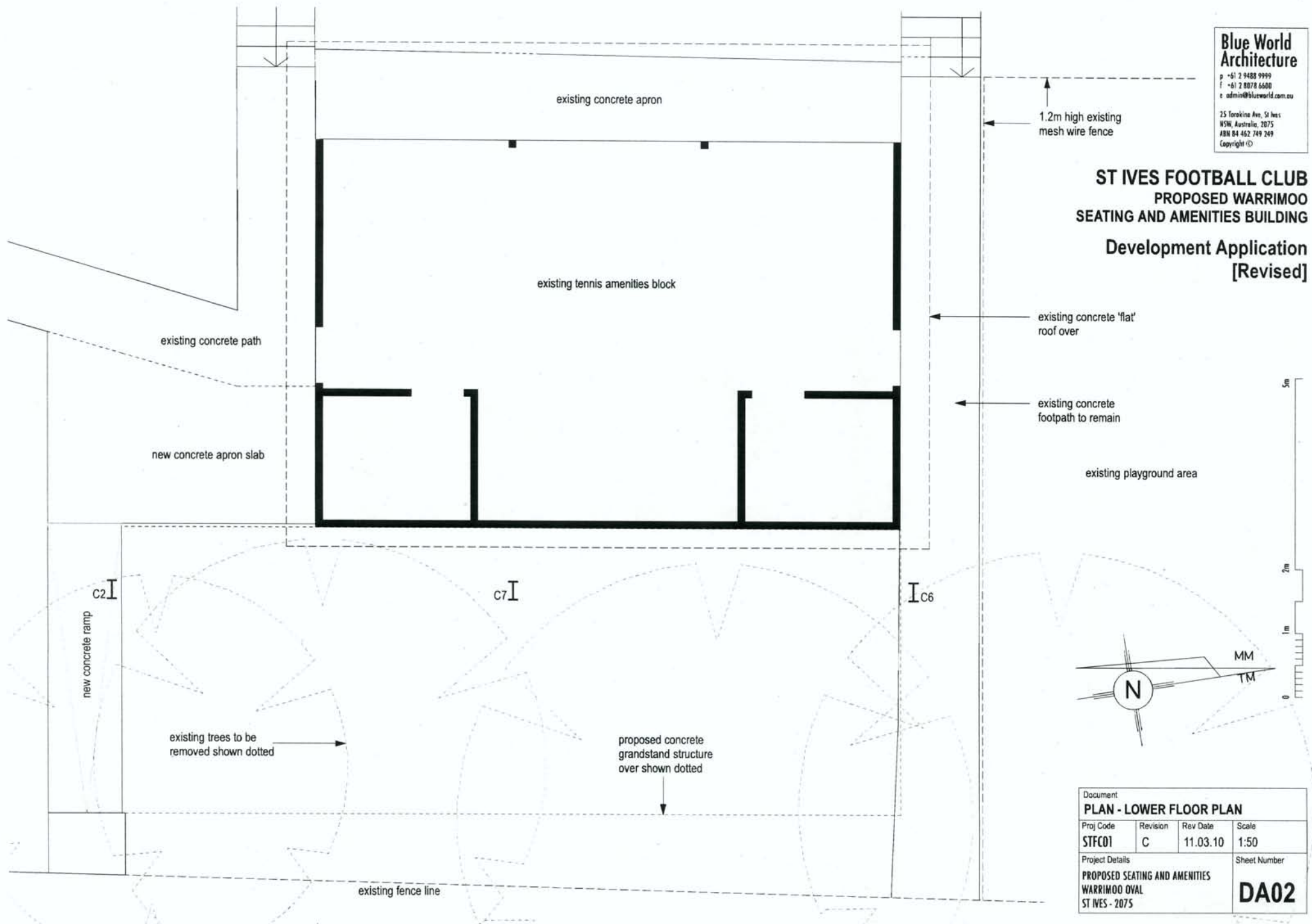
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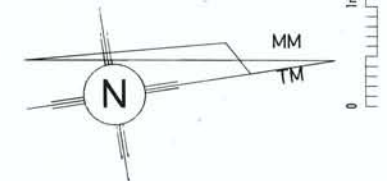
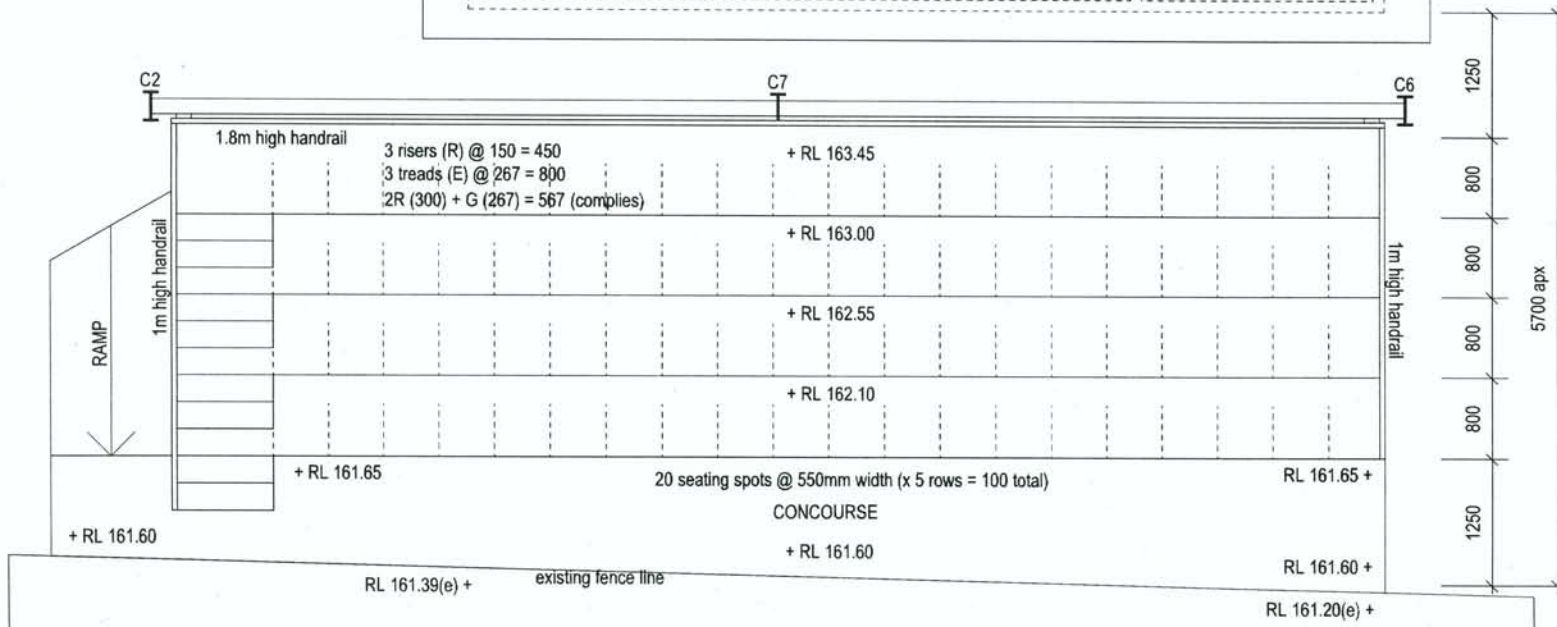
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**ST IVES FOOTBALL CLUB
PROPOSED WARRIMOO
SEATING AND AMENITIES BUILDING**

**Development Application
[Revised]**

existing concrete 'flat'
roof over existing
amenities building

existing structure
below dotted black



Document			
PLAN - UPPER FLOOR PLAN			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:50
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA03

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SEATING AND AMENITIES BUILDING**

**Development Application
[Revised]**

All structural steel elements to be
fully hot dipped galvanised.

non-climbable 1.0m high balustrade to
terrace ends to conform with BCA 3.9.2.

RL164.00
▽
RL163.50
▽
RL163.00
▽
RL162.50
▽
RL162.00
▽
RL161.50
▽
RL161.00
▽
RL160.50
▽
RL160.00
▽

RL163.10 (existing)

existing Tennis Struture
shown in solid black

RL160.48 (existing)

5700

RL167.60

800

450

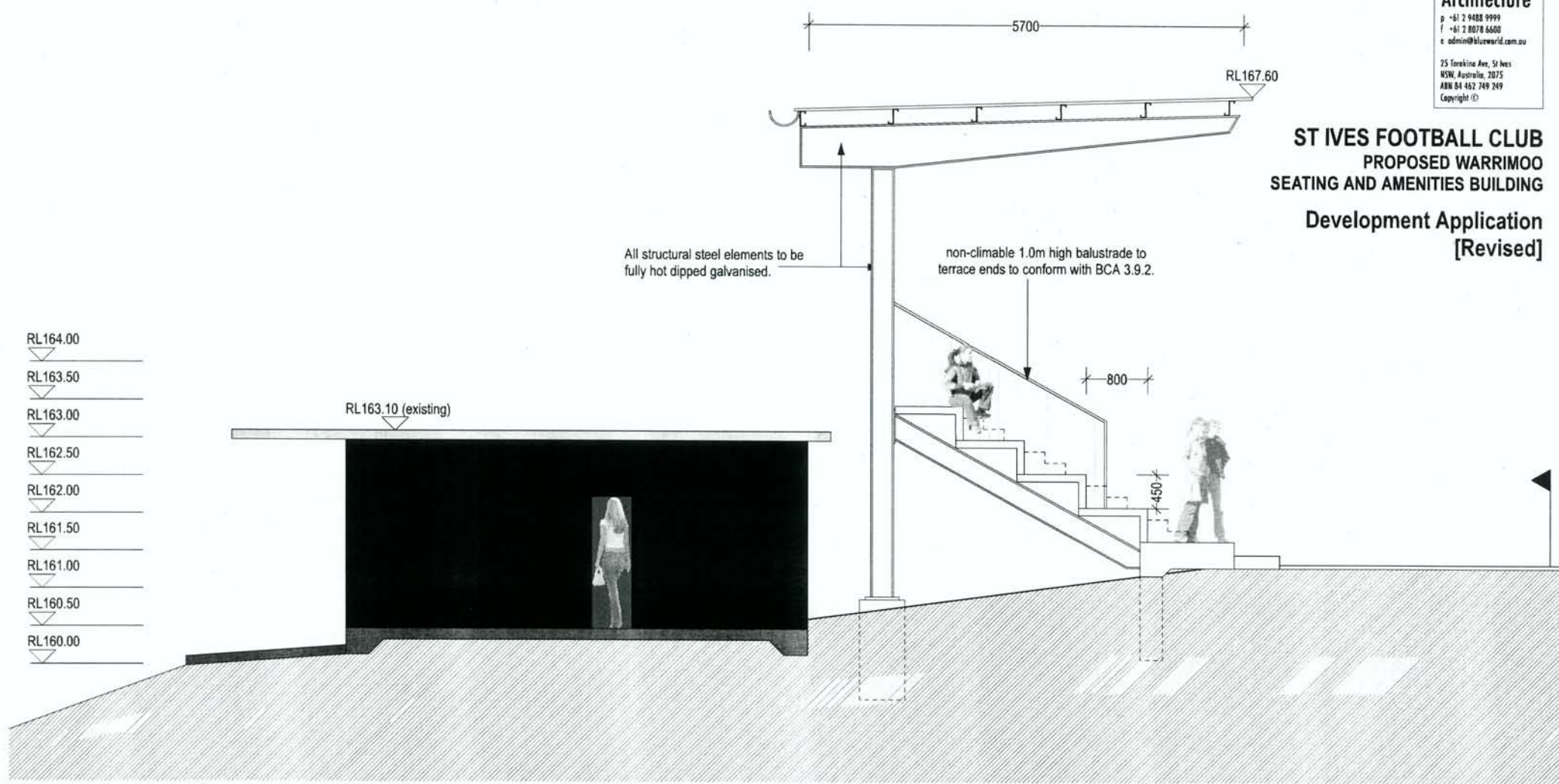
tbc means 'To Be Confirmed' following
Structural Engineer's final design

Document			
SECTION			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:50
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA04



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 PROPOSED WARRIMOO
 SEATING AND AMENITIES BUILDING**
**Development Application
 [Revised]**



tbc means 'To Be Confirmed' following Structural Engineer's final design

Document			
NORTH ELEVATION			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:50
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA05

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PROPOSED WARRIMOO
SEATING AND AMENITIES BUILDING**

**Development Application
[Revised]**

RL167.60

non-climbable 1.8m high balustrade to
inhibit climbing onto roof of tennis
structure beyond. Balustrade to
conform with BCA 3.9.2.

Steel Columns to S.Eng details

RL163.90

Precast concrete steps
to S.Eng details



Document WEST ELEVATION			
Proj Code STFC01	Revision C	Rev Date 11.03.10	Scale 1:50
Project Details PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			Sheet Number DA06

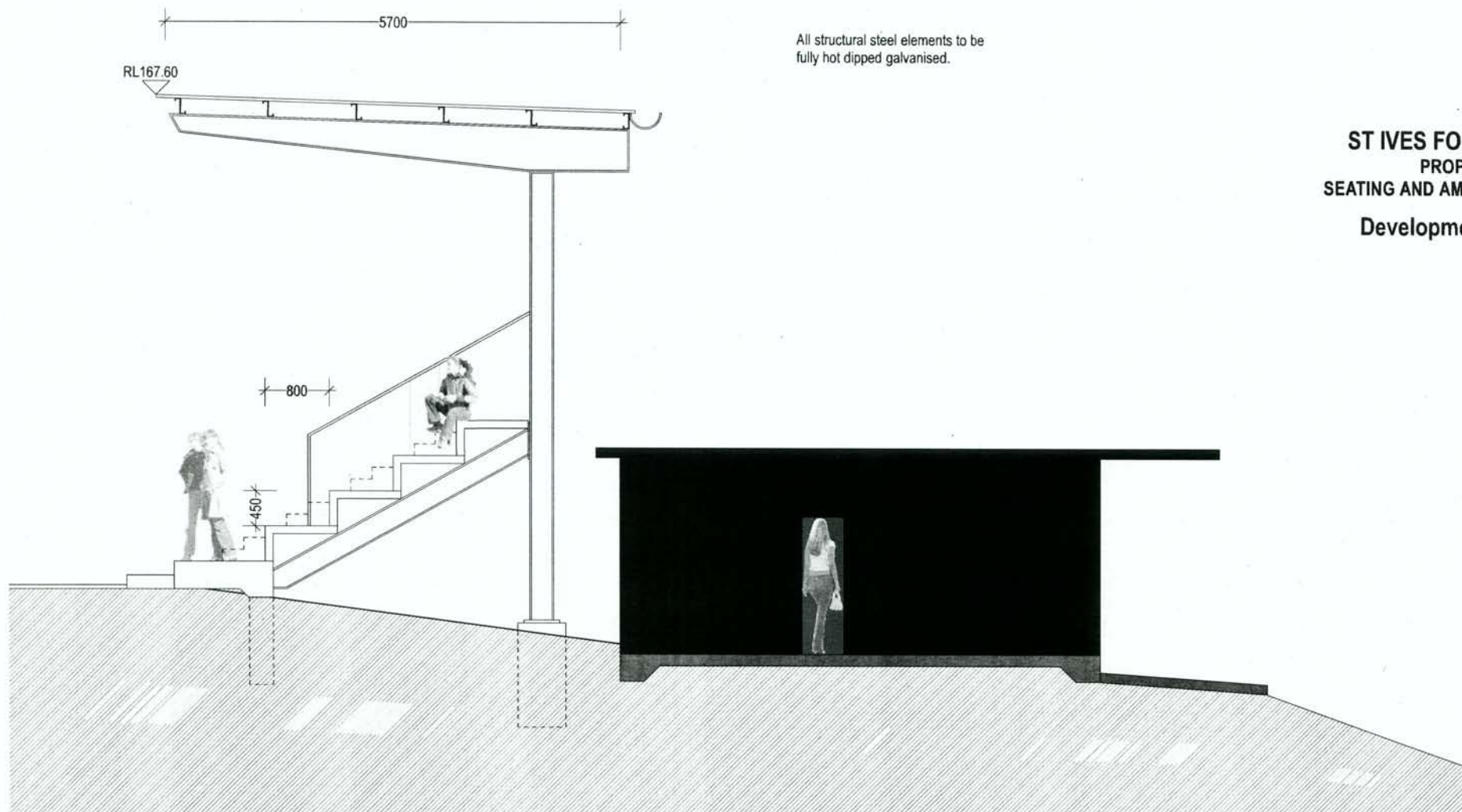
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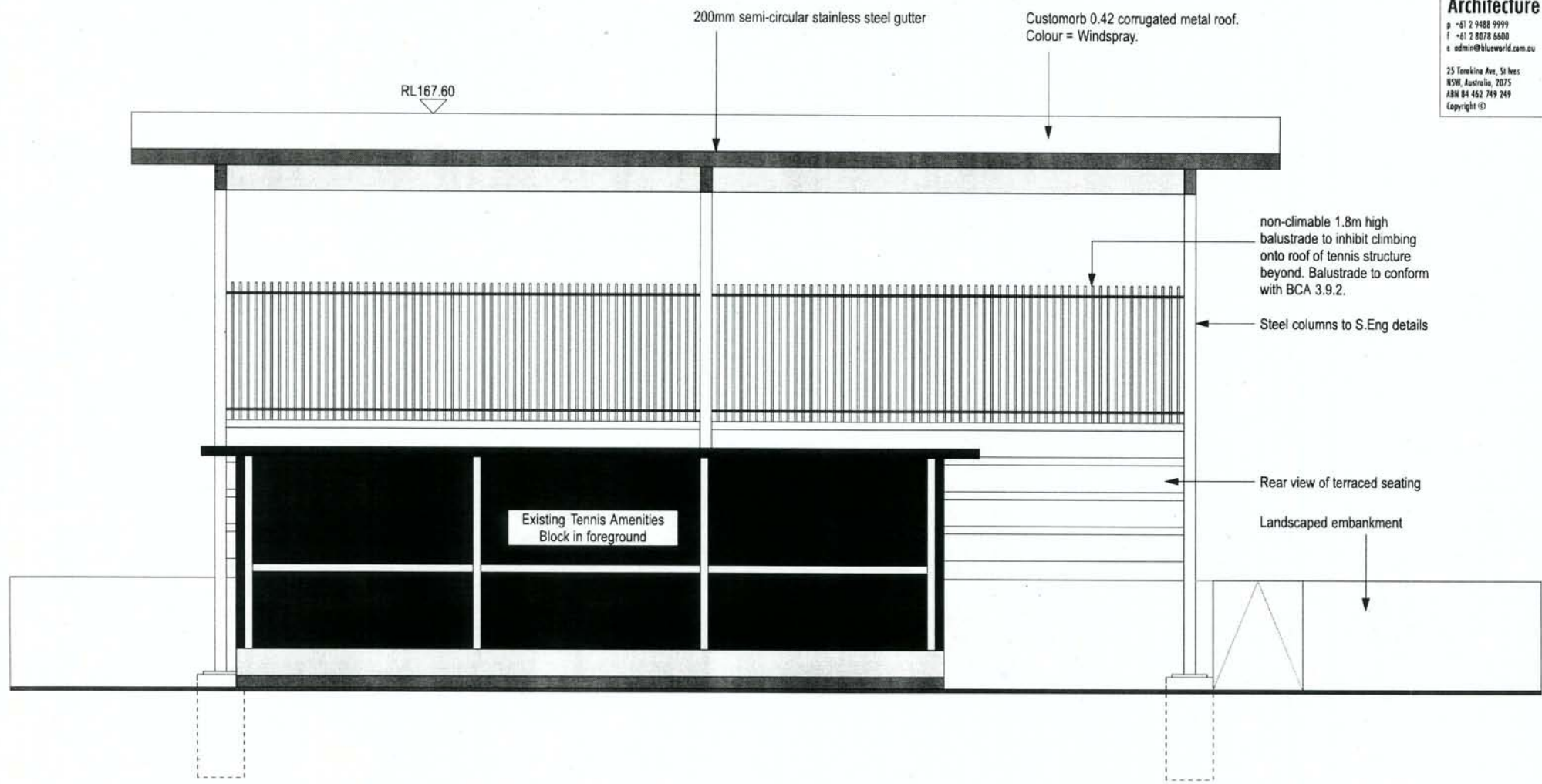
**Development Application
[Revised]**



All structural steel elements to be
fully hot dipped galvanised.



Document			
SOUTH ELEVATION			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:50
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA07



Document			
EAST ELEVATION			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:50
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA08

East Boundary (see survey)

Existing Carpark

Tennis Court #1

Tennis Court #2

Tennis Court #3

Existing pathways (not effected by development)

Existing stair & pathways (not effected by development)

Existing Tennis Court
Amenities Structure
(not effected by development)

Existing Playground
(not effected by development)

Approx location of
existing trees to remain
(shown solid)

Roof Plan of
Proposed Structure

Approx location of
existing trees to remain
(shown solid)

4 x Trees to be
removed shown dotted

80m from boundary to north face of existing structure (from survey)

Document			
NEAR SITE & ROOF PLAN			
Proj Code	Revision	Rev Date	Scale
STFC01	C	11.03.10	1:200
Project Details			Sheet Number
PROPOSED SEATING AND AMENITIES WARRIMOO OVAL ST IVES - 2075			DA09

DRAFT SPONSORSHIP AND DONATIONS POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the development of a draft Sponsorship and Donations Policy for public exhibition.

BACKGROUND:

A guideline for accepting and treating public donations was identified as a key omission during the revision of the adopted Sponsorship Policy in February 2010. The Sponsorship Policy has been revised to include donations for the benefit of Ku-ring-gai Council assets and services.

COMMENTS:

A revision has been made to the current Sponsorship Policy to reflect the Council's need to accommodate and in time enable Council to accept donations. This has included definitions of guidelines for accepting and processing donations.

RECOMMENDATION:

That Council place the draft Sponsorship and Donations Policy on public exhibition.

PURPOSE OF REPORT

To advise Council of the development of a draft Sponsorship and Donations Policy for public exhibition.

BACKGROUND

In November 2007, Council adopted the Sponsorship Policy. This policy defined the processes and methods for seeking, establishing and monitoring commercial sponsorships with Council.

Following a review in February 2010, a key omission was identified – how council defines and manages donations.

COMMENTS

The revised draft Sponsorship and Donations Policy defines sponsorship and donations as:

- *Sponsorship is a commercial arrangement in which a sponsor provides a contribution in money or in kind to support an activity in return for certain specified benefits.*
- *A donation is a provision of cash or items of value with no return benefits expected.*

The new draft Sponsorship and Donations Policy defines two (2) key elements:

1. Types of donations received by Council; and
2. Process for accepting, granting and using donations for the Council, the donor and the general public.

Donation Definition – “...an appropriate sum of money or in kind items/goods/services for a project or activity that falls within the normal scope of Council services.”

Example of donations to Council:

Library books

Accepted donation - Donated library books which meet accepted public library standards for content. Residents and community groups often supply the library with a range of new and used books for public use within the Council libraries.

Not accepted donation - Library books that are supplied in large quantities from a publisher, where the Council believes the provision of these books is not philanthropic, but for promotion or advertising.

Financial donations from sporting groups or individuals

Accepted donation – Financial donations including offers of donations of / or towards Council facilities on public land. Sporting and community groups may fund raise to support the development and the purchase of equipment / features for a Council facility or oval such as kiosks,

Item 6

S05650
8 March 2010

lights, shelters, shed, benches, playground equipment and barbeques.

Not accepted donation – Where the financial donation may infer excessive restrictions or exclusivity of use or benefit to only the donor.

- Council's Policy for the Management of Community and Recreation Land and Facilities (2009) defines options for the leasing arrangements with sporting and community groups that make a capital contribution (monetary or in-kind) to the development, upgrade or maintenance of Council land and facilities.

CONSULTATION

It is recommended that the draft Sponsorship and Donations Policy be exhibited for comment for a period not less than four (4) weeks. A subsequent report on the responses will be submitted to Council for consideration.

FINANCIAL CONSIDERATIONS

This draft policy provides an enabling mechanism through which Council can obtain public benefit to expand or supplement the provision of services or its capital works programs. The financial implication of the policy itself can not be incorporated within the long term financial model or budget. However, where a specific donation supports supplements or enables a new project to be realised it may cause Council to vary its adopted works program in order to maximise community benefit. Should this occur, and being consistent with the draft Sponsorship and Donations Policy, such a donation would be referred to Council for acceptance and inturn the accompanying report would outline the aforementioned implications.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This matter has been discussed with relevant Directors and Managers from Community, Recreation, Asset Management, Corporate Planning and Sustainability, Communications and Property Management.

SUMMARY

The Sponsorship and Donations Policy is intended to supersede the current Sponsorship Policy adopted by Council in 2007. The policy differentiates sponsorships and donations, providing clear and concise guidelines about various types of donations, acceptable and non-acceptable donations, and the process for administering donations. No changes have been made to the sponsorship elements. All sponsorship definitions, guidelines and procedures have continued from the previous Sponsorship Policy (2007).

RECOMMENDATION

That Council place the draft Sponsorship and Donations Policy on public exhibition.

Nick Van de Peer
Consultation Co-ordinator

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments: **Draft Sponsorship and Donations Policy - 2010/039097**



Ku-ring-gai Council

Sponsorships and Donations Policy

Implementation date:	February 2010
Proposed review date:	February 2013
Contact officer:	Manager Communications
Responsible division:	Communications

Related policies/documents:

- Ku-ring-gai Council Code of Conduct
- Independent Commission Against Corruption Guidelines to Sponsorship in the Public Sector
- Sponsorship Agreement Template
- Sponsorship Database

1. Purpose

The purpose of this policy is to set out how Ku-ring-gai Council will administer sponsorships and donations.

2. Objectives

1. To formalise general principles to apply to the negotiation and implementation of sponsorship agreements.
2. To outline the mechanisms Council will use to achieve sponsorship of Council's assets, services, functions and programs.
3. To outline the mechanisms Council will use to grant sponsorship to organisations, events, or private individuals.
4. Advise community groups as to the process and types of donations Council might make and where it is appropriate for Council to make a donation.

3. Definitions

3.1 Sponsorship

Sponsorship is a commercial arrangement in which a sponsor provides a contribution in money or in kind to support an activity in return for certain specified benefits. Sponsorship can be provided:

- By the corporate sector or private individuals, in support of a Council activity. This is referred to as achieving sponsorship in this policy.
- By Council in support of related and worthwhile private or public sector activities. This is referred to as granting sponsorship in this policy.

Sponsorship does not include:

- Selling advertising space
- Joint ventures
- Consultancies
- Grants
- Unconditional gifts, donations, bequests or endowments (refer to donations).

Sponsorship is not philanthropic. A sponsor expects to receive a reciprocal benefit beyond a modest acknowledgement.

3.2 Donation

A donation (including unconditional gift, bequest or endowment) is a provision of cash or items of value with no return benefits expected.

Council, an individual or an organisation may make a donation. Only an individual can make a bequest.

Donations include:

- Donations – an act or instance of presenting something as a gift, grant or contribution
- Bequest – a disposition in a will (legacy)
- Endowment – the property or funds with which an institution or person is endowed

Source: <http://dictionary.reference.com>

A donation assumes a philanthropic motivation.

Donors may request a modest acknowledgment or that the provision be used for a particular purpose.

Donations do not include:

- Donations made during electoral campaigns or to political parties
- Payments made as part of any financial or business transaction made by Council (refer to sponsorships)
- Donations of time and/or human resources is covered by Council's volunteering guidelines and protocols
- Community and financial assistance grants are covered by the Council's Financial Assistance for Community Groups Program.

4. Policy statement

The main points of the policy are concerned with:

4.1 Sponsorship

1. The methods to be used in seeking, granting and negotiating sponsorship.
2. Setting levels of sponsorship benefits.
3. The monitoring procedures to be used to measure sponsorship outcomes for the Council, the general public and the sponsor.

4.2 Donations

1. The types of donations received by Council
2. The process for accepting, granting and using donations for the Council, the donor and the general public

5. Managing sponsorships

5.1 Roles, responsibilities and resources

1. All sponsorship arrangements should be approved by the General Manager or an officer authorised by the General Manager.
2. All sponsorship arrangements greater than \$5, 000 excluding GST in value will be described in the Ku-ring-gai Council Annual Report.
3. Council will maintain a database of all sponsorships to allow

data to be collected for internal audit and annual reports.

5.2 Processes for achieving sponsorships

1. Council must make sponsorship opportunities widely known by using broadly based, open processes that are not limited solely to invited sponsors.
 - (i) This may be achieved by a call for expressions of interest advertised in metropolitan and/or local print media and the Council website. The advertisement may contain the criteria against which expressions will be assessed.
 - (ii) In some cases, for example if sponsor interest is poor or restricted to potential sponsors with highly specialised characteristics, it may be appropriate to deal directly with potential sponsors.
2. On receipt of an expression of interest the criteria (predetermined) for sponsorship will be sent to the respondent together with any other material that Council considers necessary.
3. After expressions of interest have been received, a written formal contract, which shall be a public document, will be entered into by the parties. The contract should be the entire arrangement between the parties and no privileges for either party shall exist outside the agreement.

5.3 Processes for granting sponsorship

1. Organisations may apply for sponsorship in writing to the General Manager.
2. Sponsorships valued more than \$5,000 excluding GST must be approved in a meeting of Council.
3. Sponsorship will only be granted to suitable activities and acceptable recipients as outlined in sections 5.5 and 5.6 of this policy and is subject to the availability of funds.
4. Once sponsorship is approved, a written formal contract, which shall be a public document, will be entered into by the parties. The contract should be the entire arrangement between the parties and no privileges for either party shall exist outside the agreement.

5.4 Suitable activities for achieving sponsorship

Activities suitable for achieving and granting sponsorship are non-core, non-operational activities including but not limited to:

- Festivals and events – e.g. Festival on the Green
- Competitions – e.g. Fitz Band Comp
- Educational programs e.g. Waste Schools Education Kit
- Awards
- Scholarships
- Assets (for a specified period of time) – e.g. garden shed at Community Garden

5.5 Suitable activities for granting sponsorship

Suitable activities for Council to sponsor could include:

- Cultural or community events
- Community education
- Conferences
- Scholarships
- Awards
- Research and publications.

5.6 Acceptable sponsors or recipients of sponsorship

1. Sponsors or recipients must be reputable individuals or bodies.
2. The objectives and products of potential sponsors or recipients must not conflict with the values and the objectives of Council.
3. Sponsors or recipients should have an acceptable sponsorship record.
4. The objectives and missions of potential sponsors' or recipients' parent companies or subsidiaries must not conflict with those of Council.

5.7 Unacceptable sponsors or recipients of sponsorship

Ku-ring-gai Council will not enter into sponsorship agreements with companies, partnerships or sole traders:

1. involved in the manufacture, distribution and wholesaling of tobacco and tobacco-related products.
2. involved in the manufacture, distribution and wholesaling of alcoholic products where such a sponsorship would be related to services or activities for youth.
3. involved in the manufacture, distribution and sale of illicit/inappropriate drugs or services.
4. whose services or products are injurious to health, or are perceived to be in conflict with Council's policies and responsibilities to the community.
5. who are in legal conflict with Council.
6. with an active involvement in the building industry in Ku-ring-gai.
7. which are, or may be, subject to Council regulation or inspection during the life of the sponsorship. This could include restaurants or brothels undergoing a public health inspection, an organisation with a development application awaiting approval.

(i) It is recognised that Council may have difficulty attracting sponsorship if it adheres to this principle in all cases. For example, Council may find that sponsorship for a particular event or activity is only forthcoming from parties it regulates or inspects or is likely to regulate or inspect.

(ii) When considering whether to enter into a sponsorship with such a party, Council should consider the best interests of the public, public accountability, public perceptions and

the potential risks as well as the potential benefits.

(iii) If Council decides to enter into such an arrangement, Council should record the circumstances resulting in this decision and the decision-making process e.g. taking minutes from meetings.

(iv) All parties should understand clearly that the sponsorship arrangement has no bearing on Council's exercise of its regulatory or inspectorial functions. This should be clearly stated and acknowledged in all documentation.

(v) Council should ensure that the people or division involved in the sponsorship arrangement have no involvement in the regulation or inspection of the party or in general. All regulations and inspections will be conducted in an open, fair, accountable and impartial manner.

5.8 Benefits to a sponsor of Council

Ku-ring-gai Council will recognise its corporate sponsors in a number of ways.

The extent of such recognition will be determined in relation to the level and nature of the sponsorship. Forms of benefits may include:

1. Temporary signage.
2. Media release and seeking of associated media or promotional opportunities including discounted or gratis advertising.
3. Invitations to selected Council functions.
4. Printing of the sponsor's name and logo in Council's external publications.
5. Naming rights for an event, building, etc for the term of the sponsorship.
6. Award or trophy in the sponsor's name and publicly presented.
7. Right to use the asset, service, event, name and logo, etc in sponsor's advertising and sales promotion in a form to be mutually agreed.
8. Event facilities, which may include hospitality, free preferential seats, event functions, award presentation, car parking, VIP functions, etc.
9. Merchandising of goods at selected points of sale.
10. Static display in the foyer of Council's Administration Building or other Council-owned facility in a form to be mutually agreed.
11. Professional footage and photography of the asset, service, event, etc, for use by the sponsor in a form to be mutually agreed.
12. Use of the asset or facility, subject to approval in each individual case, in static displays or for an activity of the sponsor when not required for Council's use.
13. Opportunity for sponsor's name and/or logo to be promoted through appropriate general advertising by Council.
14. Opportunity for the sponsor's name and/or logo to be promoted on Council's website and a link to be provided to the sponsor's website.

5.9 Benefits to Council for achieving sponsorship

1. The connection with a reputable sponsor could enhance Council's image and reputation.
2. The sponsorship could make it possible for Council to undertake beneficial non-core activities that could not otherwise be funded or undertaken to the same extent.
3. The sponsorship could either reduce the cost of a particular event or activity or enable it, in the public interest, to be expanded or enhanced.
4. The sponsorship could achieve greater community awareness or public profile for Council, or for a particular service, program or product, than may otherwise have been possible.

5.10 Benefits to Council for granting sponsorship

1. Opportunities to promote Council's key messages, programs and activities, build relationships with stakeholders, and benefit the community in accordance with Council's overall mission and goals.
2. Connection with a reputable recipient could enhance Council's image and reputation.
3. Facilitate community development.
4. Increased staff morale.

5.11 Benefits to a recipient of Council sponsorship

1. Building key relationships with government and community bodies.
2. The sponsorship could make it possible for the recipient to undertake activities that could not otherwise be funded or undertaken to the same extent.
3. The connection with Ku-ring-gai Council could enhance the recipient's image and reputation.
4. The sponsorship could achieve greater community awareness or public profile for the recipient.

5.12 Restrictions and considerations

1. Council must not endorse any commercial products or services associated with the sponsor, recipient or any third party.
2. Where sponsorship involves a sponsor supplying a product, that product should still be evaluated for its fitness for

purpose against objective criteria that are relevant to Council's needs.

3. An employee of the Council or Councillors must not receive, or be perceived to receive, any personal benefits from sponsorship.
4. Funds raised through sponsorship of specific expenditure items should be used for that purpose and not be redirected into general revenue.
5. The cost of managing and evaluating smaller sponsorships should not outweigh the dollar value of the sponsorship.
6. The sponsorship must not conflict or be seen to conflict with the objectives, policies and planning controls of the Council.
7. A sponsorship agreement should not impose or imply conditions that would limit, or appear to limit, Council's ability to carry out its functions fully and impartially. Activities where sponsor involvement could compromise or be seen to compromise Council's ability to exercise its role impartially on behalf of the community or could diminish the public's confidence are not suitable for sponsorship.

5.11 Monitoring procedures

The following monitoring procedures will be used to determine the outcome of the sponsorship from both the sponsor's and the recipient's point of view and will be documented in the sponsorship agreement:

1. End-of-year progress reports to each sponsor and Council on sponsorship, detailing:
 - Public attendance (if applicable)
 - Media coverage
 - Public feedback (spontaneous or surveyed)
 - Sponsor benefits (i.e. examples of promotional material bearing sponsor's name).
2. A monitoring system will be established within Council recording all contact with the sponsor and contact with the general public regarding the sponsorship.
3. A register of sponsorships will be maintained and all major sponsorships will be reported in Council's Annual Report.
4. An accounting procedure will be established within Council, by which detailed information on the expenditure of the sponsorship may be made available to the sponsor or the general public on request.

6. Managing Donations

6.1 Processes for donations to Council

1. All offers to donate or contribute are to be made in writing and addressed to the General Manager
2. Council and nominated staff will need to assess whether the

donation can be used in the way the donor has requested prior to accepting the donation. This includes any public recognition or acknowledgment requested by the prospective donor

3. Council will only accept the donation of public facilities or contribution towards public facilities on public land where it is in the best interest of the community in general. This should be guided by Council's:

- Adopted Community Strategic Plan,
- Adopted Section 94 Contributions Plan
- Plan of Management for the public land on which the facility is to be located, or
- Council's work program or priority list for that type of facility

4. Council staff will assess prospective donations (financial and non financial) up to and including \$50,000.

5. Any proposed financial donation over \$50,000 or item believed to valued in excess of \$50,000 will be assessed by Council as to whether it is deemed appropriate to accept such a donation. In the instance that Council assesses an offer, Council officers will supply all relevant documentation to accompany a report to Council, the decision of which will be disclosed publicly through Council's Business Paper.

6. Items of significant value will need to be assessed by Council staff as to the insurance requirements.

- Relevant for artworks, documents and artefacts of local historical and/or cultural significance, books of value and other materials.
- Council staff will need to consider matters of insurance cost, risk and opportunity to store the item safely as apart of any assessment process involved in determining whether to accept the article as a donation

• All insurance costs will transfer to Council when taking receipt of such an article and whilst all due care will be taken the burden of risk will remain with the donor, should the article be lost, stolen or damaged.

7. Council does not have deductible gift recipient (DGR) status. No tax deductible receipts will be issued to donors. Donors will need to receive independent financial advice regarding tax and GST implications

6.2 Processes for granting donations to third parties

9. All requests for financial support (donations) are to be made in writing and addressed to the General Manager. All applications for donations must include:

- Name of organisation or community group
- Background to organisation or group (including your role within the Ku-ring-gai community)
- Amount of funds requested
- Need and purpose for the funding

- How will the funds be allocated
- Timeframe for spending the funding
- Proposed outputs and outcomes achieved with the funding
- Contact person.

2. Council shall disclose in its Annual Report on all financial and non financial donations that have been accepted that are in excess of \$10,000.

6.3 Acceptable donations to Council

An acceptable donation is one that Council deems to represent an appropriate sum of money or in-kind items/goods/services for a project or activity that falls within the normal scope of Council services.

It is important that Council consider the reasons for the donation and assess this accordingly. It is equally important that Council investigates the entity that is making the donation.

When considering whether to accept a donation, Council should consider the best interests of the public, public accountability, public perceptions and the potential risks as well as the potential benefits.

Where Council accepts a donation, Council will respect the wishes of the donor as far as possible.

Examples of acceptable donations to Council may include, but not be limited to:

- Financial donations, including offers of donations of, or towards, public facilities on public land

Public facilities including buildings (kiosks, lights, shelters, sheds etc) and structures (benches, playground equipment, barbeques, walkways etc).

- Library books which meet accepted public library standards for content
- Documents, photographs, memorabilia, artefacts, diaries and records of historical and/or cultural significance
- Artworks created by local artists for display in public places or which record events or local cultural/historical significance

6.4 Unacceptable donations to Council

Examples of unacceptable donations may include, but not be limited to:

- Artworks that are deemed to be offensive or inappropriate for other reasons
- Library books that are supplied in large quantities by publishers (if Council believes the provision of these books is not philanthropic, but for promotion or advertising)
- Financial donations that may infer excessive restrictions or exclusivity of use or benefit to only the donor
- Historical material that is excessively political in nature

6.5 Acceptable donations to third parties

There are some situations where it is appropriate for Council to make a donation. These might include charity, community organisations, events or extraordinary crisis support. The donation may be used for general purposes or allocated to a specific event.

Examples of acceptable donations from Council may include, but not be limited to:

- Registered community or charitable organisations seeking ad hoc or crisis funding
- E.g. Community events that display a strong and relevant benefit to the local community
- E.g. A local, national or international crisis that the Council (and community) deem necessary to support

Unacceptable donations to third parties

Examples of unacceptable donations may include, but not be limited to:

- General funding request for the provision of income for staffing and administration costs, i.e. Council will not cover the day-to-day operational expenses incurred by community organisations

Note: The Council requests organisations and community groups to determine their eligibility for the Council's annual Financial Assistance to Community Groups Program before requesting an ad hoc donation. This program provides financial assistance to charitable and community groups within Ku-ring-gai.



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SUSTAINABILITY REFERENCE COMMITTEE NOTES OF MEETING HELD 1 MARCH 2010

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on 1 March 2010.

BACKGROUND:

The role of the Sustainability Reference Committee is to provide community, stakeholder and industry advice and feedback to Council on matters relevant to sustainability.

COMMENTS:

The Sustainability Reference Committee was provided with presentations regarding West Pymble Communities of Practice Program, Sustainability in Local Government program, Sustainability Markets, draft Energy Reduction Mitigation and working draft Climate Change Adaptation Strategy and updates from the community working groups.

RECOMMENDATION:

That the notes and attachments of the Sustainability Reference Committee meeting held on 1 March 2010 be received and noted.

PURPOSE OF REPORT

To bring to the attention of Council the proceedings of the Sustainability Reference Committee meeting held on 1 March 2010.

BACKGROUND

In 2009, Ku-ring-gai Council appointed four (4) community reference committees under section 260 of the *Local Government (General) Regulation 2005*. One of the committees appointed was the Sustainability Reference Committee. The role of this Committee is to advise Council on issues relating to sustainability. The Committee consists of eighteen (18) community representatives. The Chairperson is Councillor Holland and Deputy Chair, Councillor Malicki.

COMMENTS

The Sustainability Reference Committee met on 1 March 2010. Notes and attachments of the meeting are **attached** to this report. The items raised at the Committee meeting included:

- Progress of the West Pymble Communities of Practice Program – this is a State Government funded initiative that will focus on increasing the uptake of rainwater tanks within the West Pymble area.
- Sustainability Markets at West Pymble – and the desire of the stall holders to continue to run similar community events at this location.
- Updates from the community working group noting their initiatives in the area on Fair Trade, Energy Saving Competition and Smart Meters.
- Progress on Council's draft Energy Management Strategy and also it's Climate Change Adaptation Strategy. Invitations were extended to all Committee members to comment on the draft mitigation capital works proposal.

CONSULTATION

The Committee is a community forum and no further consultation is required. Details of the committee, presentation material, notes and reports can be obtained from Council's website.

FINANCIAL CONSIDERATIONS

There are no financial considerations associated with the report.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report was prepared by the Strategy and Environment Department.

SUMMARY

The Sustainability Reference Committee met on 1 March 2010. Notes and attachments are **attached** to this report. The Sustainability Reference Committee were provided with presentations regarding West Pymble Communities of Practice Program, Sustainability Markets, draft Energy reduction and working draft Climate Change Adaptation Strategies and updates from the community working group.

RECOMMENDATION

That the notes and attachments of the Sustainability Reference Committee meeting held on 1 March 2010 be received and noted.

Louise Hayward
Sustainability Officer

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments: 1: Sustainability Reference Committee Meeting Notes 1 March 2010 - 2010/042251
Attachments to Meeting Notes, as follows:
1a: Presentation - Education & Partnerships - 2010/045213
1b: Presentation - Planning Climate Adaptation Options - 2010/035177
1c: Presentation - Enabling Effective Community Education & Engagement Program - 2010/035967

Sustainability Reference Committee

6.00 to 8.00pm Monday 1 March 2010

Council Chambers, Level 3, 818 Pacific Highway Gordon.

NOTES OF MEETING

Attendance

Councillors	Cr Holland (Chair), Cr Malicki (Deputy Chair), Cr Cross (Mayor), Cr Szatow,
Council Staff	Peter Davies Manager Sustainability & Corporate Planning, Marnie Kikken Sustainability Project Officer, Jennifer Scott Sustainability Program Leader, Louise Hayward Sustainability Officer, Jeremy Pendergast Corporate Planner
Community	Chris Andrew, Drew McIntosh, James Wells, Colin Field, Susan Israel, Bernadette Pinnell, Elizabeth Gavey, Fernando Calero, Neil Papadopoulos, Grant Dwyer
Apologies	James O'Keefe

Meeting opened at 6.05pm by Cr Holland (Chair)

ITEM 1: Introduction by Cr Holland

Cr Holland noted that there has been much discussion amongst councillors and committee members in relation to the science of climate change. He thanked those who had contributed to the discussions and acknowledged the experience that the committee members can bring to this topic and other sustainability matters.

ITEM 2: Education and partnerships

Marnie Kikken presented to the committee the NSW Government's *Enabling Effective Community Education and Engagement as a Driver for Sustainability in Local Government* program. This is a collaboration between Ku-ring-gai Mosman, City of Sydney, Wyong City, Coffs Harbour City, Bathurst City, Orange City and Dubbo City Councils as well as the Department of Environment Climate Change and Water. For Ku-ring-gai, the project will focus on engaging the residents within the Quarry Creek catchment around Bicentennial Park West Pymble to install water tanks as part of a water conservation, reuse and riparian (river) health project. This links with the current capital works at Lofberg Oval as well as the Greenstyles and Climate Cleaver programs. **Attachments 1 and 2**

Supporting this work, the preliminary results from a survey undertaken for Council on water conservation was presented. This involved one hundred and forty five surveys that sought to understand current water conservation and reuse behaviours and practices as well as identifying barriers

Discussions on this topic identified the need to consult with the local Bushcare groups and to investigate social theory around behavioural change.

Sustainability Markets:

Cr Holland raised that he had been approached by a grass roots group who would like to continue with their trial of an outdoor market at West Pymble. The trial was subsidised by Council, in response to the insurance and other costs required for such a program. This remains a concern to stall holders. Notwithstanding, the initial market was well received by the community.

Presentation: Working Group Update: Attachment 3

Three (3) ideas were presented by Chris Andrew of this group. This covered Fair Trade, an Energy Saving Competition and Smart Meters. Discussion turned to the need to reduce household consumption particularly contributing to waste. While this was a desirable outcome in terms of sustainability, it was noted that Council's current waste collection program could not provide a reduced rate which would offer a financial saving to residents.

Mr Andrew also supported the need for Council to further engage with local schools in the sustainability area as part of their curriculum.

ITEM 3: Energy Efficiency and Alternate Energy Generation

Climate Change Mitigation and Adaptation Strategy (draft)

A presentation is to be provided to all committee members at a future meeting.

The Climate Change Mitigation Feasibility Report was presented to the committee. This report included the following four (4) recommendations:

- Wind energy generation (iconic)
- Solar power generation (iconic and transferable to community)
- Solar Hot Water Systems (good return on investment)
- On-demand street lighting (iconic, innovative, difficult to implement currently)

The *Economic Evaluation of Climate Change Adaptation Strategies for Local Government: Ku-ring-gai Council Case Study* – a report jointly drafted by Council staff, Macquarie and Bond Universities to address risk planning and adaptation, was presented to the committee. A full copy of the report will be available on Council's website.

The draft climate change risk analysis and adaptation option prioritisation model was presented to the committee. This will be further progressed at a sub-committee level along with engaging other community groups and government agencies.

ITEM 4: General Business

The committee agreed to have a transport meeting. At the first, James Wells will be representing STEP with providing a presentation.

The committee also agreed to have an extraordinary meeting to further discuss action on street lighting and energy.

Meeting closed at 8.00pm by Cr Holland.

Inclusions: Attachment 1
Attachment 2
Attachment 3

KMC Sustainability Committee

Education and Partnerships

Fair Trade

KMC moves to become a "fair trade" community

- Mobile fair to local shopping precincts
- Local schools
 - Common room tea & coffee
 - Geography assignment
 - Article in School newsletter
- Retirement villages

Energy saving competition

KMC rewards savings

- Inter & Intra school competition based on electricity , gas, & water bills for Term 4 2009
- School "veggie patch"
 - Promote composting green waste
 - Include article in School newsletter dealing with the cost of disposing green waste from KMC*

Smart Meters

KMC helping households save on energy

- Winning schools and students from Energy Saving Competition receive free installation of smart meters for fixed trial period
- Feature in follow-up story to highlight benefits
- Approach sponsorship for smart meters from regional utility (e.g. Energy Australia)

Reducing household green waste

- A great deal of energy (& GHG) is involved in managing waste in the Ku-ring-gai district
- As part of the push for a more sustainable area, KMC will develop the “waste bonus” scheme set against annual household waste benchmarks
- KMC pays an annual waste management fee to dispose of household waste based on weight
- To encourage households to reduce their green waste through composting, KMC will pass on savings to the community in the form of “waste bonus” projects
- Based on targets of say 10%, 20%, 30%, & 40% reductions in total measurable annual household waste, KMC commits to implement annual projects of commensurate value in the district e.g. solar powered libraries, park upgrades, etc

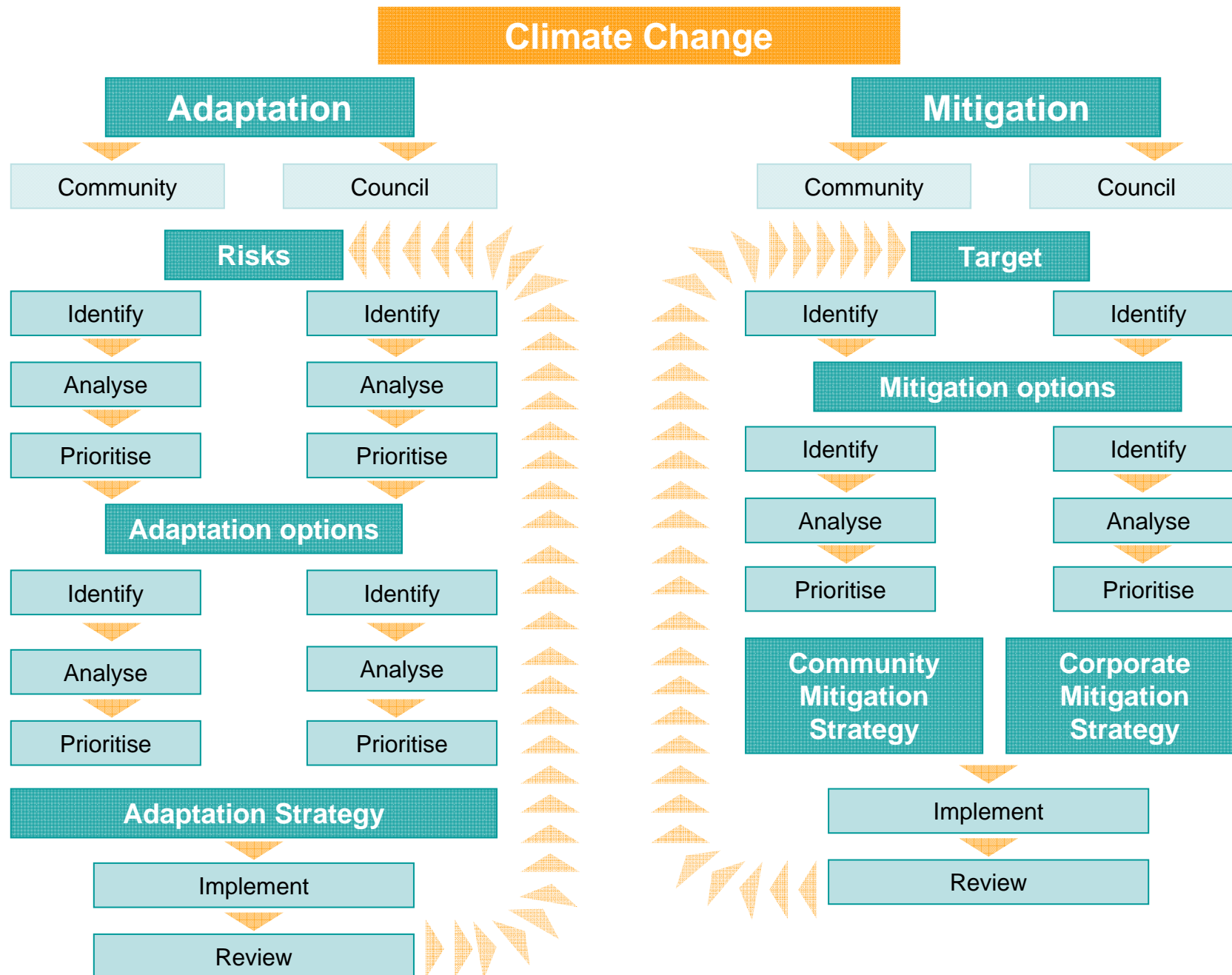
Planning Climate Adaptation Options

Ku-ring-gai Council

March, 2010



Ku-ring-gai Council



Weather trends can we expect before 2020

- Declining annual rainfall
- More intense rain events
- Drier winter and spring
- Wetter summers
- Increasing periods of extreme heat days
- Increasing in the average temperature
- Increasing wind speeds

Consequences of Changing Weather Patterns

- Longer droughts
- Bushfire season shifting to late winter and spring
- Increasing intensity in fire events especially during drought events
- Increased runoff volume during storms
- More severe storms with hail and increased wind speeds

Vulnerability to Changing Weather Patterns

- Drought – close sports fields/pool, deteriorating golf courses, water restrictions, water and food costs increase, water demand exceeds supply, infrastructure and buildings cracking,
- Bushfire – houses damaged and destroyed, physical and psychological long term health impacts, contributes to biodiversity tipping point

Vulnerability (cont)

Storms

Intensifying rain events, flooding, creek scouring, accelerating erosion, mud slides, hail damage, wind damage, power supply interruptions

Heat

Increased illness and death, increased bushfire risk, reduced productivity, increased demand on energy and water infrastructure, infrastructure failure

Adaptation Selection + Ranking

- Economic impacts
 - Social impact
 - Environmental impacts
 - Capacity to reduce risk
-
- Ranked according to which strategy will:
 - cause least harm and
 - generate maximum risk reduction

Application of Adaptation Options

Council adaptation options

- Developed in consultation with indoor and outdoor staff
- Will be used for educational and work plan development in future years

Community adaptation options

- Will focus on domestic options for homeowner and businesses
- Will be used to guide future educational programs

Corporate Energy Reduction Strategy



Ku-ring-gai Council

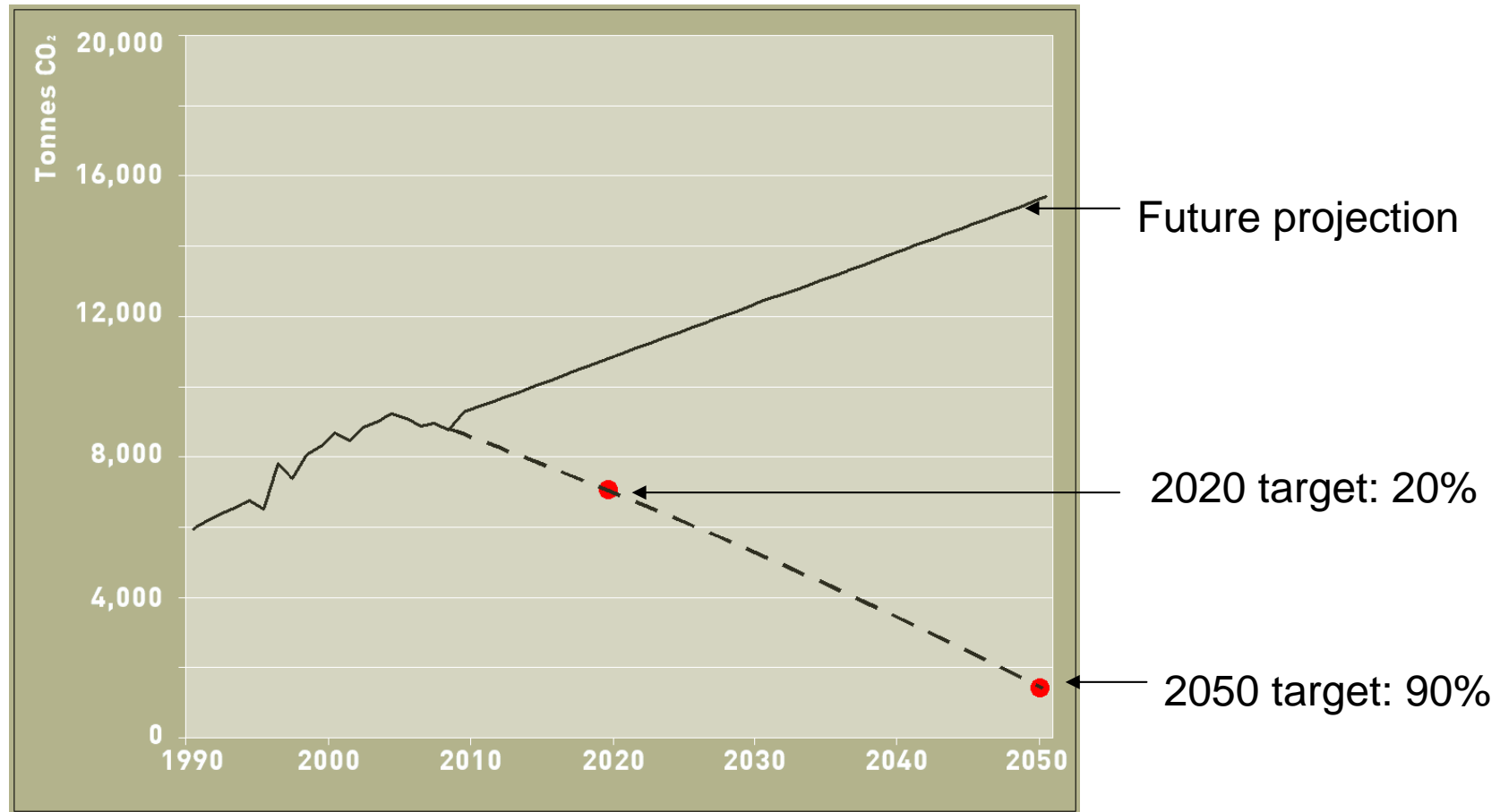
Climate Change Policy

That Council sets a corporate emission target of **20% by 2020** based on year 2000 emissions and **90% by 2050** calculated on facilities and fleet emissions.

This is based on Council's emission profile in 2000.

That a **new capital works** program include an objective as part of the design and budget process to **have a zero increase in the energy consumption** compared with the current facilities.

Corporate targets



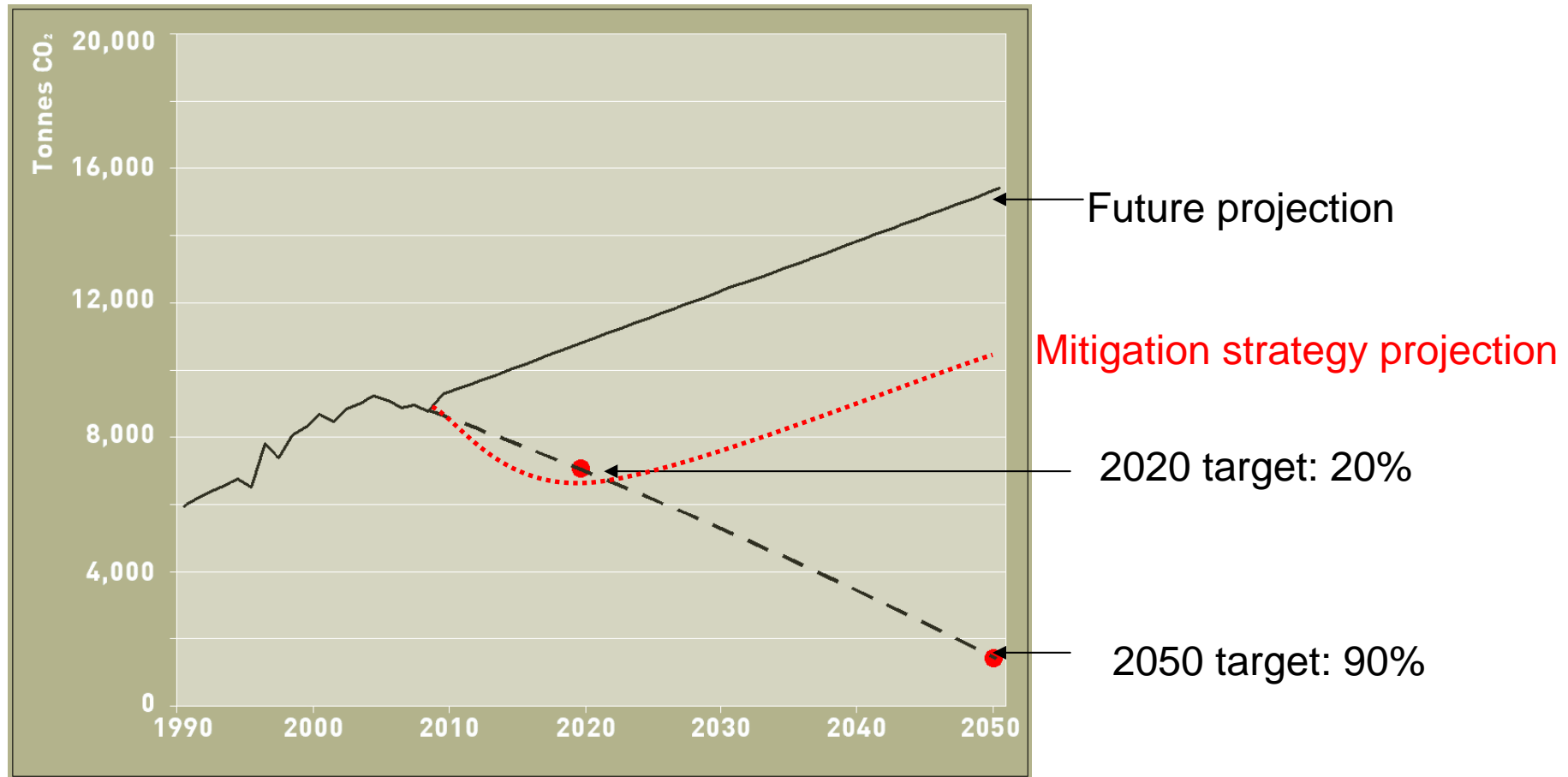
Ku-ring-gai Council

Climate Change Mitigation Strategy

• Capital Cost	\$5,102,265
• Number of projects	132
• CO2 emission reduction <i>pa</i>	2,224
• kWh savings <i>pa</i>	2,111,147
• Financial saving over 10 years	\$4,301,250
• Overall payback period	11.5 years
• Reduction from 2000	24%*

*Excludes any forecasted consumption increase through facility expansion and use.

Corporate targets



Ku-ring-gai Council



Project categories

Iconic: High innovation and leadership value

Major Capital Works: Greater than \$50,000

Minor Capital Works: \$50,000 - \$5,000

Operational: Less than \$5,000

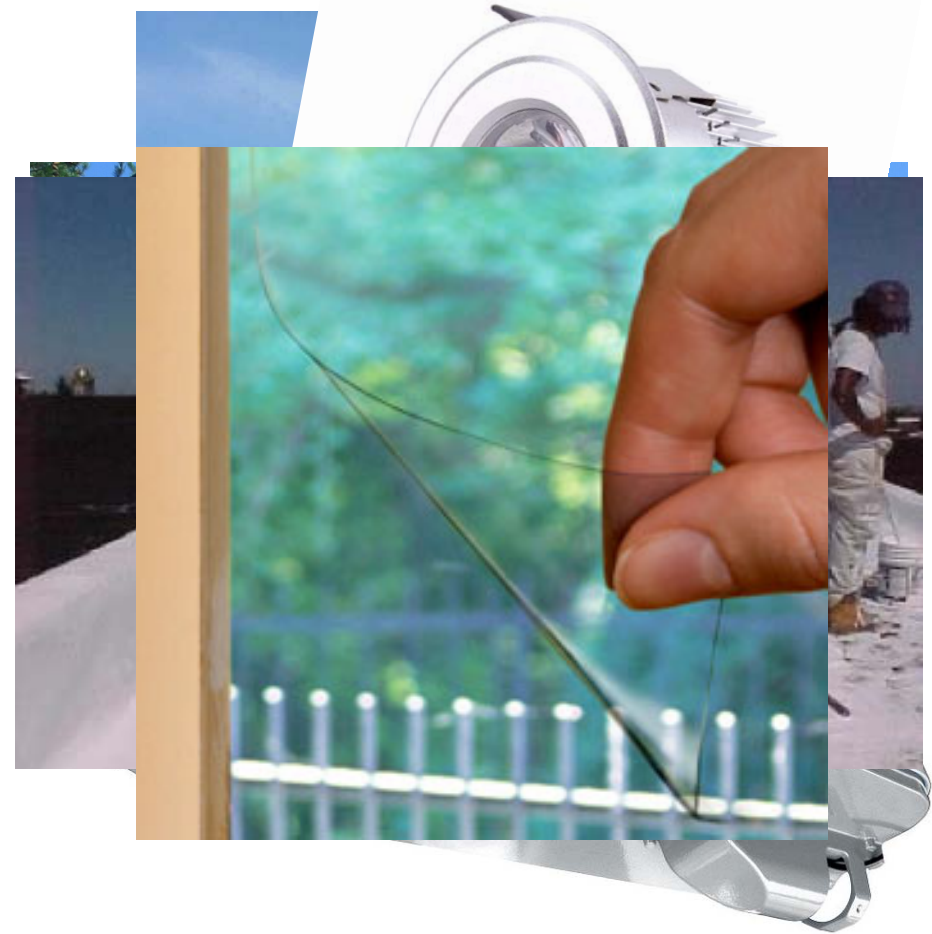


Ku-ring-gai Council

The logo features a stylized green and white pattern above a black banner containing the text 'Ku-ring-gai Council' in white.

Identified Technologies

- Solar Hot Water
- Photovoltaic (solar) Panels



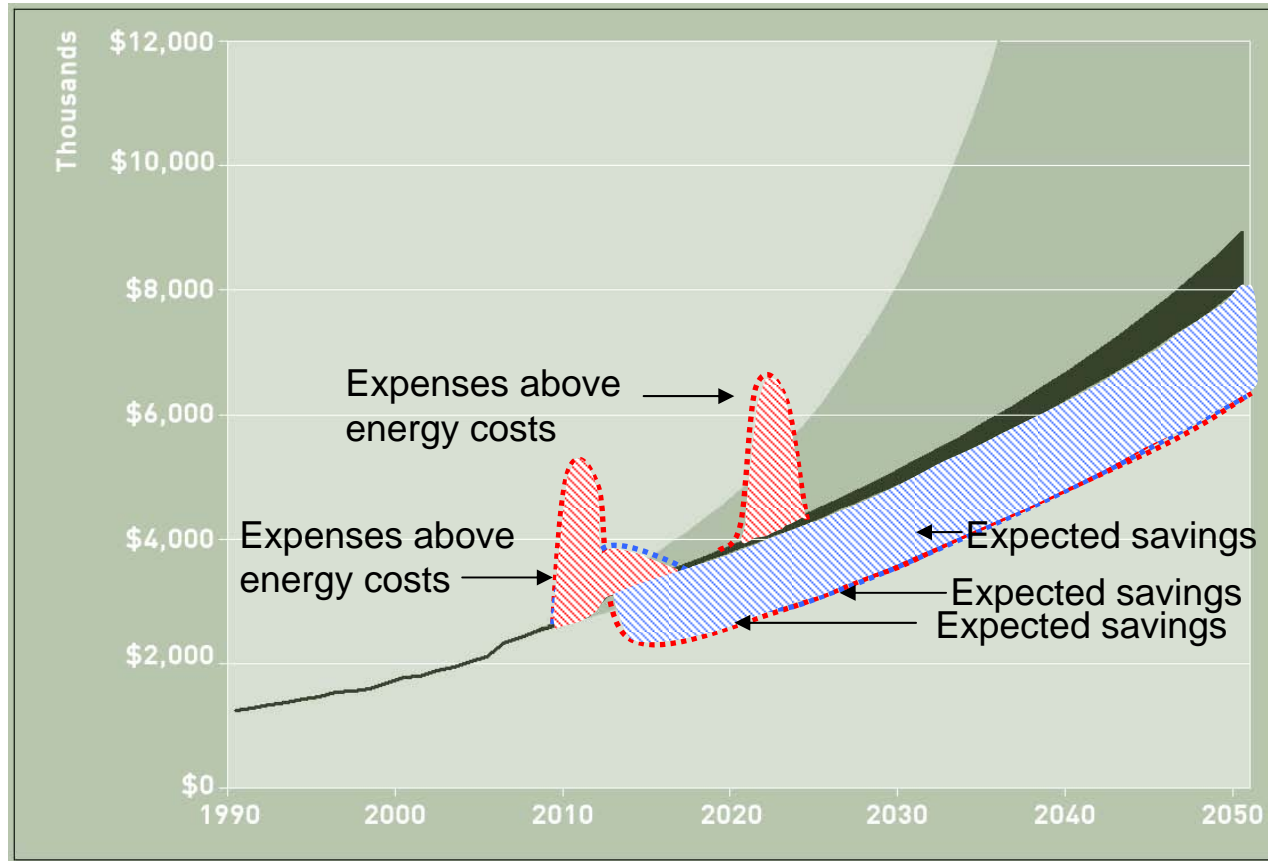
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Funding strategies

- Environmental Levy \$1.1M
- New Facilities (internal loan)
- Capital works
- Operational budget
- Grants and rebates



Strategy options



Immediate action?

Delayed action?

Combination?

Ku-ring-gai Council

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Sustainability Officer

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Ku-ring-gai Council



Enabling effective community education and engagement program

'Tanks-a-lot'

West Pymble stormwater reuse and community
participation project

1 March 2010





Objectives

Program

- Explore the organisational factors that influence community education for sustainability in local government
- Enhance the capacity of Council staff to deliver effective community education for sustainability
- Utilise organisational change tools to support the integration of community education for sustainability into core council business
- Disseminate knowledge and learning to the wider NSW local government community

Project

- To involve the Quarry Creek catchment community in water re-use practices, through focused, market intervention and community education
- To increase the installation and upgrade of rainwater tanks in the Quarry Creek catchment
- To reduce the use of potable water consumption by the Quarry Creek catchment community
- To develop a project model for roll out across the Ku-ring-gai LGA
- To contribute to the organisational integration of community education for sustainability in Council



Program

Timeline

- March 2010 to March 2012

Year 1	Year 2	Year 3
Strategic planning Creation of governance and communication structures Business plan Visioning forum with key local government stakeholders	Councils deliver specific community education program Internal and external Reference Groups Communities of Practice Council partner reflection workshop	Councils develop community education strategic plan Dissemination workshop series (research findings and 'how to' guides)

Funding

- Program = \$1,797,000
- Ku-ring-gai Council = \$154,000



Current situation

Information and knowledge



- Social research
- Technical modelling

Current education programs



- Green Styles
- Sustainable Business Program

Existing enabling programs



- Federal Government schemes
- State Government schemes
- Online Climate Clever shop





Information and knowledge

Water for life survey

- 80% of respondents don't own a rainwater tank
- Those respondents who own a rainwater tank largely use it for outdoor uses, that is, the garden, washing the car and the pool
- The key barriers to installing or upgrading a tank were identified as:
 - capital cost
 - lack of knowledge
 - ongoing maintenance and retrofitting
- To increase the uptake and upgrade of rainwater tanks, respondents identified the main actions Council could take as:
 - the provision of extra rebates for installation
 - the provision of information seminars
 - the provision of a list of recommended contractors
 - the provision of an extra rebate for connection to toilet / laundry
 - the supply of bulk tanks





Information and knowledge

Technical modelling

- Modelling by an external consultant in 2007 demonstrated that a combination of storm water projects will help improve the condition of Quarry Creek
- Recommended projects include stormwater harvesting at Lofberg and Norman Griffiths Ovals; water sensitive urban design, such as rainwater gardens in Kooloona Crescent; and private household rainwater harvesting, through the installation of rainwater tanks, internally connected to toilets and hot water as well as the garden

Council knowledge

- Community have an expectation of LG to assist and enable sustainable practices
- Councils are expected to be leaders
- Most program are scattered in their focus
- Little evaluation is conducted on the broader benefits of program implementation:
 - environmental – water consumption, ecological
 - social – shifting awareness and social norms
 - financial





Current education programs

Green Styles

- Community program to encourage residents to achieve improved sustainability in the home, including biodiversity in the backyard
- The benefits to participants include access to 'green' businesses and discounted services/products, ongoing technical advice, and information and training towards achieving sustainability
- Co-ordinated creek line, bushland or corridor restoration works on adjoining public land

Sustainable Business Program

- Program that engages and educates businesses and asks consumers to give preference to businesses, products and services that are sustainable in terms of source materials, manufacture and transport
- Targeting all small businesses in Ku-ring-gai, with an the initial focus on retail businesses located in neighbourhood centres
- Two shopping centres selected for the pilot in Ku-ring-gai in West Pymble and North Turramurra





Current enabling programs

Federal Government schemes

- National Rainwater and Greywater Initiative
- Renewable Energy certificates

State Government schemes

- NSW rainwater tank rebate (Sydney Water)
- NSW Hot Water System Rebate
- Gross feed-in tariff

Online Climate Clever shop

- Helps residents install systems in their homes to reduce our greenhouse gas emissions through information on quality products and services, free quotes, special discounted prices from preferred suppliers, and information on government schemes and rebates



'Tanks-a lot' project direction

Design philosophy of engaging with the community

Catchment focused program

Residents and business generally

Preschools, schools, sports clubs and church groups

Groups of individuals, 'get together' hosts





Project details

- Delivered between April – December 2010
- Increase the uptake of rainwater tanks and stormwater reuse practices within households through:
 - Information sessions (at various scales)
 - General information for catchment (website, mail)
 - Technical information sessions for individuals and groups
 - Informal, hosted 'get-togethers'
 - Rebate scheme
 - Supplement existing programs
 - Additional Council rebate
 - Media and communications
 - Recognition awards (household audits / water 'challenge')
- Monitoring and evaluation





Other examples of rebate schemes

- National Rainwater and Greywater Initiative
- NSW rainwater tank rebate (Sydney Water)
- Lane Cove Council rebate scheme
- Marrickville Council rebate scheme



TENDER T18/2010

COMMUNITIES OF PRACTICE PARTNER FOR THE ENABLING EFFECTIVE COMMUNITY EDUCATION & ENGAGEMENT AS A DRIVER FOR SUSTAINABILITY IN LOCAL GOVERNMENT (EECEE) PROGRAM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the results of the public tender for a Communities of Practice consultant for the Enabling Effective Community Education and Engagement as a Driver for Sustainability in Local Government (EECEE) program.

BACKGROUND:

In December 2008, Council received a \$1,787,100 grant from the NSW Environmental Trust, through its Urban Sustainability Program, to implement and coordinate a regional project focusing on council sustainability (EECEE program). One aspect of this project is to engage a Communities of Practice (CoP) consultant for the program.

COMMENTS:

Tenders were called in February 2010 for the Communities of Practice consultant. Three (3) tenders were received by the closing date. One (1) response was received after the closing date and was not accepted.

RECOMMENDATION:

That all tenders be rejected and that Council enter into negotiations with Anecdote for the contract.

PURPOSE OF REPORT

To report on the results of the public tender for a Communities of Practice consultant for the Enabling Effective Community Education and Engagement as a Driver for Sustainability in Local Government (EECEE) program.

BACKGROUND

In December 2008, Council received a \$1,787,100 grant from the NSW Environmental Trust through its Urban Sustainability Program, to implement and coordinate a regional project focusing on council sustainability. The EECEE program is a three (3) year partnership between Ku-ring-gai (as lead council), Mosman, City of Sydney, Bathurst-Orange-Dubbo, Wyong and Coffs Harbour Councils and the Department of Environment, Climate Change and Water NSW (DECCW). The project will explore the organisational factors that influence community education and engagement (CEE) for sustainability in local government and how this can better integrate into Council's core business.

Two (2) elements of the project are to engage independent consultants to undertake research and evaluation of the program and specific council projects, and to appoint a Communities of Practice (CoP) consultant, the subject of this report.

The roles for the Communities of Practice (CoP) consultant are to:

- facilitate professional learning and exchange;
- develop expertise in partner councils to run a Communities of Practice (CoP); and
- build the organisational capacity for effective and integrated CEE for sustainability.

Key responsibilities include:

- provide briefings on the Communities of Practice (CoP) approach to program partners and stakeholders;
- provide training to the Council partners on the Communities of Practice (CoP) approach/ methodology;
- provide ongoing mentoring and support to Council partners on the Communities of Practice (CoP) approach;
- liaise with the research partner to undertake the Communities of Practice (CoP) component of the research (that is, the impacts of the Communities of Practice (CoP) approach on organisational learning), including the development of the research questions, the research methodology and the data collection methods; and
- develop a guide for using Communities of Practice (CoP), to support organisational change in councils, to disseminate to the wider local government community.

The deliverables of the consultant as set in the tender are:

- deliver training to partner Councils;
- co-facilitation of a CoP session with each partner Council;

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- up to 60 hours of email and phone mentoring to partner Councils; and
- preparation of a “how to” guide on using CoP in local government.

COMMENTS

Tenders

On 6 February 2010, an open tender was advertised to seek responses for the Communities of Practice (CoP) consultant. In total, three (3) parties responded by the closing date. These parties are Affirm, Australian River Restoration Centre and Make Stuff Happen.

An electronic version of a proposal by Anecdote was submitted by the closing time of 2:30pm on 26 February 2010, but they failed to submit any hard copies of the tender until Monday 1 March 2010. Anecdote’s proposal was conforming in all other aspects. Given that the hard copy was not lodged in the tender box, Council’s Internal Auditor advised that this bid cannot be accepted as a tender.

The three (3) accepted tenders failed to fully address the requirements of the tender as discussed:

a) Affirm

The draft contract and general conditions of contract were not signed nor submitted within the tender documents and only one hard copy of the tender documents was received. The tender called for two (2) copies.

b) Australian River Restoration Centre

The draft contract and general conditions of the contract were not signed nor submitted within the tender document and elements of the tender form were incomplete.

c) Make Stuff Happen

The draft contract and general conditions of the contract were not signed nor submitted in the tender document and the schedule of rates was not completed.

The three (3) tenders were evaluated by a Tender Evaluation Committee (TEC). The committee consisted of two (2) staff members from the Strategy and Environment Department, one (1) staff member from the Community Department, one (1) member from the Department of Environment, Climate Change and Water (DECCW) and one (1) member from Mosman Council.

The assessment of the tenders was based on the following pre-determined selection criteria.

Price (40%)

- Costs effectiveness.

Non-price (60%)

- Appreciation of the scope and nature of the brief;
- Methodology; and
- Capacity to perform work (relevant experience, track record, ability of project team, quality of endorsement by referees).

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A score for each tenderer (a combination of the price and non-price score) was awarded against the pre-determined criteria. The evaluation included a qualitative appraisal of the strengths and weaknesses of each proposal.

The results of the evaluation of the three (3) tenders are in the Tender Assessment Report for T18/2010 (**Confidential Attachment A**).

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, that the tender evaluation related to the financial information of the tenderers is of a kind as referred to in section 10a (2) (d) of the act which may, if disclosed:-

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of council, or*
- (iii) reveal a trade secret.*

As such, **Confidential Attachment A** is classified confidential under section 10a (2) (d) (i). It reports financial information that, should it be revealed, may result in commercial disadvantage to parties involved in the future tender or negotiations for the project. It is not in the public interest to reveal the details behind the financial or technical evaluation of the tenders. The practice of publication of sensitive information provided by tenderers could result in the withholding of such information or a reduction in the provision of information relevant to enable Council to make fully informed decisions.

This detailed evaluation identified the Australian River Restoration Centre as the highest ranked tender. This was followed by, in order, Make Stuff Happen and then Affirm.

Based on the assessment above, the Tender Evaluation Committee recommended that Council reject all three (3) tenders. This recommendation was based on:

- a lack of relevant experience by all tenderers in this area of work;
- a lack of confidence in the capabilities of the three (3) tenderers to perform the work; and
- technical non-compliance of the three (3) tenders.

On arriving at this decision the Tender Evaluation Committee then reviewed the late submission by Anecdote. The evaluation follows a similar process to the tender evaluation and focused particularly on the experience and capability of this bid given the shortcomings of the three (3) tenders.

The evaluation for the proposal by Anecdote is included as the Tender Assessment Report for T18/2010 in **Confidential Attachment A**.

Based on the subsequent appraisal of Anecdote's submission, the Tender Evaluation Committee concluded that negotiations be entered into with Anecdote for the contracted work.

This recommendation was based on:

- the submission by Anecdote represented value for money;
- the submission by Anecdote articulated the desired outcomes and method to achieve the project beyond that stated in the tender documentation;

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- Anecdote demonstrated extensive and practical experience in the design and delivery of Communities of Practice (CoP) programs; and
- the principals of Anecdote who will be undertaking all work related to the project have a solid publication record in Communities of Practice (CoP) projects.

Details of the area for the proposed negotiation with Anecdote are included in **Confidential Attachment A**.

CONSULTATION

The Tender Evaluation Committee consisted of two (2) staff members from the Strategy and Environment Department, one (1) staff member from the Community Department, one (1) member from the Department of Environment, Climate Change and Water (DECCW) and one (1) member from Mosman Council. The tender was also reviewed by the participating councils and conforms to the business plan approved by the NSW Environmental Trust, the grantee.

FINANCIAL CONSIDERATIONS

The Communities of Practice (CoP) consultant forms part of the adopted business plan and budget as accepted by the NSW Environment Trust for the project. The cost of the proposal by Anecdote is within the budget amount of the grant and will not impact on Council's budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from the Strategy and Environment Department and Community Department have been involved in the review of these tenders. Advice in relation to the tender responses and process was received from Council's Internal Auditor.

SUMMARY

An open tender process was used to seek responses to engage a Communities of Practice (CoP) consultant for the NSW Environmental Trust project "Enabling Effective Community Education and Engagement". In total, four (4) parties responded by the closing date. However, one (1) of the responses was received in the required hard copy format after the closing date.

A review of the submissions by the Internal Auditor supported the acceptance of three (3) as tenders, with the fourth disqualified from the tender as it was submitted as an electronic form only (not hard copy) by the close of tender.

The Tender Evaluation Committee reviewed the three (3) accepted tenders against the predetermined tender evaluation criteria. The three (3) tenders failed to demonstrate a substantial level of understanding and nor had the desired level of experience required for the project. As a result it is recommended that Council reject all three (3) tenders.

Following this decision the Tender Evaluation Committee conducted an appraisal of the disqualified tender, being the submission by Anecdote. This proposal was able to demonstrate a

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significantly greater level of understanding of the project coupled with extensive experience in the area of Communities of Practice (CoP) delivery and research. Financially, the submission by Anecdote was well below the tender threshold of \$150,000 as set by Council's Tender guidelines and was within budget for the project. Based on the above, it is recommended that Council negotiate with Anecdote, for the awarding of a contract. This recommendation is based on providing the project with the best value.

RECOMMENDATION

- A. That Council reject all three (3) tenders received for this project.
- B. That Council enter into negotiations with Anecdote for the contracted work as the Communities of Practice consultant for the EECEE program.
- C. That the execution of all documents relating to the tender be delegated to the Mayor and General Manager.

Marnie Kikken
Sustainability Project Officer

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments: Tender Assessment Report for T18/2010 - Confidential

WEST PYMBLE POOL REDEVELOPMENT - SECOND INDEPENDENT FINANCIAL PLAN

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the independent financial plans prepared for the West Pymble Indoor Aquatic and Leisure Facility.

BACKGROUND:

In December 2009, Council resolved to prepare a second and independent financial plan for the proposed West Pymble Indoor Aquatic and Leisure Facility. This report was to model the income and expenditure of the proposed facility and would be compared with the first financial plan as completed in December 2008.

COMMENTS:

A comparison between the two (2) financial models revealed there was close similarity in the expenditure or operational costs and the income modelled in the first study was higher than the second study, largely attributed to the attendance for the casual swimming and fitness classes and aquatic programs. The second study noted that if the proportion of the gym space to group fitness space was increased, income would rise.

RECOMMENDATION:

That Council note the findings of the second financial plan and continue to progress the West Pymble Indoor Aquatic and Leisure Facility. This would include the lodgement of a development application, reaffirming its inclusion in Council's long term financial plan and continue to inform the community as to the status of the project.

PURPOSE OF REPORT

For Council to consider the independent financial plans prepared for the West Pymble Indoor Aquatic and Leisure Facility.

BACKGROUND

At the Ordinary Meeting of Council on 11 August 2009, Council resolved to amend the capital works program for 2009/10 to include the West Pymble Indoor Aquatic and Leisure Facility for a sum of \$320,000, fully funded from the Section 94 Development Contributions Plan. This funding was for the purpose of preparing the design of the facility to Development Application stage as based on the site plan at **Attachment A** of that report. The elements included an indoor eight (8) lane, 25 metre pool, indoor warm water programs pool, indoor toddler's pool, indoor and outdoor toddler's water play splash pad, health and fitness gym, group fitness and multi-purpose activity rooms, crèche, change rooms and café.

As part of the resolution at the Ordinary Meeting of Council on 11 August 2009, it was also resolved that the design of the West Pymble Indoor Aquatic and Leisure Facility involve supplementary consultation as outlined in the report; that further reports be brought to Council regarding the finalisation of the site plan and funding options for the construction of West Pymble Indoor Aquatic and Leisure Facility; and that a public meeting be convened to commence the consultation process.

Following from this Council meeting, the architects were instructed to continue with the design of the facility to development application stage. As part of the design process and in accordance with the consultation plan, a public meeting was held on 25 November 2009. The purpose of this meeting was to present two (2) design options in order to obtain some clarity as to the preferred look of the facility to form within the preparation of plans for the lodgement of the Development Application (**Attachment B**). The outcomes of the consultation are discussed in the Comments section of this report.

On 8 December 2009, Council resolved through a Notice of Motion to:

"Commission a second and independent financial plan as soon as possible. This would involve financial modelling of the income and expenditure of the proposed facility against the designs exhibited and would be undertaken by an appropriate experienced and qualified consultant in this field independent of the project to date. This study would then be considered by Council prior to any decision to progress the design to Development Application stage."

In response to this resolution, quotations were sort from five (5) firms. Sport & Leisure Solutions Pty Ltd, was the only firm that responded to the brief and were appointed in 20 January 2010. Sport & Leisure Solutions Pty Ltd have recently undertaken aquatic feasibility and management studies for a number of existing public aquatic facilities within the Northern Sydney Region region, including Macquarie University, Lane Cove and Willoughby.

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This report will provide:

- a summary of the results of the modelling undertaken by Sport & Leisure Solutions Pty Ltd (**Confidential Attachment C**) in comparison to the first study by HM Leisure Planning Pty Ltd in December 2008, (**Confidential Attachment D**) which was reported to at the Ordinary Meeting of Council on 16 December 2008;
- discussion on the implications, in terms of Council's long term financial plan, and recommend a direction for the facility.

COMMENTS

As part of Council's business plan for the support of this facility it has relied on financial modelling to inform the likely cost and possible returns to Council. Financial models seek to represent a simplified version of events and performance criteria. Inherently, such models are deterministic that rely on various financial and utilisation assumptions as well as seeking to estimate the depreciation of the asset as part of the projected income and expenditure. These assumptions will vary according to the consultant's experience, the performance of the economy at any given time and the state of the business or project being modeled. As such, the financial models should be used as tools in the decision making process and not relied on as absolute.

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In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, that the consultant reports related to the financial analysis of the proposed aquatic and leisure facility are of a kind as referred to in section 10A (2) (d) of the Act which may, if disclosed:-

- (i) prejudice the commercial position of the person who supplied it, or
- (ii) confer a commercial advantage on a competitor of Council, or
- (iii) reveal a trade secret.

Confidential Attachment C and D are classified confidential under section 10A (2) (d) (i) because it deals with a financial plan for the purpose of the redevelopment of West Pymble Pool. The methodology and details of the reports, should they be revealed, may result in commercial disadvantage to parties involved in the future tender for the operation of the facility. Some information provided to Council by the consultant is provided on the basis that Council will treat it as commercial in confidence. Furthermore, the information contained in these reports may prejudice the outcomes of the tender to operate the facility to the disadvantage of Council.

It is not in the public interest to reveal the details behind the financial plans and options therein. The practice of publication of sensitive information provided by consultants could result in the withholding of such information or a reduction in the provision of information relevant to enable Council to make fully informed decisions.

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Both reports are also confidential by virtue of 10A (2) (d) (iii), in that modelling processes used by the two consultants are the commercial intellectual property of each consultant.

Comparison of financial models

The net operating cash flows over 15 years as modelled by the two (2) consultants are \$16.1M by HM Leisure Planning Pty Ltd compared with \$3.4M by Sport & Leisure Solutions Pty Ltd, with the current configuration of gym and group fitness rooms. The Net Present Value (NPV) over 15 years is discussed in the Financial Considerations section of this report. The Financial Considerations section presents an alternative NPV calculation that adjusts for factors that are inconsistent between each consultant's methodologies and adds additional factors relating to other Council expenses within the Long Term Financial Plan.

Council now has two (2) financial models on which it can use to inform its decision as to the direction of this project (**Confidential Attachment C and D**). Both have been completed by experienced consultants in the field of aquatic and leisure business planning. The first completed by HM Leisure Planning Pty Ltd in late 2008, during which the financial economy was affected by the uncertainty of the global financial crisis. The second, by Sport & Leisure Solutions Pty Ltd, was completed in early 2010 within a period of more positive economic outlook. In both cases the consultants believe their model to be an accurate but conservative financial plan and relevant to the project.

There is a close similarity in total expenditure required to operate the facility. Though within this there are variations particularly notable in the cost and timing of maintenance and key asset replacement scheduling.

The income side has identified a greater divergence. The 2008 study by HM Leisure Planning Pty Ltd has assumed greater levels of usage and in turn income from casual swim entry, casual fitness which includes gym, group fitness and personal training, and aquatic programs which include learn to swim, schools learn to swim, and swimming squads. The more recent model by Sport & Leisure Solutions Pty Ltd assumed a lower participation in these areas though estimated higher returns from memberships, parties, and the crèche. This is simply a reflection in the differing assumptions used by the two (2) consultants. For example HM Leisure Planning Pty Ltd assumed casual users will provide a more important income stream while Sport & Leisure Solutions Pty Ltd assumes that the income stream would remain low, due in part to the loyalty of casual users to their existing gym or pool (i.e. not at West Pymble).

A more detailed discussion on the financial implications of the two (2) studies is provided in the Financial Considerations section in this report.

It should be noted that despite the difference in net cash returns modelled by both consultants, each stands by their analysis. It is considered by staff that the actual financial result is likely to be somewhere between the two models.

Usage of the facility

Underpinning much of the financial analysis is the estimated utilisation of the facility by the residents of Ku-ring-gai and others. Both reports acknowledge there is an unmet demand for the facilities proposed, irrespective of other aquatic centres or gymnasiums in the region. This is consistent with previous studies undertaken by Council, most notably the Aquatic and Leisure

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Facility Development and Feasibility Study which was reported at the Ordinary Meeting of Council on 9 May 2006 (Minute Number 169). In the deliberations of the decision to proceed with this project, a major driver governing the community implications of the project is that the facility will be highly used which in turn will provide significant public benefit.

Under the two (2) financial models, visitation rates differ as summarised in Table 1. For comparison purposes, Year One and Year Three were chosen due to the assumption by Sport & Leisure Solutions Pty Ltd that the learn to swim programs will have reached their market capacity. However, the dry programs are not expected to reach their potential until Year Ten.

HM Leisure Pty Ltd has assumed a total of 537,000 visits within Year One of the operation with an increase to 601,000 by Year Three. In comparison Sport & Leisure Pty Ltd has assumed 343,000 visits in Year One rising to 413,000 by Year Three. At present, the pool has 80,000 to 90,000 visits over 34 weeks. However, these 34 weeks included the closure for winter and associated shoulder periods.

Table 1 - Forecast Utilisation (number of visits per year) in Years 1 and 3

Category	HM Leisure Planning Year 1	HM Leisure Planning Year 3	Sport and Leisure Solutions Year 1	Sport and Leisure Solutions Year 3
Aquatics	\$	\$	\$	\$
Recreational & lap swimming	207,782	232,716	131,664	142,395
Swim lessons individuals & schools	65,500	72,360	44,454	72,238
Hire of pools and lanes & carnivals	18,800	21,056	10,000	10,815
Program pool health & fitness	18,800	21,056	-	-
Aquatic visits by membership holders	66,250	74,200	-	-
Spectators (paying)	20,778	23,271	-	-
Total Aquatics Visits	397,990	444,659	186,118	225,448
Dry Health & Fitness				
Casual programs	33,390	37,397	11,700	11,700
Dry program visits by membership holders	104,000	116,480	** 135,720	** 165,880
Total dry health and fitness visits	137,390	153,877	** 147,420	** 177,580
Other programs				
Birthday parties	1,568	1,756	-	-
Family fun days	900	1,008	-	-
Creche	-	-	9,940	9,940
Total other programs visits	2,468	2,764	9,940	9,940
TOTAL VISITS	537,848	601,300	343,478	412,968

**** - includes gym & aquatics member visits.**

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Sport & Leisure Solutions Pty Ltd stated in their report that if the uptake of gym memberships and learn to swim enrolments were to differ by 10% than forecasted, it would have a significant impact on the financial position of the facility. The results of this sensitivity analysis is summarised in [Table 2](#) for the first 10 years of operation. Under the conservative scenario, (-10% enrolments), a positive cash flow would not be realised until Year Five with the net position of \$279,000 at Year Ten. Under the optimistic scenario, (+10% enrolments), a positive cash flow would be realised in Year Two with an expected net return of \$694,000 at Year Ten and a total positive net return of \$3,599,000 after ten years of operation.

Table 2 Sport & Leisure Solutions optimistic and conservative financial scenarios

Scenario	Yr 1	Yr 2	Yr 3	Yr 4	Yr 5	Yr 6	Yr 7	Yr 8	Yr 9	Yr 10	Total
Predicted financial position (\$,000)	-316	-196	-62	+30	+119	+198	+277	+348	+416	+484	+1,298
Conservative (10% worse gym and learn to swim enrolments) (\$,000)	-437	-325	-163	-50	+53	+119	+182	+239	+300	+361	+279
Optimistic (10% better gym and learn to swim enrolments)(\$,000)	-24	+5	+174	+271	+364	+428	+499	+562	+626	+694	+3,599

Gym space

Sport & Leisure Solutions Pty Ltd commented on the size of the gym and the implications that this would have on the financial return. In their report, they have modelled two (2) scenarios:

- the size of the two gym rooms at 350m² and 250m² as resolved by Council; and
- reconfiguring the size of the gym rooms to 450m² and 150m².

Under their modelling, membership of the gym is directly related to floor area of the gym space and has no bearing on the other dry areas.

The report recommended an increase in the gym space to 450m² and reduction of the multi purpose room to 150m² if the facility was to cater for the potential growth in this area. The net financial position of this change in design would be an additional \$130,000 per year to the profitability of the facility from Year Ten onwards. This is with the assumption that a gradual growth in the membership to its capacity of 2,200 members compared to the capacity of a 350m² gym space with 1,600 members.

Arising from the different assumptions in the two (2) models and sensitivity within the financial returns related to gym space, staff contacted Lane Cove Aquatic Centre to discuss the performance of their facility which is similar to the one proposed at West Pymble. The discussion revealed that their gym has 5.8 members per m² in comparison with 4.5 members per m² as

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assumed by Sport & Leisure Pty Ltd. In this context, it is considered that the modelling by Sport & Leisure Pty Ltd is conservative and if a higher ratio, as achieved at the Lane Cove Aquatic Centre, is adopted, the revenue would increase by \$350,000 per year for little extra operating cost. If the proportion of the two gym rooms was reconfigured into the design of approximately 450m², the increase in revenue would be over \$500,000 per year. The timing of the additional return would depend on a range of factors such as advertising and marketing of the new facility and the general growth of the business.

To assist Council in visualising the impact of a change in the proportion of the dry health and fitness areas, two (2) floor plans were prepared by the architects as included as **Attachment E**. The first option would alter the gym on the second floor by extending it towards the car park. The second option sought is to keep the footprint as near as possible to the current configuration which would result in a reorientation of the indoor 25 metre pool. This would require the removal of a significant tree on the site. Should Council wish to increase the financial returns from this project, the second design option is recommended based on its fit within the site and greater consistency to the previously adapted site plans.

Preferred design

The current design has sought to reflect the input from the community, Councillors, current and potential operators and the project control group which consist of staff from within Council. In summary, the current version of the floor layout sought to maximise the amount of green space on the site by locating the buildings towards the existing service road and within current building envelopes, improve site access and circulation, provide supporting facilities such as a café and crèche, and retain the current learn to swim pool.

The purpose of the public consultation meeting, held on 25 November 2009 at West Pymble Pool, was to discuss the design options and identify a preferred look of the building in which to help determine which option to utilise for the future development application for the project (**Attachment B**). A copy of the notes from this meeting is provided in **Attachment F**.

A number of key themes were raised by residents that included:

1. Financial viability– questions on the assumptions and accuracy of the first financial plan. This subsequently led to a Notice of Motion and a resolution by Council to undertake a second study. This is the primary purpose of this report.
2. Car parking – Council engaged an independent consultant to assess the parking and traffic needs of the proposed expanded facility for inclusion with any future Development Application. The draft report prepared by Transport and Urban Planning dated September 2009 concluded:
 - increased car parking demands associated with the new facility before 8:00 am and after 4:00 pm and throughout the winter months;
 - demand for parking between 8:00am and 4:00pm would be relatively low;
 - dry and other ancillary facilities are unlikely to generate a significant car parking demand in isolation to the other facilities.

In terms of car parking, there are presently 277 spaces in or around the Bicentennial Park and a further 78 as on-street car parking spots. The modelling by Sport & Leisure

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Solutions Pty Ltd recommends a minimum parking availability of 200 spaces and considers this to be an important aspect to the success of the facility in its current form. Therefore based on these studies and site characteristics, there is sufficient parking on site, irrespective of the modified design of the facility to accommodate an additional 18 car parking sites immediately adjacent to the pool. This has been incorporated into the design cost.

3. Support or otherwise for the facility – a critical aspect to this discussion was the Aquatic and Leisure Facility Development and Feasibility Study (2006) as reported at the Ordinary Meeting of Council on 9 May 2006 (Minute Number 169), and Council's decision of the 8 May 2007 (Minute Number 143) to proceed with West Pymble as the preferred location. In 2006, Council resolved to seek public comment on only the four (4) of the highest ranked sites in the study, of which two (2) were removed by resolution of Council during the exhibition period in June 2006 (Minute Number 225).

The outcome of this consultation resulted in the consultants commenting in their report that there was a need to reassess the site at West Pymble for a future aquatic centre. Therefore the decision by Council on 8 May 2007 to proceed with West Pymble Pool had technical support irrespective of the recommendations by staff for other locations. Of note, many residents have recently commented that of the 17 sites investigated in the 2006 study, West Pymble was only ranked 13th, and therefore due weight was not given to the advice of staff and the consultant. Whilst this was a decision of Council at that time, and one which Council was legally able to make, it is important to reflect on the current relevance of the ten highest ranked locations:

- i. Turramurra Park was removed by Council at its meeting on 27 June 2006 and consequently was not incorporated within the adopted a Landscape Master Plan in 2008.
- ii. St Ives Village Green was removed by Council at its meeting on 27 June 2006. Similar to Turramurra Park it has not been considered in the development of the draft Landscape Master Plan which is currently in progress.
- iii. Turramurra Library and Public Car Parks was rezoned to B2 (local centre) as part of the Town Centres LEP. This zoning impacts on the land conditions and in turn the financial viability of any future development.
- iv. William Cowan Car Park, St Ives was rezoned to B2 (local centre) as part of the Town Centres LEP. This zoning impacts on the land conditions and in turn the financial viability of any future development.
- v. Culworth Avenue Car Park was removed on 23 May 2006 at the Ordinary Meeting of Council.
- vi. North Turramurra Golf Course and Recreation Area has been the subject of significant consideration by Council for the past 20 years and in November 2007, Council adopted the Master Plan for this site that did not include any aquatic facilities.
- vii. Lindfield Library was rezoned to B2 (local centre) as part of the Town Centres LEP. This site would have significant constraints in terms of access and egress which would severely hamper its future use.
- viii. Car park located at St Ives opposite Stanley Street was rezoned as R4 (high density residential).
- ix. Moree Street Car Park Gordon was rezoned to B2 (local centre).

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- x. Samuel King Oval Bobbin Head North Turramurra – as noted in the 2006 site assessment, the site remains severely compromised by its location, and with the North Turramurra Recreation Area anticipated to come on line, would not be favoured given the additional traffic that would be generated if both facilities were located in the same area.

Also notable is that Council and the Ku-ring-gai Planning Panel have made a number of strategic and statutory planning decisions since 2006 that have significantly altered the long term vision, built form outcomes, and financial opportunities of alternative sites. It is likely that if a similar ranking process were carried out in 2010, that West Pymble Pool would rank significantly higher than it did in 2006.

General feedback was provided to the architects and staff regarding the two (2) design concept options offered for public comment (**Attachment B**). The feedback was:

- the desire for retention of as much open space as possible – many people reflected on the improvement on earlier schemes indicating that the revised configuration retains a greater proportion of open space;
- a preference for the 'Under The Canopy' concept option. Many felt the roof form and general building form, resulting from this scheme, presented a less intrusive mass in the landscape and provided greater opportunity for integration of the landscape into the scheme;
- preference for 'natural' materials and finishes, with the external environment permeating through internal spaces;
- equitable access to all areas noted is important, including pram access which was identified as a priority for the pool hall;
- support for retaining walls to the south of the site which facilitate provision of an additional area of open space adjacent to the 50m pool, with opportunity for additional carparking below;
- desire for retention of controlled (fenced) areas for younger children; and
- the pool to remain open during construction. This was considered unlikely as the site would be classified as a construction zone and would present significant health and safety risks, possible constraints on construction times, and lead to higher costs in pedestrian/user management.

In terms of the design, the feedback from this community meeting is not representative as the sample is only small. However, it does provide some guidance to Council as to the direction of the project. As such, it is recommended in this report that Council proceed with the 'Under the Canopy' option for the design of the facility.

CONSULTATION

Community consultation on the second financial model is not required. The financial analysis has been carried out to assist Council in its decision making. The community consultation, as referred to in this report, relates to the public meeting held on 25 November 2009 and notes of this meeting are included in **Attachment F** with a discussion of themes provided in the Comments section of this report. Consultation relates to the site layout, facilities mix and design and materials type issues only

FINANCIAL CONSIDERATIONS

Council's Long Term Financial Plan (LTFP) has incorporated within it the adopted aquatic and leisure facility. However, this was modelled to be a self funding facility based on the initial consultancy by HM Leisure Planning Pty Ltd, as reported on 16 December 2008 at the Ordinary Meeting of Council (**Confidential Attachment D**). Further to Council's resolution of 8 December 2009, and which is the subject of this report, the capital and ongoing expenditure for the facility is discussed below. The capital cost of construction has been set at \$12.5M at current prices and modelling has been extended to 20 years to be consistent with Council's long term financial model.

Financial Performance Scenarios

The consultant has recommended a number of areas to improve the financial performance of the facility. These include:

1. reconfiguring the cardio and weights gym space from 350m² to 450m² with a subsequent reduction in group fitness space from 250m² to 150m². The total area of gym space remains the same. This has been modelled to increase the return of the facility by \$44,000 per year by Year Ten and by \$144,000 per year by Year 15. No further analysis was undertaken for other sized gyms within the facility, other than noting that further increasing the size of this aspect of the project would have the potential to provide greater returns to Council. **Confidential Attachment C** provides a financial plan for an expanded gym to 450m² with a reduced group fitness space of 150m².
2. closing the outdoor 50m pool over the winter season which is consistent with the report by HM Leisure Planning Pty Ltd. This would save \$40,000 associated with cost of staffing, utilities and other relevant expenses. The closure of the outdoor pool during winter would have a direct impact on regular lap swimmers and other programs. However, as noted by the consultants, there are benefits to retaining swimming opportunities for users.

The following analysis considers the impact of Recommendation 1 (above) only.

This produces three scenarios to consider:

- Scenario 1: Facility based on the original HM Leisure Planning Pty Ltd consultants report;
- Scenario 2: Facility based on the Sport & Leisure Solutions Pty Ltd consultants report with the current gym configuration; and
- Scenario 3: Facility based on the Sport & Leisure Solutions Pty Ltd consultants report with the reconfigured gym.

The financial analysis of each of these scenarios is in two parts:

- (A) **Capital Costs** – this considers the funding of the capital costs incurred in each scenario and its impact on Council's overall projected financial position as shown in the LTFP. This is to ensure that the project can be funded within the context of all other known budgetary constraints.

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- (B) **Net Present Value** - the Net Present Value of both capital and operating cash flows is a calculation that allows each scenario to be ranked financially in order to determine which is preferable.

(A) Capital Costs

The gross capital cost of all scenarios is the same at an estimated \$12.5M at current prices and \$13.1M in future prices. The funding for this is identical for each scenario as follows:

Gross Capital Cost (construction)	\$12,500,000
Existing Section 94 Funds	\$765,000
Borrowings against Future Section 94 Funds	\$1,650,000
B2 Land Sale Net Proceeds	<u>\$8,500,000</u>
 Net Capital Cost	 \$1,585,000

This funding assumes that the B2 proceeds are tied to the West Pymble Indoor Aquatic and Leisure Facility following the Council resolution on 23 February 2010. The amount of borrowing from future section 94 funds has been set such that the estimate future receipts (\$2.6M), with an interest charge, will be sufficient to repay the borrowed sum. It is worth noting that the B2 project has been conservatively modelled. Actual sale prices are anticipated to be significantly higher than modelled, thereby increasing the funding from this source.

When incorporated into the LTFP, the level of total borrowings required (including borrowings for all other capital projects), varies as follows:

Scenario	New Borrowings	Debt Service Ratio	Operating Net Cash Flow 2010/11 to 2013/14
Scenario 1 (HM Leisure)	\$14.30M	3.2%	+\$1.5M
Scenario 2 (S&L Current Gym)	\$16.51M	3.6%	-\$471K
Scenario 3 (S&L Reconfigured Gym)	\$16.49M	3.6%	-\$456K

Council's overall borrowing requirement is determined by cash flows during the first four years of the LTFP – 2010/11 to 2013/14, when capital expenditure on major projects is significant. No further borrowings are required after 2013/14 under current the LTFP forecasts. The variation in borrowings between the HM Leisure scenario and two Sports and Leisure scenarios is due to the different operating net cash flows they contain during this 4 year period as shown in column 4 above.

(B) Net Present Value (NPV)

The NPV of the operating cash flows for each scenario can be used to compare them financially. The best financial scenario is that which shows the highest positive NPV. It also shows the net improvement in Council's operating position caused by the investment of capital in the project. A positive NPV shows that the investment is economic as it improves Council's operating position. A negative NPV shows the net deterioration in Council's operating position and indicates the, financially, the investment is not a good use of Council funds.

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The consultant's reports have shown the following results for these scenarios

Scenario	Total Net Cash Flow	NPV Operating Cash Flows
Scenario 1 (HM Leisure)	+\$16.1M	+\$10.6M
Scenario 2 (S&L Current Gym)	+\$3.4M	Not stated
Scenario 3 (S&L Reconfigured Gym)	+\$4.2M	Not stated

The NPV of cash flows for HM Leisure is not specifically stated but can be derived from the quoted yearly present value of cash flows. Note that the above Net cash Flow figures, as contained in the consultant's reports, are for 15.5 years in the case of Sport & Leisure (with the first half year being a loss of \$278,972) and 15 years for HM Leisure. The Sports and Leisure study has only quoted NPV for operating costs, rather than net cost (i.e. revenue less cost) and a comparable figure cannot be derived.

In order to make the studies comparable and translate all cash flows to the way they are considered within Council's LTFP, the following adjustments to revenue and cost data within the study need to be made:

- the maintenance cost pattern estimates in the Sports and Leisure Solutions Pty Ltd plan have been adjusted to include a substantial refurbishment in 2021/22 and only basic, regular maintenance in other years. This refurbishment cost is estimated as approximately \$1.6M by HM Leisure Planning and this amount has been added to the Sports and Leisure basic annual maintenance cash flows in the same year;
- a start up budget of \$300,000, recommended by Sport & Leisure Solutions Pty Ltd but not included in their initial report, has been included in the first year operating expenses forecast by HM Leisure Planning Pty Ltd;
- the operating financial position at Year 15 (2026/27) has been used for the following three (3) years (18 to 20) to align with the 20 year period of the LTFP.
- the current cash outflows incurred by Council for the current West Pymble Pool facility, as estimated within the LTFP, have been deducted from the Net Cash Flows provided in the consultant's studies. This produces an incremental net cash flow which shows the change in Council's net cash position as a result of the decision to construct a new facility. These existing costs (net of revenue) are approximately \$40,000 per year, with an estimate of a capital cost in 2021/22 of \$1.3M.
- the operating cash flows in both consultant's studies have been aligned to commence in the same year (2011/12), when opening of the new facility is planned. This requires an adjustment to HM Leisure's cash flows to add an initial half year of operation in 2011/12. This amounts to \$320,000, being half of the initial year 1 amount.
- a discount rate of 5.3% pa has been used for NPV calculations which equates to Council's estimated average cost of borrowing in the LTFP.
- the NPV is calculated to include the capital cost cash outflow. The Sport & Leisure scenarios do not consider capital costs and the capital costs used by HM Leisure are out of date. Although capital cost is shown above at \$1.585M, for the purposes of NPV calculations, the B2 component of funding has been added back to give a capital cost cash outflow of \$10.085M. This is because these funds are not externally restricted for use only in the project and are not cost free as they have an opportunity cost - the cost of not devoting them to other projects or the cost of lost interest on their investment.

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Development Contributions (\$2.4M) are externally restricted and cannot be used for other projects and have therefore been regarded as cost free capital for this analysis.

Using the above adjustments, the following results are obtained.

Scenario	Total Incremental Net Cash Flow (20 years) *	NPV (with s94 funds deducted)
Scenario 1 (HM Leisure)	+\$11.4M	+\$2.2M
Scenario 2 (S&L Current Gym)	-\$3.3M	-\$6.5M
Scenario 3 (S&L Reconfigured Gym)	-\$2.1M	-\$6.0M

* This includes all capital costs with S94 funds deducted and net operating cash flows over 20 years.

When the B2 land sale proceeds are not considered as cost free, only the HM Leisure scenario is financially positive for Council. This means that it produces surplus funds in future years for application to other projects. Under the Sport & Leisure scenarios, the project is financially uneconomic and will not produce sufficient returns to recoup its capital costs over time.

If Council considers the B2 land sale funds as cost free the following NPV's apply:

Scenario	Total Incremental Net Cash Flow (20 years) *	NPV (with B2 sale funds deducted)
Scenario 1 (HM Leisure)	+\$19.9M	+\$9.8M
Scenario 2 (S&L Current Gym)	+\$5.2M	+\$1.1M
Scenario 3 (S&L Reconfigured Gym)	+\$6.4M	+\$1.7M

* This includes all capital costs with S94 funds deducted and net operating cash flows over 20 years.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This reported was prepared by the Strategy and Environment Department and Finance section of Council.

SUMMARY

This report has dealt with three (3) issues:

- 1) the results of the second financial model by Sport & Leisure Solutions (**Confidential Attachment C**);
- 2) the development of the design of the facility to development application stage (**Attachment B**); and
- 3) the implication of the development of the West Pymble Indoor Aquatic and Leisure Facility within Council's LTFP.

The second financial model involved the preparation of an income and expenditure model to determine financial capability of the facility. This information in turn was used to determine the

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24 February 2010

NPV over 20 years. As far as possible, the base assumptions used in the second model were the same as for the first financial model which was completed in December 2008.

In summary, the expenditure estimates are similar between both models. The differences in income were greater, largely based on the modelled visitation rates. The first study assumed a higher usage than the second study, particularly in the area of casual swim and fitness and aquatic programs. As a general comment, the second financial model seems to be more conservative in its income projections than the first study. It did however make a number of recommendations to improve this financial position largely through the reconfiguration of the dry fitness areas which would increase the size of the gym and decrease the size of the group fitness room – retaining the same overall space. It is recommended that Council pursue this option to increase the financial return and in turn reduce the risk to Council. In this regard Option 2 of the reconfigured floor plans is recommended based on its compatibility with the site (**Attachment E**).

In terms of the design of the facility, preference was indicated for the 'Under The Canopy' (**Attachment B**). While the feedback from the public meeting in November 2009 should not be used as a definitive support for this scheme, this option has a less intrusive mass and seems to integrate more strongly within the landscape. In this regard, it is recommended that Council support this design as the direction for the purpose of the preparation of the Development Application.

Financially, Council is presented with three models which provide a net cash flow over 20 years ranging from \$19.9M (HM Leisure) to \$5.2M (Sport & Leisure current gym) to \$6.4M (Sport & Leisure reconfigured gym).

When comparing the varying cash flow patterns for each option against the capital investment of \$12.5 million, Council's analysis of HM Leisure's predictions, when regarding the B2 land sale proceeds as not cost free, produces an NPV of +\$2.2M for the HM Leisure scenario, -\$6.5M for the Sport & Leisure current gym scenario and -\$6.0M for the Sport & Leisure reconfigured gym scenario. As noted in this report, the most likely financial position would lie somewhere in between, given that more conservative assumptions seem to be used in the Sport & Leisure financial model and the capacity of Council to modify the design and or operation of the facility to maximise the financial return.

Overall, the decision by Council to proceed with this project must be based on a broad range of factors including but not limited to:

- social benefit which will be reflected by a substantial increase in use;
- the community impact both at a local and regional level;
- financial viability and impact on Council's operating position and capital available for other projects; and
- how the facility relates to Council's longer term strategic direction that will be shaped by a growing population and aging demographic.

In reference to these considerations, it is the opinion of staff and both consultants, which have undertaken the financial modelling, is that the proposed facility can be justified.

RECOMMENDATION

- A. That Council proceed with the West Pymble Indoor Aquatic and Leisure Facility.
- B. That Council adopt the architects design 'Under the Canopy' theme for the preparation of the documentation for lodgement for the Development Application.
- C. That the site plan be modified to increase the proportional area of the gym space to 450m² as reflected by Option 1 in Attachment E.
- D. Council inform the community in relation to the progress of the facility.

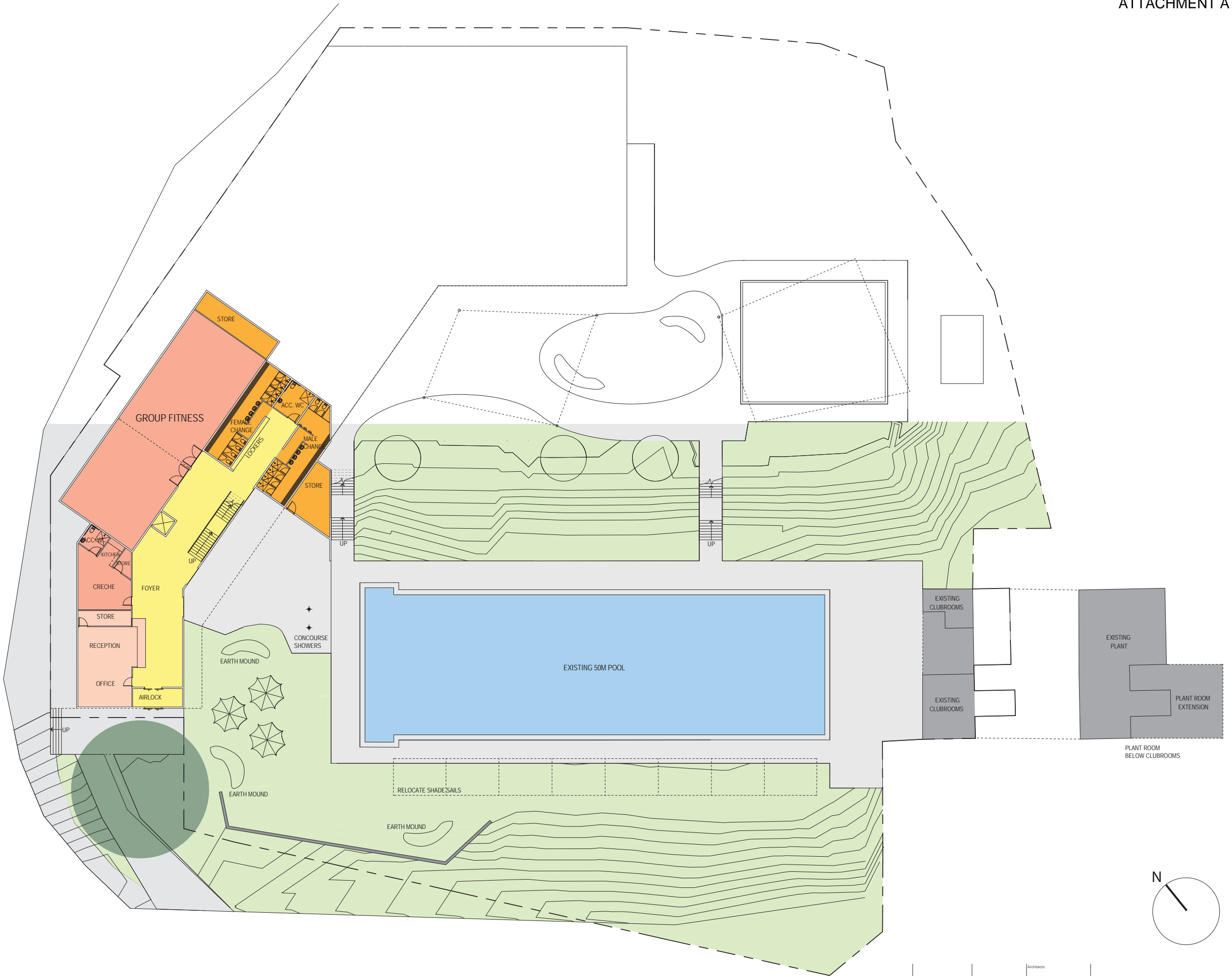
Roger Faulkner
**Team Leader Open Space &
Recreation Planner**

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments:

- A. Approved site plans for West Pymble Aquatic & Leisure Facility - 2009/120848, 2009/120849**
- B. Design options for West Pymble Aquatic Leisure Facility - 2009/202702, 2009/202425, 2009/202709, 2009/202506**
- C. Financial Plan - Sport & Leisure Solutions Pty Ltd - Confidential**
- D. Financial Plan - HM Leisure Planning Pty Ltd - Confidential**
- E. Revised floor plan with reconfigured dry health & fitness spaces - 2010/045290, 2010/045291, 2010/045292, 2010/045294**
- F. Notes from public meeting 25 November 2009 - 2009/212346**

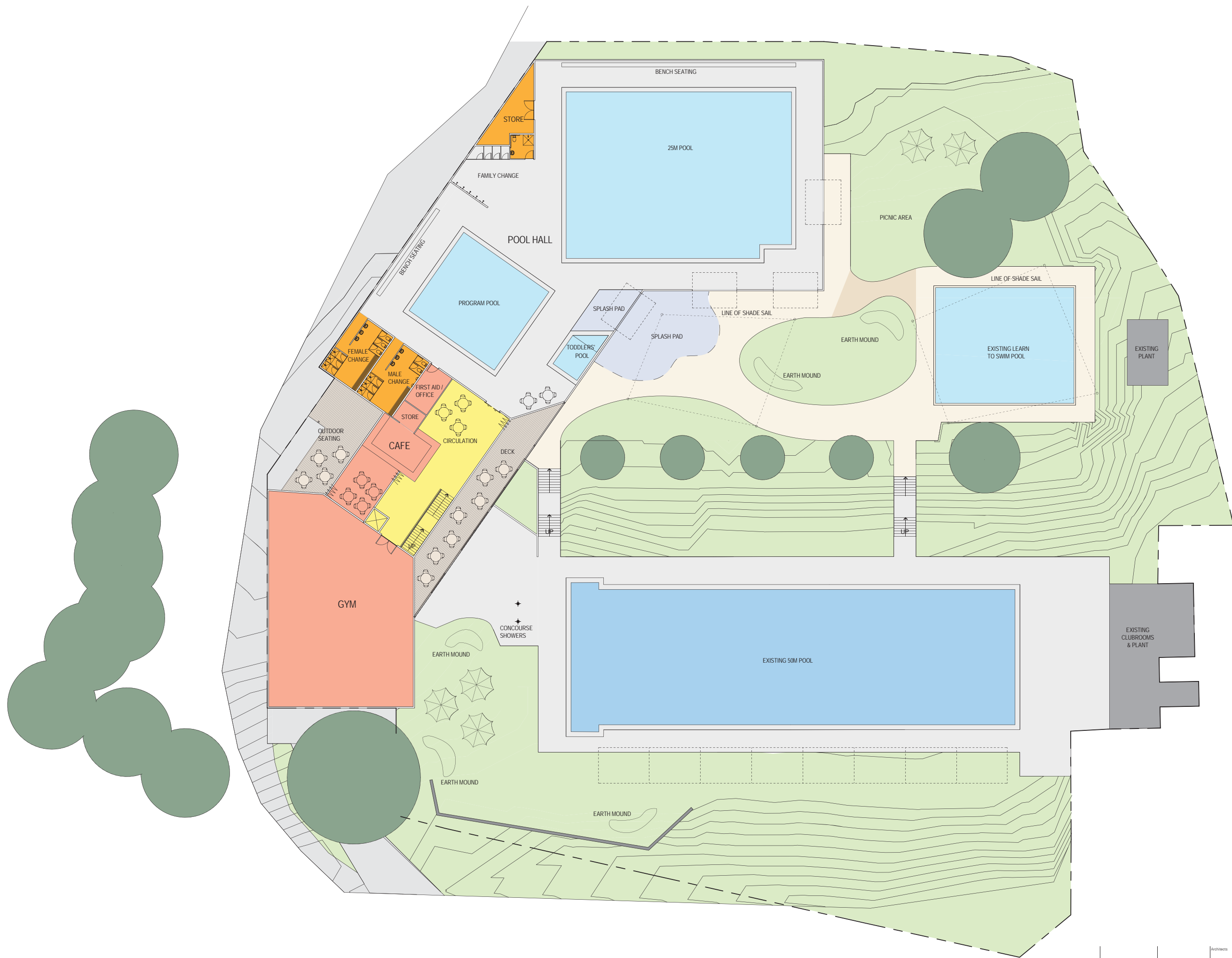


Ground Floor Plan
West Pymble Pool

Job No. 5003
Orig. No. 50.14C
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Date: 28 July 2009
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First Floor Plan
West Pymble Pool

Job No: 1003
 Dwg No: SK 15C
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“ U n d e r t h e C a n o p y ”

Artist Impression
(Summer - 11:00a.m.)
Option 01
West Pymble Pool, Bicentennial Park

Job No. 5083
Drg. No. SK 024A
Scale -
Date: 11 November 2009
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“ R i b b o n o f S t r a t a ”

Artist Impression
(Summer - 11:00a.m.)
Option 02
West Pymble Pool, Bicentennial Park

Job No. 5083
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Date: 11 November 2009
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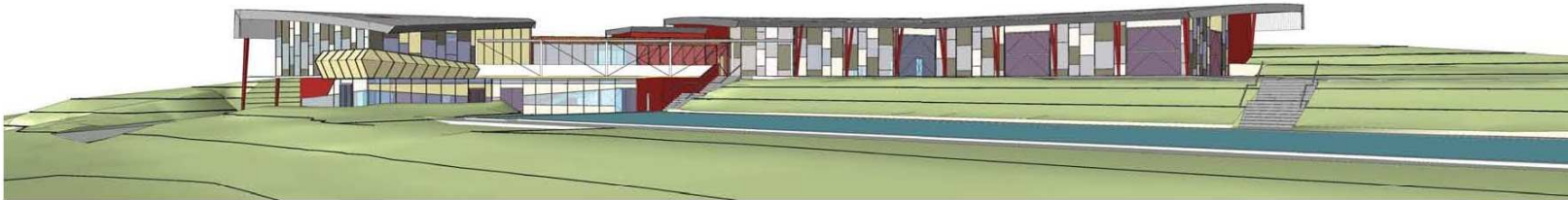
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View towards facility front entry (trees omitted from image for clarity)



View from existing 50m pool (trees omitted from image for clarity)



View from existing learn to swim pool (trees omitted from image for clarity)



Overall facility - bird's eye view (trees omitted from image for clarity)

PRELIMINARY DRAFT
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Artist Impression
Option 01
West Pymble Pool, Bicentennial Park

Job No. 5100
Dwg. No. SK-020A
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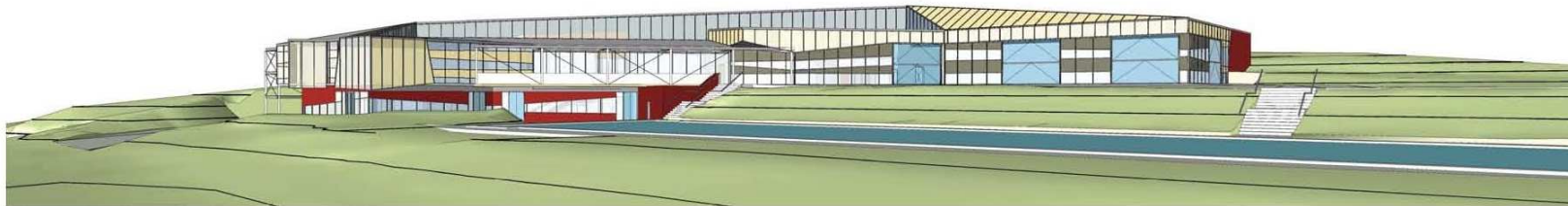
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View towards facility front entry (trees omitted from image for clarity)



View from existing 50m pool (trees omitted from image for clarity)



View from existing lawn to swim pool (trees omitted from image for clarity)



Overall facility - bird's eye view (trees omitted from image for clarity)

PRELIMINARY DRAFT
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Artist Impression
Option 02
West Pymble Pool, Bicentennial Park

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Option 01
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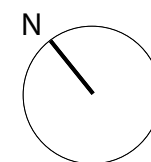




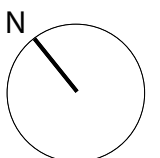
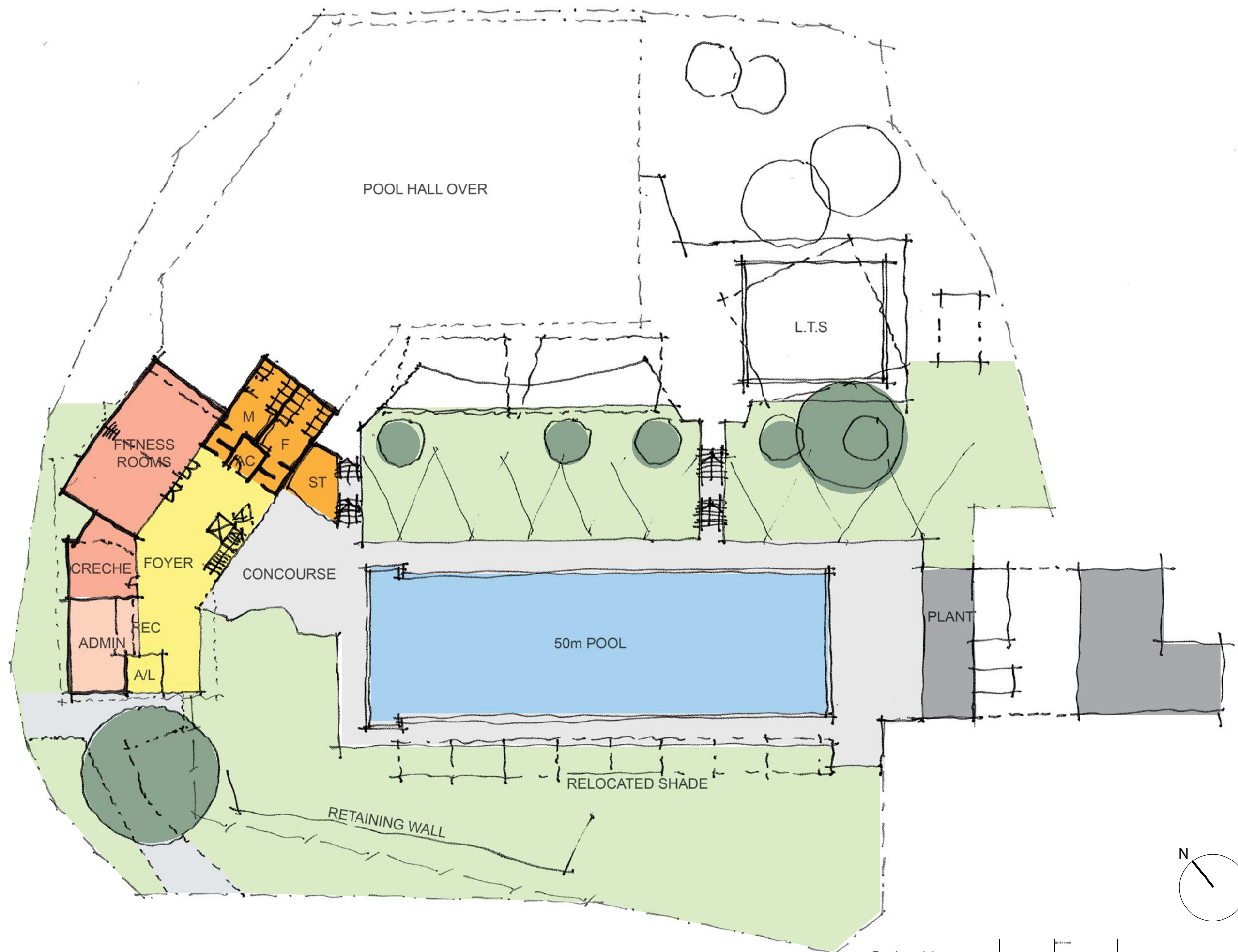
Option 01
First Floor Plan
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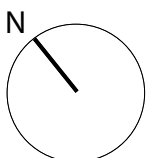
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Option 02
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Option 02
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**West Pymble Pool – community consultation meeting
Wednesday 25 November 2009
Meeting Notes**

Meeting commenced at 6.00pm. This was preceded by 1 hour of discussions by staff and architects with residents and pool users on the project and designs on display.

Mayor – Cr Ian Cross

Mayor introduced himself, Ward Councillors and Councillors and discussed the project to date, the Council resolution to conduct this meeting and the next steps in the project.

Format

1. Staff
2. Architects
3. Questions

Peter Davies – Manager Corporate Planning and Sustainability

Provided a brief history of project. This covered a brief history since Council had resolved to develop an indoor aquatic facility over 20 years ago. Key resolutions of Council included:

- May 2007– 25m indoor facility and retaining of 50m pool.
- November 2007– retain or relocate existing toddlers pools within new facility.
- December 2008 – add dry health & fitness facilities to scope of works and appoint architects to commence design.

In mid 2009 Council applied to the Department of Local Government for a special rate variation application to help fund the pool. In relation to the pool, this was not supported by the Department, though funding was conditionally approved for the North Turrumurra Recreation Area. In terms of funding the pool Council had decided that the sale of land at South Turrumurra (within the former B2 corridor) would be used to cover part of the cost of the indoor aquatic and leisure facility.

In terms of the financial modelling for the proposed facility a 15 and 20 year lifecycle analysis including net present value calculation had been undertaken. This pointed to the facility as being an income generating asset and as such would not be subsidised like pools in many other public aquatic facilities.

In terms of the design of the new facility this has taken into consideration all opinions expressed most notably to maximise the area of grass or green space across the site and to retain the existing learn to swim pool. Since the February 2009 community forum, architects have worked on the site layout and have come up with some designs that form the purpose of the public meeting.

Architects – Mark Van Den Enden and Mike McGrath – Suters Architects

The pool architects provided an overview of the design of the facility. This included key elements as below:

- access and mobility to all areas.
- all year use of the facility.
- greater flexibility for community spaces including a multi-purpose group fitness room that can double as two meeting rooms, party rooms
- greater opportunity for community to use.
- better integration of facilities within the site.
- Retention of as much existing green space / grass as possible across the site and expansion of new green space / grass at the front part of the site.
- efficient facility design including energy and water efficiency.
- making footprint as small as possible.
- entry to be located at the grade of the current 50m pool .
- consideration of the Sydney Turpentine Ironbark Forest (STIF).
- storage, offices, first aid room and amenities.
- provision of a café with outdoor area over looking each side.
- new aquatic facilities including program pool, 25m pool, new toddlers pool with splash pads for internal/external use.
- mounds and circulation space where existing toddler pools are located, existing toddlers pools are relocated and redesigned.
- fire station style doors to 25m pool building to promote air circulation.
- retention of the outdoor learn to swim pool.
- internal and external stairs provides access between levels.
- location of pool plant equipment at the same location for deliveries and access for vehicles.

Two design options were presented:

Option 1:

- Titled “Ribbon of Strata” - based on rock strata ribbon of natural light and passive ventilation.

Option 2:

- Titled “Under the Canopy” - based on rock forms in dapped landscape and integrates with landscape walls. Broken up roof form to reduce visual bulk of building, pool facing deck area based on special truss. Series of roof forms.

Questions

- Q. Will access to preschool will be difficult due to increased parking pressures from pool? Where will netball parking go?

A. It was explained by Joseph Piccoli (Council's Strategic Transport Engineer) that traffic and transport consultants are currently being used to model and calculate parking requirements, including working through demand at different times of the day and year taking into consideration parking needs of other sports and activities held at Bicentennial Park throughout the year. Early indications are a slight increase in overall parking demand in peak hours after work and on hot days but not during the shoulder period. There is potential to increase parking spaces on the site.

- Q. Will outdoor pools remain open during construction?
A. the architect said that this may be possible however staff added to this response by stating the site would be a construction zone and it would be unlikely that access would be available. This however could be raised with the building contractors once they are appointed after the construction tendering period.
- Q. Master swimmer – 25m pool is no good for competition. No room for cheer squads and spectators. Wants 25m pool to be deeper for training and more uses such as aerobics.
A. Noted.
- Q. With regards to earlier swimming pool decisions, reports say this isn't the right site. Why did Council go against staff and consultant recommendations?
A. Mayor explained that it was a political decision by Council to choose the West Pymble Pool site.
- Q. Survey said 64% of Ku-ring-gai residents wanted the indoor facility to be built at another site in Ku-ring-gai, so why build it here?
A. It was explained that while 64% of respondents to the random community survey (survey sent to 800 residents with 413 returned) supported a new aquatic leisure facility elsewhere in Ku-ring-gai, 67.5% of respondents to the random West Pymble Pool Users Survey (200 people interviewed at random across weekdays and weekends at varying times during February and March 2005) supported adding a new indoor lap pool, aquarobics, program pool and other health and fitness facilities at West Pymble Pool.
- Q. Agreed it is a political decision and stated that the Ku-ring-gai Sport and Recreation Reference Group has supported it for many years
A. Noted.
- Q. Financial viability report – is it available?
A. It was explained that the full financial report was confidential due to the future tender process for a new operator and because it was the intellectual property of the consultants. Summaries of high level figures are publicly available in previous Council Reports.

- Q. Indoor pool has no financial viability – problem with costings.
A. It was explained that Council had made decisions to proceed with the project based on the financial plan that had been developed. Council therefore had confidence in the methodology used and the forecasts, which indicated that the project was financially viable.
- Q. Why not use Macquarie University Pool during winter season as the support infrastructure doesn't exist at West Pymble?
A. It was explained that the vast majority of people need to drive to get to Macquarie University Pool and this journey can take a long time during the morning and afternoon peaks along Ryde Road.
- Q. Need more lane space during the February and March carnival times.
A. The indoor facility will help alleviate the problem of lane space shortages during carnivals at the outdoor pool.
- Q. Will we fill the lanes up at the pool with squads and learn to swim?
A. No there will always be lanes dedicated in the indoor 25m pool for recreational and lap swimmers.
- Q. Will the facility be a "Fitness First" style facility instead of a community facility?
A. Council can not exclude any particular operator to tender for the operation of the facility. However within the tender documentation and contract Council can explicitly include the requirement for a community based facility.
- Q. Will it be too expensive for locals to afford?
A. Council will continue to set all fees and charges for the facility just as it currently does.
- Q. Is a gym really necessary?
A. It was explained that Council had considered this issue formally at Council meetings and had made a decision to include dry health and fitness space based on the need to ensure the ongoing financial viability of the facility.
- Q. Will the swimming club still be guaranteed access?
A. It is not envisaged that the current arrangement for the swimming club will change when the indoor facility opens. It is likely that if there are changes it would be in the favour of the club through improved access throughout the year.

Meeting concluded at 7.45pm



Final Report -

Part Pages 2 to 9

**Redevelopment of
West Pymble Pool
Financial Plan**

KU-RING-GAI COUNCIL

FEBRUARY 2010

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1. PROJECT OVERVIEW

1.1 Background

On 8 December 2009 Council resolved to commission a second and independent financial plan for the West Pymble pool. This has involved financial modelling of the income and expenditure of the proposed facility against the designs as exhibited.

The proposed facility redevelopment will incorporate the following mix of facilities:

❑ Current outdoor facilities (proposed to remain in the new development):

- 50 metre 6 lane swimming pool – refurbished & retiled 2009
- 15 metre x 15 metre 0.8m depth learn to swim pool
- Small club house
- Refurbished plant room and water filtration system

❑ Proposed new indoor facilities:

- Wet areas
- 25 metre 8 lane swimming pool (457m²)
- Warm water program pool (182m²)
- Paddling pool (26m²)
- Splash pads (35m²) – indoor/outdoor

❑ Dry areas:

- Foyer and reception
- Dry fitness gym (358m²)
- Dry fitness program and multi-purpose room 1 (100m²)
- Dry fitness program and multi-purpose room 2 (139m²) – can be combined with program room 1 to form one room
- Crèche (45.1m²)
- Café + store (27m²)
- Café seating (50m²)
- Change rooms, storage, first aid rooms, offices

In January 2010, Sport and Leisure Solutions was contracted to prepare this independent financial plan for the proposed facility. This report will represent the second such analysis for the site and facility in order to provide Council with another source of information for its decision making.

1.2 Project Brief

The key tasks of this financial forecasting process is the development of a financial plan which will cover a period of 15 years after the completion of facility construction.

Construction is to take place during 2010/11 and 2011/12. The 15 full year operating period will be from 2012/13 to 2026/27. Partial income and expenditure will be shown for operations in 2011/12.

The financial model considered three scenarios:

- Optimistic,
- Pessimistic, and
- Expected.

For each scenario the following detail was required by Council.

- ❑ Statement of modelling assumptions including but not limited to:
 - market analysis – based on current and expected population including
 - number of visits for wet and dry facilities from Ku-ring-gai local
 - government area (LGA) residents and those outside the LGA as per the catchment size assumptions
 - business growth over the 15 year period
 - salaries and wages based on expected staffing.
 - the proposed staffing structure for each scenario is to be detailed, including employment conditions, numbers of permanent, temporary, casual and part-time staff
 - wage inflation
 - asset depreciation (including key components)
 - opening hours
 - areas (%) within the facility and times that they are open to the general public

- ❑ Development of income budgets including, but not limited to, fees and charges for the various facilities (wet and dry, café, crèche etc...) and associated programs.

The income budget will specify and include:

- sub totals of the likely dry and wet programs including assumptions as to the modelling
- occupancy as a % of the capacity of the facility
- visitation numbers

- ❑ Development of the expenditure profile for the facility. This includes:
 - staffing
 - administration and general centre costs
 - facility operating costs
 - capital equipment replacement and future Centre refurbishment cost required to continually meet market expectations.

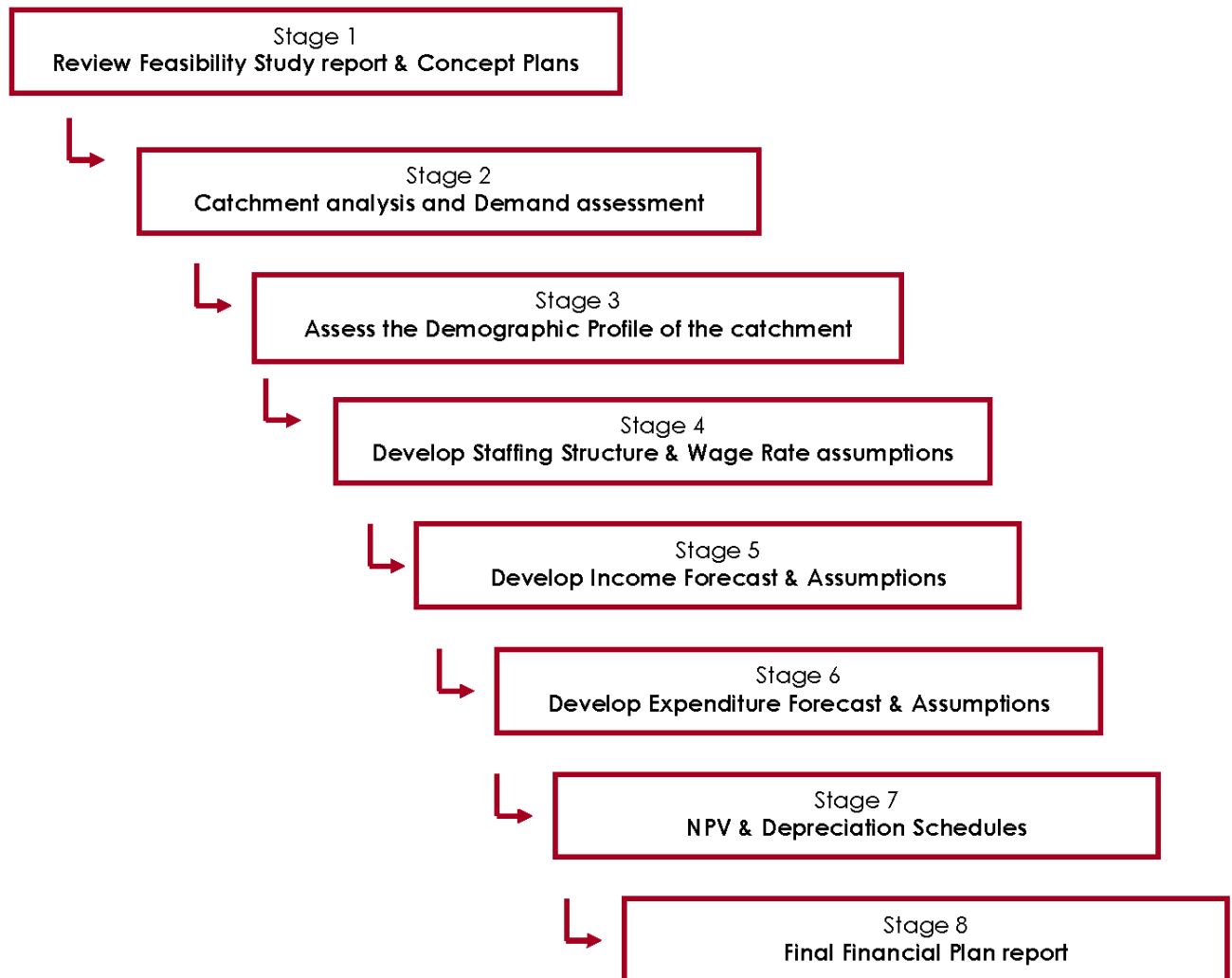
- ❑ Net present value (NPV) calculation over 15 years for the facility. This is based on a capital cost of \$13.1 million (in 2010/11 prices), using a discount rate of 5.8%.

The capital cost will be incurred in two stages, 2010/11 \$9.94 million and 2011/12 \$3.16 million, with the new facilities expected to be fully operational by December 2011.

- ❑ Recommendations that would enhance the NPV as calculated in E above.

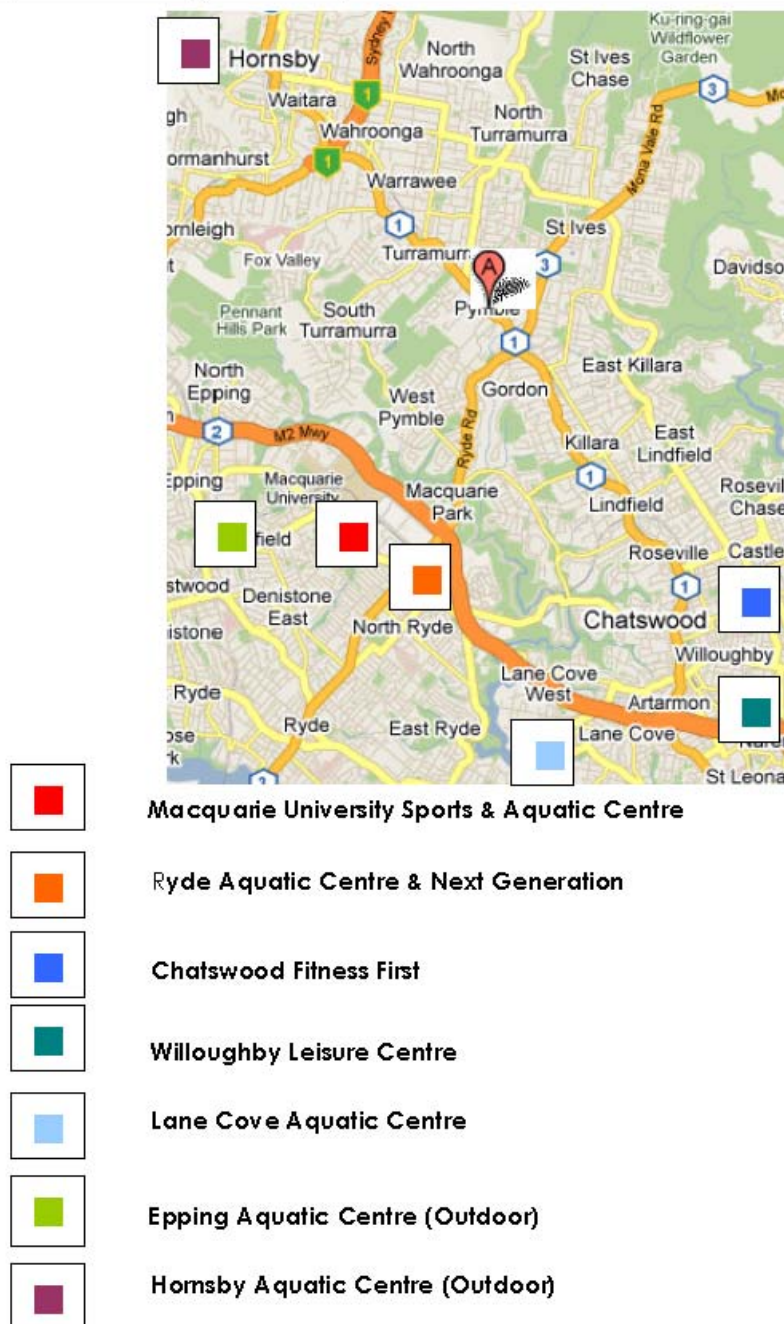
2. PROJECT METHODOLOGY

The diagram below provides a general overview of the project methodology and associated tasks that were followed throughout this financial planning process:



3. CATCHMENT ANALYSIS

3.1 Spatial Analysis of Aquatic Facilities within the area



The spatial analysis of other significant aquatic & fitness centres within the region, shows that most of the significant potential competitors are south of the M2 motorway. Our assessment is that this motorway acts as a natural boundary for potential users north of the M2, meaning that proposed Health & Fitness and Indoor Aquatic facilities on the West Pymble Pool site would have a primary catchment that would include nearly the entire population of the Kuring-gai municipality.

3.2 Health Club & Swim School Competitor analysis

Health Clubs	<u>No of Members</u>
• Club 2073- Pymble	600
• North Shore Gym- Pymble	1000
• Active Health Club North Ryde	2500
• Next Generation Ryde	3000
• Fitness First Lane Cove	2000
• Body Shape Fitness - Gordon	900
• Curves- Turramurra / St Ives	600
• Ryde Eastwood Leagues	2000
• Macquarie University Gym	5000

Learn To Swim	<u>No of enrolments</u>
• Ryde Aquatic Centre	5000
• Ryde East Leagues	1500
• Hornsby Aquatic Centre	1000
• Ryde Swim School	600
• Pymble Swim Centre	500
• Brewer Swimming- North Ryde	600
• Willoughby Leisure Centre	1500
• Carlile Swimming - Ryde	1000
- Lane Cove	2500

Our assessment of the aquatic and health club market in the region indicates that there is a high number of very successful and stable facilities serving their local markets. Based on the size of the proposed Gym included in the West Pymble concept plan (357sqm), it can comfortably develop its own market based on families and over 50's fitness, which is the growth sector of the market. We believe that the proposed gym facility at West Pymble Pool can achieve a membership base nearing capacity of 1800 members.

The "Learn to Swim" market is quite healthy with Ryde Aquatic Centre having the largest learn to swim program in Australia, with 5000 children participating each term. There are several highly successful swim schools in this area and based on the demographic profile of the Ku-ring-gai municipality, which has a higher than average number of children in the 5 - 11 age group, the learn to swim program should reach 1500 enrolments per term.

3.3 Catchment Size assumptions

Our revenue projections are based on the following population estimates:

Year	2011	2016	2021	2026
Primary catchment population (Pymble, West Pymble & Killara)	26511	28027	29629	31323
Mid- Catchment population (rest of Ku-ring-gai municipality)	80350	84943	89799	94932
Outer catchment population	50718	53617	56682	59922
Total population	157579	166587	176110	186177

4. COMMUNITY PROFILE

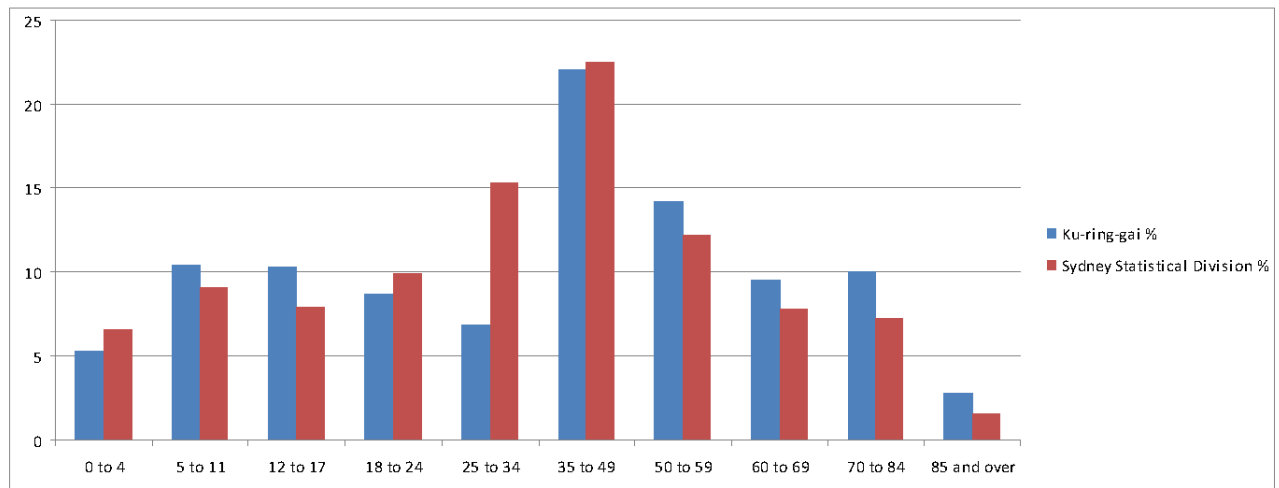
The following section presents demographic data, which has help inform our assessment of the market. The information was obtained from the following sources:

- Australian Bureau of Statistics, 2006 ABS Census (Source: www.abs.gov.au).
- Ku-ring-gai Council Demographic Profile

4.1 Population and Age Structure

In November 2006, the primary population catchment estimate was 101,083 residents. Population projections completed for Council predict a steady increase over the next 20 years, reflecting growth based on higher density living.

The following figure demonstrates the age structure of the Council compared to that of the Sydney Statistical Division as a whole.



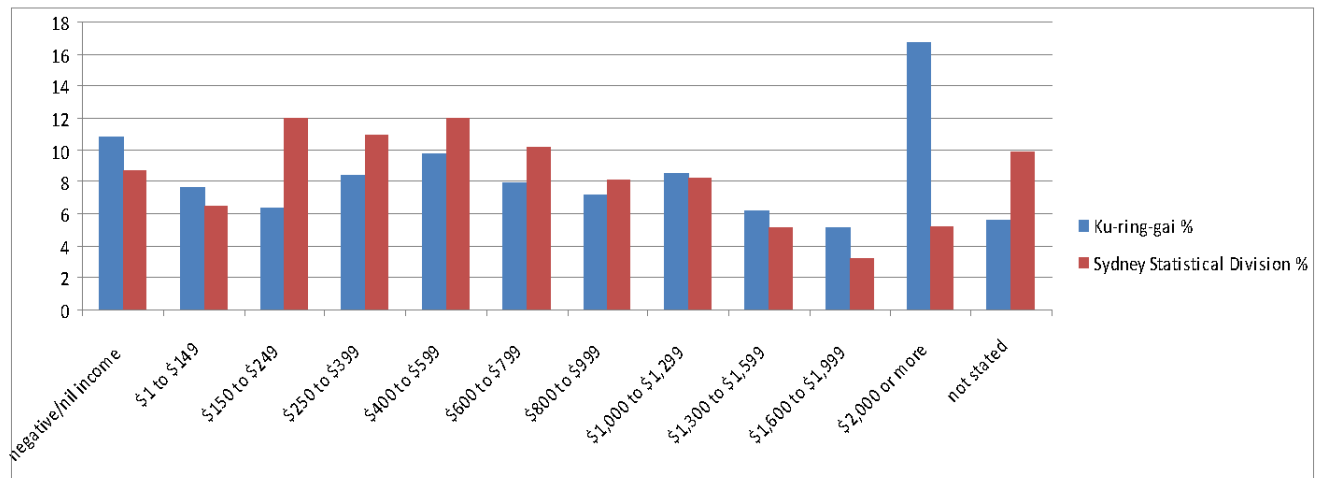
The major differences in age structure between the Ku-ring-gai area and the Sydney area as a whole includes:

- A significantly higher percentage of persons aged 50+ than the Sydney average
- A lower percentage of persons aged between 25 to 34
- A higher percentage of children aged between 5 and 17

Australian Bureau of Statistics data from their "2007 Exercise, Recreation and Sport Survey" indicates that there is a greater uptake in participation in organised activities at fitness, leisure or indoor sports centre's from the 65+ age bracket, than in previous years. It was established that 10.2% of that age bracket used these types of facilities on a regular basis.

4.2 Gross weekly household income

The following figure shows the breakdown of gross weekly household income for residents of Ku-ring-gai, as compared to the Sydney Statistical Division.

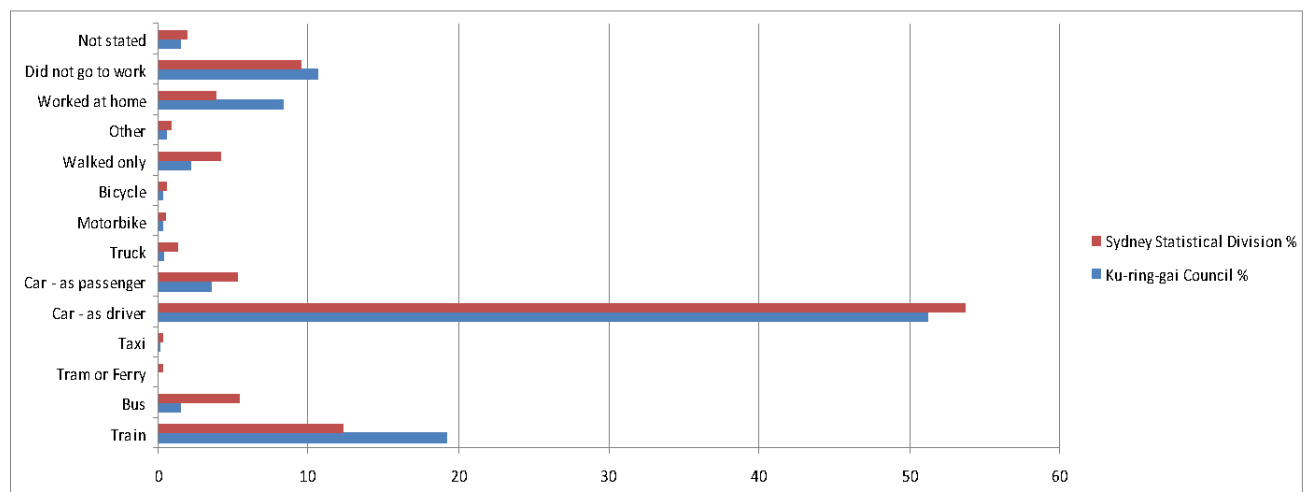


The analysis of the household income compared to that of the Sydney Statistical Division shows that there was a significantly higher proportion of high-income households (those earning \$2,000 or more per week)

Income quartiles also allow us to compare relative income-earning capabilities across time. There were no great changes in the distribution of weekly household income in the Ku-ring-gai area between 2001 and 2006. The lack of significant changes indicates there is a relatively stable housing market in Ku-ring-gai, with no real change in the socio-economic status of the area.

4.3 Modes of transport to work

The following figure shows the breakdown of modes of transport for residents of Ku-ring-gai when compared to residents of the Sydney region. It highlights a higher than average proportion of people who catch the train or work at home.



7.5 Implications of the Community Profile

In the future, the population will have increasing growth in its older age groups and a decline in the proportion of younger people. It is likely that the proportion of older people in this municipality will exceed the number of older people on the North Shore of Sydney more broadly.

The implications of an ageing population on community health and fitness can be planned for and addressed. Proactive support for an active older population can have very positive impacts on general health and well being. There is increasing evidence that older adults will participate in aquatic activities and programs in indoor heated pools as the Australian Bureau of Statistics data presented in the table below suggests.

“Participation in Organised Activities at Fitness, Leisure or Indoor Sports”- ERASS survey conducted by the Australian Bureau of Statistics in 2007

Age	% of that Age bracket participating regularly
0-14	16.6
15-24	15.9
25-34	18.9
35-44	14.8
45-54	11.5
55-64	9.6
65+	10.2

The 65+ age cohort are not attending outdoor pools in great numbers and thus represent a new market for this proposed facility and an opportunity to increase the overall level of physical activity in the community year round.

The demographic data also indicates that Ku-ring-gai Council has a higher than average number of children in the 5- 11 and 12 – 17 age groups when compared to the rest of Sydney. This will auger well for high demand for learn to swim programs at the proposed facility.

The higher than average household income is a factor that council can consider when setting fees and charges, and is likely to greatly enhance viability, beyond the forecasts made in this report.

The use of cars as a mode of transport to work is consistent with most other areas. However households in the Ku-ring-gai Council area, have car ownership levels that are significantly higher than for metropolitan Sydney. The proportion of households with no car is significantly lower in Ku-ring-gai than Sydney and the proportion of households with two and three or more cars in Ku-ring-gai is significantly higher than Sydney. The provision of adequate parking on site will be a factor that should be given consideration with respect to maximising income streams. There are several examples where lack of available on site parking has limited the use and therefore income growth of some facilities.

UNDERGROUND EASEMENT ACROSS GIRL GUIDE NSW AND ACT LAND NORTH TURRAMURRA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report to Council on the negotiations with the Girl Guides NSW and ACT, owners of Lot 324 Miowera Road North Turramurra, in relation to a proposed easement.

BACKGROUND:

On 8 December 2009, Council considered a report in relation to the tender for the sustainable water supply scheme at North Turramurra Golf Course. As noted in the report, the project requires an easement across land owned by the Girl Guides NSW and ACT. Following Council's resolution, negotiations have commenced in relation to the terms of the easement.

COMMENTS:

A draft proposal was presented to the Board of the Girl Guides NSW and ACT. This included a number of works to their land to improve access that followed from earlier discussions. In reply, the Board of Girl Guides conditionally accepted the offer subject to a number of additions. The estimated cost of works associated with the easement offered was \$65,000 and the response sought by Girl Guides was \$202,000.

RECOMMENDATION:

That Council resolve to enter into a licence deed in which to allow the commencement of works on the land identified as Lot 324 Miowera Road North Turramurra, owned by the Girl Guides NSW and ACT, and to commence and formalise an easement over the aforementioned land with compensation to the Girl Guides NSW and ACT.

PURPOSE OF REPORT

To report to Council on the negotiations with the Girl Guides NSW and ACT, owners of Lot 324 Miowera Road North Turrumurra, in relation to a proposed easement.

BACKGROUND

On 11 August 2009, Council resolved to amend the capital works program for 2009/10 to include the development of the North Turrumurra Recreation Area. The value of this project for the 2009/10 financial year is \$4.2 million. This includes the \$2 million Federal Government grant to fund the construction of a sustainable water supply scheme.

The grant from the Federal Government contains a number of conditions related to the progress and completion of the project anticipated July 2010. As a result of this timetable, it has been necessary to fast track elements of the project including the feasibility study that identified how and where sewerage could be pumped to the water treatment facility.

In July 2009 staff commenced discussions with Sydney Water Corporation in relation to the location of the off take from the sewer. From these meetings the path across land owned by the Girl Guides at Lot 324 Miowera Road was considered the most suitable given the location and depth of the main sewer pipes in and around North Turrumurra and the feasibility and cost of pumping the sewerage to the treatment plant. This site comprises of steep bushland immediately to the South East of the North Turrumurra Golf Course. **Attachment 1** identifies the location of the proposed easement.

In September 2009, Council officers commenced discussions with the owners of the land, the Girl Guides NSW and ACT. At this stage it was not known whether the pipe to transfer the sewerage would be above or below ground and was left open as part of the tender for the construction and operation of the facility and would also be subject to negotiations on the easement.

The outcome of the tender was reported to Council on 8 December 2009 (OMC GB 6). The tender that was accepted included a price for both an above and below ground pipe system. This has been the subject of further negotiations with the tenderer as part of the detailed design for the project, as discussed later in this report.

In relation to the easement, Council resolved on 8 December 2009:

- C. That the General Manager or his delegate continue formal discussions with the Girl Guides Australia to determine the correct approach to obtain an easement over a portion of Lot 324, DP 752031 and that a further report be submitted to Council detailing the negotiations.*

This resolution drew from earlier discussions and site meetings with the Guides, as contained in the report. In summary this included: 6 October 2009 a briefing was given to the Finance Committee of the Girl Guides; 9 October 2009 a site inspection was undertaken with the Activity Centres Administrator, State Commissioner and a local leader from the Girl Guides NSW and ACT; late October 2009 this matter was considered by the Board of Girl Guides NSW and ACT;

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11 November 2009 a meeting was held between representatives of the Girl Guides NSW and ACT, the Mayor and Council staff.

Following the 8 December 2009 Council meeting, a letter dated 3 December 2009 was received from State Executive Officer of the Board of Girl Guides NSW and ACT. This outlined the scope of their deliberations in relation to this matter and included:

1. *whether to agree to the principle of a sewerage pipeline and pumping station;*
2. *if agreed, whether the pipeline should be above or below ground; and*
3. *that any compensation requested of the Council be based on a commercial valuation. Girl Guides NSW & ACT will instruct, engage and pay for independent professional advice as to the appropriate amount of compensation, with Council to reimburse Girl Guides NSW and ACT for this expense.*

This report deals with Council's resolution and the subsequent response by the Board of Girl Guides NSW and ACT.

COMMENTS

Following the response from the Board of Girl Guides NSW and ACT dated 3 December and Council's resolution, Council officers sought direction from the Girl Guides NSW and ACT in relation to appointing an independent valuation for an easement for an aboveground pipe and a below ground pipe as relevant to the project. This was agreed to on 22 December 2009 at a cost of \$5,000. On 23 December 2009, LandMark White (NSW) Pty Ltd was commissioned by the Girl Guides to undertake the valuation. This report was received by Council on 4 February 2010.

In summary this report placed a value on the underground easement at \$5,500 and \$354,000 for an above ground easement. In discussion with Council's property officers, the valuation related to the below ground easement was considered reasonable. However, the above ground valuation was considered to be based on incorrect assumptions. Should this option be pursued, a further valuation would need to be sought.

At the same time the contractor to the project Henry and Hymas Civil and Construction Engineers, commenced further discussions with Sydney Water Corporation in relation to the easement and detailed design for the project. In response to their tender and subsequent negotiations, Henry and Hymas were also instructed to provide additional pricing for an underground pipe option. The above ground option, as per their Tender was estimated to cost \$508,730. The revised option for the underground pipe was \$567,540 and assumed that sludge from the treatment plan could be discharged to local sewer and would be achieved through directional drilling from the sewer off take to the edge of the golf course. Sydney Water has not yet agreed formerly to this underground option. However, this design is likely to form part of the sewer mining agreement documentation once the final design and costing are confirmed and this will included any associated costs including the easement.

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The underground option represents an increase of \$58,810 to project costs. However this option provides many other benefits such as lessening the risk of damage by fire risk and vandalism, minimizing clearing of bushland that would be required for the above ground option and also reducing the visual impact on the affected land. In effect it represents a valuable long term investment to the project.

Having determined the preference for an underground pipe, Council staff met with the Girl Guides NSW and ACT on Monday 22 February 2010 to discuss the direction and possible arrangements in relation to the easement. From this meeting, a letter, dated 23 February 2010, was sent to the Chairperson of the Board of Guides NSW and ACT for consideration at their meeting on 24 February 2010 (**Attachment 2**).

The major elements of the letter in relation to the granting of an underground easement are summarised below:

1. Council pay all reasonable legal, valuation, survey and registration fees incurred by Girl Guides NSW and ACT in relation to the creation of the easement, and in addition, undertake the following improvements on Lot 324:
 - improvements to the walking tracks from the fire trail through to the Mary Everett Camp site, including creek crossing using stepping stones, and construction of steps through the steepest sections;
 - limited clearing within the Mary Everett Camp site to enable small tent camping; and
 - clearing a meeting space near Peggy's Pool to be used as a meeting site and to provide a table and seating.
2. Creation of an environmental education resource specific to the locality for use by the Girl Guides;
3. Restoration of any site disturbed as a result of the construction;
4. Undertake the necessary review of environmental factors for the above works; and
5. Provide briefings to the Glengarry Committee as to the project in general and its status.

This offer was conditioned in that entry by Council into a binding agreement will be subject to formal resolution by Council, the subject of this report.

The value of the aforementioned works has been estimated below. This information was not included in the letter to the Girl Guides:

- legal, valuation and associated costs \$20,000 – these are essentially fixed costs related to the project and should be viewed as independent to the easement negotiations; and

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- works to land (Table 1).

Table 1 Cost of site improvement works

	Site works	Unit rate	Length	Cost (\$)	Contingency @10% (\$)	GST (\$)	Total Cost (\$)
1	Walking track to Mary Everett Camp site	\$130 / metre	200 metre	\$26,000	\$2,600	\$2,860	\$31,460
2	Creek crossing, anchored stepping stones	\$40 / hr for approx 10 hrs	Labour cost (to be sourced locally)	\$400	\$40	\$44	\$ 484
3	Steps from creek crossing to Mary Everett campsite	\$665 per step (noting that this is within and adjacent to a stream)	Approx. 30 steps with handrail (currently fire damaged)	\$20,000	\$2,000	\$2,200	\$24,200
4	Clear Mary Everett campsite -	\$40 / hr (hand clearing due to poor access)	8 hours Labour (area approx. 15 m ²)	\$320	\$32	\$35	\$387
5	Walking track construction to Peggy's Pool	Crushed sandstone \$130/ m \$40/hr labour	Crushed stone 5 m Labour 10 hours	\$1,350	\$135	\$148	\$1,633
6	Clear Peggy's Pool	\$40 / hr	Labour 8 hours	\$320	\$32	\$35	\$387
7	Signs – directional only	Artwork- \$30 average Installation - \$100 each	Approx. 15 signs plus vehicle access	\$2,880	\$288	\$316	\$3,486
8	Environmental education pamphlet	\$1000 unit rate including graphics Printing \$1 per copy	Printing 1000 copies	\$2,000	\$200	\$220	\$2,420
	TOTAL EXPECTED COST			\$53,270	\$5,327	\$5,858	\$64,457

In response to this letter, Council received a reply on 3 March 2010 (as dated 1 March 2010) from the State Commission of Girl Guides NSW and ACT. This letter is provided as **Attachment 3**.

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In summary, the Board stated that it “*would be prepared to approve the granting of an easement broadly on the terms you proposed in your 23 February letter, with the following additions:*

- 1. We wish to receive the flora and fauna report prepared for the pipeline project*
- 2. A shed and toilet as well as a table and seating on the golf club side of the creek near Peggy’s Pool*
- 3. Tree clearing as required around Mary Everett campsite and the clearing for seating around Peggy’s Pool.”*

In relation to the first matter, this had been previously discussed with the Girl Guides NSW and ACT and a copy of the mentioned report was e-mailed to the Guides on the 18 December 2009. A further copy was provided on the 3 March 2010.

The cost of all the items sought by the Guides, including additions 2 and 3 as above and incorporating the estimates as per Table 1 with unit rates used for the other items (and inclusive of contingency and GST) are set out in Table 2 below:

Table 2. Works requested by Guides for granting of an underground easement

Works	Cost (\$)
Walking track to Mary Evert Camp – including creek crossing and flight of stairs (items 1,2,3)	\$ 56,144
Clearing around to Mary Evert Camp (item 4)	\$ 387
Walking track to Peggy’s Pool (item 5)	\$ 1,633
Clearing around Peggy’s Pool (item 6)	\$ 387
Provision of bush seating for Peggy’s Pool (a)	\$ 2,200
Provision of a shed at Peggy’s Pool (b)	\$ 23,500
Provision of a toilet at Peggy’s Pool (c)	\$112,000
Environmental education resource including signage and pamphlet (items 7,8)	\$ 5,906
TOTAL	\$202,157

Notes

- a. Given the bush fire prone nature of the site table and benches, these facilities would be best made as bush furniture incorporating logs and other on-site materials. This could be provided at approximately \$1,200. However, if a prefabricated product was to be used the cost would be \$2,200 with installation
- b. Steel frame on slab with colorbond roof 6.3m x 3m.
- c. Composting toilet similar to one recently installed at the Ku-ring-gai Wildflower Garden

The value of the underground easement has been determined at \$5,500, while the works in kind as offered by council staff in the letter dated 23 February is estimated at \$64,457. The Girl Guides have subsequently sought an **additional** \$137,700 of works by Council.

On 15 March 2010, the Mayor and staff officers met with representatives of the Girl Guides NSW and ACT. It was jointly proposed that a settlement for the easement be based upon works to the value of \$65,000. The specific activities to be funded works shall be prioritised by the Guides, drawing from the aforementioned works. Initial discussions indicate that the Guides’ priorities are

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for a shelter and log seating around Peggy's Pool and a creek crossing and minor track improvements through to the Mary Evert Camp.

While the land in question is owned by the Girl Guides NSW and ACT, it is foreseeable that the facilities will be used by local residents and others accessing the fire trail and walking trails within the area. In this respect, there is wider public benefit for the funding of the works. However, liability pertaining to the land and the proposed improvements and assets would rest with the Guides.

Furthermore, as 2010 is the Centenary of the Girl Guides Australia, the settlement can also be viewed as a donation to commemorate Guiding in Australia, particularly given their long association at the Glengarry site.

As any offer from Council must be accepted by the Board of the Guides, and pending the resolution of Council on this matter, a report shall be provided to Council confirming acceptance of this offer.

Proposed site Access Licence.

A formalisation of an easement shall take some time to complete. It is envisaged that Council and the Girl Guides NSW and ACT will require formalising access over the site for works to commence. To enable this, it is proposed that a site access licence be entered into. Terms of this agreement shall be negotiated between Council staff and the Girl Guides NSW and ACT.

CONSULTATION

As noted in the Comments section of this report, discussions in relation to the easement have been occurring with the Girl Guides NSW and ACT for some time. The most relevant documentation pertaining to these are reflected in **Attachments 2 and 3** to this report.

It should also be noted that Council staff have been in discussion with the Federal Government as part of the reporting on the grant. This has noted the need to obtain an easement through a third party to the project. Recent correspondence with the grant administrator noted:

"Council is currently liaising with the Guide Guides as to the easement. To this end a valuation on the proposed easement has been commissioned by the Guild Guides and a report will then be put to Council. Council is currently also in consultation with the Guides as to the any compensation payable for the easement and other matters related to the temporary access and ongoing maintenance."

Given the strict timeline for expenditure relating to the funding, the Federal Government requires that this permit be obtained as soon as possible. The milestones listed in the agreement required all permits to be approved in July 2009. However to date the grant administrators have been patient and supportive of the negotiations with the Girl Guides NSW and ACT.

FINANCIAL CONSIDERATIONS

The cost incurred to date in relation to the easement is \$5000 for the independent valuation as commissioned by the Girl Guides NSW and ACT. This report calculated the compensation payable for an underground easement at \$5,500 (inclusive of GST).

The works as included in council's letter dated 23 February and as recommended in this report are valued at \$65,000. This can be accommodated within the budget for the project and is considered favourable to the Guild Guides NSW and ACT.

The cost for this easement has not been included within the budgeted amount for the project. As the total capital cost is approximately \$24 million, the works would be able to be funded by Council's financial commitment to the NTRA project and can be seen as necessary for the purpose of completing this project.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's legal officer has been involved in the preparation and review of documents related to this matter.

SUMMARY

A critical element of the water recycling project for the North Turrumurra Recreation Area relates to the creation of an easement across land owned by the Girl Guides NSW and ACT. This easement is necessary as it provides the most technically feasible point to access the sewerage system and pipe sewerage to the water recycling facility located within the golf course. Approval for this is required by three (3) parties: Council is to put a formal offer to the Board of Girl Guides NSW and ACT in relation to the terms of the easement; the Board of Girl Guides NSW and ACT in relation to the acceptance of the offer; and Sydney Water Corporation on the matter of the sewer mining agreement that deals with the technical elements of the off take, use of sewerage and return of effluent.

This report seeks Council's approval to submit a formal offer to the Board of Girl Guides NSW and ACT in relation to the terms of the easement. It is recommended that this be capped at \$65,000 and consistent with the letter sent by Council staff dated 23 February 2010. Following a meeting with the Girl Guides NSW and ACT on 15 March 2010, it was proposed that the works be prioritised by the Girl Guides NSW and ACT in consultation with Council staff.

Further to the above, it is recommended that Council:

1. pay all reasonable legal, valuation, survey and registration fees incurred by the Girl Guides NSW and ACT in relation to the creation of the easement. The costs of these services are estimated to be \$20,000 and represent fixed costs given that Council has requested the easement and it is the body that seeks benefit; and

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S05260
16 March 2010

2. provide briefings to the Glengarry Committee as to the project in general and its status. This would be undertaken as part of the ordinary communication strategy for the project.

RECOMMENDATION

- A. That Council enter a licence deed to allow the carrying out of works on lands owned by the Girl Guides NSW and ACT at Lot 324 Miowera Road, North Turrumurra.
- B. That a formalised easement be confirmed over the aforementioned land.
- C. That the Girl Guides NSW and ACT be compensated for the proposed easement as outlined in the report.
- D. That the General Manager and Mayor be authorised to execute any documents necessary to give effect to the above resolution under the Common Seal of Council.

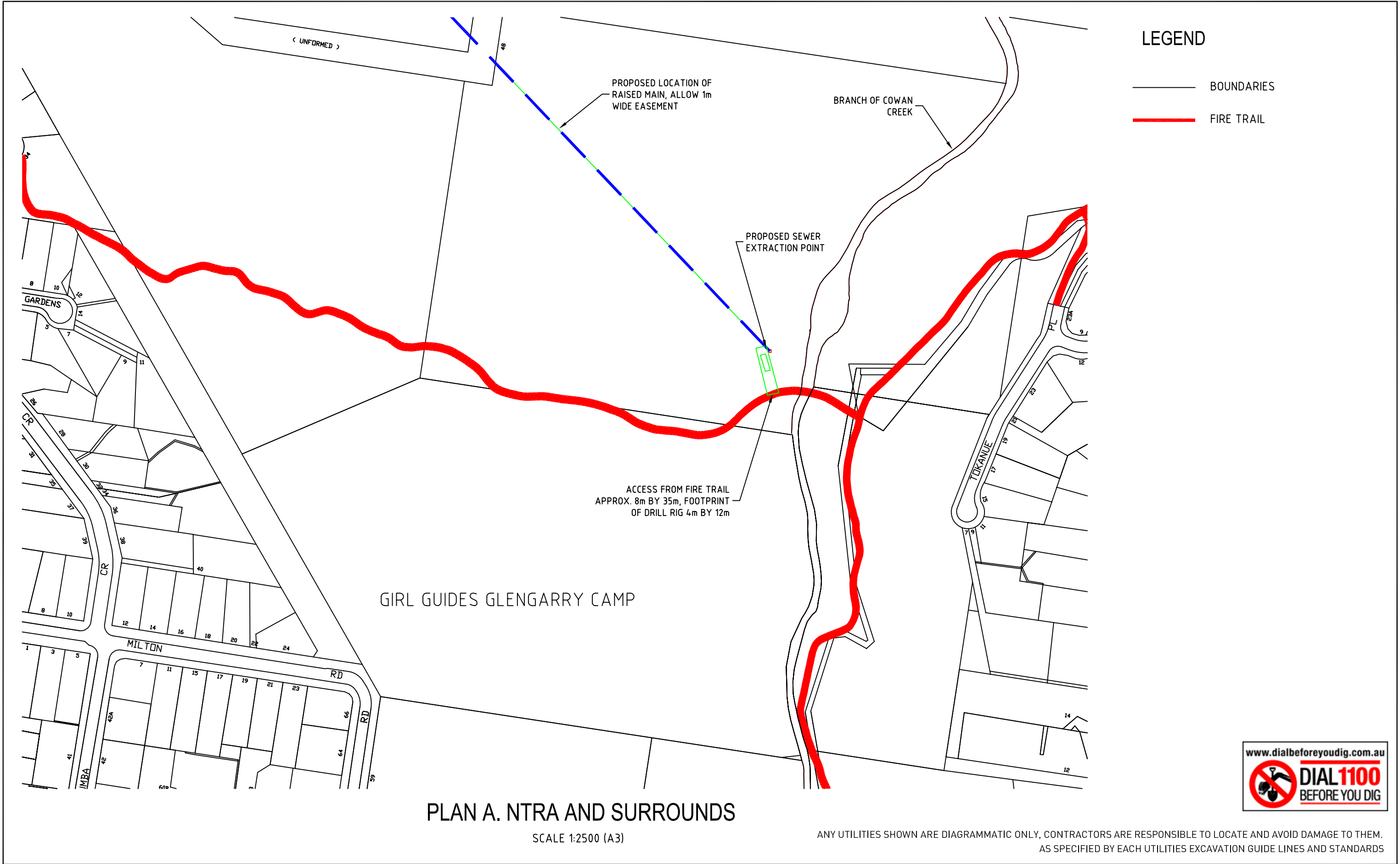
Ian Dreghorn
Manager Special Projects

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments:

1. Site plan - 2010/046641
2. Correspondence to Girl Guides NSW & ACT - February 2010 - 2010/032992
3. Correspondence from Girl Guides NSW & ACT - March 2010 - 2010/038531



			OJJ	NOTES: 1.CAD File No.	SCALE: AS SHOWN		KU-RING-GAI COUNCIL	NTRA SEWER MINING OFF-TAKE LOCATION CONSTRUCTION ACCESS		
					DESIGNED: OJJ					
					DRAWN: OJJ					
A	10/03/11	FOR COMMENTS			APPROVED DIRECTOR TECHNICAL SERVICES					
Rev.	Date	Amendments	Initial		DATE:			PLAN No.	NTRA 01	Rev.

818 Pacific Highway, Gordon NSW 2072
Locked Bag 1056, Pymble NSW 2073
T 02 9424 0888 F 02 9424 0880
DX 8703 Gordon TTY 02 9424 0875
E kmc@kmc.nsw.gov.au
W www.kmc.nsw.gov.au
ABN 86 408 856 411



Contact: Peter Davies

Reference: S05946
23 February 2010

Mrs Belinda Allen
Chairperson
Girl Guides NSW & ACT
Level 2
55 Holt Street
SURRY HILLS NSW 2010

Dear Belinda

Draft Proposed Sewer Easement affecting Lot 324 Miowera Road, North Turramurra

Further to our previous discussions, our meeting on Monday 22 February 2010 and the letter by the State Executive Officer, 3 December 2009, I am writing to seek the support of the Board of Girl Guides NSW and ACT in relation to the creation of a sewer easement across the Glengarry site to permit an underground pipe. This will extend from an off take area located near the exposed sewer pipe to the edge of the North Turramurra Golf Course as shown in attachment 1.

This project is funded by Council and the Federal Government's Community Infrastructure and Partnership Grant program and forms an integral part of this important local and regional sport and recreation facility.

On 8 December Ku-ring-gai Council resolved at its Ordinary Meeting of Council to appoint a contractor to deliver the sustainable water supply elements of the project and "*that the General Manager or his delegate continue formal discussions with the Girl Guides Australia to determine the correct approach to obtain an easement over a portion of Lot 324, DP 752031 and that a further report be submitted to Council detailing the negotiations.*"

- The contractor, Henry and Hymus, and their relevant subcontractors have a strong technical and financial capability in the area of civil and water engineering and they are currently progressing the detail design for the project. However it is on the matter of the easement and associated negotiations I write to you.

To progress these negotiations, I would like to seek your organisation's view of an arrangement that, in consideration of the granting of an easement, Council pay all reasonable legal, valuation, survey and registration fees incurred by Girl Guides NSW and ACT in relation to the creation of the easement, and in addition, undertake the following improvements on Lot 324:

- Improvements to the walking tracks from the fire trail through to the Mary Everett Camp site, including creek crossing using stepping stones, and construction of steps through the steepest sections;
- Limited clearing within the Mary Everett Camp site to enable small tent camping;
- Clearing a meeting space near Peggy's Pool as a meeting site and providing a table and seating;
- Creation of an environmental education resource specific to the locality for use by the Girl Guides;
- Restoration of any site disturbed as a result of the construction;
- Undertake the necessary review of environmental factors for the above works; and
- Provide briefings to the Glengarry Committee as to the project in general and its status.

You will note that the above works are all works previously proposed by your organisation as desirable.

As part of the site works, Council's contractor would prepare and submit to you a construction and site safety plan outlining the work methods, times and construction period associated with the sewer off-take and piping. The documentation will also contain evidence of relevant insurances. The caretaker at the Glengarry camp will also be given a minimum of 24 hours notice before works commence.

As outlined at our last meeting, the project is awaiting approval by Sydney Water Corporation under its sewer mining agreement policy. This may affect the final design and layout. While I do not expect significant changes to the proposal, should any specific element of the project change that affects activity on your land, Council would seek your agreement prior to commencement of works.

Entry by Council into a binding agreement will be subject to formal resolution by Council.

If Girl Guides NSW & ACT views an arrangement such as detailed above favourably, the matter will be formally reported to Council for decision. You will appreciate that the value of the above-detailed works is considerably greater than the valuation of the easement obtained by your organisation and advised to Council. Notwithstanding this, it is believed that there is some prospect that Council would agree to an arrangement as above in view of the wider environmental and community benefits that might be perceived to flow from the works on Lot 324 being undertaken.

I therefore request that you submit this proposal to your organisation's next Board meeting and subsequently advise me whether it is supported.

Yours sincerely

Peter Davies
Manager Corporate Planning and Sustainability

1 March 2010

Mr Peter Davies,
Manager, Corporate Planning & Sustainability,
Ku-ring-gai Council,
Locked Bag 1056,
Pymble, NSW, 2073.

Dear Peter,

Draft Proposed Sewerage Easement Glengarry

Thank you for your letter of 23 February 2010 on the above matter. The Board of Girl Guides NSW&ACT discussed your offer at its meeting on 25 February.

The Board noted that Council has decided on the underground option. The Association is still open to either solution, but on the assumption underground is chosen, we would be prepared to approve the granting of an easement broadly on the terms you proposed in your 23 February letter, with the following additions:

- We wish to receive the flora and fauna report prepared for the pipeline project
- A shed and toilet, as well as table and seating on the golf club side of the creek near Peggy's Pool.
- Tree-clearing as required around Mary Everett campsite and the clearing for seating etc. around Peggy's Pool.

Regarding notice on contractors entering the site, we can accept the caretaker receiving only 24 hours notice where the visit is on the schedule of times the contractor is to prepare for us, but would like a week's notice where the visit is unscheduled.

Like Council, we would want to ensure that before entering into a binding agreement we would have the results of negotiations with Sydney Water Corporation and final design. As part of this we would want assurances as to maintenance procedures for the pipeline, which presumably you are negotiating with Sydney Water.

Yours sincerely

BELINDA ALLEN
State Commissioner

UPDATE ON SPECIAL RATE VARIATION

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek approval of Council to apply to the Minister for Local Government for a New Facilities special variation to fund the development of the North Turrumurra Recreation Area.

BACKGROUND:

On 23 February 2010, Council resolved to resubmit a capital expenditure review to the Department of Local Government to gain approval to extend the 3.15% increase above the rate pegging limit granted for 2009/10, for a further 5 years from 2010/11 to 2014/15, to fund the NTRA redevelopment

COMMENTS:

On 22 March 2010, Council was advised that a new special rate variation application would need to be submitted under Section 508 (2) of the Local Government Act, 1993 to extend the special rate variation beyond 2009/10.

RECOMMENDATION:

That Council apply to the Minister for Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, of 3.15% increase for 5 years from 2010/11 to 2014/15, to fund North Turrumurra Recreation Area redevelopment and further, that Council request the Minister for Local Government to lift the restriction on the use of funds collected for the New Facilities rate in 2009/10, to fund North Turrumurra Recreation Area redevelopment.

PURPOSE OF REPORT

To seek approval of Council to apply to the Minister for Local Government for a New Facilities special variation to fund the development of the North Turramurra Recreation Area.

BACKGROUND

Council at its meeting on 24 February, 2009 resolved to apply to the Minister for Local Government for a new facilities special rate variation under Section 508(2) of the Local Government Act 1993 (the Act). The variation was to be a 5% increase for 6 years from 2009/10 to 2014/15. This would be used to construct the indoor aquatic and leisure facilities at West Pymble Pool and develop the North Turramurra Recreation Area.

In an instrument under Section 508(2) of the Act, dated 3 July 2009, the Minister for Local Government determined that the percentage by which Ku-ring-gai Council may increase its general income for 2009/2010 is 3.15% above the rate pegging limit, subject to the following conditions:

- i. Council will raise \$1,420,000 of the increase by additional rates for the costs associated with North Turramurra Recreation Area, for the period of one year, as set out in Council's special rate variation application;
- ii. Council will reduce its general income for the 2010/2011 rating year by \$1,420,000;
- iii. Council will retain this additional general income in restricted reserve until such time as Council's capital expenditure review for the project is approved by the Department of Local Government; and
- iv. Council clearly reports in its 2009/2010 annual report information on the total income received, expenditure per project/program and outcomes achieved.

During 2009 and early in 2010 several conversations were held with officers from the Department of Local Government, and it was indicated that the Department would favourably consider extending approval for the 3.15% increase above the rate pegging limit, granted for 2009/10, for a further 5 years, if Council were to resubmit a capital expenditure review on the funding of the NTRA project. This meant that no new special rate variation application was required and that the approval of the extension would be granted outside of the normal special rate approval process in June or July.

Correspondence from the DLG (attachment A) confirms that a capital expenditure review rather than a special rate variation application was required. Additionally, Council officers wrote to the DLG on 12 January and 26 February 2010, confirming that a Capital Expenditure Review was being prepared and submitted in line with their advice (attachments B & C).

Consequently, On 23 February 2010, Council considered a report on the funding of the NTRA project and the special rate variation associated with that funding. Council resolved as follows:

That Council resubmit a capital expenditure review to the Department of Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, to gain approval to extend the 3.15% increase above the rate pegging limit granted for 2009/10, for a further 5 years from 2010/11 to 2014/15, to fund North Turramurra Recreation Area redevelopment.

COMMENTS

On 26 February 2010 a Capital Expenditure review was submitted to the DLG as per Council's resolution and the DLG's advice. However on 22 March 2010 (attachment D), Council was advised that a new special rate variation application would need to be submitted under Section 508 (2) of the Local Government Act, 1993 to extend the special rate variation beyond 2009/10.

As a result, Council now needs to determine whether or not to apply to the Minister for Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, of 3.15% increase for 5 years from 2010/11 to 2014/15, to fund the North Turrumurra Recreation Area redevelopment project.

The funding for the NTRA project remains the same as previously considered by Council and is detailed in attachment E.

If Council resolves to apply to the Minister under Section 508(2) of the Act, an extension of time will be required from the DLG as applications are due into the Department by Friday 26 March 2010. Discussions with the DLG on Monday 22 March 2010 indicate that an application for an extension will be look upon favourably.

CONSULTATION

If Council resolves to proceed with a special rate variation application, extensive public consultation will take place as part of the application process. This will include a resident survey, resident focus groups and consultation with user groups / organisations.

FINANCIAL CONSIDERATIONS

The funding for the NTRA project remains the same as previously considered by Council and is detailed in attachment E.

Attachment E shows the Net Cash Flows where the NTRA project and its funding have been revised to fit the constraint of a reduced special rate variation of 3.15% for 6 years to 2014/15. This option will collect \$9,094,525 in additional rates; a reduction of \$1,992,898 when compared to Council's adopted Long Term Financial Plan (LTFP).

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was undertaken between the Corporate and Strategy and Environment Departments.

SUMMARY

On 23 February 2010, Council considered a report on the funding of the NTRA project and the special rate variation associated with that funding. Council resolved as follows:

That Council resubmit a capital expenditure review to the Department of Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, to gain approval to extend the 3.15% increase above the rate pegging limit granted for 2009/10, for a

Item 11

FY00019
22 March 2010

further 5 years from 2010/11 to 2014/15, to fund North Turrumurra Recreation Area redevelopment.

This was done on the basis of advice from the DLG which was that a capital expenditure review, rather than a special rate variation application, was required to extend approval for the 3.15% increase above the rate pegging limit, granted for 2009/10, for a further 5 years.

On 26 February 2010 a Capital Expenditure review was submitted to the DLG as per Council's resolution. However on 22 March 2010 (attachment D), Council was advised that a new special rate variation application would need to be submitted under Section 508 (2) of the Local Government Act, 1993 to extend the special rate variation beyond 2009/10.

As a result, Council now needs to determine whether or not to apply to the Minister for Local Government for a for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, of 3.15% increase for 5 years from 2010/11 to 2014/15, to fund the North Turrumurra Recreation Area redevelopment project.

The funding for the NTRA project remains the same as previously considered by Council and is detailed in attachment E.

RECOMMENDATION

- A. That Council apply to the Minister for Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, of 3.15% increase for 5 years from 2010/11 to 2014/15, to fund North Turrumurra Recreation Area redevelopment.
- B. That Council request the Minister for Local Government to lift the restriction on the use of funds collected for new facilities rate 2009/10, to fund North Turrumurra Recreation Area redevelopment.

Andrew Watson
Director Strategy & Environment

John Clark
Director Corporate

John McKee
General Manager

Attachments: A. Letter from Department of Local Government dated 7 July 2009 - 2009/101851
B. Letter to Department of Local Government dated 21 January 2010 - 2010/006923
C. Letter to Department of Premier & Cabinet dated 26 February 2010 - 2010/030562
D. Letter from Department of Local Government dated 19 March 2010 - 2010/050350
E. NTRA Project Funded from Retention of Existing Rate Increase - 2010/051717

Department of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

OUR REFERENCE
YOUR REFERENCE
CONTACT

A177909

Chris Duff
02 4428 4133

Mr John McKee
General Manager
Ku-ring-gai Council
Locked Bag 1056
PYMBLE NSW 2073

Dear Mr McKee

I am writing in reply to your letter of 27 April 2009 regarding Ku-ring-gai Council's capital expenditure review of North Turramurra Recreation Area and West Pymble indoor aquatic and leisure centre, and Council's application of 16 April 2009 seeking Ministerial approval for an increase in general income of 8.5% for 2009/2010, for a period for six years, to fund these infrastructure projects.

Capital Expenditure Review

Following a Departmental review of the information provided, it has been determined that Council has not satisfactorily addressed the Department's capital expenditure criteria for the proposals. Council does not appear to have provided an appropriate level of supporting evidence to demonstrate it has undertaken sufficient public consultation for the projects.

In determining that Council had not met the minimum requirements in undertaking public consultation, the following matters were considered.

- Council has treated the North Turramurra Recreation Area and West Pymble indoor aquatic and leisure centre as mutually inclusive, that is neither project could proceed without the other. Given this treatment of the projects Council does not appear to have provided sufficient opportunity to allow the public to comment on each of the projects individually. It appears that the projects are not physically related or dependent upon each other in relation to their construction. While I understand that the income from the West Pymble indoor aquatic and leisure centre will fund the loan repayments from 2016 to 2020, generated from the construction of the North Turramurra Recreation Area and West Pymble indoor aquatic and leisure centre, this does not appear to make the projects dependant upon each other. As such a separate public consultation should have been undertaken for each of the projects.
- Over a number of years several studies were completed including concept plans for sporting and aquatic facilities. However, it appears that the Council has not undertaken community consultation based on the final proposed projects especially in relation to the West Pymble indoor aquatic and leisure centre. The Department is aware that there has been significant community



opposition to the final proposal for the West Pymble indoor aquatic and leisure centre.

- The draft management plan and the recent surveys did not adequately address the minimum requirements for a capital expenditure review as their focus was Council's application for a special rate variation, as opposed to the projects themselves. For example Council's question to the community was *'to what extent do you support the payment of a special rate variation over a period of 6 years, by ratepayers which would help fund the West Pymble indoor aquatic and leisure centre and North Turramurra Recreation Area'*?

Until such time that the community is fully informed of the final proposed projects and the risks associated with the North Turramurra Recreation Area and the West Pymble indoor aquatic and leisure centre proposals I am unable to be satisfied that Council has met the capital expenditure review requirements as set out in Circular 97/55.

In relation to the funding arrangements for these projects, I am also concerned that Council may be unable to meet the loan repayments created from the construction of the North Turramurra Recreation Area and West Pymble indoor aquatic and leisure centre from the net income of the West Pymble indoor aquatic and leisure centre (the gym) from 2016 to 2029. If Council was unable to meet its commitments, funds would need to be diverted from other sources to repay the loan. This may place Council in a position where future services to the community may be affected.

I am aware of the challenges that councils face in delivering significant infrastructure projects to their communities. Councils need the highest level of professionalism and expertise in completing such projects. Councils should also be aware of the need to manage their finances in regard to delivering such projects. Sufficient funds must be available to complete projects without compromising the funds available for other present and future infrastructure works.

Special Rate Variation Application

Given that Council has not met the capital expenditure criteria, as set out in Circular 97/55, it has not been possible for the Minister to approve Council's special rate variation application, as requested.

However, it is noted that Council has secured a \$2 million grant from the Commonwealth to assist in funding the North Turramurra Recreation Area project and that under the terms of that grant, construction must begin within six months of the signing of the contract.

It is unfortunate therefore that Council has undertaken its capital expenditure review in such a way that the two projects are integrally linked, particularly given that the North Turramurra Recreation Area appears to have considerably greater community support. The Department appreciates that if the special variation, as it relates to North Turramurra is not approved, Council may have to forego the Commonwealth grant.

Given this situation, the Minister has approved of Council increasing its general income in 2009/10 to assist in funding the North Turrumurra Recreation Area project, for a period of one year.

In doing so, Council will need to re-submit its capital expenditure review to the Department as soon as possible. If that capital expenditure review is subsequently approved, the Minister will then reconsider Council's special rate variation for the remainder of the six year period.

This approach would provide Council with the certainty to commence work on the North Turrumurra project and not lose the Commonwealth grant funding.

Officers from the Department are able to provide assistance and guidance to Council in regard to its capital expenditure review for the North Turrumurra project to ensure that Council can prepare a clear and thorough application, supported by an appropriate business case and transparent consultation program.

As Council has not provided the Department with a separate special variation amount for each of two proposals, the special variation for the North Turrumurra Recreation Area has been calculated on a pro-rata basis.

The approved increase comprises:

	\$	%
2008/2009 Notional General Income	45,053,231	
Expiring Special Variation	-	
2008/2009 Adjusted Notional General Income	45,053,231	
2009/2010 General Variation	1,576,863	3.50
Catch up/(Excess)	-367	0.00
Valuation Objections	-	-
Income Adjustment	-	-
Special Variation	1,420,000	3.15
Total Increase	48,049,727	6.65%

The Minister's approval is on the basis that Council will reduce its general income for the 2010/2011 rating year by \$1,420,000. In addition, the approval is on the understanding that Council makes and levies its rates according to the provisions of the *Local Government Act 1993*. It should be noted that this approval is not an endorsement of Council's rating structure.

The approval is also on the condition that Council retain any income generated by the one year approval in a restricted reserve, until the capital expenditure review is finalised.

Council should continue to review its operations to identify where further efficiencies and tangible savings can be achieved. By applying this special variation, any prior period shortfall or excess is eliminated.

A copy of the instrument of approval is attached. It is important to appreciate that Council must comply with the conditions of approval set out in the instrument. Failure to comply with these conditions may impact on any future special variation applications made by Council.

Yours sincerely

A handwritten signature in blue ink, reading "Ross Woodward 7/7/09". The signature is written in a cursive style.

Ross Woodward
Acting Director General

LOCAL GOVERNMENT ACT 1993
INSTRUMENT UNDER SECTION 508(2)

I, **BARBARA PERRY MP**, Minister for Local Government, in pursuance of section 508(2) of the *Local Government Act 1993* determine that the percentage by which Ku-ring-gai Council may increase its general income for 2009/2010 is 6.65% above that for 2008/2009 subject to the following conditions:

- (i) Council will raise \$1,420,000 of the increase by additional rates for the costs associated with North Turramurra Recreation Area, for a period of one year, as set out in Council's special rate variation application;
- (ii) Council will reduce its general income for the 2010/2011 rating year by \$1,420,000;
- (iii) Council will retain this additional general income in a restricted reserve until such time as Council's capital expenditure review for the project is approved by the Department of Local Government; and
- (iv) Council clearly reports in its 2009/2010 annual report information on the total income received, expenditure per project/program and outcomes achieved.

This approval is on the understanding that Ku-ring-gai Council makes and levies its rates according to the provisions of the *Local Government Act 1993*.

Dated this

3-1

day of

July, 2009.



The Hon Barbara Perry MP
Minister for Local Government

Contact: Tino Caltabiano

Reference: S02796/2010/006923
12 January 2010

1301010302101210221213012313
Mr Chris Duff
Department of Local Government
Locked Bag 3015
NOWRA NSW 2541

Dear Mr Duff

Application for a special variation to general income, under section 508(2) of the Local Government Act 1993 2009/2010

I refer to our recent conversations on the above subject matter and wish to confirm that Council staff are still working on a strategy to fund the NTRA project using only the currently approved rates variation of \$1.42M in 2009/10, extended for 6 years as per our original application.

It is expected to have a revised capital expenditure review to you in Mid February 2010, when Council resumes from recess.

Tino Caltabiano
Manager Finance

Contact: Tino Caltabiano

Reference: S02796/2009/030562
26 February 2010

~~13/01/08/2012/02/2013/02/2013~~

Mr Ross Woodward
Deputy Director General (Local Government)
Department of Premier and Cabinet
Locked Bag 3015
NOWRA NSW 2541

Dear Ross

Application for a special rate variation to general income, under section 508(2) of the local Government Act 1993 2009/2010

I refer to Council's letter dated 12 January 2010 and now advise that Council at its meeting on 23 February 2009 resolved:

"That Council resubmit a capital expenditure review to the Department of Local Government for a New Facilities special rate variation under Section 508(2) of the Local Government Act 1993, to gain approval to extend the 3.15% increase above the rate pegging limit granted for 2009/10, for a further 5 years from 2010/11 to 2014/15, to fund North Turrumurra Recreation Area redevelopment."

Please find attached a revised capital expenditure review for your consideration.

John McKee
General Manager

Department of Local Government
5 O'Keefe Avenue NOWRA NSW 2541
Locked Bag 3015 NOWRA NSW 2541

OUR REFERENCE A199096
YOUR REFERENCE S02796/2010/006923
CONTACT Chris Duff
02 4428 4133

Mr John McKee
General Manager
Ku-ring-gai Council
Locked Bag 1056
PYMBLE NSW 2073

Dear Mr McKee

I am writing in relation to Council's capital expenditure review application, received by the Division of Local Government on 1 March 2010, for the North Turramurra Recreation Area.

The Division has assessed the information provided by Council. It has been determined that Council has satisfactorily addressed the Division's capital expenditure review criteria. While Council has generally satisfied the capital expenditure review criteria, this advice should not be construed as an endorsement for the construction of the North Turramurra project.

With regard to Council's request for a special rate variation for a further increase above the rate pegging limited for 5 years from 2010/11 to 2014/15, it is important to appreciate that the Minister for Local Government approved Council's 2009/10 special variation for a period of one year, rather than the requested six years, on the basis that the Council had not satisfactorily addressed the Division's capital expenditure criteria for the North Turramurra project and the West Pymble indoor aquatic and leisure centre. I note that Council has now revised the capital expenditure review to only relate to the North Turramurra project.


While I appreciate that Council has satisfactorily addressed the Division's capital expenditure review criteria, I am unable to support a reassessment or re-determination of any special rate variation applications made for 2009/10. To do so would set a precedent that could potentially undermine the special rate variation approval process. Ultimately, the Minister's determination is final.

As a result, if Council wishes to extend the special rate variation beyond 2009/10, it will need to submit a new special variation application for 2010/11 under section 508(2) of the Local Government Act. This new application will need to be in accordance with the Division's *Guidelines for the preparation of an application for a special variation to general income in 2010/2011*. The Guidelines can be found on the 'Publications' page of our website at www.dlg.nsw.gov.au.



As part of the application, Council will need to formally resolve to apply to the Minister for Local Government for a special rate variation in 2010/11. With regard to the information required on the new application, I note that Council completed a significant examination of the requirements as part of its 2009/10 application. Council will be able to draw upon this experience and knowledge when completing the 2010/11 application. Officers from the Division's Finance Management Branch are available to provide any guidance in this regard.

Yours sincerely

 17/3/10

Ross Woodward
Deputy Director General (Local Government)
Department of Premier and Cabinet

NTRA PROJECT FUNDED FROM RETENTION OF EXISTING RATE INCREASE OF 3.15% FOR AN ADDITIONAL 5 YEARS

NTRA CASH FLOWS															
[Cash flows indexed to Future prices]													Loan Account		
Year	Capital Costs	CAPITAL FUNDING SOURCES						Operating Cashflow	s94 2009 Receipts [repay s94 reserve]	NET Cash Flow Before Spec Rate	NET Special Rate Funding	Net Cash Flow (Loan Drawn Or Repaid)	Interest Rate	Interest [External, s94 or	Loan Outstanding
		s94 2009	s94 2004	S94 2000	Grant	Golf Course Levy	DWM								
2010	-4,241,200	0	0	828,200	2,000,000	0	0	0		-1,413,000	1,399,600	-13,400	4.3%	-291	-13,691
2011	-6,675,000	178,100	2,478,600	1,003,700	0	0	0	-31,500		-3,046,100	1,443,626	-1,602,474	4.3%	-35,348	-1,651,512
2012	-3,958,200	223,800	639,500	0	0	242,900	0	-31,500		-2,883,500	1,482,887	-1,400,613	5.7%	-134,054	-3,186,178
2013	-4,716,300	228,100	0	0	0	261,400	54,600	31,500		-4,140,700	1,540,720	-2,599,980	6.1%	-273,656	-6,059,814
2014	-4,482,300	232,900	0	0	0	280,300	223,100	63,000	0	-3,683,000	1,591,564	-2,091,436	6.1%	-433,437	-8,584,688
2015	0	0	0	0	0	290,100	796,400	30,500	237,600	1,354,600	1,636,127	2,990,727	5.3%	-375,734	-5,969,695
2016	0	0	0	0	0	297,400	991,200	26,500	243,500	1,558,600		1,558,600	4.8%	-249,139	-4,660,234
2017	0	0	0	0	0	305,700	1,019,000	22,400	250,400	1,597,500		1,597,500	5.3%	-204,659	-3,267,393
2018	0	0	0	0	0	313,300	0	18,200	229,400	560,900		560,900	5.9%	-176,230	-2,882,722
2019	0	0	0	0	0	321,200	0	13,800	235,200	570,200		570,200	5.4%	-140,272	-2,452,794
2020	0	0	0	0	0	329,200	0	8,900	241,000	579,100		579,100	5.2%	-112,489	-1,986,183
2021	0	0	0	0	0	337,400	0	3,900	247,100	588,400		588,400	5.2%	-87,983	-1,485,766
2022	0	0	0	0	0	0	0	-1,200	253,200	252,000		252,000	5.2%	-70,708	-1,304,473
2023	0	0	0	0	0	0	0	-6,700	214,800	208,100		208,100	5.2%	-62,422	-1,158,796
2024	0	0	0	0	0	0	0	-12,500	220,100	207,600		207,600	5.2%	-54,860	-1,006,055
2025	0	0	0	0	0	0	0	-18,600	225,600	207,000		207,000	5.2%	-46,933	-845,988
2026	0	0	0	0	0	0	0	-24,900	231,300	206,400		206,400	5.2%	-38,625	-678,213
2027	0	0	0	0	0	0	0	-31,600	237,000	205,400		205,400	5.2%	-29,927	-502,740
2028	0	0	0	0	0	0	0	-38,600	205,200	166,600		166,600	5.2%	-21,811	-357,951
2029	0	0	0	0	0	0	0	-45,900	210,400	164,500		164,500	5.2%	-14,336	-207,787
2030	0	0	0	0	0	0	0	-53,500	469,700	416,200		416,200	5.2%	0	0
TOTALS	-24,073,000	862,900	3,118,100	1,831,900	2,000,000	2,978,900	3,084,300	-77,800	3,951,500	-6,323,200	9,094,525	2,771,325		-2,562,912	