



**EXTRAORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 14 JULY 2009 AT 5.00PM
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

DOCUMENTS CIRCULATED TO COUNCILLORS

GENERAL BUSINESS

- GB.1 **Amendment to Management Plan 2009 to 2012, following Minister's Approval to New Facilities Special Rate** **1**

File: FY00019

To adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (following Minister for Local Government approval to New Facilities Special Rate, based on the instrument of approval dated 3 July 2009, under Section 508(2) of the Local Government Act, 1993) and Fees and Charges for 2009-2010 as amended.

Recommendation:

That Council adopt the recommendations contained in this report and the Management Plan 2009-2012 be amended accordingly.

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AMENDMENT TO MANAGEMENT PLAN 2009 TO 2012, FOLLOWING MINISTER'S APPROVAL TO NEW FACILITIES SPECIAL RATE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (following Minister for Local Government approval to New Facilities Special Rate, based on the instrument of approval dated 3 July 2009, under Section 508(2) of the Local Government Act, 1993) and Fees and Charges for 2009-2010 as amended.

BACKGROUND:

Council at its meeting on 24 February, 2009 resolved to apply to the Minister for Local Government for a New Facilities special variation under Section 508(2) of the Local Government Act 1993.

COMMENTS:

The Minister for Local Government, in pursuance of section 508(2) of the Local Government Act 1993 has determined 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 four (4) conditions

RECOMMENDATION:

That Council adopt the recommendations contained in this report and the Management Plan 2009-2012 be amended accordingly.

PURPOSE OF REPORT

To adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (following Minister for Local Government approval to New Facilities Special Rate, based on the instrument of approval dated 3 July 2009, under Section 508(2) of the Local Government Act, 1993) and Fees and Charges for 2009-2010 as amended.

BACKGROUND

Council at its meeting on 24 February, 2009 resolved to apply to the Minister for Local Government for a New Facilities special variation under Section 508(2) of the Local Government Act 1993. 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 Turrumurra Recreation Area.

On 3 April 2009 the Minister for Local Government announced a 3.5% increase in terms of section 506 of the *Local Government Act 1993* for the rating year commencing 1 July 2009. This is commonly referred to as rate pegging. Therefore, Council was seeking to increase its general income by 8.5%.

On 9 June 2009 Council considered the draft Management Plan 2009-2012 and resolved:

- A. *That Council adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (Subject to the Minister's approval) and Fees and Charges for 2009-2010 as amended.*
- B. *That should the Minister for Local Government approve Council's application for a special variation for the New Facilities Special Rate:*
 - 1. *An ordinary rate in the dollar of \$0.00170770 on the unimproved capital value of all rateable land categorised as residential in the Council area be made for the period of 1 July 2009 to 30 June 2010.*
 - 2. *An ordinary rate in the dollar of \$0.00525710 on the unimproved capital value of all rateable land categorised as business in the Council area be made for the period of 1 July 2009 to 30 June 2010.*
 - 3. *An environmental special rate in the dollar of \$0.00010346 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.*
 - 4. *An infrastructure special rate in the dollar of \$0.00015755 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a \$65 base amount for an infrastructure category, be made for the period of 1 July 2009 to 30 June 2010.*

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5. *A new facilities special rate in the dollar of \$0.00010677 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.*
 6. *The minimum rate for both residential and business be set at \$419.00 for the period 1 July 2009 to 30 June 2010.*
 7. *The voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 12.5% of the total pensioner's rates and charges for 2009/10.*
 8. *The General Manager and Director Corporate be delegated to negotiate and establish Council's new loan account of \$6,250,000 and the Common Seal be affixed to all required documents.*
- C. *That should the Minister for Local Government not approve Council's application for a special variation for the New Facilities Special Rate:*
1. *An ordinary rate in the dollar of \$0.00170770 on the unimproved capital value of all rateable land categorised as residential in the Council area be made for the period of 1 July 2009 to 30 June 2010.*
 2. *An ordinary rate in the dollar of \$0.00525710 on the unimproved capital value of all rateable land categorised as business in the Council area be made for the period of 1 July 2009 to 30 June 2010.*
 3. *An environmental special rate in the dollar of \$0.00010346 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.*
 4. *An infrastructure special rate in the dollar of \$0.00015755 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a \$65 base amount for an infrastructure category, be made for the period of 1 July 2009 to 30 June 2010.*
 5. *The minimum rate for both residential and business be set at \$419.00 for the period 1 July 2009 to 30 June 2010.*
 6. *The voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 9% of the total pensioners rates and charges for 2009/10.*
- D. *That in those cases where, after provision of the combined pensioner rebate to a maximum of \$250.00, the pensioner/owner satisfies Council of an inability to pay the remainder, either in whole or in part, the remainder be allowed to*

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accrue with interest payable on arrears, as a charge against the land until such time as there is a change in either circumstances or ownership, for a period of no greater than twenty (20) years from the date of application.

- E. That the charge for the Domestic Waste Management service be set at \$290.00 per residential property per annum excluding flats and home units.*
- F. That the charge for Domestic Waste Management service be set at \$270.00 per residential property per annum for flats and home units.*
- G. That the charge for Domestic Waste Management base service without green waste be set at \$205.00 per annum.*
- H. That the charge for an additional green waste service be set at \$95.00 per container, per annum.*
- I. That the charge for a 240 litre waste bin with green waste be set at \$395.00 per annum excluding flats and home units.*
- J. That the charge for a 240 litre waste container without green waste be set at \$310.00 per annum, excluding flats and home units.*
- K. That the charge for a 240 litre waste container for flats and home units be set at \$395.00 per annum.*
- L. That the charge for the provision of an additional 120 litre waste bin, per bin, per annum be set at \$105.00.*
- M. That the charge for Domestic Waste Management on vacant land be charged at \$140.00 per annum, per residential property.*
- N. That the charge for Non-domestic Waste Management services be set at \$210.00 per unit of occupancy per annum. In the case of a single business occupying the whole of the building with more than one storey, the rate will be applied per storey of the building.*
- O. That the Stormwater Management Charge be set as follows:*
 - * Strata / Company titled residential units: \$12.50 per unit*
 - * Strata / Company titled business units: \$12.50 per unit*
 - * Other residential property: \$25.00 per rateable property*
 - * Business rateable property: \$25.00 per 350 square metres of Land area (a maximum charge of \$1,500 applies to land area greater than 21,000 square metres)*

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P. That the total budget for interest on investments, in the Management Plan 2009-2012, be adjusted from \$1,800,900 to \$1,518,800.

Q. That Council acknowledge the formal submissions made on the Management Plan and respond to the authors with the outcomes.

This report deals with resolutions A through to C inclusive and no changes are proposed to resolutions E to Q (except P) and Fees and Charges for 2009-2010, as adopted by Council on 9 June 2009. Recommendation D was subject to a report to Council on 7 July 2009.

COMMENTS

Council received a letter from the Department of Local Government dated 7 July 2009 in relation to its capital expenditure review and special rate variation application, as provided as **Attachment A** to this report. Annexed to this letter is the instrument issued by the Minister for Local Government under section 508(2) that relates to the percentage by which Council may increase its general income for 2009/10.

In summary the Minister for Local Government, in pursuance of section 508(2) of the Local Government Act 1993 has determined 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 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.

To satisfy the Minister for Local Government's condition that Council will retain this additional general income of \$1,420,000 in restricted reserve until such time as Council's capital expenditure review for the project is approved by the Department of Local Government it is proposed that a new externally restricted reserve titled "New Facilities Reserve" be created and these funds be transferred to this reserve accordingly.

This approval will impact on the proposed projects as initially envisaged in the special rate variation.

In regards to the North Turramurra Recreation Area, it is proposed that Council continue with its planned work as related to the construction of the water recycling and reuse facility being the subject of a Federal Government grant of \$2million and the associated conditions as annexed thereto. This will involve the use of a tender for the provision of the water recycling facility

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(incorporating leachate and sewerage treatment and reuse), storage tank and dam as indicated within the approved master plan for the site. Funding for these works will be drawn from the grant, section 94 contributions and domestic waste management charge, and appropriate budget adjustments will be reported to Council in the September Quarterly Budget Review, having no impact on the bottom –line.. Council has also contracted a geotechnical engineering firm to assess the condition of the slopes supporting the former landfill site (approximately \$100,000). Monitoring of the site is currently underway and will continue through to September 2009. Information from this study will be used to inform the final design and specifications for the site. It would be proposed that this design be completed in the 2009/10 financial year. This would be sufficient for the purpose of a tender from which an accurate cost would be provided as to the capital expenditure required for the project. This course of action is consistent with the requirements set by the Department of Local Government.

In relation to West Pymble indoor aquatic and leisure facility, it is intended that the current resolution of Council committing to the design of the facility continue. The focus this financial year is to complete the design of the proposed facility to stage 2, which is up to the level of detail for the lodgement of a development application. The tendered fees to the end of stage 2 are \$269,000 (exclusive of the goods and services tax). This would be funded from section 94 contributions. In addition to this fee it is proposed that a 20% contingency be provided for the first stage that is the preparation of the schematic design. This will enable further iterations in the design process with Councillors and the community, as undertaken early 2009. The contingency would also provide for ongoing input from a quantity surveyor to ensure the project remains within the estimated budget, the undertaking of a traffic and parking study and the commissioning of a supplementary report on the condition of the children's pool. Presently the project is into its third iteration in design and has attracted additional fees of 10% up to this point.

Stage 3 of the project would involve bringing the documentation to construction level as would be required for a construction certificate and tender. It would be recommended that this be undertaken following the identification of alternative funding sources for the project and will be the subject of a further report to Council. This should consider the tendering for the operation of the facility that may provide the opportunity for partnerships or contributory funding. Delaying this part of the project would also allow for any changes to technical specifications or standards as well as being able to take advantage of any innovations in pool design and operation.

In light of the focus this financial year to complete the design of the proposed West Pymble indoor aquatic and leisure facility to stage 2, no new loan borrowings will be required in 2009/2010.

Rating Structure 2009/2010

Under *Section 506* of the *Local Government Act, 1993* each year the Minister for Local Government determines the maximum amount by which NSW councils can increase their general rates income. The Minister has determined the maximum increase in rates of 3.5 per cent and this increase is reflected in the 2009/10 budget.

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Based on the instrument of approval from the Minister for Local Government dated 3 July 2009, under Section 508(2) of the Local Government Act, Council's rates structure would be:

With Special Rate pegging increase of 6.65%				
Rate Type	Category	Rate in \$	Min/Base Amount \$	Yield \$
Ordinary	Residential	0.00170933	419	\$35,684,883
Ordinary	Business	0.00519765	419	\$2,874,019
Special	Environmental	0.00010346		\$2,175,906
Special	Infrastructure	0.00015755		\$3,313,499
Special	Infrastructure		65	\$2,420,990
Special	New Facilities	0.00006726		\$1,414,567

Council at its meeting on 9 June 2009 resolved that should the Minister for Local Government approve Council's application for a special variation for the New Facilities Special Rate, a voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 12.5% of the total pensioner's rates and charges for 2009/10, in order to maintain existing voluntary pensioner rebate. As a result of the instrument of approval from the Minister for Local Government dated 3 July 2009, under Section 508(2) of the Local Government Act 1993, the flat percentage is now 11% of the total pensioner's rates and charges for 2009/10.

CONSULTATION

As noted in the correspondence from the Department, further consultation is required if a special rate variation is sought for either or both projects. The starting point for this will be an information sheet within the first quarter rates notice. This will provide information to residents as to the special rate variation being applied in 2009/10. This will also serve to inform ratepayers as to the status of the respective projects and provide an opportunity to report back on the results of the random survey as undertaken in preparation for the special rate submission. This document will also allude to ongoing consultation that will occur as to the design of both projects over the next 12 months.

FINANCIAL CONSIDERATIONS

Based on the instrument of approval from the Minister for Local Government dated 3 July 2009, under Section 508(2) of the Local Government Act 1993, the 2009/10 budget provides for total operating revenue of \$83.3 million. Operating expenses for 2009/10 are budgeted at \$67.7 million, after allowing for depreciation of \$7.8 million. This results in an operating surplus of \$15.5 million, a decrease of \$1.4 million on the 2008/09 budget of \$16.9 million. Surplus funds from operations are combined with capital income, reserves and loan monies to fund Council's capital works and other projects as follows:

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FUNDING STATEMENT	2008/2009		2009/2010	
	\$000's	\$000's	\$000's	\$000's
Operating Revenue	80,209		83,250	
Operating Expense (excluding depreciation)	63,291		67,716	
Operating Surplus		16,918		15,534
Plus: Capital Income (s94, Grants, Asset Sales)		23,776		26,162
Less: Net Loan Repayments		-858		-1,804
Funds for Projects & Reserve Transfers		39,836		39,892
Plus: Transfers from Reserves	35,916		25,915	
Less: Transfers to Reserves	-33,430		-37,074	
Net Reserve Funding		2,486		-11,159
Funds for Projects		42,322		28,733
Project Expenditure		-41,782		-27,736
Budget Surplus		540		997

The former 5% special variation if approved summary funding statement reported to Council's 9 June 2009 meeting was as follows:

FUNDING STATEMENT	2008/2009		2009/2010	
	\$000's	\$000's	\$000's	\$000's
Operating Revenue	80,209		84,270	
Operating Expense (excluding depreciation)	63,291		67,716	
Operating Surplus		16,918		16,554
Plus: Capital Income (s94, Grants, Asset Sales)		23,776		24,162
Less: Net Loan Repayments		-858		4,446
Funds for Projects & Reserve Transfers		39,836		45,162
Plus: Transfers from Reserves	35,916		30,108	
Less: Transfers to Reserves	-33,430		-33,889	
Net Reserve Funding		2,486		-3,781
Funds for Projects		42,322		41,381
Project Expenditure		-41,782		-40,410
Budget Surplus		540		971

Differences between the two statements are:

Operating revenue reduced by \$734K, consisting of the \$833K reduction in the New Facilities Rate, partly offset by +\$99K increase in interest earnings. The interest earnings increase due to reduction in expenditure from the removal of the NTRA project from the budget and the reduction in value of the West Pymble Pool project in 2009/10 from \$9.4 million to \$235K.

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Operating Result. The operating result before capital items is also reduced by \$734K, as there is no change in operating expenses. (Note that the depreciation in 2009/10 is not affected by the non-construction of the two major projects as their depreciation commences in the 2010/11 year). Operating result (after capital items) increases by \$2 million, due to the NTRA grant provided by the Federal government.

Project Expenditure – Parks and Recreation – reduces by \$12.7 million due to elimination of the NTRA project in 2009/10 (\$3.3 million) and reduction of the West Pymble Pool project by a net \$9.4 million.

New Borrowings – reduced by \$6.25 million to zero. No borrowings are required if the projects do not proceed in full in 2009/10. The Management Plan commencing 2010/11 will re-assess the capital program and borrowing requirements. Note that interest expense has not decreased in 2009/10 as the loans were assumed to be taken at year end. Future year's interest expense reduces.

Funds To Restricted Assets +\$3.5 million. This consists of the new facilities rate of \$1.4M and the NTRA grant of \$2M and associated interest.

Internal Reserves – reduced by -\$1.8M as funding for the two major projects is no longer included.

If the special rate variation is approved, the draft budget has a \$997K surplus. A working capital level of \$699K is currently targeted for 2008/09 and this will improve to \$1.7M in 2009/10.

Council's external auditors believe that a financially sound level of working capital is \$3.8M and the LTFP has budgeted this to be achieved at the end of 2012/13.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation was undertaken between Corporate, Operations and Strategy & Environment departments.

SUMMARY

Council received a letter from the Department of Local Government dated 7 July 2009 in relation to its capital expenditure review and special rate variation application, as provided as **Attachment A** to this report. Annexed to this letter is the instrument issued by the Minister for Local Government under section 508(2) that relates to the percentage by which Council may increase its general income for 2009/10.

In summary the Minister for Local Government, in pursuance of section 508(2) of the Local Government Act 1993 has determined 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:

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- (iv) Council will raise \$1,420,000 of the increase by additional rates for the costs associated with North Turrumurra Recreation Area, for the period of one year, as set out in Council's special rate variation application;
- (v) Council will reduce its general income for the 2010/2011 rating year by \$1,420,000;
- (vi) 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.

This approval will impact on the proposed projects as initially envisaged in the special rate variation.

In regards to the North Turrumurra Recreation Area, it is proposed that Council continue with its planned work as related to the construction of the water recycling and reuse facility being the subject of a Federal Government grant of \$2million and the associated conditions as annexed thereto. This will involve the use of a tender for the provision of the water recycling facility (incorporating leachate and sewerage treatment and reuse), storage tank and dam as indicated within the approved master plan for the site. Funding for these works will be drawn from the grant, section 94 contributions and domestic waste management charge.

In relation to West Pymble indoor aquatic and leisure facility, it is intended that the current resolution of Council committing to the design of the facility continue. Stage 3 of the project would involve bringing the documentation to construction level as would be required for a construction certificate and tender. It would be recommended that this be undertaken following the identification of alternative funding sources for the project and will be the subject of a further report to Council.

RECOMMENDATION

- A. That Council adopt the Management Plan 2009-2012, incorporating the Budget, Capital Works Program, Special Rate Variation (following Minister for Local Government approval to New Facilities Special Rate, based on the instrument of approval dated 3 July 2009, under Section 508(2) of the Local Government Act, 1993) and Fees and Charges for 2009-2010 as amended
- B. That based on the instrument of approval from the Minister for Local Government dated 3 July 2009, under Section 508(2) of the Local Government Act 1993, for a special variation for the New Facilities Special Rate, the following rates structure be adopted:
 - 1. an ordinary rate in the dollar of \$0.00170933 on the unimproved capital value of all rateable land categorised as residential in the Council area be made for the period of 1 July 2009 to 30 June 2010.

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2. an ordinary rate in the dollar of \$0.00519765 on the unimproved capital value of all rateable land categorised as business in the Council area be made for the period of 1 July 2009 to 30 June 2010.
 3. an environmental special rate in the dollar of \$0.00010346 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.
 4. an infrastructure special rate in the dollar of \$0.00015755 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a \$65 base amount for an infrastructure category, be made for the period of 1 July 2009 to 30 June 2010.
 5. a new facilities special rate in the dollar of \$0.00006726 on the unimproved capital value of all rateable land categorised as residential or business in the Council area, with a zero base amount, be made for the period of 1 July 2009 to 30 June 2010.
 6. the minimum rate for both residential and business be set at \$419.00 for the period 1 July 2009 to 30 June 2010.
 7. the voluntary pensioner rebate be granted to all eligible pensioners as a flat percentage of 11% of the total pensioner's rates and charges for 2009/10.
- C. To satisfy the Minister for Local Government's condition that Council will retain this additional general income of \$1,420,000 in restricted reserve until such time as Council's capital expenditure review for the project is approved by the Department of Local Government a new externally restricted reserve titled "New Facilities Reserve" be created and these funds be transferred to this reserve accordingly.
- D. That the total budget for interest on investments, in the Management Plan 2009-2012, be adjusted from \$1,518,800 to \$1,617,800.

Greg Piconi
Director Operations

Tino Caltabiano
Acting Director Corporate

Andrew Watson
Director Strategy & Environment

John McKee
General Manager

Attachments: A: Letter from Department of Local Government dated 7 July 2009 - 2009/101851

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

7/7/09

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