



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 10 AUGUST 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 27 July 2010

Minutes numbered 213 to 218

MINUTES FROM THE MAYOR

PETITIONS

PT.1 **Animals Performing in Webers Circus at St Ives Showground -
(Two Hundred & Five [205] Signatures)**

File: S02447

"We, the undersigned, would like to draw your attention to the pressing issue faced by Webers Circus while showing here at St Ives Showground.

As it is Council policy, Webers Circus is not allowed to showcase its performing Miniature Ponies and performing Canines in the live performance. As this is a key feature of the Circus in which we love to present to audiences, we are petitioning for the policy to be amended to allow our Ponies and Canines to perform in the Circus."

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 22 July 2010

Minutes numbered KTC4 to KTC8

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 **Setting of Date for the Election of Mayor & Deputy Mayor - 2010/2011**

1

File: S02355, S03662

To give consideration to setting the date for the 2010/2011 Election of the Mayor and Deputy Mayor.

Recommendation:

That the 2010/2011 Election of Mayor and Deputy Mayor be held on Tuesday, 14 September 2010 and that the 2010/2011 Election of Chairpersons and Deputy Chairpersons of Council's

Reference and Advisory Committees be held on 21 September 2010 and also, that Council consider the appointment of various Community Committee members/delegates on 21 September 2010.

GB.2 Expression of Interest - EOI/04/2010 - Economic Development Strategy 4

.
File: S08182

To report on the outcome of the expression of interest (EOI) for an Economic Development Strategy.

Recommendation:

That the AEC Group Ltd be appointed to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council on the basis of the terms outlined in their EOI submission.

GB.3 Policy for the Payment of Expenses and Provision of Facilities to Councillors 9

.
File: S03779

To recommend the exhibition of an updated Policy for the Payment of Expenses and Provision of Facilities to Councillors.

Recommendation:

That the updated Policy for the Payment of Expenses and Provision of Facilities to Councillors be endorsed for placing on public exhibition.

GB.4 Expansion of Council's Smoke Free Policy 41

.
File: S03433

To report on a Council resolution seeking an expansion of Council's Smoke Free Policy.

Recommendation:

That Council amend its existing policy in respect of smoking in public places so as to ban smoking in additional areas.

GB.5 B2 Lands South Turrumurra - Project Delivery Agreement 55

File: S08281

To seek the approval of Council to enter into a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands.

Recommendation:

That Council authorise the General Manager to execute the Terms Sheet that is the subject of this report, that authority be granted to affix the Council Seal and to execute all necessary documentation, to facilitate the completion of a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands for the delivery of the B2 project.

GB.6 Sustainability Reference Committee - Notes of Meeting held Monday, 7 June 2010 59

File: S07619

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on Monday, 7 June 2010.

Recommendation:

That the notes and attachments of the Sustainability Reference Committee meeting held on Monday, 7 June 2010 be received and noted.

GB.7 Heritage Reference Committee - Notes of Meeting held 17 May 2010 76

File: S07620

To advise Council of the notes of the Heritage Reference Committee meeting held 17 May 2010.

Recommendation:

That Council receive and note the Heritage Reference Committee meeting notes from 17 May 2010.

GB.8 Draft Unstructured Recreation Strategy

83

File: S06520

To place on public exhibition the draft Unstructured Recreation Strategy.

Recommendation:

That the draft Unstructured Recreation Strategy be placed on public exhibition for a period of 28 days inviting comments, following which a further report to be returned to Council for consideration.

GB.9 West Pymble Pool Tender

136

File: S08277/3

To advise Council of the outcome of the recent public notification in accordance with Section 47 of the Local Government Act, 1993 and to advise Council of the tenders received for the management of West Pymble Pool.

Recommendation:

That Council notes the outcomes of the S47 notification for West Pymble Pool, resolves to not accept any tender for the management of West Pymble Pool, seek written quotes to manage the existing pool on behalf of Council for the 2010-2011 swim season and approve the calling of public tenders for the construction of West Pymble Pool.

GB.10 Sponsorship Agreement - Turramurra Lookout Community Garden & Turramurra Community Bank

141

File: S07824

To advise Council of the proposed five year sponsorship agreement between Turramurra Community Bank (a branch of the Bendigo Bank) and Council for the Turramurra Lookout Community Garden.

Recommendation:

That Council enter into a sponsorship agreement with the Turramurra Community Bank to assist in the establishment and ongoing support of the community garden at Turramurra Lookout from 16 April 2010 to 16 April 2015.

GB.11 Urban Design Excellence Panel - Terms of Reference and Appointment Process 151

.
File: S08367

To present to Council a process for the appointment and operation of the Urban Design Excellence Panel (UDEP) as required under Clause 6.4 - "Urban Design Excellence for Key Sites" of the "Ku-ring-gai Local Environmental Plan (Town Centres) 2010".

Recommendation:

That the "Urban Design Excellence Panel (UDEP) Terms of Reference" document be exhibited for a period of one month for public comment. That Council exhibit a proposed amendment to the Fees and Charges 2010-2011 to include a charge for applications under the UDE process.

GB.12 Future Proposed Road Closure - Denley & Unnamed Lanes, St Ives 180

.
File: 88/05363/01

For Council to consider the formal public road closure of Denley Lane, St Ives and a nearby unnamed lane, in order permit discussions to commence with owners of the St Ives Shopping Village to achieve planning proposals inline with the Ku-ring-gai Development Control Plan (Town Centres) 2010.

Recommendation:

That a formal road closure application for Denley Lane, St Ives and the nearby unnamed lane be submitted to the NSW Land & Property Management Authority.

GB.13 Heritage Matter - 23 Telegraph Road, Pymble 188

.
File: CY00294

To provide Council with information on the ability of Council to apply an Interim Heritage Protection Order over the curtilage of the property known as 23 Telegraph Road, Pymble.

Recommendation:

That Council receive and note the information.

GB.14 Proposed Modifications to the Codes SEPP 204

.
File: CY00054/2

To provide Council with a draft submission on the Department of Planning's proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP').

Recommendation:

That Council make a submission to the Department of Planning as outlined in Ku-ring-gai Council's Response to NSW Housing Code: Expansion to cover small lots/Discussion Paper.

GB.15 7 to 11 Derby Street, St Ives - To Relocate and Amend Terms of Council's Drainage Easement 245

.
File: FY00002/3

To seek approval to relocate and amend the terms of Council's drainage easement at 7 to 11 Derby Street, St Ives.

Recommendation:

That Council approve the relocation and changing of the terms of the drainage easement.

GB.16 RTA Program Funding 2010 to 2011 251

.
File: S02585

To advise Council of the RTA funding program for 2010/2011 and adopt the various grants as provided by the RTA.

Recommendation:

That Council accept the grants for the various programs as listed in the report but not accept the Traffic Facilities component of the Regional Roads Block Grant for 2010/2011.

GB.17 17 Dudley Avenue Roseville - Modification of DA1095/05 - Proposing Changes to Front Fence 261

File: MOD0133/10

To determine modification of consent application MOD0133/10, which seeks retrospective approval for a constructed front fence.

Recommendation:

Approval.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Joint Regional Planning Panel 277

.
File: S08324

Notice of Rescission from Councillor T Hall, Cr J Anderson and Cr C Hardwick dated 22 July 2010

We move that:

"The undersigned seek to rescind Minute No 212 of the Ordinary Council Meeting of 20 July 2010 and the Minute is hereby rescinded."

NM.2 Qualified Researchers 278

.
File: S04569

Notice of Motion from Councillor C Szatow dated 22 July 2010

I move that:

"When reports are presented to Council on reviews of services or operations, the review is to have been conducted by suitably qualified researchers using industry standard quantitative and/ or qualitative methodology.

The results of any research or review are to be presented to Council in a clear and easily understood format."

NM.3 Circus Performances in Ku-ring-gai

279

File: S02447

Notice of Motion from Councillor J Anderson dated 2 August 2010

I move that:

- "A. Council not permit circus performances of wild and/or exotic animals at any Council controlled facility within Ku-ring-gai.
- B. Council permit circus performances of domestic animals at Council controlled facilities within Ku-ring-gai."

NM.4 Legal Advisings

280

File: S08123

Notice of Motion from Councillor Tony Hall dated 2 August 2010

As Councillors may be aware there has been a growing practice by Council staff, delegated to do so, to seek legal opinions /advisings for the purposes of Council's administration, orally in some circumstances and the legal consultant then replies in terms of what they consider to be the Council's Instructions for that Advice. This practice was prevalent in earlier councils until it was decided to ensure ALL staff requests/Instructions for Advice from the Council's Panel of Legal consultants were in writing at all times to avoid any misinterpretation of those Instructions /requests at Ratepayers' expense.

I move:

"That Delegation A1-Legal granted to the General Manager be amended forthwith, to ensure all Instructions/requests sought by staff under this delegation, be in writing at all times with no exception, and a copy of such Instructions be made available to Councillors contemporaneously for information."

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING - PRESS & PUBLIC EXCLUDED

The Items listed hereunder are recommended for consideration in Closed Meeting, Press & Public excluded for the reasons stated below:

C.1 General Manager's Performance Review

File: CY00254/2

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(a) of the Act, and should be dealt with in a part of the meeting closed to the press and public.

Section 10A(2)(a) of the Act permits the meeting to be closed to the public for business relating to personnel matters concerning particular individuals (other than Councillors).

Report by the Mayor, Councillor Ian Cross - to be circulated separately

C.2 Proposal to Acquire Open Space - Killara

File: S07257

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(c) of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(c) of the Act permits the meeting to be closed to the public in respect of information that would, if disclosed, confer a commercial advantage on a person with whom the Council is conducting (or proposes to conduct) business.

This matter is classified confidential because it deals with the proposed acquisition of property.

It is not in the public interest to release this information as it would prejudice Council's ability to acquire the property on appropriate terms and conditions.

Report by Director Strategy and Environment - to be circulated separately

John McKee
GENERAL MANAGER

**** ** * * * * ***

**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.*

MAYORAL MINUTE

FIRST FEMALE MAYOR OF KU-RING-GAI - LAURA BENNETT

Ku-ring-gai Council has traditionally remembered with fondness those men and women who have served this Local Government Area as Mayor (and formally known as President) for the past 103 years. From the first President of Ku-ring-gai, Mr William Cowan who led the Council in 1907 through to the previous Mayor Cr Elaine Malicki.

This custom is steeped in tradition and is most fitting in providing some context to the wonderful history of this Local Government Area.

Given this background, I have always regretted that there is one notable omission as I peruse the walls of the Council Chamber to my left and to my right.

Laura Bennett became Mayor in September 2000 and served for a period of two years through to September 2002. Mayor Bennett will be remembered for eternity as the first female Mayor of this Local Government Area, elected to the role some 92 years after Ku-ring-gai Council came into being. Whilst I am pleased to say that since her election we have now had three female Mayors (Cr Adrienne Ryan elected 2004 and Cr Elaine Malicki elected 2005 and 2008), I believe that the absence of a portrait for the first female Mayor of this Council area is a regrettable situation.

RECOMMENDATION

- A. That the Mayor of Ku-ring-gai write to ex-Mayor Laura Bennett requesting that she reconsider her decision not to have a mayoral portrait hanging in the Council Chamber
- B. If ex-Mayor Bennett declines this request, that Council erect a plaque or framed scroll to be placed in the rightful position in the Council Chambers to indicate that she was the first female Mayor of this Council.

Cr Ian Cross
Mayor

MAYORAL MINUTE

VALE RICHARD BASTO

On behalf of Ku-ring-gai Council I would like to pay tribute to the life of Richard Basto of Wahroonga who passed away recently.

Richard was well known in the Ku-ring-gai community, having served as a Wahroonga Ward Alderman on Council from 1960 to 1965 and again from 1969 to 1974.

He also served as Deputy Mayor in 1970 and 1973.

Richard chaired the Wahroonga Ward Development Committee and Wahroonga Ward Planning Committee, and was a member of many Council committees including Parking, Civil Defence and Waste Disposal.

He was also a member of the Wahroonga Progress Association and a foundation member of the Ku-ring-gai Society and editor of its journal.

On behalf of Council, I offer our sincere condolences to Richard's family.

RECOMMENDATION

- A. That this Mayoral Minute be received and noted.
- B. That we stand for a minute's silence to pay our respects to the life of Richard Basto.
- C. That the Mayor write to Richard's family on behalf of Council to express our sympathy for their loss.

Cr Ian Cross
Mayor

PETITION

ANIMALS PERFORMING IN WEBERS CIRCUS AT ST IVES SHOWGROUND - (TWO HUNDRED & FIVE [205] SIGNATURES)

"We, the undersigned, would like to draw your attention to the pressing issue faced by Webers Circus while showing here at St Ives Showground.

As it is Council policy, Webers Circus is not allowed to showcase its performing Miniature Ponies and performing Canines in the live performance. As this is a key feature of the Circus in which we love to present to audiences, we are petitioning for the policy to be amended to allow our Ponies and Canines to perform in the Circus."

RECOMMENDATION

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

SETTING OF DATE FOR THE ELECTION OF MAYOR & DEPUTY MAYOR - 2010/2011

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To give consideration to setting the date for the 2010/2011 Election of the Mayor and Deputy Mayor.

BACKGROUND:

Section 290 of the Local Government Act provides that Council shall elect a Mayor and is required to hold a Mayoral Election in September each year of its term.

Section 231 of the Act empowers the Council to elect a Deputy Mayor.

COMMENTS:

Traditionally, Council has held the Mayoral Election early in September.

RECOMMENDATION:

That the 2010/2011 Election of Mayor and Deputy Mayor be held on Tuesday, 14 September 2010 and that the 2010/2011 Election of Chairpersons and Deputy Chairpersons of Council's Reference and Advisory Committees be held on 21 September 2010 and also, that Council consider the appointment of various Community Committee members/delegates on 21 September 2010.

PURPOSE OF REPORT

To give consideration to setting the date for the 2010/2011 Election of the Mayor and Deputy Mayor.

BACKGROUND

Section 290 of the Local Government Act provides that Council shall elect a Mayor and is required to hold a Mayoral Election in September each year of its term.

Section 231 of the Act empowers the Council to elect a Deputy Mayor.

Also, Council's Code of Meeting Practice (Clause 3.28 - Annual Elections) states:

That Council determine the meeting in September each year at which the election for Mayor, Deputy Mayor, Committee members and delegates is to be held.

COMMENTS

Traditionally, Council has held the Mayoral Election early in September.

The recommended date to hold the Mayoral/Deputy Mayoral elections would be 14 September 2010.

In previous years, the election of the Chairpersons/Deputy Chairpersons of Council's Reference and Advisory Committees has been deferred to the following Council meeting. These elections could then be held in conjunction with the appointment of the various Community Committee members and organisation delegates.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

Item 1

S02355, S03662
22 July 2010

RECOMMENDATION

- A. That the 2010/2011 Election of the Mayor and Deputy Mayor be held at the Ordinary Meeting of Council on Tuesday, 14 September 2010.
- B. That the 2010/2011 Election of the Chairpersons/Deputy Chairpersons of Council's Reference and Advisory Committees be held on Tuesday, 21 September 2010
- C. That Council consider the appointment of various Community Committee members/delegates on Tuesday, 21 September 2010.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

EXPRESSION OF INTEREST - EOI/04/2010 - ECONOMIC DEVELOPMENT STRATEGY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the outcome of the expression of interest (EOI) for an Economic Development Strategy.

BACKGROUND:

On 8 December 2009, Council resolved to call for expressions of interest (EOI) to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council.

On 25 May Council considered a report to determine the composition of an assessment panel for the review of the EOIs received. Council resolved to include three Councillors and three Council officers on the panel.

COMMENTS:

There were five submissions received and evaluated in accordance with the evaluation criteria detailed in the specification.

RECOMMENDATION:

That the AEC Group Ltd be appointed to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council on the basis of the terms outlined in their EOI submission.

PURPOSE OF REPORT

To report on the outcome of the expression of interest (EOI) for an Economic Development Strategy.

BACKGROUND

On 8 December 2009, Council resolved:

That Council issue an expression of interest inviting qualified individuals/companies to submit quotations to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council.

Scoping document to outline high level opportunities for Council together with suggested structure and indicative costings for establishment of the Economic Development Unit.

Prior to committing any funds to this concept, a further report to be submitted to Council to consider submissions received through the expression of interest.

A project brief was developed in early 2010 and in April, EOI 04/2010 called for submissions from suitably qualified and experienced individuals or organisations to undertake a strategic analysis of the benefits of establishing an Economic Development Unit in Council.

On 25 May 2010, Council considered a further report to determine the composition of an assessment review panel to review the submissions received. Council resolved:

That Council nominates three Councillors to represent the elected body of Council together with the senior members of staff on the Assessment Review Panel for the establishment of an Economic Development Unit. The Councillors being Councillors Duncombe, Keays & Anderson.

The senior members of staff on the assessment review panel were:

- General Manager
- Director Corporate
- Director Strategy

COMMENTS

Expressions of Interest were received from the following six companies:

1. Darrell Hair Associates – Management Consultancy
2. Halcrow Consulting Business Group
3. Seymour Strategists
4. SGS Economics and Planning Pty Ltd
5. The AEC Group Ltd

Item 2

S08182
29 July 2010

6. The CIE (Centre for International Economics)

The evaluation of the submissions was completed using a consolidated weighted average score of all assessment review panel members. For each submission a "weighted score" was determined using the following evaluation criteria:

1. Capacity to identify alternate sources of revenue
2. Capacity to make recommendations, set directions & action plans - project methodology
3. Identification of EDU resources and benefits
4. Review of Economic Development Strategy
5. Identification of Ku-ring-gai specific requirements
6. Identification of Reporting needs and structure
7. Relevant Experience - company
8. Relevant Experience - individuals

The weighted score was used to guide the selection of the preferred proponent.

Confidential **attachment A** provides details of the EOI Evaluation Panel selection criteria results.

In accordance with the Local Government Act 1993 and the Local Government (General) Regulation 2005, in the opinion of the General Manager, the attachment relates to business of a kind referred to in section 10(A) 2(d) of the Act, and should be dealt with in a part of the meeting closed to the media and public.

Section 10(A) 2(d) of the Act permits the meeting to be closed to the public for business relating to:

- (i) prejudice the commercial position of the person who supplied it, or*
- (ii) confer a commercial advantage on a competitor of the council, or*
- (iii) reveal a trade secret,*

The matter is classified confidential because it contains information on pricing and assessment of the performance of companies, all of which could prejudice the commercial position on the person who supplied it and on balance, discussion in open meeting would be contrary to the public interest.

Following a meeting of the assessment review panel which involved a comparison of results of the weighted average scores it was decided to shortlist SGS Economics and Planning and The AEC Group Ltd. Both companies were then invited to make a presentation to all Councillors as well as answer any questions that Councillors had in relation to their submission. The presentations were conducted on 20 July 2010.

On the basis of the evaluation process and the presentations it is recommended that The AEC Group Ltd be engaged to undertake a strategic analysis of the benefits of establishing an Economic Development Unit in Council.

It is also recommended that, given the strategic direction required to undertake this analysis that a project team be established which consists of the same Councillors and staff as the assessment review panel.

Item 2

S08182
29 July 2010

The AEC Group Ltd had a superior weighted average score and their experience in similar organisations appears the most relevant of all the proponents. It would also appear that the AEC Group Ltd has the most capacity to deliver tangible results that will assist Council in meeting its overall objectives in relation to economic development. Reference checks on the AEC Group Ltd confirmed that they are capable of undertaking the work that Council intends engaging them to do.

CONSULTATION

Referee checks were undertaken on the preferred proponent.

FINANCIAL CONSIDERATIONS

The 2010/11 budget contains \$200K for economic development. Although the majority of the budget is allocated to employee costs, positions will not be filled until the completion of the project to undertake the analysis of benefits in establishing an Economic Development Unit in Council. This will result in sufficient funds being available to allocate to the costs associated with the engagement of the AEC Group Ltd.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The report has been prepared in consultation with the Civic, Strategy and Corporate Departments.

SUMMARY

On 8 December 2009, Council resolved:

That Council issue an expression of interest inviting qualified individuals/companies to submit quotations to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council.

Scoping document to outline high level opportunities for Council together with suggested structure and indicative costings for establishment of the Economic Development Unit.

Prior to committing any funds to this concept, a further report to be submitted to Council to consider submissions received through the expression of interest.

An assessment review panel was established with the following composition:

- Councillor Jennifer Anderson
- Councillor Rakesh Duncombe
- Councillor Elise Keays
- General Manager

Item 2

S08182
29 July 2010

- Director Corporate
- Director Strategy

The assessment panel has completed its review of submissions received and have recommended that the AEC Group Ltd be engaged to undertake a strategic analysis of the benefits of establishing an Economic Development Unit in Council.

It is also recommended that, given the strategic direction required to undertake this analysis that a project team be established which consists of the same Councillors and staff as the assessment review panel.

RECOMMENDATION

- A. That the AEC Group Ltd be appointed to undertake a strategic analysis of the benefits in establishing an Economic Development Unit in Council on the basis of the terms outlined in their EOI submission
- B. That the Common Seal be affixed to any necessary documents.
- C. That a project group consisting of the same Councillors and staff as the assessment review panel be established to oversee the project.
- D. That a further report be submitted to Council upon the completion of the analysis by the AEC Group Ltd.

John Clark
Director Corporate

Andrew Watson
Director Strategy & Environment

John McKee
General Manager

Attachments: Evaluation Summary - Confidential

POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To recommend the exhibition of an updated Policy for the Payment of Expenses and Provision of Facilities to Councillors.
BACKGROUND:	On 2 February 2010 Council adopted a revised Policy for the Payment of Expenses and Provision of Facilities to Councillors.
COMMENTS:	Section 252 of the <i>Local Government Act 1993</i> requires Council to re-adopt such a Policy within five months of 30 June each year.
RECOMMENDATION:	That the updated Policy for the Payment of Expenses and Provision of Facilities to Councillors be endorsed for placing on public exhibition.

PURPOSE OF REPORT

To recommend the exhibition of an updated Policy for the Payment of Expenses and Provision of Facilities to Councillors.

BACKGROUND

On 2 February 2010 Council adopted a revised Policy for the Payment of Expenses and Provision of Facilities to Councillors.

COMMENTS

The current Policy has now been reviewed to provide for CPI increases. All monetary limits throughout the policy have been increased by 2.9% (rounded to the nearest \$), being the annual CPI increase for Sydney All Groups as at June 2010.

The revised policy is **attached**.

CONSULTATION

Section 253 of the Act requires that the updated Policy be placed on public exhibition inviting submissions for at least 28 days.

FINANCIAL CONSIDERATIONS

As the monetary limits throughout the Policy have been increased by the CPI there will be a minor increase in costs to Council.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The General Manager has concurred with the proposed increases.

SUMMARY

The policy for the Payment of Expenses and Provision of Facilities to Councillors has been updated to provide for 2.9% CPI increases. The revised draft must be placed on public exhibition.

RECOMMENDATION

That the updated Policy for the Payment of Expenses and Provision of Facilities to Councillors be endorsed for placing on public exhibition.

John Clark
Director Corporate

Attachments: **Policy for the Payment of Expenses and Provision of Facilities to Councillors - Draft August 2010 - 2010/143682**



Ku-ring-gai Council

Policy for the Payment of Expenses and Provision of Facilities to Councillors

Draft August 2010

Contents	Page
<u>Part 1 - Introduction</u>	
1.1 Title and Commencement of the Policy	3
1.2 Purpose of the Policy	3
1.3 Objectives and Coverage of the Policy	3
1.4 Making and Adoption of the Policy	4
1.5 Reporting Requirements	5
1.6 Legislative Provisions	5
1.7 Other Government Policy Provisions	9
<u>Part 2 - Payment of Expenses</u>	
GENERAL PROVISIONS	
2.1 Payment of Allowances and Expenses Generally	10
2.2 Establishment of Monetary Limits and Standards	12
2.3 Spouse and Partner Expenses	12
EXPENSES FOR COUNCILLORS	
2.4 Attendance at Seminars, Conferences and Other Training and Educational Expenses	14
2.5 Local Travel Arrangements, Attendance at Dinners and Other Non-Council Functions	16
2.6 Travel Outside the Sydney Metropolitan Area including Interstate and Overseas Travel	17
2.7 Telephone Costs and Expenses	17
2.8 Internet	18
2.9 Care and Other related Expenses	18
2.10 Insurance Expenses and Obligations	19
2.11 Legal Expenses and Obligations	19
ADDITIONAL EXPENSES FOR THE MAYOR	
2.12 Allowances and Expenses	22
<u>Part 3 - Provision of Facilities</u>	
GENERAL PROVISIONS	
3.1 Provision of Facilities Generally	23
3.2 Private Use of Equipment and Facilities	23
EQUIPMENT AND FACILITIES FOR COUNCILLORS	
3.3 Equipment and Facilities at Council Administration Building	24
3.4 Equipment and other Items Required to be Returned	25
3.5 Other Items Not Required to be Returned	25
ADDITIONAL EQUIPMENT AND FACILITIES FOR THE MAYOR	
3.6 Equipment and Facilities at Council Administration Building	27
3.7 Equipment and other Items Required to be Returned	27
3.8 Other Items Not Required to be Returned	28
<u>Part 4 - Other Matters</u>	
4.1 Acquisition and Returning of Facilities and Equipment by Councillors	29

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1.0	08/03/05	Original			
2.0	27/02/07	Major revision following DLG Circular 06-57			
2.1	30/07/08	Annual revision following DLG Circulars 07-22 and 08-03			
2.2	13/10/09	Annual revision			
3.0	13/02/10	Revision following DLG Circular 09-36			
4.0		Annual review (CPI only)			

POLICY FOR THE PAYMENT OF EXPENSES AND PROVISION OF FACILITIES TO COUNCILLORS

Part 1 - INTRODUCTION

Title and Commencement of the Policy

- 1.1 This is the Policy for the Payment of Expenses and Provision of Facilities to Councillors of Ku-ring-gai Council.

In this Policy, unless otherwise stated, the expression “Councillor” refers to all Councillors of Ku-ring-gai Council including the Mayor and Deputy Mayor.

In this Policy the expression “year of term” means the twelve (12) month period commencing on the date of election to Council of a Councillor and every subsequent twelve (12) month period of the term of office.

Purpose of the Policy

- 1.2 The purpose of this Policy is to ensure that Councillors receive adequate and reasonable expenses and facilities to enable them to carry out their civic duties and that these expenses and facilities are provided in an accountable and transparent manner.

Objectives and Scope of the Policy

- 1.3 The objective of this Policy is to describe those expenses incurred or to be incurred by, and the facilities provided to, the Councillors the cost of which shall be met by Council.

This Policy also aims to uphold and demonstrate the following key principles:

- **Conduct.** Councillors must act lawfully, honestly and exercise a reasonable degree of care and diligence in carrying out their functions under the *Local Government Act 1993* (“the Act”) or any other Act. This is reinforced in Council’s *Code of Conduct*.

- **Participation, equity and access.** The provisions of the Policy are to be non-discriminatory and used in an equitable manner to enable the full participation by Councillors from different walks of life. The provisions of the Policy shall also be at an appropriate level to encourage members of the community, particularly under-represented groups such as those in primary caregiver roles, to seek election to Council by ensuring that they would not be financially or otherwise disadvantaged in undertaking the civic functions of a Councillor.

The Policy shall also take into account and make reasonable provision for the special needs of Councillors to allow access to the appropriate parts of Council premises, and facilities, and maximise participation in the civic functions and business of Council.

- **Accountability and transparency.** The details and range of benefits provided to the Councillors are to be clearly stated and be fully transparent and acceptable to the local community.
- **Reasonable expenses.** Councillors shall only be reimbursed for expenses reasonably incurred in the performance of their role as a Councillor.

Only those entitlements specifically described in this Policy shall be provided by Council.

Making and Adoption of the Policy

- 1.4 This Policy is made pursuant to Sections 252 - 254 of the Local Government Act 1993. These sections are set out in clause 1.6.

The Policy is to be adopted by Council annually, within 5 months after the end of each financial year.

Prior to adoption public notice must be given and public submissions invited for 28 days. Council must then consider all submissions received and make any appropriate changes to the Policy.

Public notice is not necessary if the proposed changes are insubstantial, i.e. if there are only minor changes to the wording of the Policy, changes to monetary provisions or rates that are less than 5% or minor changes to the standard of equipment and facilities to be provided. Public notice, however, is required prior to each annual adoption process even if there is no proposed change to the Policy.

Reporting Requirements

- 1.5 Section 428 of the Act and clause 217 of the *Local Government (General) Regulation 2005* ("the Regulation") require Council to include in each Annual Report a copy of this Policy and details of the cost of implementing the Policy. Copies of this legislation are set out in clause 1.6.

Legislative Provisions

- 1.6 The relevant legislative provisions are set out below. In this legislation the expression "year" means the period from 1 July to the following 30 June.

Local Government Act 1993

252 Payment of expenses and provision of facilities

- (1) *Within 5 months after the end of each year, a council must adopt a policy concerning the payment of expenses incurred or to be incurred by, and the provision of facilities to, the mayor, the deputy mayor (if there is one) and the other councillors in relation to discharging the functions of civic office.*
- (2) *The policy may provide for fees payable under this Division to be reduced by an amount representing the private benefit to the mayor or a councillor of a facility provided by the council to the mayor or councillor.*
- (3) *A council must not pay any expenses incurred or to be incurred by, or provide any facilities to, the mayor, the deputy mayor (if there is one) or a councillor otherwise than in accordance with a policy under this section.*
- (4) *A council may from time to time amend a policy under this section.*
- (5) *A policy under this section must comply with the provisions of this Act, the regulations and any relevant guidelines issued under section 23A.*

253 Requirements before policy concerning expenses and facilities can be adopted or amended

- (1) *A council must give public notice of its intention to adopt or amend a policy for the payment of expenses or provision of facilities allowing at least 28 days for the making of public submissions.*
- (2) *Before adopting or amending the policy, the council must consider any submissions made within the time allowed for submissions and make any appropriate changes to the draft policy or amendment.*

- (3) *Despite subsections (1) and (2), a council need not give public notice of a proposed amendment to its policy for the payment of expenses or provision of facilities if the council is of the opinion that the proposed amendment is not substantial.*
- (4) *Within 28 days after adopting a policy or making an amendment to a policy for which public notice is required to be given under this section, a council is to forward to the Director-General:*
(a) a copy of the policy or amendment together with details of all submissions received in accordance with subsection (1), and
(b) a statement setting out, for each submission, the council's response to the submission and the reasons for the council's response, and
(c) a copy of the notice given under subsection (1).
- (5) *A council must comply with this section when proposing to adopt a policy each year in accordance with section 252 (1) even if the council proposes to adopt a policy that is the same as its existing policy.*

254 Decision to be made in open meeting

The council or a council committee all the members of which are councillors must not close to the public that part of its meeting at which a policy for the payment of expenses or provision of facilities is adopted or amended, or at which any proposal concerning those matters is discussed or considered.

428(pt) Annual reports

- (1) *Within 5 months after the end of each year, a council must prepare a report as to its achievements with respect to the objectives and performance targets set out in its management plan for that year.*
- (2) *A report must contain the following:*
- (f) the total amount of money expended during the year on mayoral fees and councillor fees, the council's policy on the provision of facilities for use by councillors and the payment of councillors' expenses, together with a statement of the total amount of money expended during that year on the provision of such facilities and the payment of such expenses,*

Local Government (General) Regulation 2005

217(pt) Additional information for inclusion in annual reports

- (1) *For the purposes of section 428(2)(r) of the Act, an annual report of a council is to include the following information:*
- (a) details (including the purpose) of overseas visits undertaken during the year by councillors, council staff or other persons representing the council (including visits sponsored by other organisations),*
 - (a1) details of the total cost during the year of the payment of the expenses of, and the provision of facilities to, councillors in relation to their civic functions (as paid by the council, reimbursed to the councillor or reconciled with the councillor), including separate details on the total cost of each of the following:*
 - (i) the provision during the year of dedicated office equipment allocated to councillors on a personal basis, such as laptop computers, mobile telephones and landline telephones and facsimile machines installed in councillors' homes (including equipment and line rental costs and internet access costs but not including call costs),*
 - (ii) telephone calls made by councillors, including calls made from mobile telephones provided by the council and from landline telephones and facsimile services installed in councillors' homes,*
 - (iii) the attendance of councillors at conferences and seminars,*
 - (iv) the training of councillors and the provision of skill development for councillors,*
 - (v) interstate visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
 - (vi) overseas visits undertaken during the year by councillors while representing the council, including the cost of transport, the cost of accommodation and other out-of-pocket travelling expenses,*
 - (vii) the expenses of any spouse, partner or other person who accompanied a councillor in the performance of his or her civic functions, being expenses payable in accordance with the Guidelines for the payment of expenses and the provision of facilities for Mayors and Councillors for Local Councils in NSW prepared by the Director-General from time to time,*
 - (viii) expenses involved in the provision of care for a child of, or an immediate family member of, a councillor, to allow the councillor to undertake his or her civic functions,*

403 *Payment of expenses and provision of facilities*

A policy under section 252 of the Act must not include any provision enabling a council:

- (a) to pay any councillor an allowance in the nature of a general expense allowance, or*
- (b) to make a motor vehicle owned or leased by the council available for the exclusive or primary use or disposition of a particular councillor other than a mayor.*

Also, under Section 248A of the Act Council must not, unless otherwise permitted, pay an annual fee to a Councillor for any period during which the Councillor is suspended from civic office or the right to be paid any fee is suspended.

Under Section 254A of the Act Council may resolve that an annual fee not be paid to a Councillor or the amount reduced if the Councillor is absent, with or without leave, from meetings of the Council for a period not more than 3 months or in any circumstances prescribed by regulation. A fee must not be paid if the period of absence exceeds 3 months.

Under clause 404 of the Regulation a prescribed circumstance for non-payment or reduction of a Councillor's annual fee is where payment would adversely affect the Councillor's entitlement to a pension, benefit or allowance and the Councillor is agreeable to the non-payment or reduction.

A Councillor may elect not to accept any entitlement under this Policy, except that the Mayor and every Councillor must be paid the appropriate minimum fees determined by the Local Government Remuneration Tribunal (unless the provisions of Section 254A of the Act apply). Payment of the appropriate minimum fees determined by the Remuneration Tribunal is a requirement of Sections 248 (4) and 249 (4) of the Act.

Other Government Policy Provisions

- 1.7 This Policy has been prepared with reference to other Government and Council Policy provisions as follows:
- Department of Premier and Cabinet, Division of Local Government Circular No. 09-36, 7 October 2009, *Release of Revised Councillor Expenses and Facilities Guidelines*
 - Department of Local Government Circular No. 08-03, 18 January 2008, *Findings from Review of Councillor Expenses and Facilities Policies*
 - Department of Local Government Circular No. 07-22, 28 May 2007 *Updated Guidelines for the Payment of Expenses and Provision of Facilities to Mayors and Councillors*
 - Department of Local Government Circular No. 05/08, 9 March 2005 *Legal Assistance for Councillors and Council Employees*
 - ICAC Publication *No Excuse for Misuse*, November 2002
 - Ku-ring-gai Council *Code of Conduct*.

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Part 2 - PAYMENT OF EXPENSES

GENERAL PROVISIONS

Payment of Allowances and Expenses Generally

- 2.1 An annual fee is paid to each Councillor by Council. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

This Policy is intended to cover most situations where a Councillor reasonably incurs expenses in discharging the functions of civic office. The annual fee paid to each Councillor is generally not intended to offset those costs.

The payment of allowances and reimbursement of expenses under this Policy shall only be in respect of costs directly associated with discharging the functions of civic office, i.e. civic functions that Councillors are required to undertake to fulfil their legislated role and responsibilities for the Council that should result in a direct benefit for the Council and/or the Ku-ring-gai local government area.

No allowance shall be paid to a Councillor in the form of a general expense allowance, i.e. a sum of money to expend on an item or service that is not required to be receipted and/or otherwise reconciled.

All travel by Councillors shall be by the most direct route and the most practical and economical mode of transport, subject to any personal medical considerations.

Reimbursement and reconciliation of expenses

Claims for reimbursement of expenses shall be submitted no later than 12 months after the expenses were incurred. Claims shall be submitted to the General Manager or delegate in a form and manner acceptable to the General Manager in the circumstances to enable full assessment of the claim. Tax invoices and receipts are to be supplied when available to support claims. The level of the supporting documentation is to be commensurate with the nature of the expenditure.

Claims for travelling expenses under this Policy shall include details of:

- Date and place of departure
- Date and place of arrival

- Distance travelled
- Fares and parking fees paid
- Amount claimed as travelling allowances
- Total amount of claim

The rate of calculation of the amount payable for travel in a Councillor's own car shall be the rate payable for claims by staff in the Local Government (State) Award.

Where travel out of the Sydney metropolitan area can be undertaken by air, the amount payable for travel in a Councillor's own car shall be no more than the corresponding air fare and taxi fares to and from the airport.

Council shall, where possible pay expenses directly by account or through the corporate credit card. However it shall be necessary for Councillors to pay unexpected expenses and then seek reimbursement.

Once expenses of attending a conference, seminar or training course have been finalised, accounts shall be forwarded to Councillors for any expenses payable by them. Such accounts are to be repaid in full within Council's normal terms, i.e. 30 days. Any arrangements to finalise an account by periodic payment may only be approved by Council.

An employee delegated by the General Manager shall assess all claims made under this Policy. The employee shall review a claim against the provisions of this Policy and make a recommendation to the General Manager. The General Manager shall then determine the claim. Approved claims, in part or in whole, shall be paid within seven (7) days.

Should a determination be made that a claim should not be paid, the General Manager shall explain such decision to the Councillor and should the Councillor still believe that the claim should be paid, in part or in full, it shall be considered that a dispute exists.

In the event of a dispute at any time regarding this Policy, the parties to the dispute shall provide a written report on the nature of the dispute. The General Manager shall submit such reports to the next meeting of Council to have the dispute determined by a resolution of Council having regard to this Policy, the Act and any other relevant law. The decision of Council shall be binding on all of the parties.

Payment in advance

Councillors may request payment in advance in anticipation of expenses to be incurred in attending conferences, seminars and training courses. Councillors may also request an advance payment for the cost of any other

service or facility covered by the policy, where the service or facility is not ordinarily acquired by Council. However, Councillors must fully reconcile all expenses against the cost of the advance. Within one (1) week of incurring the cost and/or returning home the Councillor shall submit the details to the General Manager for verification and pay back to Council any unspent money. The level of the supporting documentation is to be commensurate with the nature of the expenditure. The maximum value of a cash advance is \$534.

Establishment of Monetary Limits and Standards

- 2.2 Monetary limits prescribed in this Policy set out the maximum amount payable in respect of any facility or expense. Any additional cost incurred by a Councillor in excess of any limit set shall be considered a personal expense that is the responsibility of the Councillor. All monetary amounts stated are **exclusive of GST**.

Unless otherwise stated, any annual limits will be adjusted on a pro-rata basis where only part of a year of term applies.

Where applicable the standard of any equipment, facility or service to be provided shall be to the maximum standard prescribed in this Policy.

Spouse and Partner Expenses

- 2.3 In this clause *accompanying person* means *a person who has a close personal relationship with a Councillor and/or provides carer support to the Councillor*.

In limited circumstances Council shall meet certain costs incurred by a Councillor on behalf of their spouse, partner or accompanying person that are properly and directly related to the role of the Councillor, such as costs associated with attendance at functions that are of a formal or ceremonial nature when accompanying Councillors within metropolitan Sydney. Examples include, but are not limited to, Australia Day award ceremonies, citizenship ceremonies, civic receptions and functions for charities, community service and sporting groups supported by Council.

Costs and expenses incurred by the Councillor on behalf of their spouse, partner or accompanying person shall be reimbursed if the cost or expense relates specifically to the ticket, meal and/or direct cost of attending the function. Each Councillor is entitled to a maximum of \$427 per year of term for external payments in respect of these types of expenses.

In addition Council shall meet limited expenses of spouses, partners or accompanying persons associated with attendance at the Local Government and Shires Associations' annual conferences. These expenses are limited to the cost of registration and the official conference dinner. Expenses such as travel expenses, any additional accommodation expenses and the cost of any accompanying persons program shall not be met by Council.

Costs associated with spouses, partners or accompanying persons attending other conferences, seminars and training courses shall not be met by Council.

Also, Council shall meet limited expenses of spouses, partners or accompanying persons of the Mayor, or a Councillor representing the Mayor, when attending an official function of Council or carrying out an official ceremonial duty while accompanying the Mayor or the Mayor's representative outside Council's area, but within New South Wales. Such circumstances could include charitable functions or award ceremonies to which the Mayor has been invited to attend. These expenses are limited to the ticket, meal and/or direct cost of attending the function.

In all cases under this clause peripheral expenses of spouses, partners or accompanying persons such as grooming, special clothing and transport are not considered reimbursable expenses.

EXPENSES FOR COUNCILLORS

Attendance at Conferences, Seminars and other Training Expenses

- 2.4 Council shall provide an annual budget for Councillor training and development based on a skills analysis and assessment of professional development needs of Councillors.

Council shall meet expenses incurred by Councillors attending conferences, seminars and training courses in any of the following circumstances:

- Attendance authorised by resolution of Council
- Attendance at conferences which are included in Council's Annual Program of Conferences and funds are provided in the adopted Management Plan and where the prior authority of the Mayor and General Manager has been obtained
- Attendance on a study tour involving domestic travel where the study forms part of a Task Force project plan and funds are available in the Task Force budget to be established and where the prior authority of the Mayor and General Manager has been obtained
- Attendance at day long industry seminars or workshops as the need arises subject to the availability of funds and only where local or domestic travel is involved and where the prior authority of the Mayor and General Manager has been obtained.

Where the Mayor is seeking approval to attend a conference, seminar or training course the authority of the Deputy Mayor and the General Manager is required where applicable.

Requests from individual Councillors for attendance at conferences, seminars and training courses shall be in writing outlining the benefits for Council and the community.

After return from a conference, the Councillor/s or an accompanying staff member shall provide a written report to Council on the aspects of the conference relevant to Council business and/or the community. Such a report is not required for the Annual Conferences of the Local Government and Shires Associations.

If requested Council shall make all necessary arrangements for the attendance of Councillors at the conference, seminar or training course. Where the Councillor is being accompanied by another person, Council shall also make all of the necessary arrangements for that person. Council shall meet only those costs relating to the attendance of that person as set out in clause 2.3.

Council shall meet the following costs for attendance at approved conferences, seminars and training courses:

Registration fees

Council shall meet the cost of the registration fee set by the organiser, including costs of related official lunches and dinners, and associated tours where they are relevant to the business and interests of Council.

Accommodation

Councillors shall be accommodated in the hotel where the conference, seminar, or training course is being held or the nearest hotel to it that is of a similar standard, or as authorised by the host organiser where the conference is not located within the Sydney metropolitan area. Accommodation shall be provided at the rate of a double room.

Transportation

Councillors attending a conference, seminar or training course shall travel by the most direct route and the most practical and economical mode of transport, subject to any personal medical considerations. Any time and costs incurred in undertaking activities not related to attendance at the conference, seminar or training course shall not be included in any expenses paid by Council.

For conferences, seminars and training courses out of the Sydney metropolitan area Council shall meet the cost of an economy class air ticket or Council shall reimburse transportation expenses as detailed below whichever is the lesser amount.

Council shall reimburse transportation expenses by a Councillor with the Councillor's own vehicle. For travel within a Council-owned vehicle, actual costs incurred shall be reimbursed.

Council shall meet the cost of transferring Councillors from their place of residence to the airport and return or meet the cost of taxi fares, whichever is the lesser amount.

Council shall meet the cost of transferring Councillors from the airport to the hotel and return at the conclusion of the conference, seminar or training course, such costs not to exceed the cost of taxi fares.

Should a Councillor be accommodated in a hotel not being the site of the conference, seminar or training course, and the Councillor is travelling in a non Council-owned vehicle, Council shall meet the cost of the Councillor travelling from the hotel to the site of the conference, seminar or training course and return each day, such costs not to exceed the cost of taxi fares.

Where in conjunction with attendance at a conference, seminar or training course a Councillor visits another Council in the course of discharging the functions of civic office or to further knowledge of local government, and the Councillor is travelling in a non Council-owned vehicle, Council shall meet the cost of transfer of the Councillor from the hotel to the Council premises visited and return, such costs not to exceed the cost of taxi fares.

Meals

Council shall meet the cost of breakfast, lunch and dinner for Councillors where any of the meals are not provided as part of the conference, seminar or training course. Council shall also meet the reasonable cost of drinks accompanying the meals.

Bar Service

Council shall meet the cost of any expenses incurred at a bar located within the conference hotel or the accommodation hotel only when special guests have been invited for drinks at the request of the Mayor or the leader of Council's delegation.

Other costs

Council shall meet other reasonable out of pocket or incidental expenses associated with attending conferences, seminars or training courses, such as telephone or facsimile calls, refreshments, other meals, internet charges, laundry and dry cleaning, newspapers, taxi fares and parking fees up to a maximum amount of \$54 per day.

Local Travel Arrangements, Attendance at Dinners and Other Non-Council Functions

- 2.5** Travelling expenses shall be paid for travel on official business of Council in the Sydney metropolitan area. Transport to and from the Council administration building or other sites for meetings when the Councillor's own mode of transport is not available may be provided. Councillors may, where necessary, be provided with a taxi voucher for transportation purposes on Council business.

Council shall meet the cost of parking fees and road tolls but not the cost of traffic or parking fines. Claims for reimbursement under this provision shall be supported with an explanation of the need for the travel in relation to official Council business.

Council shall meet the cost of Councillors' attendance at functions that are of a formal or ceremonial nature within the Sydney metropolitan area, including functions for charities, community service and sporting groups supported by Council or of which Council is a financial member. Council shall also meet the cost of Councillors' attendance at dinners and other non-council functions which provide briefings to Councillors from key members of the community, politicians and business where the function is relevant to Council's interest. Council shall meet the cost of any component of the ticket to the function that is a donation to a registered charity but shall not meet the cost of any component of the ticket that is a donation to a political party, candidate's electoral fund or other private benefit. Each Councillor is entitled to a maximum of \$427 per year of term for external payments in respect of the types of expenses described in this paragraph.

Council will also meet the cost of the Mayor or a Councillor representing the Mayor attending a function or carrying out a ceremonial duty when undertaking the role of the Mayor within New South Wales. This includes functions or award ceremonies for charities, community service and sporting groups to which the Mayor has been invited to attend. These expenses are limited to the ticket, meal and/or direct cost of attending the function.

Travel Outside the Sydney Metropolitan Area including Interstate and Overseas Travel

- 2.6 For any proposed travel by a Councillor on Council related business not otherwise addressed in clauses 2.4 and 2.5 the approval of Council in non-confidential session of a Council meeting is required. Approval shall be granted subject to any conditions Council so determines. Council shall meet only those expenses that Council so determines.

Telephone Costs and Expenses

2.7 Telephone/Facsimile

Council shall meet the cost of providing a telephone landline for any telephone/facsimile machine provided under this Policy. Council shall meet the cost of landline rental and all Council business outgoing calls, to a maximum cost of \$106 per month.

Mobile telephone

Council shall meet the cost of a mobile telephone either:

- a Council provided mobile telephone (including vehicle kit) and mobile telephone service to the value of \$1067, for which Council shall pay rental and calls charged against that service, to a limit of \$214 per month for Council business calls and \$21 per month for incidental personal calls, provided that the number is available to be given out for general public information; or
- if the Councillor provides their own mobile telephone and mobile telephone service, Council shall reimburse the cost of rental plus the cost of those calls certified by the Councillor as being Council business calls charged against that service, to a limit of \$214 per month for calls.

In addition Council shall meet data costs in respect of mobile telephones up to a limit of 100 megabytes per month. For Councillor-owned mobile telephones the amount payable by Council under this provision shall not exceed the amount paid under contracts entered into by Council for Council-owned mobile telephones.

Internet

- 2.8 Council shall meet the cost of providing and maintaining an internet connection at the residence of the Councillor as well as a wireless broadband connection.

Care and Other Related Expenses

2.9 Care of relatives

In this clause, *relative* shall have the same meaning as set out in the Dictionary in the Act;

Relative, in relation to a person, means any of the following:

- (a) *the parent, grandparent, brother, sister, uncle, aunt, nephew, niece, lineal descendant or adopted child of the person or of the person's spouse;*
- (b) *the spouse or de facto partner of the person or of a person referred to in paragraph (a).*

Where a Councillor has responsibilities for the care and support of any relative, Council shall reimburse the actual cost incurred by the Councillor to engage professional care for the relative whenever considered necessary by the Councillor in order for the Councillor to discharge the functions of civic office.

The total amount paid to a Councillor under this provision shall not exceed \$2,135 per year of term.

Special requirements of Councillors

Council shall meet reasonable expenses associated with any special requirements of a Councillor, such as disability and access needs, in order to discharge the functions of civic office.

The total amount paid to a Councillor under this provision shall not exceed \$2,135 per year of term.

Insurance Expenses and Obligations

2.10 Council shall meet the cost of providing the following insurance cover for Councillors on a 24 hour basis while discharging the functions of civic office including attendance at meetings of external bodies as Council's representative:

- Public Liability insurance (for matters arising out of a Councillor's performance of their civic duties and/or exercise of their Council functions)
- Professional Indemnity insurance (for matters arising out of a Councillor's performance of their civic duties and/or exercise of their functions)
- Personal Accident insurance (while on Council business)
- Travel insurance (for approved interstate and overseas travel on Council business)

Council shall pay the insurance policy excess in respect of any claim made against a Councillor arising from Council business where any claim is accepted by Council's insurers, whether defended or not.

Legal Expenses and Obligations

2.11 Council shall, if requested, indemnify or reimburse the reasonable legal expenses properly incurred of:

- a Councillor defending an action arising from the performance in good faith of a function under the Act, or

- a Councillor defending an action in defamation provided the statements complained of were made in good faith in the course of exercising a function under the Act and provided that the outcome of the legal proceedings is favourable to the Councillor.

Council shall, if requested, indemnify or reimburse the reasonable legal expenses properly incurred in respect of any inquiry, investigation or hearing into a Councillor's conduct by an appropriate investigative review body including:

1. Local Government Pecuniary Interest and Disciplinary Tribunal
2. Independent Commission Against Corruption
3. Office of the Ombudsman
4. Division of Local Government, Department of Premier and Cabinet
5. NSW Police Force
6. Director of Public Prosecutions
7. Council's Conduct Review Committee/Reviewer

provided that the subject of the inquiry, investigation or hearing arises from the performance in good faith of a councillor's functions under the Act and the matter before the investigative or review body has proceeded past any initial assessment phase to a formal investigation or review. In the case of a conduct complaint made against a Councillor, legal costs shall only be made available where a matter has been referred by the General Manager to a conduct reviewer/conduct review committee to make formal enquiries into that matter in accordance with the procedures in the *Code of Conduct*. In the case of a pecuniary interest or misbehaviour matter legal costs shall only be made available where a formal investigation has been commenced by the Division of Local Government.

In addition, legal costs shall only be provided where the investigative or review body makes a finding that is not substantially unfavourable to the Councillor. This may include circumstances in which a matter does not proceed to a finding. In relation to a Councillor's conduct, a finding by an investigative or review body that an inadvertent minor technical breach had occurred may not necessarily be considered a substantially unfavourable outcome.

Council shall not meet the legal costs of legal proceedings initiated by a Councillor in any circumstance.

Council shall not meet the legal costs of a Councillor seeking advice in respect of possible defamation, or in seeking a non-litigious remedy for possible defamation.

Council shall not meet any legal costs for legal proceedings that do not involve a Councillor performing their role as a Councillor.

The maximum amount payable by Council under this clause in respect of any one action is \$213,478. Council may obtain insurance cover against the risk of having to meet the reasonable legal costs of a Councillor, or to reimburse those costs, provided that the costs or reimbursements are ones that the Council is authorised to meet.

Any Councillor seeking to obtain any entitlement under this clause shall make written application to the General Manager and make this application prior to the legal expenses being incurred where possible. The General Manager shall refer the application to a Council Meeting with any advice and recommendations for determination by Council.

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ADDITIONAL EXPENSES FOR THE MAYOR

Allowances and expenses

- 2.12 An additional annual fee is paid to the Mayor by Council. The fee is the amount fixed by Council under Division 5 of Part 2 of Chapter 9 of the Act in accordance with the appropriate determination of the Local Government Remuneration Tribunal.

In accordance with section 249 of the Act, should Council determine that an annual fee is to be paid to the Deputy Mayor, the Deputy Mayor's annual fee shall be deducted from the Mayor's annual fee.

This Policy is intended to cover most situations where the Mayor reasonably incurs additional expenses in discharging the functions of Mayoral office. The annual fee paid to the Mayor is generally not intended to offset those costs.

There are no other Mayoral allowances and expenses in this Part.

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Part 3 - PROVISION OF FACILITIES

GENERAL PROVISIONS

Provision of Facilities Generally

- 3.1 Unless otherwise stated, where a facility may be provided by Council in accordance with this Policy and a Councillor chooses to accept the facility, it shall be provided by Council with all establishment, routine maintenance, operating, training, replacement and insurance costs being met by Council, subject to any limits specified and adequate funds being allocated and available in Council's adopted Management Plan.

All facilities provided shall be of adequate capacity and functionality to allow the role of Councillor to be fully undertaken.

Private Use of Equipment and Facilities

- 3.2 Councillors shall not generally obtain private benefit from the provision of equipment and facilities, including intellectual property. This includes receipt of a travel bonus or other benefit arising from a loyalty scheme. Councillors must avoid any action or situation that could create the appearance that Council resources are being used inappropriately.

However, incidental personal use of Council equipment and facilities may occur from time to time without requiring reimbursement of the cost by a Councillor. No entitlement under this Policy shall be treated as being a private benefit that requires a reduction in the Mayoral fee or the Councillors fee.

Unless otherwise authorised in this Policy, if a Councillor does obtain a private benefit for the use of a facility provided by Council the Councillor shall be invoiced for the amount of the private benefit with repayment to be in accordance with Council's normal terms. The value of the private benefit shall be determined by Council in non-confidential session of a Council meeting.

Equipment, facilities, materials, funds and services provided under this Policy shall not be used to produce election material or for any other political purposes, including political fundraising activities and events.

EQUIPMENT AND FACILITIES FOR COUNCILLORS

Equipment and Facilities at the Council Administration Building

3.3 Councillors shall be provided with equipment and facilities at the Council administration building. Equipment provided under this clause remains the property of Council. The following equipment and facilities shall be provided at the Council administration building:

Councillors' Room and resources

A room furnished for use by all Councillors shall be provided by Council. Included in the Councillors' Room shall be:

- A computer, printer and peripherals for use by all Councillors
- A website directory of relevant local government internet sites
- A technical library
- Councillors' robes for official, civic and ceremonial use.

Executive Assistant

A qualified and experienced Executive Assistant shall be provided to support all Councillors. The Executive Assistant shall be responsible to the General Manager.

Correspondence Processing

Council shall post all correspondence for Councillors relative to the discharge of the functions of civic office. Council shall provide letterhead for use by Councillors in replying to correspondence.

Council shall provide follow up procedures for correspondence by Councillors. Such follow-up for correspondence is to be carried out by the General Manager or delegate.

Copies of all correspondence by Councillors including facsimile transmission sheets shall be placed in folders in the Councillors' Room for reference by all Councillors.

Correspondence by Councillors relative to the discharge of the functions of civic office is considered official correspondence of Council where the matter is referred to the General Manager for attention. The correspondence shall be attached to the appropriate Council file for registration, attention and reply.

Meals and Refreshments

Prior to, during or after Council, Forum and Committee meetings the Councillors shall be provided with a suitable meal including refreshments. The standard of the meal provided shall be determined by the Mayor in consultation with the General Manager.

Car Parking

Three (3) car parking spaces shall be provided for Councillors in the Council car park at the Council administration building except on Committee meeting nights, public meetings and Council meeting nights when a further six (6) car parking spaces shall be allotted in the same car park.

Equipment and Other Items Required to be Returned

3.4 Upon election to office Councillors shall be provided with certain equipment and other items that shall be returned when the Councillor ceases to hold office. The following equipment and other items shall be provided under this clause:

- Facsimile/telephone machine to the maximum cost of \$534
- Personal computer, peripherals and software to the maximum cost of \$4269
- Security card to enable entry to Council's administration building
- Car parking stickers to enable the Councillor to park in any Council car park at any time for an unlimited period when discharging the functions of civic office. A list of Council's car parks shall be supplied also. No time restriction shall be imposed on an identified Councillor's private vehicle whilst parked in a parking space located at the Council administration building and the adjacent car parking area.

Other Items Not Required to be Returned

3.5 Upon election to office and where applicable throughout the term of office Councillors shall be provided with items of a consumable nature or which otherwise are not required to be returned when the Councillor ceases to hold office. The following items shall be provided under this clause:

- Name badge
- Minor items of stationery to the maximum cost of \$106 each year of term
- 100 Christmas cards each year of term
- A copy of clippings (weekly) from the newspapers relating to matters affecting local government in general and Ku-ring-gai in particular

- 500 business cards each year of term
- Corporate attire and presentation gifts for use in connection with civic functions, eg tie, scarf, spoon, etc
- Street Directory
- Refreshments/meals when undertaking official Council business (satisfactory explanation of official Council business required to support claims)
- Facsimile transmission sheets
- A raincoat and one pair of protective footwear for site inspections during inclement weather
- Replacement consumables, such as tapes, inks, and toner (not including paper) for the continued operation of the equipment provided in clause 3.4
- 5,000 sheets of plain white paper per year of term
- Printed copy of the current relevant Local Government and Planning Legislation
- Briefcase to the maximum cost of \$214
- Dictaphone (either hand held or desk variety) and cassettes to the maximum cost of \$214
- Filing cabinet for Council Business Papers and other Council correspondence to the maximum cost of \$320
- Bookcase to the maximum cost of \$214

DRAFT

ADDITIONAL EQUIPMENT AND FACILITIES FOR THE MAYOR

Equipment and Facilities at the Council Administration Building

- 3.6 The Mayor shall be provided with additional equipment and facilities at the Council administration building. Equipment provided under this clause remains the property of Council. The following equipment and facilities shall be provided at the Council administration building:

Mayoral Office and resources

Council shall provide:

- A furnished office
- A computer, printer and peripherals
- Mayoral letterhead
- Mayoral robes for official, civic and ceremonial use
- Mayoral Chain of Office for official, civic and ceremonial use.

Executive Assistant

A qualified and experienced Executive Assistant shall be provided with equivalent experience, responsibilities and skills to that of the General Manager's Executive Assistant. The Executive Assistant shall provide support to the Deputy Mayor in the absence of the Mayor.

Car parking

An allocated parking space shall be provided at the Council administration building.

Equipment and Other Items Required to be Returned

- 3.7 Upon election to office the Mayor may be provided with certain equipment and other items that shall be returned when the Mayor ceases to hold office. The following equipment and facilities shall be provided under this clause:

- Mayoral vehicle up to the standard of a Holden Statesman Caprice. The Mayoral vehicle shall be fully maintained by Council for the use by the Mayor for official, civic and ceremonial functions and appropriate use arising out of or in the course of the Mayor's official, civic and ceremonial functions. A petrol card shall be supplied to fuel the Mayoral vehicle at Council's cost for official use only.

- Mobile telephone costs additional to that provided under clause 2.7. The call limits referred to in clause 2.7 shall be increased by \$106 per month, making a total of \$320 per month and the data allowance shall be increased by 100 megabytes per month, making a total of 200 megabytes per month.

Other Items Not Required to be Returned

3.8 Upon election to the office and where applicable throughout the term of office the Mayor shall be provided with items of a consumable nature or which otherwise are not required to be returned when the Mayor ceases to hold office. The Mayor shall receive all of the items listed for Councillors under clause 3.5 and the following:

- Name badge
- Refreshments/meals when undertaking the role of Mayor (satisfactory explanation of official Mayoral business required to support claims)
- An additional 100 Christmas cards each year of mayoralty, making a total of 200 cards during each year of mayoralty.
- An additional 250 Business cards each year of mayoralty, making a total of 750 cards during each year of mayoralty.
- Additional corporate attire and presentation gifts e.g. Council ties, scarves, spoons, cuff links, etc for own use and presentations as appropriate and gifts suitable for younger persons.

Part 4 - OTHER MATTERS

Acquisition and Returning of Facilities and Equipment by Councillors

- 4.1 Upon ceasing to hold office a Councillor may purchase any Council equipment held by the Councillor at the depreciated value of the equipment as recorded in the Council's books of accounts at the time of ceasing to hold office if, in the opinion of the General Manager, the item is not required for Council purposes. This clause does not include a vehicle.

DRAFT

EXPANSION OF COUNCIL'S SMOKE FREE POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on a Council resolution seeking an expansion of Council's Smoke Free Policy.

BACKGROUND:

On 22 June 2010, Council resolved that a report be prepared on Council implementing a broader ban on smoking.

COMMENTS:

Council has a role in advocating better public health for its residents and visitors. Council also has the power to restrict certain activities within its area.

RECOMMENDATION:

That Council amend its existing policy in respect of smoking in public places so as to ban smoking in additional areas.

PURPOSE OF REPORT

To report on a Council resolution seeking an expansion of Council's Smoke Free Policy.

BACKGROUND

In October 2004 Council resolved to implement a Smoke-Free Policy, which introduced a ban on smoking:

- within 10 metres of all children's play areas under Council's care,
- at all Council playing fields, sporting grounds and West Pymble Pool (and that all future leases and hiring reflect this policy),
- at all events run or sponsored by Council

A notice of motion was put forward by Councillor Szatow on 4 June 2010 and was adopted unanimously. The motion called for a report to be prepared on expanding the current resolution so as to implement a ban on smoking in the following additional areas:

- in all Council owned buildings and within 10 metres of Council owned or managed buildings and gardens, including balconies or covered areas of those buildings and gardens
- in all alfresco dining areas on public land
- in all covered bus shelters and taxi ranks

A recent presentation to Council by a representative of the Heart Foundation on 1 June 2010 pointed to substantial evidence linking exposure to second hand smoke with a range of serious and life threatening health impacts, including heart disease, cancer, asthma and other respiratory problems. While most of the evidence relates to indoor exposure, there is emerging evidence on how smoking affects air quality in outdoor locations such as alfresco cafes and playgrounds.

There is also evidence to suggest that smoking bans support smokers who are trying to quit as well as reduce their overall cigarette consumption. Fifty four percent of smokers who had tried to quit, found that seeing someone with a cigarette was a trigger to relapse, while 40% said that smelling a cigarette, was a trigger to relapse according to a 2006 study. A greater awareness of the health impacts of smoking has seen a huge decline in smoking recently. It is estimated that only 18% of the adult population of NSW currently smokes. The aim is to reduce this to less than 10% by 2020.

In addition to health impacts, cigarettes give rise to other environmental issues. Cigarette butts take up to five years to break down. Cigarette butts are consistently one of the sources of litter found during "Clean Up Australia" surveys. Almost 50% of litter found in urban areas consists of tobacco related products. There is strong public support for better and more wide reaching tobacco control activities. In December 2006, a survey of 2,400 NSW residents found support for smoking restrictions in the following areas:

- 92% support bans in children's playgrounds

Item 4

S03433
3 August 2010

- 85% support bans in sports stadiums
- 69% support bans in outdoor dining areas
- In addition, 65% say they avoid places where they may be exposed to other peoples smoke

COMMENTS

Council has a role in advocating better public health for its residents and visitors. Council has existing smoking bans in place, both within its buildings and within sporting and play grounds. Health organisations are now urging stronger smoking bans in other public areas not covered by legislation.

Outdoor smoking restrictions are becoming more and more common nationally and internationally. Over seventy NSW Council's have already introduced smoke free outdoor areas within their localities. Locally, Mosman, Manly, Warringah and Willoughby Councils have recently amended their smoke free policies to include alfresco dining, events, malls, bus shelters, beaches, reserves and parks.

Legislation

Under current NSW legislation, the Local Government Act, 1993 empowers Council to erect suitably worded and strategically placed notices in "public places" prohibiting certain activities. Correspondingly, an authorised person may issue a penalty notice upon any person who fails to comply with the terms of any such notice. Currently, the penalty is \$110.00.

Notwithstanding the above provisions, research reveals that only three penalty infringements have been issued within the state by local authorities in respect of non compliance with local smoking bans. It may therefore be concluded, that the issue of penalties by local authorities is not the main driver that brings about compliance, but rather, the empowering of all persons to point out to fellow area users of the inappropriateness of smoking in a particular zone and self awareness of individuals of the restrictions in place. In effect, the smoke free zone become self policed.

Signage

Section 632 of the Local Government Act, empowers a council to erect appropriate notices or signage to inform users of local restrictions. A check of Council's assets has revealed a total of 410 buildings and places to which the extended ban, if adopted, would apply.

This includes eighty covered bus shelters and taxi ranks, eleven gardens, two hundred and seventy six buildings (chambers to picnic shelters) and forty three outdoor dining establishments.

It is proposed that signage on significant buildings be of appropriate design and quality, say 450mm x 200mm and of screened metal plate. Other buildings could be signposted by way of smaller stickers of 200mm x 180mm. Bus shelters, under contract to Adshell Australia must be signposted in accordance with Adshell's requirements. Advice from Adshell suggests that a sticker 200mm x 150mm would meet with their requirements. Outdoor Dining Areas, in cooperation with proprietors would be designated with appropriate table topper menu holding units or similar.

Item 4

**S03433
3 August 2010**

The implementation phase would require significant investment in new signage. In the years following initial implementation, maintenance programs would incorporate suitable reference to the policy.

Generally, Council buildings do not currently display signs which specify that smoking is prohibited within the building. This is due to legislation introduced in the mid 1990s that declared smoke-free workplaces within both the public and private sectors and subsequent legislation introduced in 2004 that banned smoking in all enclosed public places, except the Sydney Casino. The proposed expanded policy, if adopted, would require signage, as the policy is more wide reaching than the current legislation, particularly in regard to the 10 metres exclusion zone and the ban within covered areas and gardens.

Outdoor dining permits

Currently Council has forty three outdoor dining permit holders. Permits are renewed annually, with fees being levied near the commencement of each financial year. It is recommended that affected proprietors be provided with reasonable notice of any expanded ban and that annual permits be updated to reflect the new policy position. Therefore, implementation of the expanded policy would come into effect at the commencement of the 2011/12 Financial Year for outdoor dining establishments.

Advertising and awareness programme

Any expanded ban would require promotion and advertisement so as to afford residents, business proprietors and visitors sufficient prior knowledge and warning.

It is expected that the local media would assist with some news articles publicising the expanded ban but Council would need to supplement this with specialty advertisements. Specialty notification letters would also need to be forwarded to all clubs and businesses (having an affiliation with Council) that would be affected.

An advertisement within Council's regular corporate message column in the local newspaper is estimated to cost approximately \$350. It is anticipated that four such advertisements would need to be run in the lead up to any expanded ban coming into affect.

Suggested timetable for implementation of extended policy

If Council were to resolve to implement an expansion of its smoke free zones, it is expected that a minimum lead in time of 12 – 14 weeks would be required prior to a staged commencement of the new smoke free zones. This period would allow for the manufacture and erection of signage. The first areas to be targeted would be the most visible sites, i.e. Council Chambers, libraries, kindergartens and halls. The next areas would be covered bus and taxi shelters and gardens, followed by sports clubs and alfresco dining areas on Council land. Specific negotiation would need to occur with the private leaseholders of council land, such as sports clubs, restaurant proprietors and alfresco dining area permit holders. As indicated above, 1 July 2011 is a suggested date for implementation of any expanded ban at these establishments.

CONSULTATION

In preparing this report, consultation was undertaken with representatives from Manly and Mosman Councils to clarify certain elements of their own experiences in the implementation of expanded smoke free zones. This related particularly to signage on bus shelters and arrangements with businesses that utilise outdoor dining areas on Council owned land.

No public consultation concerning this proposed amended policy has occurred.

FINANCIAL CONSIDERATIONS

There would be a cost to Council for the manufacture and installation of signage at the subject locations. Some notification of smoking bans could be incorporated on existing signs where appropriate, by way of an additional sticker.

Conservative estimates for signage, manufacture and supply are in the order of \$34,000.00 (signs 450mm x 250mm @ \$50 each, stickers 250mm x 180mm @ \$14.20 each.)

Additional consideration will need to be given to the logistics of installing the signage, which could generally occur as resources and opportunities become available. This may occur at times of routine maintenance visits and checks, so as to save on implementation costs.

Consistent with the practice of other councils in this respect, it is suggested that Council would supply in the first instance, plexi-glass table toppers to outdoor dining permit holders. These table toppers would include a logo indicating that the area is smoke free. Quotations for supply of these are \$6.90 each. It is estimated that 300 would need to be provided in the first instance, representing a cost of \$2,070.00

A total budget allocation in the order of \$36,700 would be required, consisting of the following:

No	Goods	Cost	Total
4	Advertisements in local newspaper	\$450.00 each	\$1,800.00
* 200	Stickers 150mm x 250mm	\$14.20 each	\$2,840.00
600	Screened metal signs 450mm x 250mm	\$50.00 each	\$30,000.00
300	Tabletop plexiglass signs	\$6.90 each	\$2,070.00
	Total		\$36,710.00

* *There would also be ongoing costs for replacement of stickers, approximately every 5 years.*

Item 4

S03433
3 August 2010

As there is presently no allocation for this in Council's adopted budget 2010/11, a specific budgetary source would need to be resolved by Council.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparing this report, input was sought from Council's Manager Strategic Assets and Services, Council's Manager Engineering Services, Building Trades Co-ordinator, Communications Manager and Senior Environmental Health Officer. All officers were requested to provide input relevant to their areas of responsibility, including number of property assets owned by Council, contractual arrangements or limitations with any bus shelter contractors, number of outdoor dining facilities, costs for advertisements and quotations for the supply and fixing of signage.

SUMMARY

Council has an obligation to promote public health outcomes where Council provides assets and services intended to be of benefit to children and other members of the community. There is a growing understanding and documented evidence that passive smoking in outdoor areas is becoming an increasing health problem with reports that cigarette-derived particles accumulate on clothing and skin, and smoking causes sensory irritations such as eye watering, coughing, difficulty in breathing and asthma. Further, an expansion of the current smoke free policy would facilitate improvement of the natural environment and the amenity of the local area by reducing the amount of cigarette butt litter found in outdoor spaces.

Council has the power to restrict activities within certain areas, via the power vested under Section 632 of the Local Government Act, 1993.

RECOMMENDATION

1. That Council amend its existing current policy in respect of Smoking in Public Places so as to ban smoking in the following areas:
 - (i) Within 10 metres of all children's play areas under Council's care.
 - (ii) At all Council playing fields, sporting grounds, and West Pymble Pool
 - (iii) At all events run or sponsored by Council.
 - (iv) In all Council owned buildings and within 10 metres of Council owned or managed buildings and gardens including balconies or covered areas of those balconies or gardens.
 - (v) In all alfresco dining areas on public land.
 - (vi) In all covered bus shelters and taxi ranks.
 - (vii) All future leases and hiring of Council assets reflect this revised policy
2. That the revised policy commence by way of a staged implementation from 1 November 2010, the first zones to be implemented being all Council owned or

Item 4

**S03433
3 August 2010**

managed buildings and the final implementation zones to be those associated with alfresco dining on Council land by 1 July 2011.

3. That Council identify a funding source of \$37,000.00 so as to facilitate implementation of the expanded policy.

Anne Seaton
Manager Compliance & Regulation

Michael Miodic
Director Development & Regulation

Attachments:

- 1. Council Resolution, Minute No 512 19 October 2004 - 442429**
- 2. Council Resolution, Minute No 181 of 22 June 2010 - 2010/115004**
- 3. Heart Foundation Brochure - Why are outdoor smoke free areas important for your Council - 2010/145563**

RESOLUTION OF ORDINARY MEETING OF COUNCIL

19 OCTOBER 2004

512 **Report On Banning Smoking At Sporting Venues**

File: S03433

To respond to Councillor Malicki's Notice of Motion dated, 31 May 2004, "that a report come to Council as soon as possible outlining steps that Council could take to ban smoking at sporting venues and in public places".

Resolved:

(Moved: Councillors Malicki/Innes)

- A. That Council support a ban on smoking within 10 metres of all children's play areas under Council's care.
- B. That Council support a ban on smoking at all Council playing fields, sporting grounds, and West Pymble Pool and that all future leases and hirings will reflect this policy.
- C. That staff prepare a report on implementation of these bans.
- D. That Council require that all events run or sponsored by Council be smoke free.
- E. That Council place the matter on the NSROC agenda for discussion and comment and identification of future consistent approaches to this issue across the Northern Suburbs region.

*For the Resolution: Councillors Andrew, Bennett, Cross, Hall, Innes,
Malicki and Shelley*

*Against the Resolution: The Mayor, Councillor A Ryan, Councillors Ebbeck,
Lane*

The above Resolution was subject to an Amendment which was LOST. The Lost Amendment was:

(Moved: Councillors Cross/Ebbeck)

That Council:

- A. *Outline in principle support for a ban of smoking across all areas under Council's care and control.*

- B. Supports efforts by individual sporting clubs and associations to implement a voluntary code which bans smoking at their respective locations.*
- C. Raises the issue for discussion at the Parks Sport and Recreation Group.*
- D. Requires events that are run or sponsored (including events enjoying fee waivers or discounts) to be smoke free.*
- E. Places the matter on the NSROC agenda for discussion, comment and identification of future consistent approaches to this issue across the Northern Suburbs region.*

RESOLUTION OF ORDINARY MEETING OF COUNCIL

22 JUNE 2010

181 **Extension of Council's Smoke Free Policy**

File: S03433

Notice of Motion from Councillor Cheryl Szatow dated 4 June 2010

To protect the safety and amenity of our community and to extend the Council Resolution Minute Number 512 of Ordinary Meeting of Council, 19 October 2004, which delineated certain areas in Ku-ring-gai as smoke-free zones.

I move:

That a report be prepared on implementing a ban on smoking in the following areas:

- smoking in all Council owned buildings and within 10 metres of Council owned or managed buildings and gardens including balconies or covered areas of those buildings and gardens.
- a ban in all alfresco dining areas on public land.
- a ban on smoking in all covered bus shelters and taxi ranks.

Resolved:

(Moved: Councillors Duncombe/Szatow)

That the above Notice of Motion as printed be adopted.

CARRIED UNANIMOUSLY

COMMUNITY SUPPORT

Increasing community awareness of the harmful effects of second-hand smoke has led the community to accept, and expect the availability of smoke-free areas. Given that over 82% of the NSW population are non-smokers¹ a Council's decision to introduce smoke-free areas is often in response to community expectations.

In December 2006, a survey² of 2,400 NSW residents found overwhelming support for smoking restrictions in the following areas:

- 92% support bans in children's playgrounds
- 85% support bans outside workplace doors/entrances
- 80% support bans in sports stadiums
- 69% support bans in outdoor dining areas
- In addition, 65% say they avoid places where they may be exposed to other people's smoke.

HEALTH IMPACTS

There is substantial evidence linking exposure to second-hand smoke with a range of serious and life threatening health impacts including heart disease, cancer, asthma and other respiratory problems.³ Children exposed to second-hand smoke are at an increased risk of asthma, sudden infant death syndrome (SIDS), acute respiratory infections and ear problems.

While most of the evidence relates to indoor exposure, there is emerging evidence on how smoking affects air quality in outdoor locations such as alfresco cafes and playgrounds.^{4,5,6,7,8} A recent study which measured cigarette smoke levels in a variety of outdoor locations showed that a person sitting near a smoker in an outdoor area could be exposed to levels of cigarette smoke similar to the exposure of someone sitting in an indoor tavern where smoking is allowed.⁹ Therefore, the second-hand smoke in outdoor areas where people tend to congregate, including alfresco dining areas, sports stadiums and concert venues, can present a real health risk to patrons and staff.

There is also evidence to suggest that smoking bans support smokers who are trying to quit as well as reduce their overall cigarette consumption.¹⁰ Fifty four percent of smokers who had tried to quit found that seeing someone with a cigarette was a trigger to relapse, while 40% said that smelling a cigarette was a trigger to relapse, according to a 2006 study.²

ENVIRONMENTAL IMPACTS

Cigarettes are the most littered item in the world.¹² Consistently one of the most common items found during Clean Up Australia Day, cigarette butts make up 31% of the top 10 items found and almost 50% of litter in urban areas.¹³ Cigarette butts are not biodegradable and take up to five years to break down. Outdoor smoking bans can help to reduce the amount of cigarette butt litter and provide a substantial cost saving through reduced clean-up costs.

A policy for reducing butt litter should include extending smoke-free areas. While public education on responsible disposal may form part of a local strategy, NSW Department of Environment and Climate Change research has found that this alone will not reduce butt litter.¹⁴ Councils should be especially wary of education-only strategies funded by tobacco industry-funded organisations, such as the Butt Littering Trust (see Fact Sheet 4 for more information on the Trust).

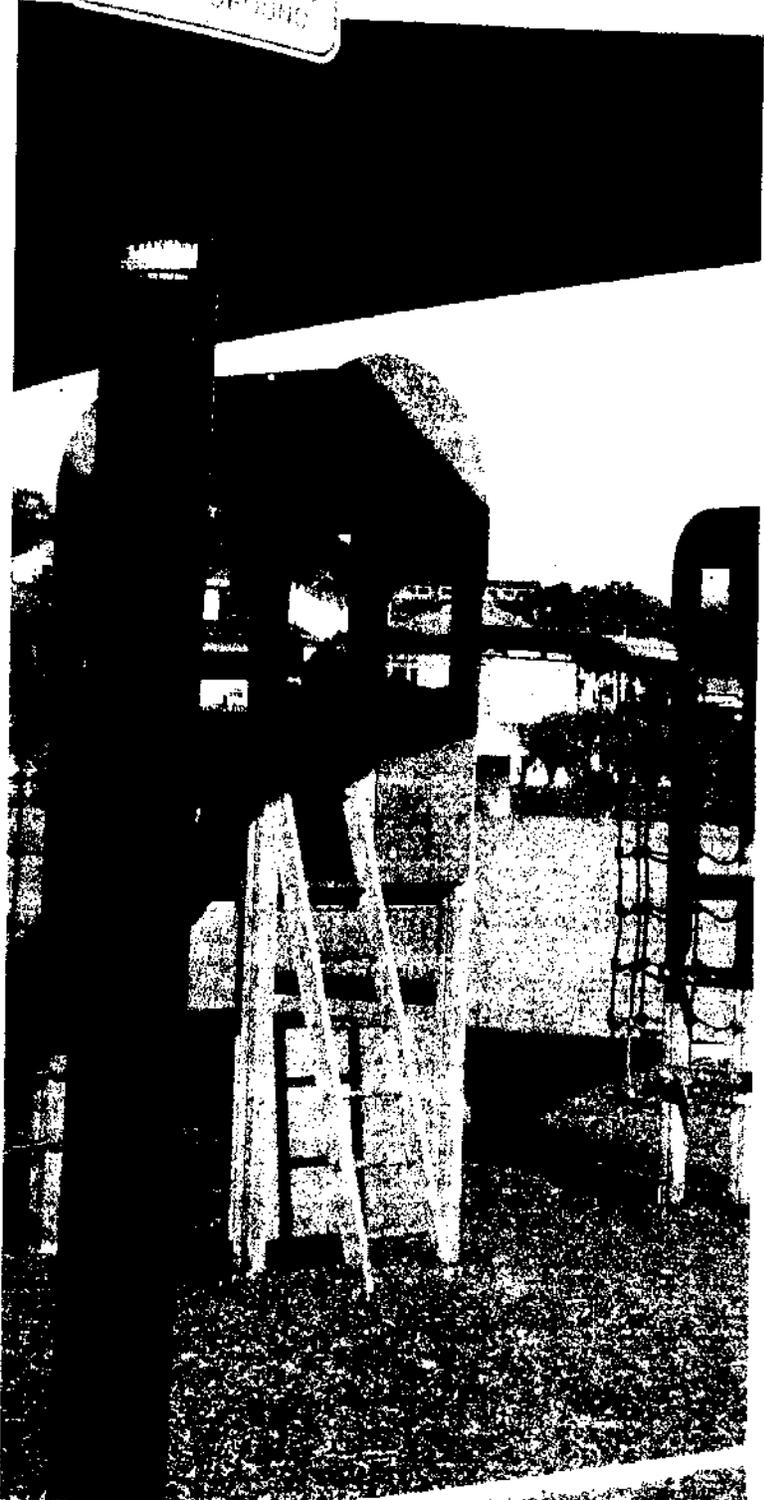
CURRENT LEGISLATION

Smoking in enclosed public places in NSW is regulated by the *NSW Smoke-Free Environment Act 2000*¹⁵.

However, these laws make no provision for controlling outdoor smoking in places where people congregate, such as alfresco dining areas, sporting fields and playgrounds.

Under the *NSW Local Government Act 1993*, Councils have the power to legislate in their own jurisdictions to protect their local communities from the effects of second-hand smoke. (See Fact Sheet 2 for more information.)

A white rectangular sign with a black border. At the top is a black silhouette of a lit cigarette. Below the icon, the text "NO SMOKING" is printed in large, bold, black capital letters. Underneath, in smaller black capital letters, it reads "SMOKING IS PROHIBITED IN ALL AREAS".



A recent study which measured cigarette smoke levels in a variety of outdoor locations showed that a person sitting near a smoker in an outdoor area could be exposed to levels of cigarette smoke similar to the exposure of someone sitting in an indoor tavern where smoking is allowed.⁹

FOOTNOTES

- 1 NSW Population Health Survey 2006, Centre for Epidemiology and Research, NSW Department of Health
- 2 Centre for Health Research and Psycho-oncology. Tracking NSW community attitudes and practices in relation to tobacco: A biennial telephone survey, March 2007. Unpublished report by The Cancer Council NSW.
- 3 U.S. Department of Health and Human Services. *The Health Consequences of Involuntary Exposure to Tobacco Smoke: A Report of the Surgeon General*. Atlanta, GA: U.S.
- 4 Repace JL. Banning Outdoor Smoking is scientifically justifiable. *Tobacco Control* 2000; 9:98 (Spring)
- 5 Repace J. Measurements of outdoor air pollution from second-hand smoke on the UMBC campus. (<http://www.repac.com/pdf/outdoor.pdf> accessed 8 March 2007)
- 6 Boffi R, Ruprecht A, Mazza R, Ketzl M, Invernizzi G. A day at the European Respiratory Society Congress: passive smoking influences both outdoor and indoor quality (letter). *European Respiratory Journal*, 2006;27:862-863.
- 7 U.S. Department of Health and Human Services. *The Health Consequences of Smoking: A report of the Surgeon General*. Atlanta, GA: U.S. Department of Health and Human Services, Centres for Disease Control and Prevention, National Centre for Chronic Disease Prevention and health promotion, Office on Smoking and Health, 2004.
- 8 Turner P. *Air Monitoring for Cigarette Smoke*. Unpublished report for The Cancer Council NSW, 12 May 2005.
- 9 Klepeis NE, Ott WR, Switzer P. Real-Time Measurement of Outdoor Tobacco Smoke Particles. *Journal of the Air and Waste Management Association* 2007; 57:522-534.
- 10 Chapman S, Borland R, Scollo M, R C Brownson, A Dominello and S Woodward. The impact of smoke-free workplaces on declining cigarette consumption in Australia and the United States. *Am J Pub Health* 1999;89:1018-23
- 12 Cigarettelitter.org, "Cigarette Litter" <http://www.cigarettelitter.org>, Accessed May 2002
- 13 Clean Up Australia Rubbish Report 2005. Clean Up Australia Online. Accessed May 2007 at <http://www.cleanup.org.au/rubbishreport/topten.html>
- 14 Department of Environment and Climate Change NSW. NSW Extended Producer Responsibility: Priority Statement 2005-2006
- 15 (NSW) *Smoke-free Environment Act* 2000, No 69, Sydney; 2000. http://www.health.nsw.gov.au/health_public-affairs/smokefree/2000-69.pdf

B2 LANDS SOUTH TURRAMURRA - PROJECT DELIVERY AGREEMENT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek the approval of Council to enter into a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands.

BACKGROUND:

Council entered into a Memorandum of Understanding (MoU) with the Office of Strategic Lands in 2007. This MoU has now lapsed.

Following a Notice of Motion on 23 February 2010 Council in part adopted the following:

A new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the approach outlined in this motion.

COMMENTS:

The Project Delivery Agreement (PDA) as discussed in this report is the next stage in the delivery of this project.

RECOMMENDATION:

That Council authorise the General Manager to execute the Terms Sheet that is the subject of this report, that authority be granted to affix the Council Seal and to execute all necessary documentation, to facilitate the completion of a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands for the delivery of the B2 project.

PURPOSE OF REPORT

To seek the approval of Council to enter into a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands.

BACKGROUND

Council entered into a Memorandum of Understanding (MoU) with the Office of Strategic Lands (OSL) (then Department of Planning) in 2007. This MoU has now lapsed.

Following a Notice of Motion on 23 February 2010 Council in part adopted the following:

A new Memorandum of Understanding be developed and entered into with the Department of Planning which reflects the approach outlined in this motion.

Since the original MoU the OSL has been relocated from the NSW Department of Planning to NSW Land & Property Management Authority (LPMA), hence the proposed Project Delivery Agreement (PDA) now being with the LPMA.

Council is now at a stage where it is prudent to enter into a legally binding agreement that will see the project through to fruition. The appropriate document for this is a Project Delivery Agreement (PDA). Jointly instructed by the OSL, the same solicitors who drafted the MoU drafted the PDA. It has subsequently been reviewed by Council's lawyers.

The precursor to the PDA is a Terms Sheet. Whilst the Terms Sheet itself is not legally binding, it sets out the agreed key terms of the primary documents to be entered into to ensure that the parties have a common understanding before formally documenting the project. The Terms Sheet is scheduled to be discussed at the Councillor briefing of Tuesday 3 August 2010. A copy of the Terms Sheet will be **Circulated Separately**. It acknowledges that the parties propose to develop the land for release and subdivision so as to achieve an effective, sustainable planning outcome and an appropriate return to all parties.

The Terms Sheet will form the basis of a PDA which becomes the legally binding contract between Council and the OSL.

Whilst not exhaustive, it is generally similar to the original MoU. The key points of the Terms Sheet are:

- Costs and income are split on the basis of land contributed to the project.
- Council shall as principal, enter into all Project contracts (except contracts for sale of land) that are required to carry out the Project and the OSL shall reimburse Council their pro-rated share of costs within 28 days.
- The agreed land contribution/ costs/ proceeds split is: Council – 51.9% and OSL - 48.1%. This proportion has changed slightly from the original concept and has been brought about by the history of Lot 2 in Deposited Plan 840228.

Item 5

S08281
2 August 2010

- Within 30 days of the first lot sales the OSL will transfer some 4,420 square metres of land adjacent to Sir David Martin Reserve to Council.

Lot 2 in Deposited Plan 840228

A slight variation from the original proposal is the change in land contribution by 1.1%. This has been brought about by the history of Lot 2 in Deposited Plan 840228. This parcel of land was originally purchased by the Crown and transferred to Council ownership some 50 years ago. With the transfer was a caveat stating that the land had come from the Crown and Council was prevented in dealing with it. This is similar a similar obligation to many parcels of land that have come from bodies including the County of Cumberland Council, its predecessors or successors.

Normally with such lands should Council, or any other land holder no longer want the land it is transferred to the Crown who would then sell it and retain the proceeds.

This is similar to when land has been transferred to the RTA and the RTA determines that it is no longer required. In these situations, the OSL then obtains title to the land at no cost. As Council contributes to the Sydney Region Development Fund and has maintained the land over the years it is proposed that this parcel of land be shared equally. The net result is the original proportion was: Council 53% and OSL 47% and this has been revised to: Council 51.9% and OSL 48.1%.

Recent Progress on the Site

On 17 February 2010 Council submitted a Planning Proposal to initiate a draft Local Environmental Plan to zone the unformed portions of Hall Street and Warner Avenue consistent with the zoning of the adjoining land, Residential 2(c) and to reclassify six parcels of Council land, being Lot 1 DP 746618, Lot 3 DP 746618, Lot 1 DP 847214, Lot 74 DP 216500, Lot 1 DP 840228, Lot 2 DP 840228 from Community to Operational land.

On 16 March 2010 a Gateway Determination was made by the NSW Department of Planning for the planning proposal to proceed subject to several conditions including consultation with state agencies prior to formal public exhibition and the holding of the public hearing. To date consultation with the State agencies is being finalised with additional studies being completed, prior to the formal exhibition of the Planning Proposal and the public hearings.

A workshop with Councillors and staff will be scheduled prior to proceeding to exhibition.

COMMENTS

The Project Delivery Agreement (PDA) discussed in this report is the next stage in the delivery of this project.

CONSULTATION

Council has consulted with its legal representative for this matter, being Norton Rose.

FINANCIAL CONSIDERATIONS

The forecast proceeds from the sale of this land have been incorporated into Council's Long Term Financial Plan.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has been undertaken with the Corporate Department.

SUMMARY

This report seeks authority for Council to progress the now lapsed Memorandum of Understanding with the Office of Strategic Lands via a Project Delivery Agreement. The basis of this agreement is the non-legally binding Terms Sheet which was recently discussed at a Councillor briefing. This Terms Sheet is the precursor to the legally binding Project Delivery Agreement.

RECOMMENDATION

That Council authorise the General Manager to execute the Terms Sheet that is the subject of this report, and that authority be granted to the Mayor and General Manager to affix the Council Seal and to execute all necessary documentation, to facilitate the completion of a Project Delivery Agreement with the NSW Land & Property Management Authority – Office of Strategic Lands for the delivery of the B2 project.

Ian Dreghorn
Manager Strategic Projects

Andrew Watson
Director Strategy & Environment

Attachments: Terms Sheet - Circulated separately

Ku-ring-gai Council and Land & Property Management Authority - Office of Strategic Lands South Turramurra Project Terms Sheet

Part 1 – Overview

The parties propose to develop the Land for release and subdivision so as to achieve an effective, sustainable planning outcome and an appropriate return on so much of the Land that is released (**Project**).

The proposed key terms for the Project are described in Part 2 of this Terms Sheet. Each element of the Project is interdependent on each other element.

This Terms Sheet is:

- intended to set out the agreed key terms of the primary documents to be entered into to ensure that the parties have a common understanding before formally documenting the Project;
- not intended to be legally binding and is subject to the execution of definitive agreements proposed to include a Project Delivery Agreement (**PDA**); and
- not exhaustive and other customary terms will be included in the final documentation.

Part 2 – Key Terms

Subject	Term
1. Parties	<p>Ku-ring-gai Council (ABN 86 408 856 411) of 818 Pacific Highway, Gordon NSW 2072 (the Council).</p> <p>Land & Property Management Authority (Office of Strategic Lands) on behalf of the Minister administering the Environmental Planning and Assessment Act 1979 (ABN 36 691 806 169) of Level 4, 10 Valentine Avenue, Parramatta NSW 2150 (the OSL).</p>
2. Capacity	<p>The parties have legal authority to enter into this Terms Sheet and all anticipated documents in respect of the Project and have legal title to the Land.</p>
3. No fetter	<p>Council acknowledges that nothing in this Terms Sheet, or any anticipated documentation, operates to fetter the statutory discretion of the New South Wales Minister for Planning in relation to any discretions the Minister has under or pursuant to the <i>Environmental Planning & Assessment Act 1979</i> or the Council.</p>
4. Recitals	<p>A The abandoned B2 road corridor at South Turramurra comprises land owned by Council (approximately 1.637 hectares, as well as 0.344 hectares of unformed public road) and the OSL (approximately 1.573 hectares) in the Ku-ring-gai local government area (the Land).</p> <p>B The parties agree that the composition of the Land is subject to change by mutual agreement.</p>

Subject	Term
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- C Council and the OSL enter into this Terms Sheet to record their mutual agreement to enter any documentation required to facilitate the Land release and subdivision of the Land in accordance with the Development Objectives.
- D The parties agree that all revenue received in respect of the Project, regardless of the source, will be pooled and distributed in accordance with the Relevant Percentages.
- E The parties agree that the Project will be undertaken in stages.

5. Land

OSL Land:

Lot 19, 20, 46, 47, 48, 49, 50 DP 16578
 Lot 21 DP 455668 and Lots 43, 44, 45 DP 455669
 Lot 2 DP 746618

Council Land:

Lots 1 and 3 DP 746618
 Lot 1 DP 847214
 Lots 1 and 2 DP 840228
 Lot 74 DP 216500
 Public Road: Hall Street and Warner Avenue (approx 0.344 ha)
 collectively the *Land* (as referred to in Recital A).

6. Objectives

Council and the OSL will cooperate in accordance with the following objectives (**Development Objectives**) with a view to preparing for release so much of the Land as has been zoned for residential use.

The Land will be prepared for release (including any necessary subdivision) so as to:

- (a) establish the foundation for a new low density urban community consistent with all relevant planning law;
- (b) establish a residential land release that is compatible with the existing environmental character of the locality and is sympathetic to other neighbourhood development;
- (c) configure lots (in terms of area, width and shape) that take account of the predominant surrounding neighbourhood subdivision patterns;
- (d) recognise the importance of providing additional housing for residents within the Ku-ring-gai local government area; and
- (e) ensure the orderly and economic disposal of surplus land, including by providing a yield consistent with the commercial management and development of that land.

7. Process

For the purpose of achieving the Land release and subdivision in accordance with the Development Objectives :

A. Council and the OSL will jointly:

- (a) prepare a detailed study on the estimated costs and projected

Subject	Term
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income from the development of the Land;

- (b) agree to material arrangements for the provision of infrastructure to the Land, including any details concerning:
 - (i) drainage and ancillary works associated with the upgrade of Sir David Martin Reserve;
 - (ii) public roads within and adjacent to the Land;
 - (iii) other access ways such as cycle-ways and pedestrian footpaths to encourage use of non-motorised transport; and
 - (iv) management of any contaminated land; and
- (c) prepare any proposed new environmental planning instruments, development control plans or like instruments affecting the Land; and
- (d) prepare any environmental studies or assessments, development application or other applications for approval for:
 - (i) any necessary subdivision, activities and associated works; or
 - (ii) any other development required to give effect to the Development Objectives.

B. Council will:

- (a) as principal, enter into all Project contracts (except contracts for sale of land) that are required to carry out the Project. The prior approval of the Project Control Group (PCG) must be obtained for any Project contract where the total project cost payable under such Project contract exceeds \$50,000 (exclusive of GST); and
- (b) impose contributions under section 94 of the *Environmental Planning and Assessment Act 1979* or other agreements (as appropriate) for the provision of infrastructure to the Land as applicable to the development of all new lots.

C. The OSL will reimburse its Relevant Percentage of any payments incurred, or to be incurred, by Council in respect of the Project within 28 days of receiving an appropriate tax invoice from Council.

D. Within 30 days of settlement of the first parcel of land being sold, the OSL must transfer to Council at no cost and for nil consideration 4,420 square metres of land adjacent to Sir David Martin Reserve and known as Lot 7 in Deposited Plan 29705.

E. The parties agree that any ancillary proceeds received by either party as a result of the Project will be deemed Revenue for the benefit of the

Subject	Term
	Project.
8. Relevant Percentages	<p>The parties agree to split costs, profits and liability in respect of the project activities and the proposed sale of the lots in the following proportions:</p> <p>Council – 51.9% OSL - 48.1%</p> <p>(the <i>Relevant Percentages</i>)</p> <p>From time to time, the parties may mutually agree to change the Relevant Percentages if land ownership areas change.</p>
9. Project Development Staging	<p>The Project will be undertaken in stages to be determined by the parties.</p>
10. Transfer, assignment, novation	<p>Neither party will be entitled to transfer or novate their interest in the Project without the prior written consent of the other party.</p>
11. Stamp duty	<p>The parties understand that they are each exempt from stamp duty.</p>
12. PDA and Project Control Group (PCG)	<p>Following execution of this Terms Sheet the parties must promptly negotiate a PDA and any other agreements necessary to give effect to this Terms Sheet. Within 10 Business Days from the date of execution of the PDA, Council and the OSL must establish a PCG which shall consist of:</p> <p>Council:</p> <ul style="list-style-type: none"> (a) Director of Strategy & Environment; and (b) Director of Operations, <p>OSL:</p> <ul style="list-style-type: none"> (c) Director of the Office of Strategic Lands; and (d) Senior Manager, Divestments. <p>The role of chairperson is to be undertaken on a rotational basis in respect of each PCG meeting by a member of the PCG.</p> <p>Any action, decision, determination, request or direction (in this paragraph referred to as <i>acts</i>) of the PCG or any purported agreement or waiver by the Council and the OSL arising from any acts of the PCG will bind the parties.</p> <p>The PCG:</p> <ul style="list-style-type: none"> (a) will make all decisions and determinations required to be made in relation to the Land; (b) will consider all reports and recommendations and make decisions on all matters relating to the Land which will include: <ul style="list-style-type: none"> (i) the PDA for the Land including proposed permitted uses;

Subject	Term
	(ii) engagement of consultants to carry out investigations and prepare reports relating to the development of the Land;
	(iii) any proposed changes to the PDA;
	(iv) any other development agreements or agreements relating to developer levies or contributions which relate to development of the Land;
	(v) approval to commence each Stage;
	(vi) approval of the Project Budget for each Stage;
	(vii) the process by which the parties will deal with the lodgement and payment of GST;
	(viii) the Project components to allow for the distribution of Sales Revenue on a lot by lot basis;
	(ix) the executive management vehicle for the purposes of the Project;
	(x) the necessity for decisions to have primary regard to the Development Objectives;
	(xi) the overall control and direction of the Project including approving the Project Timetable;
	(xii) receiving and reconciling past actual and projected expenditure on a quarterly basis;
	(xiii) approving all Project Contracts required to be entered into for the carrying out of the Project;
	(xiv) approving the location within the Land of new roads, public and open spaces and residential housing, and any other development;
	(xv) approving the number, size and location of the Lots, the marketing strategy for the sale of the Lots, the project list prices for each of the Lots and approving the terms and conditions for the contracts for the sale of the Lots; and
	(xvi) reviewing the Development Objectives from time to time;
(c)	will, when determining any distribution of Sales Revenue, have regard to: <ul style="list-style-type: none"> (i) revenue received and costs incurred to the date of the PCG determination when compared against anticipated and budgeted amounts of revenue and costs; (ii) any ancillary revenue received by the parties;

Subject	Term
	<ul style="list-style-type: none"> (iii) all advice and information provided to the PCG in relation to anticipated future revenues and costs; and (iv) the intention that by completion of the Project both parties will receive reimbursement for all costs incurred in relation to the Project; (d) will ensure compliance with the GIPA Act 2009, i.e. report details of contracts valued at \$150,000 or more, provide additional information and publish results within 60 days.
	<p>Following reimbursement to the parties of all costs incurred in relation to the Project, the PCG will distribute any surplus in accordance with the Relevant Percentages.</p>
	<p>If the PCG can not make a determination, then the chairperson for the meeting in which the matter for determination was raised, must use best endeavours to promote consensus between the parties. Failing agreement following the prescribed protocols in the PDA, the matter is then to be referred to an expert.</p>
13. Engagement of contractors	<p>The PCG will engage all necessary contractors in relation to the development, marketing and sale of the Land.</p>
14. Reporting	<p>The PCG must keep proper and adequate books of account in relation to all development expenditure and the calculation, allocation and distribution of the various costs, fees and returns paid to Council and the OSL from Sales Revenue.</p> <p>The PCG will keep full records and details of:</p> <ul style="list-style-type: none"> (a) Sales Revenue (detailing the calculation, allocation and distribution of the various costs, fees and returns paid to Council and the OSL from Sales Revenue); (b) all expenditure (including Development Costs, GST or any other costs) incurred in respect of the Project; and (c) Project milestones, <p>that will be provided in the form of a report reasonably acceptable to the parties within 5 Business Days of the end of each month during the term of the Project by the PCG to the parties.</p>
15. Distribution of Sales Revenue	<p>Within 10 Business Days of the end of each calendar month of the settlement of the sale of each Lot the subject of the Project, Sales Revenue is to be distributed by the PCG to the parties.</p>
16. No partnership	<p>Nothing in this Terms Sheet or any ancillary documentation will be construed or interpreted as constituting the relationship between the parties as that of a partnership, joint venture or any form of fiduciary relationship.</p>
17. Form of Contract for Sale of Lots	<p>A pro forma Contract for Sale of Land will be included in the PDA as negotiated between the parties.</p>
18. Timetable	<p>The parties will determine the Project timetable.</p>

Subject	Term
19. Confidentiality	<p>Subject to the GIPA Act 2009, the parties will keep confidential the existence and terms of this Terms Sheet, the Project contemplated by it and any discussions or negotiations conducted in accordance with this Terms Sheet.</p> <p>Either party may disclose any matter within this Terms Sheet, with the prior written consent of the other party.</p>
20. Consent	<p>Each party acknowledges that it has been involved in the negotiation of this Terms Sheet and its terms are agreed.</p> <p>Final consent from each party and the participation of each party in any relevant part of the Project is subject to satisfactory definitive documentation in respect of the Project and final approval from the General Manager for the Council and the Minister or his/her delegate on behalf of the OSL.</p>
21. Counterparts	<p>This Terms Sheet may consist of a number of counterparts and, if so, the counterparts taken together constitute one document.</p>
22. Costs and taxes	<p>Each party will bear its own costs of negotiating, documenting and completing this Terms Sheet and all ancillary documentation.</p>
23. Governing law	<p>The Project will be governed by New South Wales law.</p>
24. Jurisdiction	<p>Each party irrevocably and unconditionally:</p> <ul style="list-style-type: none"> (a) submits to the non-exclusive jurisdiction of the courts of New South Wales; and (b) waives, without limitation, any claim or objection based on absence of jurisdiction or inconvenient forum.

.....
For and on behalf of -
Ku-ring-gai Council
Date:

.....
For and on behalf of the -
Delegate of the **Minister** administering the
Environmental Planning and Assessment Act 1979
and I hereby declare that I have no notice of the revocation of such delegation.
Date:

SUSTAINABILITY REFERENCE COMMITTEE - NOTES OF MEETING HELD MONDAY, 7 JUNE 2010

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To bring to the attention of Council the proceedings of the Sustainability Reference Committee Meeting held on Monday, 7 June 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 discussed items including the Ku-ring-gai LEP Town Centres and the draft Development Control Plan; the Review of Sydney Metropolitan Transport Blueprint; energy purchasing; the North Shore Sustainable Business Project; and recent community consultations.

RECOMMENDATION:

That the notes and attachments of the Sustainability Reference Committee meeting held on Monday, 7 June 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 Monday, 7 June 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 Monday 7 June 2010. Notes and attachments of the meeting are **attached** to this report. A summary of presentations and discussions are provided below:

- Antony Fabbro, Manager Urban & Heritage Planning, gave an overview of the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* and the draft Development Control Plan. Points of discussion raised included how biobanking, land swapping, building and energy compliance ratings were being addressed within the planning process.
- Jim Wells - provided his perspectives on the Christie Report (Review of Sydney Metropolitan Transport Blueprint). Significant points raised included the recommendations for wider representation on the NSW Transport Board, the need for a long term funding plan independent of political cycles and opportunities to reintroduce tramlines.
- Fernando Calero – gave a presentation on a scheme through which Council could save on energy costs through a competitive bidding process. Presently Council purchases its energy through a regional contract. When this contract is nearing expiration, it is suggested that this purchasing arrangement be given further consideration.
- North Shore Sustainable Business Project – an update was provided on the regional project with Willoughby and North Sydney Councils. The main points of discussion included linking sustainable outcomes from the business project with that of the community focus, and the long term viability of the project.
- Community consultation – an update was provided on three (3) recent community consultations:
 - Customer satisfaction – results from the 2010 Community Satisfaction Survey illustrate the key community priorities in relation to importance and satisfaction

Item 6

S07619
12 July 2010

with Council service delivery areas. In the vast majority of cases, Council is meeting or exceeding community satisfaction across these services, however there are a number of services where Council is either under performing or far exceeding the level of community expectation. Councillors were provided a briefing on these results on 21 June 2010.

- o Environmental Levy – the ‘rate of development’ and ‘climate change’ were highlighted as key issues and areas of concern for respondents in the Environmental Levy consultation.
 - o Special Rate Variation for the North Turrumurra Recreation Area – there was a very strong level of support for this project.
-
- Energy and water efficiency projects including draft Climate Change Adaptation report. An update was given on key projects as previously discussed by the Committee. Discussions focused mainly on wind turbines, both the size and potential locations within Ku-ring-gai. This update followed Council’s resolution on this matter to use the Environmental Levy to fund a range of key projects in Council buildings.

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 Monday 7 June 2010. Notes and attachments are **attached** to this report. The Sustainability Reference Committee were provided with presentations regarding the *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* and the draft Development Control Plan, Review of Sydney Metropolitan Transport Blueprint – The Christie Report, an alternative energy purchasing model, North Shore Sustainable Business Project, community consultation and energy and water efficiency projects including draft Climate Change Adaptation report.

RECOMMENDATION

That the notes and attachments of the Sustainability Reference Committee meeting held on Monday, 7 June 2010 be received and noted.

Jeremy Pendergast
Corporate Planner

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments: Notes and presentations from meeting held Monday, 7 June 2010 - 2010/102778, 2010/102745 and 2010/103450

Sustainability Reference Committee

6.00 to 8.00pm Monday 7 June 2010

Council Chambers, Level 3, 818 Pacific Highway Gordon.



NOTES OF MEETING

Attendance

Councillors	Cr Holland (Chair), Cr Malicki (Deputy Chair), Cr Cross, Cr Szatow
Council Staff	Peter Davies Manager Sustainability & Corporate Planning, Antony Fabbro, Manager Urban & Heritage Planning, Jennifer Scott Sustainability Program Leader, Louise Hayward Sustainability Officer, Jeremy Pendergast, Corporate Planner
Community	Chris Andrew, James Wells, Colin Field, Bernadette Pinnell, Elizabeth Gavey, Fernando Calero, Neil Papadopoulos, Grant Dyer, Peter Richardson
Apologies	Sue McKindlay-Kane Drew McIntosh James O'Keefe

Meeting opened at 6pm by Cr Holland (Chair)

Antony Fabbro, Manager Urban & Heritage Planning, gave an overview of the Ku-ring-gai Local Environmental Plan (Town Centres) and the draft Development Control Plan.

The *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* (KLEP 2010) is the statutory planning instrument that controls what can be developed on land within Ku-ring-gai's six major town centres - St Ives, Turramurra, Pymble, Gordon, Lindfield, and Roseville. It will replace all the current planning controls in the Ku-ring-gai Planning Scheme Ordinance (KPSO) and guide and direct change over the next 25 years.

This plan was adopted by the Ku-ring-gai Planning Panel on 27 May 2009 and was subsequently approved in the Government gazette by the NSW Planning Minister on 25 May 2010.

Ku-ring-gai Development Control Plan (Town Centres) 2010

The committee were advised that Council was going to consider the Final Draft Ku-ring-gai Development Control Plan (Town Centres) 2010 (DCP) on 8 June 2010. The DCP provides detailed controls to guide the design and assessment of development on land in and around the St Ives, Turramurra, Pymble, Gordon, Lindfield and Roseville centres.

More detail can be found on Council's website:

<http://www.kmc.nsw.gov.au/www/html/1984-planning-panel.asp>

Points of discussion:

Biobanking – Question rose in regards to biobanking and land swapping and whether they had been taken into account when developing the LEP. Mr Fabbro advised that both of these issues were taken into account, as well as considering an offset policy.

Greenstar business rating:

It was noted that Council has changed its rating for the minimum building compliance from 5 stars to 4 stars. This was on the recommendation of the Green Building Council. The 5 star rating was deemed to be ambitious when compared with other 5 star buildings, as not every project should be forced to achieve 'Australian Excellence'. It would be better at this stage to aim for 4 Star Green Star, as 'Best Practice' to encourage developers to improve their practices and go beyond the minimum requirement. Discussion around quality sustainable buildings followed, with the CH2 building in Melbourne highlighted as best practice.

Concern was raised in relation to the implementation of the LEP due to the reliance on the RTA capacity as managers of the highway corridor. It was noted as part of the preparation phase of the Draft LEP all relevant NSW state agencies were consulted (including the NSW RTA) by Council, to ensure regional infrastructure requirements were taken into account.

ITEM 1:

Presentations by James Wells and Fernando Calero

Jim Wells - Review of Sydney Metropolitan Transport Blueprint – The Christie Report

Three significant points were raised.

1. Board representation

In addition to various state agencies, the board to make decisions on transport projects, and funding should also include representation by federal and local government. This would provide a more relevant insight into the issues and decision making on transport issues at a local to national level.

2. Funding

The report recommended \$35 billion would be spent over the next 30 years. The source of funding suggested include: tolls; parking meters; registration costs; and rates from residential and business premises.

3. Tramlines

Issues were raised in regard to changing the infrastructure to accommodate tramlines in Sydney.

In the context of Ku-ring-gai, bus services were raised, particularly as they were seen as inadequate. It was also noted that while the existing rail frequency was one of the better networks in the Sydney system, there is a need to protect this service's standard as other services such as the Epping to Chatswood link has the capacity to affect services over the long term.

Bike lanes – it was acknowledged that these are very hard to plan for in Ku-ring-gai given topography and the Pacific Highway.

Fernando Calero - Energy Action

Energy Action relates to the buying of energy. Certain Regional Organisation of Council's (ROC's) were identified to be trying this already. It was suggested that Ku-ring-gai may have the size and influence to start this process individually.

Potential benefits from this process include reduction in energy bills and energy credits. The process may be able to be applied to street lights but further investigation would be required.

ITEM 2:

North Shore Sustainable Business Project

An update was provided on the regional grant with Willoughby and North Sydney Councils.

Two main points of discussion:

1. Is there an opportunity to join or link sustainable outcomes from the business project with that of the community focus ? A lot of work is currently being implemented by community networks; this could provide a strong connection with the business program.
2. Long term viability of the project – It was noted that the Chamber of Commerce would be used to continue to support the businesses that have engaged in the project.

ITEM 3:

Community Consultation

An update on recent community surveys undertaken by Council relating to the Environmental Levy, North Turrumurra Recreation Area Special Rate Variation and Customer Satisfaction was presented by Peter Davies.

Customer Satisfaction

Comments on the importance of services –v- the funding allocation were highlighted.

Results from the 2010 Community Satisfaction Survey illustrate the key community priorities in relation to importance and satisfaction with Council service delivery areas. In the vast majority of cases, Council is meeting or exceeding community satisfaction across these services, however there are a number of services where Council is either under-performing or far exceeding the level of community expectation.

Special analysis conducted by the social research contractor, Micromex Research, has identified key service delivery areas and attributes that have the greatest impact on improving community satisfaction. A recommendation from Micromex Research is for increased investment in these areas to better drive satisfaction across Ku-ring-gai.

The results from this survey are based on the current allocation of funding to Council delivery areas. Any change of funding to core Council services and assets will have an impact on future satisfaction ratings for these areas.

Deliberative consultation (focus groups) will take place in July/August to further examine key satisfaction drivers for the community. A final report, including key recommendations will be made in late August.

Environmental Levy

A number of concerns were highlighted including overdevelopment and climate change.

The 'rate of development' and 'climate change' were highlighted as key issues and areas of concern for respondents in the Environmental Levy consultation. All demographics recognised climate change as a local issue and believed Council had an important role to play in managing this risk, with stronger responses from the younger demographic in the postal survey and the 55+ demographic in the online survey.

Special Rate Variation

A comment was raised on how we are capturing the workers who travel to the area within these surveys. This has been noted as a gap at this point.

Only Ku-ring-gai residents and users of local sporting fields were involved in this consultation.

ITEM 4:

Energy & water efficiency projects including draft Climate Change Adaptation report

An update was given on key projects as previously discussed by the Committee. Discussions focused mainly on wind turbines, both the size and potential locations within Ku-ring-gai.

A number of key points were raised including: standards; noise implications; wind averages and visual appearance.

ITEM 5:

Strategic directions for sustainability

This item was referred to the next meeting due to time restraints.

Meeting closed at 9.00pm

Attachments:

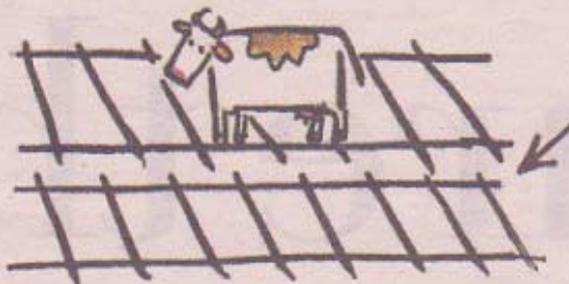
The presentations by **Jim Wells** and **Fernando Calero** to be circulated separately.

**Next Meeting: Monday 26 July 2010, 6pm – 8pm
Council Chambers, Level 3.**

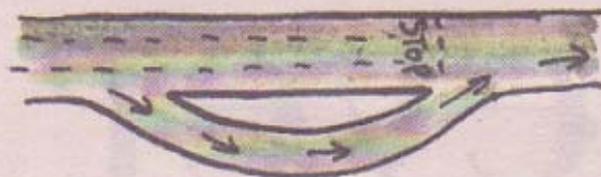
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VIEWPOINT

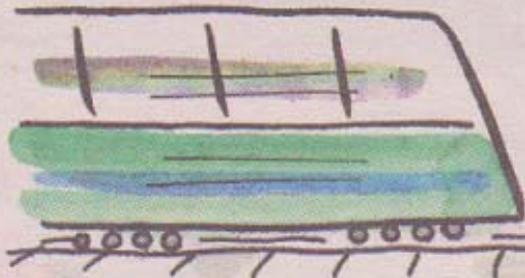
JUST SOME OF THE NSW GOVT'S LATEST TRANSPORT PLANNING INITIATIVES.



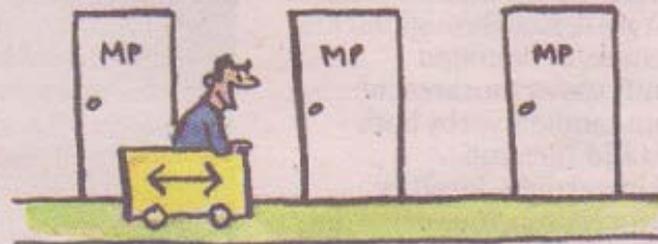
Fast track for development applications from big donors.



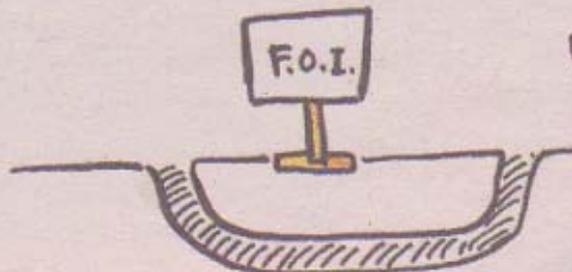
Overtaking lane for inexperienced leadership candidates



Heavy rail for welding factional influence.



Shuttle service for frequent powerbroking.



Underground tunnel to bypass public scrutiny

Wilcox

PUBLIC TRANSPORT CHRISTIE ENQUIRY 2009-10



'We're proposing to spend money in places that do not fix the problem', Ron Christie
Former co-ordinator-general of rail. *Photo: Jon Reid*

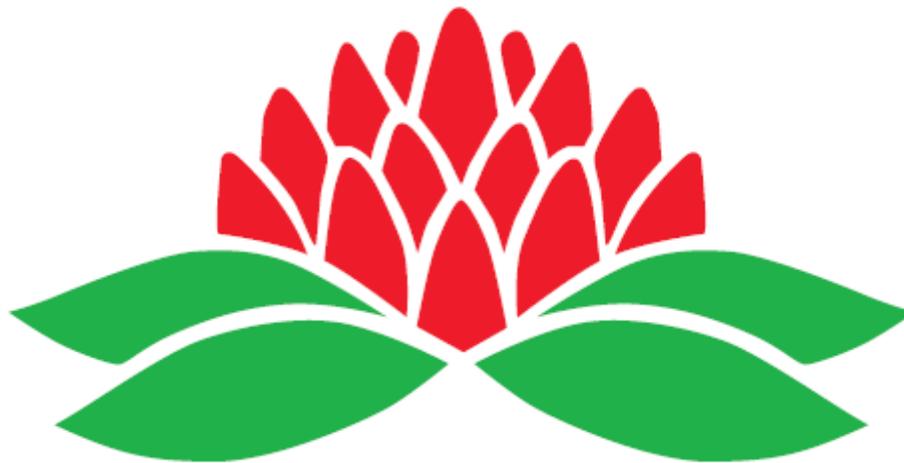
**Ron Christie,
AM**

T f S - BOARD

Two NSW Government nominees, incl. Chairman

One each Commonwealth - Local Government

Four persons with expertise



FUNDING (Prelim. Report)

Capex - \$35bn - 30 years (\$08-09)



Sources:

Fares (Rail \$2.37 to \$2.93 by 2040)

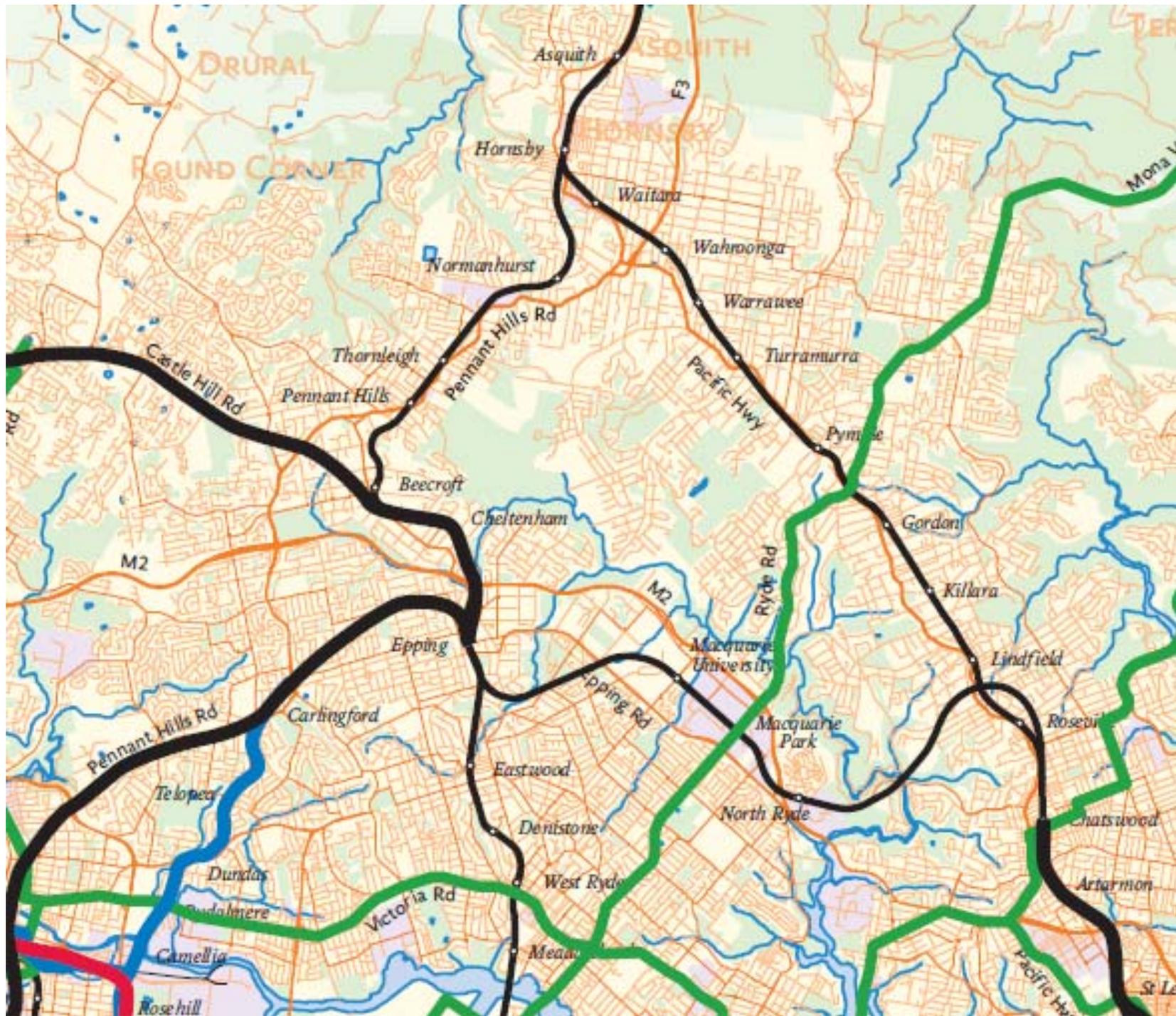
Motoring - tolls, parking, rego, congestion charge

Households and Businesses (**Rates**)

Efficiency gains (1% pa)

Other

WACC - 7.5% (real)



HERITAGE REFERENCE COMMITTEE - NOTES OF MEETING HELD 17 MAY 2010

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the notes of the Heritage Reference Committee meeting held 17 May 2010.

BACKGROUND:

The notes were taken at the meeting held 17 May 2010. Confirmation and acceptance of these notes was at the Heritage Reference Committee (HRC) meeting held 21 June 2010.

COMMENTS:

A range of heritage issues were discussed at the Heritage Reference Committee's meeting of 17 May 2010 and a number of issues were raised for further consideration.

RECOMMENDATION:

That Council receive and note the Heritage Reference Committee meeting notes from 17 May 2010.

PURPOSE OF REPORT

To advise Council of the notes of the Heritage Reference Committee meeting held 17 May 2010.

BACKGROUND

The notes taken at the 17 May 2010 meeting were confirmed and accepted at the Heritage Reference Committee (HRC) meeting held on 21 June 2010.

COMMENTS

A range of heritage issues were discussed at the Heritage Reference Committee meeting of 17 May 2010 and a number of issues were raised for further consideration as outlined below.

Meeting of 17 May 2010

Item 1: 9 – 15 Harrington Avenue, Warrawee

Council's Heritage Advisor and Heritage Specialist Planner addressed the Committee with regard to protecting the house "Peroomba" at 9-15 Harrington Avenue, Warrawee. The property is considered to be at significant risk.

The Committee agreed Council should pursue all actions necessary to pursue an Interim Heritage Order and a local listing.

Comments

Councillors Anderson and Szatow brought the matter before the Ordinary Meeting of Council on Tuesday 25 May 2010, where it was unanimously resolved to pursue a Section 24 Interim Heritage Order. A letter was sent to the Minister for Planning requesting the Interim Heritage Order. This resulted in the Interim Heritage Order being gazetted on 15 June 2010.

Council also resolved to prepare and submit a planning proposal to the Department of Planning to list the property as an item of heritage significance under the Ku-ring-gai Planning Scheme Ordinance and to prepare a detailed comparative analysis to include in the heritage assessment in support of the local and State heritage nomination of the property.

Item 2: 1536 Pacific Highway, Wahroonga

The Committee discussed the suitability of leasing part of the Council owned land at 1536 Pacific Highway, Wahroonga, to the neighbouring School of Philosophy situated within the State listed curtilage of Mahratta.

The Committee agreed that a site visit to examine the curtilage of the site would be beneficial.

Item 7

S07620
12 July 2010

Item 3: St Ives Showground Aboriginal Heritage

The committee discussed the need for a further assessment of Aboriginal heritage at the St Ives Showground and Precinct sites.

The Heritage Reference Committee recommends Council undertakes a full survey of Aboriginal heritage at the St Ives Showground and Precinct prior to approving any development.

Comments

Representatives from the Aboriginal Heritage Office and the Metropolitan Local Aboriginal Land Council undertook a preliminary site inspection of the St Ives Showground and Precinct. It is their recommendation that a comprehensive and full assessment be carried out on those areas directly impacted or directly adjacent to, areas impacted by proposed activities and development.

The assessments recommended by the Aboriginal Heritage Office would need to occur in conjunction with the preparation of any development application or activity proposals on the site, as it is only at that stage the extent of any potential impact of the development or activity can be determined. The full survey of the entire showground precinct as recommended by the Heritage Reference Committee is not considered necessary for the purpose of assessing development or activity impacts.

General Business:

The Committee discussed the Tulkiyan Interpretive Space tender including the funding of the final fit-out once construction is complete.

A new Tulkiyan Heritage House committee is to be formed. Members will include Councillor Szatow as Chairperson.

CONSULTATION

The Heritage Reference Committee includes representatives from the community and nominated heritage organisations.

FINANCIAL CONSIDERATIONS

The cost of running the Heritage Reference Committee is covered by the Strategy and Environment Department budget.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Where relevant, consultation with other Departments has occurred in the preparation of this report.

SUMMARY

The Heritage Reference Committee held its meeting on 17 May 2010. In particular the Committee reviewed and discussed the following key items:

- 9 – 15 Harrington Avenue, Warrawee; and
- 1536 Pacific Highway, Wahroonga.

The notes from the Heritage Reference Committee meeting of 17 May 2010 are **attached** to this report.

RECOMMENDATION

That Council receive and note the Heritage Reference Committee meeting notes of 17 May 2010.

Andreana Kennedy
Heritage Planner Specialist

Craige Wyse
Team Leader
Urban Planning

Andrew Watson
Director Strategy & Environment

Attachments: Notes of meeting held 17 May 2010 - 2010/114787

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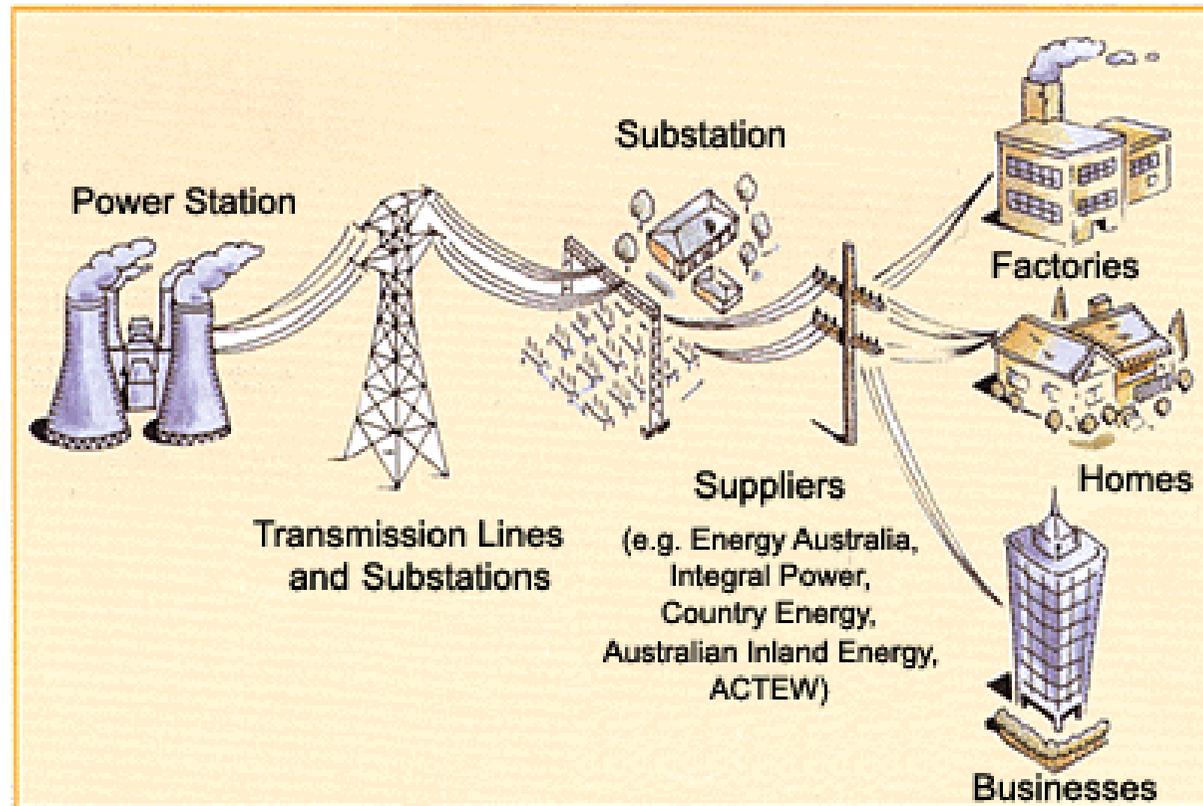
EnergyAction

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- Industry-savvy staff who work well together
- Independent energy marketplace - no affiliations with any of Australia's licensed energy retailers
- Promotes fairness and transparency in the Australian energy markets
- Products and services
 - Yield measurable results
 - Provide substantial value to our customers
 - Support environmentally sustainable solutions
 - Are cost effective

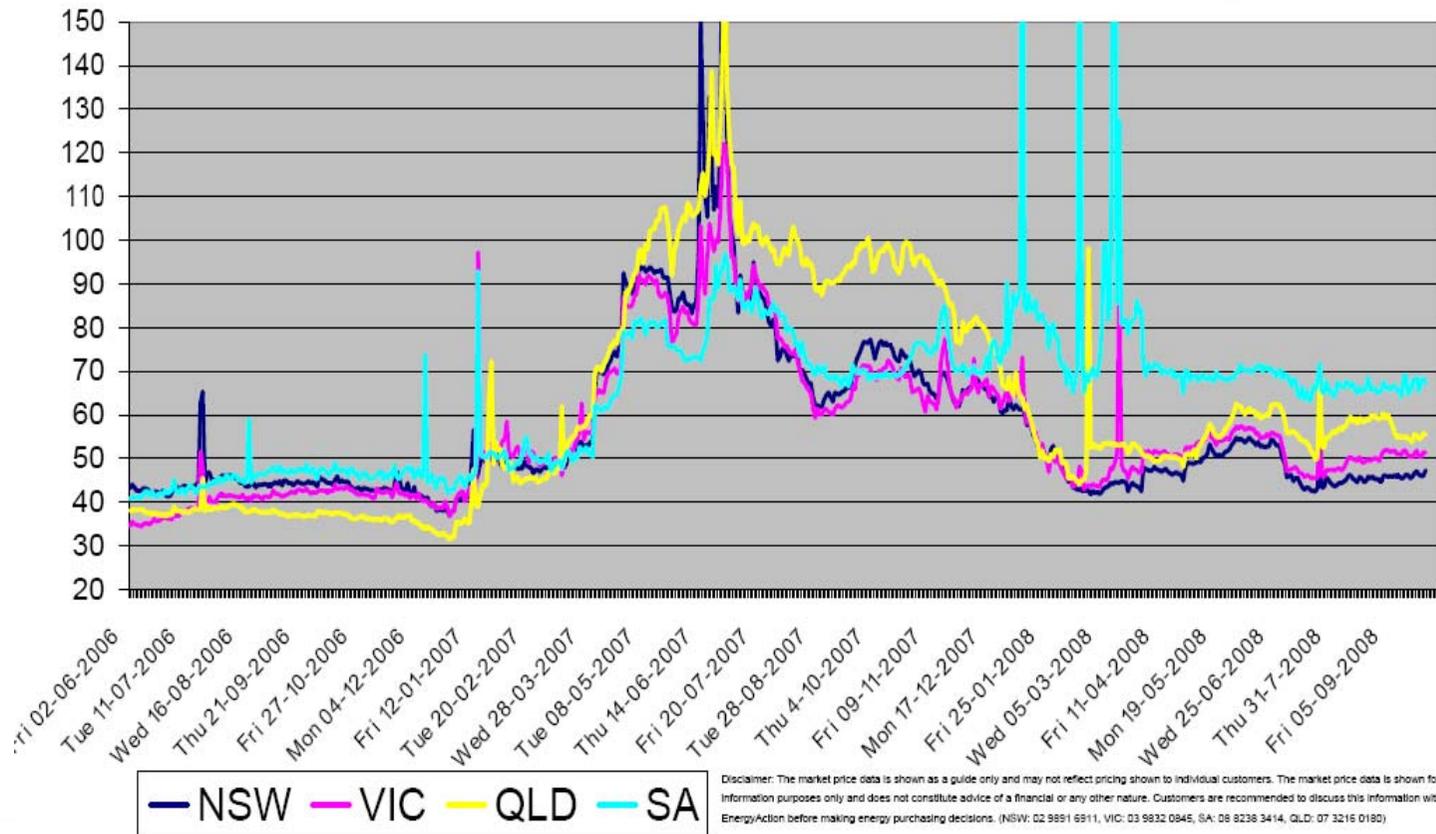


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Electricity Market



Wholesale Electricity Price Index



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Electricity Bill Structure

Supply Period 1 March 2007 to 31 March 2007 - 31 days
Date of Issue 4 April 2007
NMI 41035782119

Transmission Loss Factor (TLF) 1.015000
 Distribution Loss Factor (DLF) 1.061200

CHARGES	QUANTITY	X	RATE*	X	TLF	X	DLF	=	TOTAL
Energy Charges									
Peak	46,158.000 kWh		5.9024 c/ kWh		1.015000		1.061200		\$2,934.53
Shoulder	100,051.000 kWh		6.2755 c/ kWh		1.015000		1.061200		\$6,762.90
Off Peak	144,420.000 kWh		2.5253 c/ kWh		1.015000		1.061200		\$3,928.29
* Rates are the agreed contract rates and are exclusive of losses									
Total Energy Charges	290,629.000 kWh								\$13,626.72
Network Charges									
(Passed through charges from your local network supplier)									
DUOS for Peak	61,655.000 kWh		2.9238 c/ kWh						\$1,802.67
DUOS for Shoulder	84,554.000 kWh		1.7423 c/ kWh						\$1,473.18
DUOS for Off Peak	144,420.000 kWh		0.7453 c/ kWh						\$1,076.36
DUOS for Peak Capacity	801.000 kVA		2.9934 \$/ kVA						\$2,397.71
DUOS for Peak Demand	655.000 kVA		3.0200 \$/ kVA						\$1,978.10
Network Access Charge	31 Days		1.6584 \$/Meter/Day						\$51.41
Total Network Charges									\$8,779.43
Market Charges									
(Passed through in accordance with your contract)									
NEM Administration	290,629.000 kWh		0.0363 c/ kWh				1.061200		\$111.95
NEM Ancillary Services	290,629.000 kWh		0.0263 c/ kWh				1.061200		\$81.11
Total Market Charges									\$193.06
Other Charges									
(Passed through in accordance with your contract)									
Meter Provision	31 Days		3.1233 \$/Meter/Day						\$96.82
Renewable Energy Certificates	290,629.000 kWh		0.1024 c/ kWh				1.061200		\$315.82
NSW Greenhouse Abatement	290,629.000 kWh		0.2506 c/ kWh				1.061200		\$772.98
Total Other Charges									\$1,185.62
TOTAL ELECTRICITY BEFORE GST									\$23,783.83



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Senior Executives and Duties

- **Val Duncan – Managing Director & Company Secretary**
 - Company Secretarial
 - Financial Management
 - Legal, HR, Governance
 - Planning, Systems Integration
- **Barry Denton – Executive Director, Sales**
 - Customer Relations
 - National Sales Planning and Execution
 - Sales Performance and Growth
 - Sales Staff Management
- **Edward Hanna – Executive Director, Operations**
 - Active Energy Management Services
 - Auction Product Management Services
 - Customer Service and Data Analysis
 - Gas Contract Procurement and Monitoring Services
 - IT & T Planning and Management
- **Newton Samarakoon - Sustainable Energy Development Manager**
 - Cogeneration Planning & Assessment
 - Electricity Engineering
 - Gas Engineering
 - Methane Gas Capture and Conversion
 - Project Management
 - Solar, Solar Thermal & Heat Recovery Processes
- **Jey Jeyasothy – Chief Financial Officer**
 - Company Secretarial Support
 - Financial Management
 - Financial Planning and Budgeting



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Key Managers

- **Queensland**
 - Bruce Turley, State Manger
 - Tony Cooper, Business Development Manager
 - Reuben Dobson, Business Development Manager
 - Melissa Greenall, Business Development Manager
 - Ben Kent ,Business Development Manager

- **South Australia**
 - Darren Richards, State Manager
 - Sandie Morrissey, Business Development Manager

- **Victoria**
 - Mark Evans, State Manager
 - Belinda Dewan, Business Development Manager
 - Pat Farrell, Technical Support and Business Development Manager
 - Debra Kirkpatrick, Business Development Manager
 - Dale Maffescioni, Business Development Manager
 - Peter Naylor, Business Development Manager



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Key Managers

- **New South Wales - Paramatta**
 - Ben Kent, State Manger
 - Sue Torville, Officer Manager
 - Troy Davis, Technical Services Manager
 - Simon Prunster, Auction Manager
 - Ken Bond, Business Development Manager
 - Ivan Farrell, Business Development Manager
 - Emma Gatt, Business Development Manager
 - Steve Gilmore, Business Development Manager
 - David Jory, Business Development Manager
 - Naomi Malone, Business Development Manager
 - Stephen McCulloch, Business Development Manager
 - Aubrey Shea, Business Development Manager
- **New South Wales - Newcastle**
 - Nicole Sanderson, Sate Manager
 - Donna Antsey, Business Development Manager
 - Stephanie Kuzmik, Business Development Manager



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 - Simplified evaluation of supplier offers (price and non-price factors)
- Gas Tender Management
- Energy Consultancies



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EnAct Auction Reports

Bid Behaviour Report

Group: Aperio Group (Australia) Pty Ltd
 Customer: Aperio Group (Australia) Pty Ltd
 Auction: Aperio Group (Australia) Pty Ltd (QLD)
 Include: Valid, Non-Complying & Benchmark Bids
 Periods: Actual



Auction Date: 24/07/2008 Outcome Basis: Best 3 Bids
No. of Sites: 2 Commission: 1.5 %
Term: 24 months
Start Date: 1/11/2008 Green Power: 0 %
End Date: 31/10/2010 Consumption: 7,304.7 MWh
Auction ID: 02388 Scenario ID: 03900

Bid Summary:		AUBID	Retailer	Total Value Incl SECs & Fees	Ave Rate \$/MWh	Bid Time
14398	Start Price			\$615,522.42	\$84.264	
14405	ERM Power			\$596,212.92	\$81.621	10:30:14 AM
14401	Country Energy			\$533,554.18	\$73.043	10:30:19 AM
14403	ERM Power			\$505,926.48	\$69.260	10:30:35 AM
14399	AGL			\$493,193.57	\$67.517	10:38:41 AM
14467	Benchmark			\$490,649.51	\$67.169	
14406	Energy Australia			\$473,927.40	\$64.880	10:38:50 AM
14400	AGL			\$466,457.39	\$63.857	
14404	ERM Power			\$464,622.10	\$63.606	10:38:59 AM
14407	Origin Energy			\$460,074.54	\$62.983	10:40:51 AM
14402	ERM Power			\$456,846.35	\$62.541	10:41:57 AM
Bids: 11						

Bid Detail:

Bid ID	Retailer	Bid Level	Bid Accept. Date (COB)	Period Start Date	Period End Date	Consumption kWh	Weighted Average Energy Rates excluding Statutory Environmental Charges & Retailer Fees				Statutory Environmental Charges		Retailer Fees \$/Period	Est. Totals Incl. Statutory Environmental Charges & Fees	
							Peak c/kWh	Shoulder c/kWh	Off Peak c/kWh	Energy Total Excl. SECs	RECs c/kWh	GACs c/kWh		Total	Ave Rate \$/MWh
14402	ERM Power	A	30/07/2008	1/11/2008	31/10/2009	3,652,347	7.5000	0.0000	3.0000	\$211,142.66	0.2070	0.1900	\$750.00	\$228,392.47	\$61.985
				1/11/2009	31/10/2010	3,652,347	7.5000	0.0000	3.1000	\$212,537.85	0.2430	0.2270	\$750.00	\$230,453.88	\$63.097
						7,304,694	\$423,680.51						\$456,846.35	\$62.541	
14407	Origin Energy	A	30/07/2008	1/11/2008	31/10/2009	3,652,347	7.5470	0.0000	2.9460	\$211,450.12	0.2110	0.2086	\$720.00	\$227,495.37	\$62.287
				1/11/2009	31/10/2010	3,652,347	7.7200	0.0000	2.9250	\$215,062.02	0.2513	0.2086	\$720.00	\$232,579.17	\$63.679
						7,304,694	\$426,512.14						\$460,074.54	\$62.983	
14404	ERM Power	A	30/07/2008	1/11/2008	31/10/2009	3,652,347	7.5000	0.0000	2.9000	\$209,747.48	0.2070	0.1900	\$750.00	\$224,997.29	\$61.603
				1/11/2009	31/10/2010	3,652,347	7.3500	0.0000	4.0000	\$221,708.78	0.2430	0.2270	\$750.00	\$239,624.81	\$65.608
						7,304,694	\$431,456.26						\$464,622.10	\$63.606	
14400	AGL	A	30/07/2008	1/11/2008	31/10/2009	3,652,347	7.6200	0.0000	3.1140	\$215,441.76	0.2345	0.2201	\$0.00	\$232,045.34	\$63.533
				1/11/2009	31/10/2010	3,652,347	7.6200	0.0000	3.1140	\$215,441.76	0.2903	0.2291	\$0.00	\$234,412.05	\$64.181
						7,304,694	\$430,883.52						\$466,457.39	\$63.857	
14406	Energy Australia	A	31/07/2008	1/11/2008	31/10/2009	3,652,347	8.1410	0.0000	2.7426	\$222,019.85	0.1838	0.2022	\$0.00	\$236,117.90	\$64.648
				1/11/2009	31/10/2010	3,652,347	7.8900	0.0000	3.1262	\$221,706.30	0.2389	0.2020	\$0.00	\$237,809.50	\$65.111
						7,304,694	\$443,726.15						\$473,927.40	\$64.880	
14467	Benchmark	A	30/07/2008	1/11/2008	31/10/2009	3,652,347	8.4732	0.0000	2.7431	\$229,525.11	0.1816	0.1899	\$720.00	\$243,813.57	\$66.755
				1/11/2009	31/10/2010	3,652,347	8.4268	0.0000	2.8594	\$230,100.39	0.2120	0.2265	\$720.00	\$246,835.94	\$67.583

1. Consumption and demand figures included in this report are for the purposes of comparison only and are based on information provided to EnergyAction by the customer.
 2. Rates may vary from the actual rates submitted during the auction and shown on your contract if additional charges such as the Statutory Environmental Charges vary.
 3. Rates may vary from the actual rates submitted during the auction and shown on your contract due to the standardising of contract periods for the purposes of comparison.



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Online Auction

EnergyAction - Windows Internet Explorer

EnergyAction Auction Scenario: 3927 Arena Management Pty Ltd - 02:15:03 PM

Auction ends in : -00:00:03

AUCTION DUE TO END AT 02:15:00 PM

Change Status to:

Select New Status

BID STACK				
Start Price	\$1,593,986.00			
Business.Sales@truenenergy.com.a	\$1,485,256.97	SB	02:00:56 PM	REJECT
sales@ermpower.com.au	\$1,440,548.93	SB	02:01:01 PM	REJECT
Business.Sales@truenenergy.com.a	\$1,436,956.32	SB	02:01:48 PM	REJECT
Business.Sales@truenenergy.com.a	\$1,394,769.92	RJ	02:02:58 PM	REJECT
country@energysaction.com.au	\$1,385,364.54	RJ	02:13:34 PM	REJECT
tender@originenergy.com.au	\$1,378,830.17	SB	02:02:09 PM	REJECT
channelpartner@agl.com.au	\$1,345,699.44	SB	02:03:02 PM	REJECT
tender@originenergy.com.au	\$1,339,009.43	SB	02:04:34 PM	REJECT
channelpartner@agl.com.au	\$1,336,806.15	SB	02:08:12 PM	REJECT
tender@originenergy.com.au	\$1,333,330.22	SB	02:09:09 PM	REJECT

Auction Currency: AUD		Closed
Starting Price:		\$1,593,986.00
Decrement:		\$275.00
Current Bid:		\$1,333,330.22

Auction Participants	
Bids	On? Username
0/0	aurora@energysaction.com.au
0/0	business@countryenergy.com.au
0/0	iharris@energy.com.au
3/6	tender@originenergy.com.au
0/0	isoperations@truenenergy.com.au
0/0	anthony.munn@actewagl.com.au
0/3	Business.Sales@truenenergy.com.au
0/2	channelpartner@agl.com.au
0/0	National.Sales@auroraenergy.com.au
0/0	actewagl@energysaction.com.au
0/1	sales@ermpower.com.au
0/0	erm@energysaction.com.au
0/0	powerdirect@energysaction.com.au
0/0	brokersales@integral.com.au
0/0	rod@sydentent.com.au
0/0	aream@ctm.com.au
0/0	benbend@energysaction.com.au
0/0	benkent@energysaction.com.au
0/1	simonprunter@energysaction.com.au
0/0	eneravaust@energysaction.com.au
0/0	tru@energysaction.com.au
0/1	country@energysaction.com.au
0/0	origin@energysaction.com.au
0/0	integral@energysaction.com.au
0/0	agl@energysaction.com.au

Logged In Not logged in

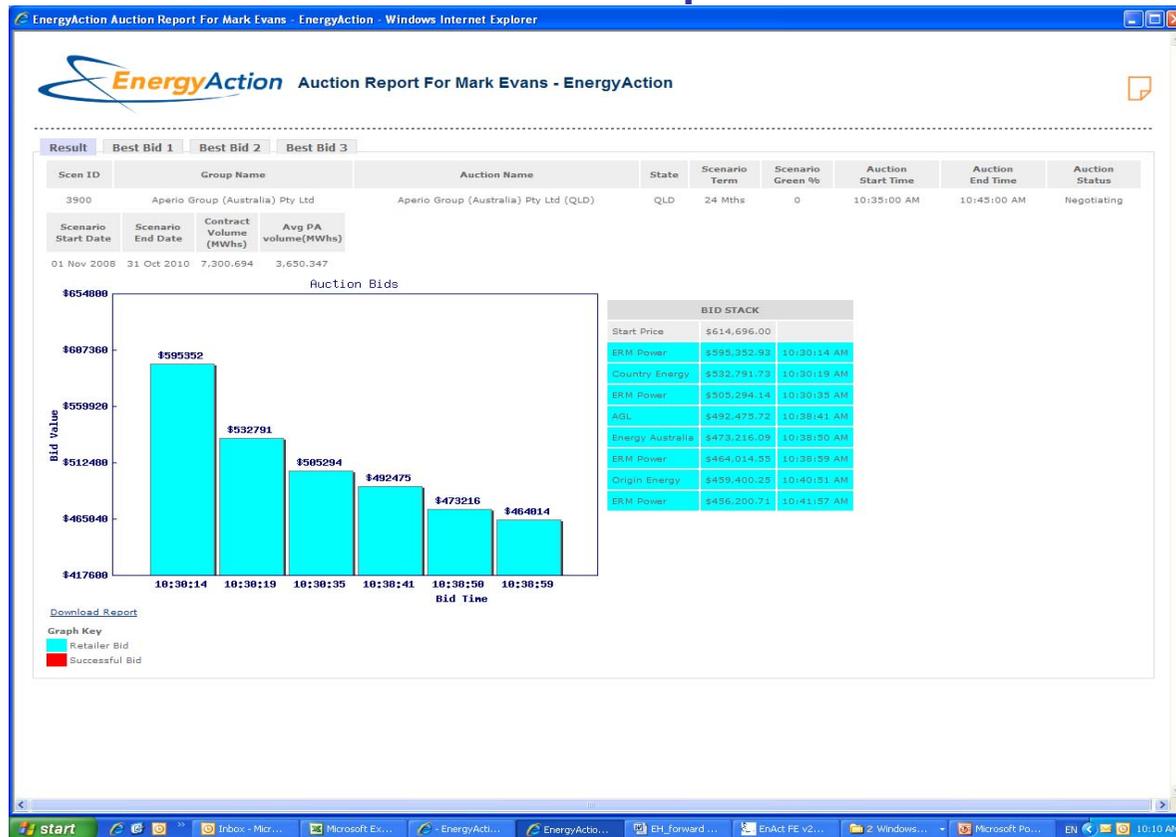
Logged in = Active on Website in last 15 minutes

start | InBox - Microso... | 3 Internet Ex... | Microsoft Excel... | EnAct FE v2.04... | Sodexho - West... | Simon | Microsoft Power... | EN | 2:50 PM



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Online Auction Reports



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 - Greenhouse gas emissions reporting
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Active Energy Management Report - Summary

Summary Report – ADI MUNITIONS

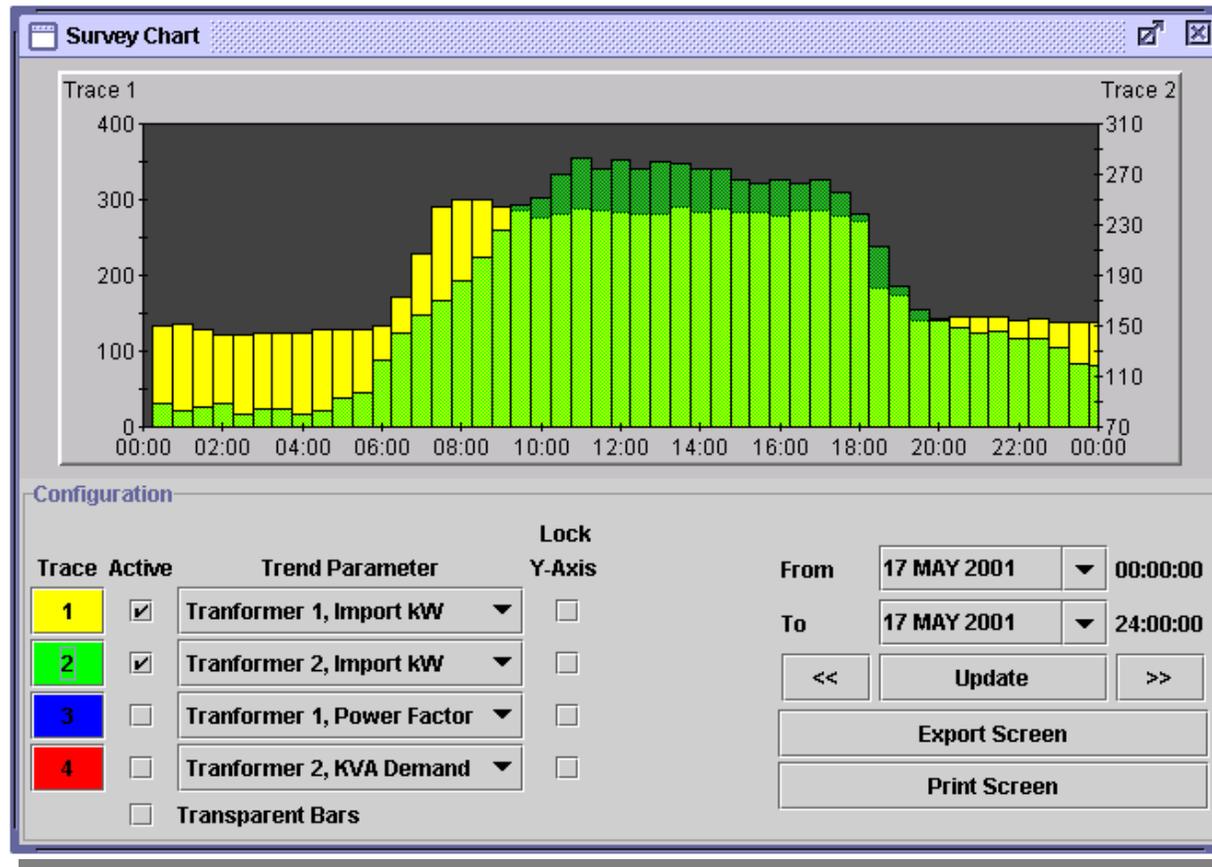
Site Details			Account:		
ADI MUNITIONS PTY LTD YARRAWONGA RD, BENALLA			NMI: VBBB000054-1		
Summary Report: From: 01-Dec-2004 To: 31-Dec-2004 31 days			(All times at GMT+10:00)		
Energy Summary kWh		Demand Summary kVA pf		Indicative Bill Summary \$	
Peak:	540,496 69%	09/12/04 10:00	4,208 0.92	Retail :	35,108 35%
Shoulders:	0 0%	09/12/04 10:30	4,079 0.92	Network :	64,479 64%
OffPeak:	238,840 31%	07/12/04 08:00	4,037 0.94	Service :	1,349 1%
Total:	779,335 100%	07/12/04 07:30	3,971 0.94	Total:	100,936 100%

Average Load: 506 kVA
Max Demand: 09/12/04 10:00 4,208 kVA

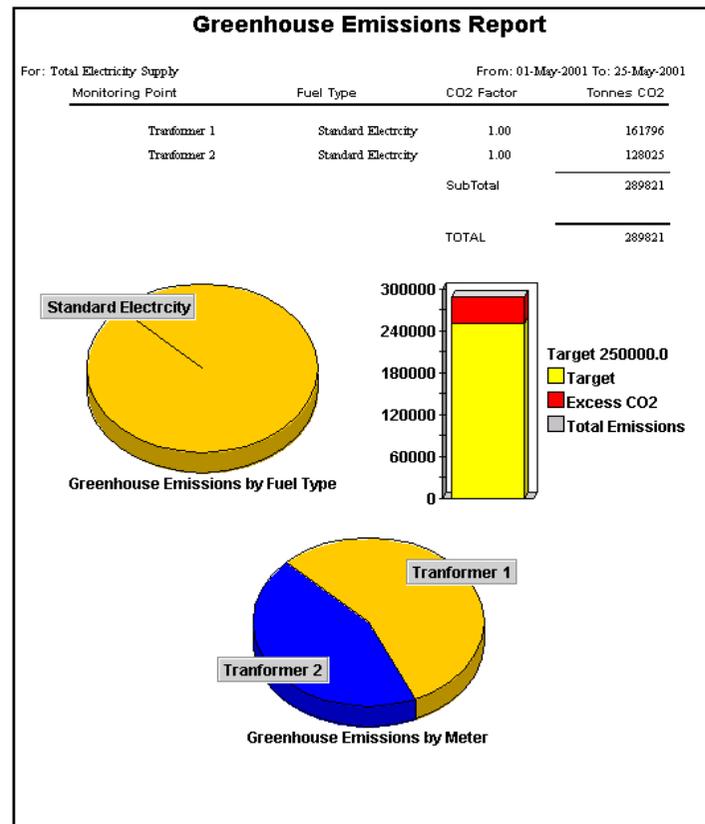
Average Daily Consumption: 22,159 kWh
Max Daily Consumption: 15/12/04 42,116 kWh



Active Energy Management Report - Energy Monitoring



Active Energy Management Report – Greenhouse Emissions





The Sustainable Energy Service

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- Co-generation
- Energy audits
- Energy efficiency
- EEO project management and reporting
- NGERS project management and reporting
- Power factor
- Sub-Metering



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EnergyAction Tools

- **EnAct** – General business system which handles all customer data, auction data, auction and action reporting and sub-ledger management
- **EnGauge** – Data repository for all consumption and temperature information which is reported to customers on a daily basis
- **EnAuct** – Online auction system



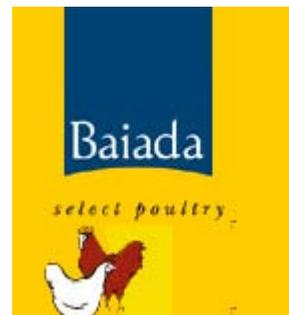
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Some Clients – Auction



Australian Government
Department of the
Environment and Heritage
Australian Greenhouse Office



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Some Clients – Action



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Key Partners



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Strengths

- Transparency and objectivity
- Commercial culture in a non-commercial market
- Lean, focused business with a diversified business model, good margins and good growth potential
- Industry-savvy staff who work well together
- Continuity of Board and Management
- Complementarity of Action and Auction and sustainability services and processes
- Strong financial management and governance skills
- Good annuity cash streams and few credit risks
- Independent and not aligned with any single retailer
- Strong relationship with major utilities
- Works with all retailers in Auction
- Works with any business in Action, Auction and Sustainable Energy
- Long-term relationships with key retailers and business customers
- Ideally placed to advise on emerging energy options



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Heritage Reference Committee

Notes of 17 May 2010 Chambers

Meeting Commenced 6.30 pm

Attendance:

Councillor Jennifer Anderson (Chair)
Councillor Cheryl Szatow
Ian Stutchbury
Robert Moore – National Trust
Zeny Edwards

Staff Members:

Manager Urban & Heritage Planning - Antony Fabbro
Heritage Adviser - Paul Dignam
Heritage Specialist Planner - Andreana Kennedy
Heritage Student Planner - Lara Goldstein

Apologies:

Jennifer Harvey- Ku-ring-gai Historical Society
Joanne Martens
Margaret Bergomi

Declarations of Interest

None.

Adoption of notes from the previous meeting

The notes from the 19 April 2010 Heritage Reference Committee meeting were accepted by the committee as being correct.

Agenda Item 1: 9-15 Harrington Avenue, Warrawee

The house known as Peroomba has been assessed by the consultants Clive Lucas Stapleton and Partners. Their assessment recommends the house be heritage listed. Council's Heritage Advisor and Heritage Specialist Planner addressed the committee regarding options for protecting the house. Suggestions included applying to the Minister for Planning for an Interim Heritage Order or submitting a planning proposal to include the property on the local heritage list.

Action:

Council should pursue all actions necessary to obtain an Interim Heritage Order and have the property included in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance (KPSO).

Agenda Item 2: Pathway naming of Montys Walk, St Ives

A local resident has requested the pathway running between Gowrie Close and Mona Vale Road in St Ives, be renamed Montys Walk after a former resident of the area.

The Heritage Reference Committee will wait for further information from Council staff before submitting their recommendation.

Agenda Item 3: St Ives Showground Aboriginal Heritage

The Heritage Reference Committee discussed the potential for Aboriginal heritage at the St Ives Showground and Precinct.

Recommendation:

It is the recommendation of the Heritage Reference Committee that Council undertakes a full survey of Aboriginal heritage at the St Ives Showground and Precinct prior to approving any development.

Agenda Item 4: 1536 Pacific Highway, Wahroonga

The Heritage Reference Committee discussed the possibility of leasing part of the Council owned land at 1536 Pacific Highway to the neighbouring School of Philosophy situated within the State listed curtilage of Mahratta.

Council's Manager of Heritage and Urban Planning is to find out the legislative restrictions on the land and what the definitive position of Council was at the time of acquisition.

Agenda Item 5: St Ives Village Green Adopted Masterplan – Heritage

The Heritage Reference Committee discussed the heritage implications of the St Ives Village Green Masterplan. The Heritage Reference Committee will consider the issue further when more detailed plans for the site are made available and placed on public exhibition.

General Business

- A new Tulkian Heritage House Committee is to be established, separate to the Heritage Reference Committee. Members will include Councillor Cheryl Szatow as Chairperson. The Heritage Reference Committee will continue to be the reference committee for Tulkian until the new committee is formed.
- The Heritage Reference Committee discussed the Tulkian Interpretive Space tender.
- The Heritage Reference Committee discussed Heritage Tourism in Ku-ring-gai. Possible sub-committee to be set-up. Discussions about heritage tourism will be deferred until a Tourism Officer is appointed to Council staff.
- The Heritage Reference Committee discussed the draft Ku-ring-gai Public Domain Plan that has been exhibited. The next Heritage Reference Committee meeting will include a presentation on options for street furniture.

- Council's Heritage Specialist Planner updated the committee on the Heritage Conservation Area review.
- Zeny Edwards addressed the committee with an update on the Fig trees at Wahroonga Station. The RTA held a public information day - all people who attended were against the trees removal, however, this was not enough to sway the RTA from their decision to remove the Fig trees and replace them with Blueberry Ash trees.

Meeting Closed: 8.55 pm

DRAFT UNSTRUCTURED RECREATION STRATEGY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To place on public exhibition the draft Unstructured Recreation Strategy.

BACKGROUND:

Council's bushland reserves are used for a variety of purposes many of which are incorporated into the Bushland Plan of Management and other policies. However, past discussions with Council's advisory committees, users and other stakeholders have identified a need to provide greater policy structure as to how Council should manage the various uses and expectations against its environmental and social obligations.

COMMENTS:

The draft unstructured recreation in bushland strategy seeks to support a range of recreational activities in bushland. In doing so, it seeks to balance the need to protect and preserve environmental sensitive areas, ensure the safety of other users and engender an appreciation of the local bushland. Consultation on the draft strategy is expected to generate debate as to the appropriateness of certain uses. This process should be seen as an opportunity to engage with traditional and newer recreation groups that enables more sustainable use and management of this reserve.

RECOMMENDATION:

That the draft Unstructured Recreation Strategy be placed on public exhibition for a period of 28 days inviting comments, following which a further report to be returned to Council for consideration.

PURPOSE OF REPORT

To place on public exhibition the draft Unstructured Recreation Strategy.

BACKGROUND

Council has a number of policies and strategies that relate to the management of its bushland reserves and the activities therein. These include:

- *Ku-ring-gai Bushland Reserves Plan of Management 2009* (and associated *Operational Plan*)
- *People, Parks and Bushland: Open Space Strategy for Ku-ring-gai 2005*
- *Council's Policy for the Management of Community and Recreation Land and Facilities 2010*
- *Recreation in Natural Areas Policy 2001*
- *Recreational Trail Guidelines 2005*
- *Integrated Transport Strategy 2010 (Draft)*
- *Draft Ku-ring-gai Contributions Plan 2009 (Exhibition Draft - This is the version exhibited from 16.12.09-01.02.10)*
- *Biodiversity Strategy 2006*
- *Fire Strategy 2009*

Whilst the above documents recognise the various bushland reserves and the assets within support a range of recreation activities, they do not provide a specific direction for such activities in terms of their environmental impact, how such recreational activities may complement or compromise other users and how Council can best plan for and enable future uses within its bushland reserve system.

COMMENTS

The draft Unstructured Recreation Strategy (**Attached**) has been developed with the following aims:

- to address current and future unstructured recreational activities undertaken within community land, particularly within the Ku-ring-gai Bushland Reserve System;
- to facilitate planning of key infrastructure which is not addressed by the Open Space Strategy;
- to provide clear restrictions, permissible uses and guidelines for these activities, including the responsibilities of different user groups when utilising shared or multiple use facilities; and
- to provide guidance to bushland management and booking processes for relevant activities.

Recreational activities referred to in the document include:

- bushwalking;
- dog walking;
- rock climbing, bouldering and abseiling;

Item 8

S06520
28 July 2010

- mountain biking and BMX riding;
- orienteering, rogaining;
- bird watching;
- running, jogging;
- horse riding;
- Scouts, Girl Guides;
- picnics, barbeques;
- disabled accessible recreation; and
- bush regeneration, *Bushcare* activities.

Within each of the activities, the draft strategy has outlined the current and proposed use and how such activities should be undertaken, for example with reference to relevant guidelines or standards. As part of the analysis for the use of bushland reserve systems, considerable attention has been given to the impact of various recreation types that are or are perceived to have impact and conflict with traditional users and bushwalkers. This has reflected on the effectiveness or not of the current regulatory approach and in many cases has sought to recommend a compromise in use that balances social and environmental consideration. For example, rock climbing and abseiling has occurred at Cliff Oval for many years and would likely continue, irrespective of any proposed prohibition. In this context, specific management actions such as restricting access to certain areas that contain important vegetation and clearly delineating access points, will more likely result in positive behaviours that may also manifest into long term appreciation of the local bushland environment.

CONSULTATION

The draft strategy has been developed in co-operation with various user groups and has sought to provide an appropriate balance between a number of recreation activities, the need to manage the natural systems and bushland ecology, as well as providing pragmatic recommendations such that Council and users can manage the areas co-operatively.

As part of the consultation process for the draft strategy, the document will be placed on exhibition via the traditional methods such as council's website. In addition user groups and local residents near to or with interest in proposed designated areas for higher profile activities such as mountain bike riding and rock climbing will be contacted. Additionally, consultation with clubs regarding the booking, behaviours and the development of codes of practices will be raised.

A working copy of the draft was also discussed at the Bushland sub-committee of the Open Space Reference Committee on 29 June 2010. Input from this group included support of the draft Unstructured Recreation Strategy.

FINANCIAL CONSIDERATIONS

As this is a draft strategy for consultation, there are no direct financial considerations to Council. However should Council adopt this or a modified version of the strategy in the future, consideration will need to be given to the signage, notification, regulation, education and maintenance of facilities. As part of this, funding strategies for this will need to be developed. These would incorporate sponsorships, donations, other government grants, the granting of formal leases as well as council's own resources.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report and draft strategy was prepared by the Corporate Planning & Sustainability section of the Strategy & Environment Department in co-operation with the Bookings and Bushland Operations sections of Council. During the exhibition period further discussions between staff in the Operations and Strategy & Environment Departments will be conducted to determine the current and future status of down-hill off-road cycling.

SUMMARY

The draft Unstructured Recreational Strategy has sought to recognise the various unstructured recreation activities that occur within Council's bushland reserves. In doing so it has sought to provide strategic and pragmatic recommendations as to the location and extent of various recreational activities. It has considered the impacts of existing activities and how Council can work co-operatively rather than in a regulatory manner to better manage its bushland reserve systems. Implicit to this approach is the need for user groups and the community as a whole to accept a greater ownership and appreciation of Council's and other bushland reserve systems. As part of the proposed consultation process, staff will engage with a range of users and stakeholders with the intention of providing a revised strategy later in 2010 for the consideration of Council.

RECOMMENDATION

- A. That Council place the draft Unstructured Recreation Strategy on public exhibition for a period of 28 days inviting comments, in accordance with the consultation plan as outlined in the report.
- B. That a revised draft Unstructured Recreational Strategy be brought back to Council for further consideration by October 2010.

Mary-Lou Lewis
**Natural Areas & Environmental
Levy Program Leader**

Peter Davies
**Manager Corporate Planning
& Sustainability**

Andrew Watson
**Director Strategy &
Environment**

Attachments: Draft Unstructured Recreation Strategy - 2010/135393

Draft Unstructured Recreational Strategy for the Ku-ring-gai community land

July 2010



Contents

<i>Definitions</i>	2
<i>Background</i>	2
<i>Council's Role</i>	3
<i>Introduction</i>	4
<i>Ku-ring-gai's Natural Areas</i>	4
<i>Ku-ring-gai's Population</i>	5
<i>Planning Principles</i>	6
<i>Council Plans and Strategies</i>	7
<i>Activities undertaken in bushland reserves</i>	7
Bush Walking	7
Dog Walking	9
Rock Climbing, Bouldering and Abseiling	11
Mountain Biking / BMX	13
Orienteering / Rogaining	17
Bird Watching	17
Running / Jogging	19
Horse Riding	20
Scouts and Girl Guides	21
Picnics, Barbeques, etc	21
Disabled Accessible Recreation	22
Bush Regeneration / Bushcare Activities	23
<i>Prohibited activities</i>	24
<i>Appendix 1: Maps of Relevant Areas</i>	25
Bushland tracks of Ku-ring-gai	26
Cliff Oval Rock climbing site	27
Lindfield rock climbing site	27
Golden Jubilee and Clissold Road trails	29
Grosvenor Street track	30
<i>Appendix 2: List Of User Groups</i>	
<i>Appendix 3: General Code Of Conduct – Recreational Activities In Natural Areas</i>	32
<i>Appendix 3: Bushwalking In Natural Areas</i>	34
<i>Appendix 3: Rock climbing & abseiling in natural areas</i>	37
<i>Appendix 3: Orienteering/Rogaining In Natural Areas</i>	40
	45

Definitions

<i>Fire trails:</i>	primarily designed for access purposes by fire fighting and maintenance vehicles are subject to a rotating maintenance program.
<i>Maintained walking tracks:</i>	designed for bushland access on foot. These tracks have a rotating maintenance program undertaken by Ku-ring-gai Council.
<i>Informal walking tracks:</i>	which have developed through public use and have not been designed or constructed by Council staff. Usually referred to as desire lines. These tracks are not maintained and Council or other Government agencies may authorise their closure if proven not to be in a suitable place; there is a need to rehabilitate; presence of threatened species; active erosion occurs or due to retirement of a public asset.
<i>Designated escarpment:</i>	a rock outcrop specifically identified by Council where recreational activities such as rock climbing and abseiling are permitted and managed to ensure minimal impact on the surrounding environment.
<i>Single track:</i>	a mountain biking term used to describe a narrow trail that is only wide enough to be ridden in single file. Single track is regarded as the most popular or sought after type of mountain bike trail.
<i>Downhill:</i>	a mountain biking term referring to a course or style of riding characterised by steep descents and technical terrain which is usually negotiated at considerable speed.
<i>Shared Track :</i>	an access track that provides for more than one type of use, which includes vehicles, pedestrians, dog walkers, joggers and cyclists. Sometimes referred to as multi-use track.

Background

Unstructured recreation is defined as those activities undertaken for leisure, often outside of an organised club or school structure and usually practised on a non-competitive basis.

The Unstructured Recreational Strategy applies to land either owned or managed by Council and dedicated and classified as community land under the Local Government Act 1993. Whilst the strategy focuses on land classified as bushland, a small number of activities have been identified as occurring within other community land classifications.

The strategy was developed to meet the following aims and to:

- address current and future unstructured recreational activities undertaken within community land, particularly within the Ku-ring-gai Bushland Reserve System;
- facilitate planning by addressing key infrastructure within the council area, which is not addressed by the Open Space Strategy;
- provide clear restrictions, permissible uses and guidelines for these activities, including the responsibilities of different user groups when utilising shared or multiple use facilities;
- provide guidance to bushland management and booking processes for relevant activities.

The strategy seeks to respond to predicted increases of recreational activity in bushland areas and to encompass selected activities including:

- bushwalking;
- dog walking;
- rock climbing, bouldering and abseiling;
- mountain biking and BMX riding;
- orienteering, rogaining;
- bird watching;
- running, jogging;
- horse riding;
- Scouts, Girl Guides;
- picnics, barbeques;
- disabled accessible recreation; and
- bush regeneration and bushcare activities.

Whilst not addressed in detail, the strategy is also applicable to other recreational activities that may be undertaken within Council's Bushland areas.

This document has been developed to supplement the Recreation in Natural Areas Policy (2001), and complements People, Parks and Bushland, Open Space Strategy for Ku-ring-gai (2005) and Ku-ring-gai Bushland Reserves Plan of Management (2009).

Council's Role

- To provide a range of facilities amenable to the pursuit of a variety of bushland recreational activities in a safe and environmentally sensitive manner.
- To provide facilities distributed throughout the Local Government Area to afford optimal amenity to residents.
- To develop facilities such as walking tracks and cycle networks in an integrated manner with neighbouring jurisdictions.

Introduction¹

Effective promotion of outdoor recreational activities benefits both individuals and the wider community by improving physical and mental health (with associated economic benefits), facilitating social networks, providing cultural development and bringing people closer to their natural environment.

The effective promotion of unstructured recreational pursuits in a natural environment assists children and adults in developing an appreciation, an understanding and a valuing of the environment. The early acquisition of such formative values increases the likelihood of such values being sustained through adulthood and throughout life. Active recreation has been proven to contribute substantially to an individual's quality of life and their ability to engage with the community within group activities.

The Ku-ring-gai bushland provides an ideal venue for local schools to develop their outdoor education programs in a stimulating and challenging environment. There is scope for the incorporation of sporting activities as orienteering, rock climbing or mountain biking, as well as offering a venue for practical classes in subjects such as Biology or Earth and Environmental Science.

Ku-ring-gai's Natural Areas²

Ku-ring-gai local government area has a generous supply of environmentally significant open space. Specifically, it comprises nearly 4 000 hectares of bushland, with 2 800 hectares within the three national parks and one nature reserve managed by the Department of Environment, Climate Change and Water, and 1 100 hectares in 120 Council managed reserves, including the Ku-ring-gai Wildflower Garden.

The largest bushland reserves under Council management are contiguous with either Ku-ring-gai Chase, Lane Cove or Garigal National Park, while some reserves share boundaries with bushland areas managed by neighbouring councils eg. Hornsby on the northern and western boundaries and Warringah to the east.

Not only does this afford many recreational users, bushwalkers and mountain bikers a greater degree of amenity, it also attracts users from beyond the Ku-ring-gai residential area. Residents and visitors can readily experience a range of animal habitats, non-invasively, for nature-based recreation activities within the Ku-ring-gai local government area.

This expansive continuity of bushland in northern Sydney also requires management and planning of recreational facilities be approached with some degree of integration between stakeholders.

Collectively, the bushland reserves in the local government area incorporate a diversity of natural areas, including forests and woodlands, creek lines, rivers and estuarine wetlands. The local vegetation includes five Critically Endangered or Endangered Ecological Communities; Blue Gum High Forest, Sydney Turpentine-Ironbark Forest, Duffys Forest, Estuarine Fringe Forest - Swamp Oak Floodplain Forest and Estuarine Salt Marsh, which are listed under the NSW Threatened Species Conservation Act 1995 and/or the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999.

With the majority of Ku-ring-gai's bushland reserves distributed along steep, sandstone gullies, vulnerable to erosion, the impacts of recreational use and the associated development of recreational facilities must be satisfactorily assessed, addressed, planned for and managed.

Ku-ring-gai's population³

¹ Government of Western Australian Department of Sport and Recreation 2009. *Benefits of Physical Activity*.

University of Essex 2009. *Nature, Childhood, Health and Life Pathways*.

<http://www.essex.ac.uk/ces/occasionalpapers/Nature%20Childhood%20and%20Health%20iCES%20Occ%20Paper%202009-2%20FINAL.pdf>

² Ku-ring-gai Council 2005. *People, Parks and Bushland, Open Space Strategy for Ku-ring-gai*.

Ku-ring-gai's population in 2009 was 111 400, representing a rise of 2.57% on the previous year. The population is projected to increase significantly with the anticipated construction of nearly 10 000 new medium to high density dwellings by 2031 in St Ives, and along the "rail corridor" suburbs from Wahroonga to Roseville.

Sustained population growth both within Ku-ring-gai's municipal boundaries and in neighbouring municipal areas will ensure an ongoing demand for access to Ku-ring-gai's bushland areas for recreational pursuits.

A greater supply of high density dwellings is expected to attract couple families without children and lone occupants, groups who may be afforded the opportunity of more recreational time.

During the last census period, 2001 to 2006, Ku-ring-gai's population has experienced a significant growth in numbers of residents aged over 60 years with this trend projected to continue into the future, more recent participation rates in older demographic groups suggests that older people are remaining physically active. This is often reflected in the memberships of local bushwalking clubs which often comprise of significant proportions of retired individuals.

Despite a general aging of Ku-ring-gai's population, the typical Ku-ring-gai household is expected to remain a family with children, similarly a demographic group to which bushland recreation would hold high appeal.

Additionally, with substantial expansion of medium to high density residential development within the Ku-ring-gai Local Government Area and a tendency for new single dwelling housing to occupy a larger "footprint" on the residential block, bushland and parkland will more frequently become the "backyard" to a greater number of residents.

³ Hornsby Shire Council 2010. *Unstructured Recreation Strategy Volume 1*.

Ku-ring-gai Council 2008. *Ku-ring-gai Development and Demographic Forecasts*.

Ku-ring-gai Council 2009. *Ku-ring-gai Metropolitan Development Program*.

Standing Committee on Recreation and Sport 2005. *Participation in Exercise, Recreation and Sport – Annual Report*.

Planning Principles

Facilities should be designed to:

- ensure the development and management is conducted in accordance with sustainable principles;
- encourage a positive experience with the natural environment;
- minimise impacts on the environment and avoid impact on sensitive environments;
- ensure that the risk of using the facility is managed and minimised;
- link to other trails where possible to expand recreational opportunities;
- provide access to popular destinations;
- provide for a range of recreational opportunities;
- give people opportunity to experience a natural environment;
- meet and manage the recreational demand for trails, within the land use and environmental constraints;
- avoid conflict between user groups;
- consider ongoing maintenance costs;
- provide opportunities for skill development; and
- promote and encourage appropriate user behaviour.

Council Plans and Strategies

- Ku-ring-gai Bushland Reserves Plan of Management 2009 (and associated Operational Plan)
- People, Parks and Bushland: Open Space Strategy for Ku-ring-gai 2005
- Council's Policy for the Management of Community and Recreation Land and Facilities 2010
- Recreation in Natural Areas Policy 2001
- Recreational Trail Guidelines 2005
- Integrated Transport Strategy 2010 (Draft)
- Draft Ku-ring-gai Contributions Plan 2009 (Exhibition Draft - This is the version exhibited from 161209-010210)
- Biodiversity Strategy 2006
- Fire Strategy 2009

Activities Undertaken in Bushland Reserves

Guidelines and Restrictions

For general guidelines and restrictions for all activities refer to:

General Code of Conduct – Recreational Activities in Natural Areas (Draft) (Ku-ring-gai Council 2010).

Bush Walking

Current Usage

Ku-ring-gai bushland reserves offer a wealth of opportunities for active and passive recreation, focused around the use and access provided by various trails. There are currently approximately 48.5 km of fire or service trails and 61.8 km of formal constructed walking trails in bushland areas, as part of 25 planned routes. In addition, there are many hundreds of kilometres of informal routes linking established trails in bushland.

The following series of maps of all Ku-ring-gai's walking tracks and trails has been developed by STEP Inc. (South Turramurra Environmental Protection group) and is available from Ku-ring-gai Council or www.step.org.au/maps.htm.

Walking Tracks of Middle Harbour Valley & Northern Sydney Harbour Foreshore, Sheets 1 & 2, Bungaroo and Roseville Bridge;
Walking Tracks of Middle Harbour Valley & Northern Sydney Harbour Foreshore, Sheets 3 & 4, Northbridge and North Harbour;
Walking Tracks of Lane Cove Valley.

Council currently maintains and signposts formal walking tracks referred to in this document as maintained tracks and fire trails only.

Major walking trails include:

- The STEP Track in South Turramurra.
- Mueller Track and others within the Ku-ring-gai Wildflower Garden.
- Sheldon Forest track in Pymble.
- Two Creeks track in Middle Harbour.
- Sections of the Great North Walk (Sydney to Newcastle).
- Sections of the Harbour to Hawkesbury Walk (Manly to Berowra).

Established annual community events include the Great NOSH Footrace in June, Jabulani Challenge in July and Oxfam Trailwalker in August. These events attract large and significant numbers of walkers. Participants are restricted to a designated course over an established time frame on specific key dates.

Council provides the opportunity for the public to participate in scheduled walks through its Walks and Talks program, as well as activities at the Ku-ring-gai Wildflower Garden.

The Local Environmental Conservation group STEP, Sydney Bushwalkers, Warringah Bushwalking Club, Ku-ring-gai Bushwalking Activity and Social Group, Sydney Bushwalks, Newington Leisure Walkers (affiliated with Dept of Sport and Recreation), the Wanderers Bushwalking Group, the National Parks Association of NSW and various Scout, Cub and Girl Guide groups also undertake bushwalks in the Ku-ring-gai Local Government Area.

Prescribed Actions for Facilitation of Bush Walking Activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
1) Field validation/ review Council GIS mapping to increase accuracy. to maintained and informal tracks and trails	GIS Mapping Update	Not planned	Strategy and Environment	Environmental Levy Program Leader
				Environment Officer
			Operations	Bushland Maintenance Supervisor
			Communications	Manager Communications
			Public	Club representatives
2) Provision of new walking tracks as identified Fire trail and walking track 10 year plan (including tracks listed in Appendix 1)	Track construction	Not planned	Operations	Bushland Maintenance Supervisor
			Strategy and Environment	Manager Corporate Planning & Sustainability
3) Development of an integrated fire trail/walking track network, including: 4) Categorise walking tracks - identifying gaps in established network - assessment of selected informal walking tracks to gauge current use and suitability to upgrade to a formal walking tracks - linking trails and tracks both within and external to Council boundaries - provide trail circuits as satellites off main long distance trails - providing optimal functionality for to all user groups.	Fire trail and walking track 10 year plan	2010 /11	Strategy and Environment	Team Leader Natural Areas
				Environmental Levy Program Leader
			Operations	Bushland Maintenance Supervisor
5) Development and distribution of Ku-ring-gai Walking Track maps. (both Maintained and informal tracks) Maps to include interpretive material, e.g. information on and illustrations/photos of flora, fauna, cultural heritage, urban parks with designated dog "off-leash" facilities etc. Another map for class 3 not maintained	- Maps - Signs - GIS Mapping Update	Not planned.	Strategy and Environment	Environmental Levy Program Leader
				Environment Officer
			Operations	Bushland Maintenance Supervisor
			Communications	Manager Communications
			Public	Club representatives
6) Provision of improved orientation signage on shared trails and tracks, particularly at trail junctions and trailheads.	Signs	Not Planned	Operations	Bushland Maintenance Supervisor
			Strategy and Environment	Environmental Levy Program Leader
Promote awareness of obligations under Code of Conduct. Through booked activities and user group engagement.	- Promotion - booked activities	2010/ongoing	Strategy and Environment	Sports & Recreation Planner
				Environment Officer
			Community	Property Manager

Guidelines and Restrictions

Refer to: Code of Conduct - Bushwalking in Natural Areas (Draft) (Ku-ring-gai Council 2010).

References:

Ku-ring-gai Council 2005. *People, Parks and Bushland, Open Space Strategy for Ku-ring-gai.*

Ku-ring-gai Council 2009. *Ku-ring-gai Bushland Reserves Plan of Management.*

Dog Walking

Current Usage

Ku-ring-gai Council has experienced a consistent rise in the number of dog registrations in recent years, with approximately 11,600 in 2006/7 to over 16,000 in 2008/9.

Ku-ring-gai's bushland provides several attractive locations for residents to exercise their dogs, with fire trails and maintained walking tracks all used to varying extents.

Popular dog walking trails include the Grosvenor Road to Gwydir Avenue fire trails and the Upper Lane Cove River Valley fire trails accessed via the Canoon Road and Kissing Point Road trailheads and from Pennant Hills Park.

Nature reserves and wild life refuges, plus informal walking tracks are not permitted for dog walking of any kind. These include the Wild Flower Garden in St Ives, Browns Forest in St Ives and The Flying Fox Reserve on Gordon

Dogs are regularly walked both "on-leash" and "off-leash" on these and other trails, often contrary to Council requirements. A proportion of dog owners are likely to continue to exhibit a lack of compliance with regard to dogs being required to be "on-leash" in bushland areas, perceiving the practice to be both behaviourally and socially enriching for their dogs and the environment to be safe and traffic-free. Unauthorised off-leash walking of dogs has both adverse social (eg. impairing safety of, or enjoyment by, other trail users) and environmental impacts (eg. harassment or displacement of wildlife, impacts of faecal phosphate loads on native vegetation).

Recommendations for Continued Use

Development of an integrated trail network with convenient access points available from residential areas to fire trails. This may require assessment of some informal walking tracks to gauge current use and suitability to upgrade to a formal walking track.

Prescribed Actions for Facilitation of Dog Walking Activities

For the development of an integrated trail network, *see table overleaf ...*

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
7) Installation and enforcement of regulatory signage at key track and trail heads indicating: - Dog owner obligations regarding necessity to keep dog on-leash, appropriate collection and disposal of dog faeces. - Penalties for non-compliance. - Education regarding necessity of compliance to dog rules (e.g. potential conflict with other trail users, impacts on wildlife, impact of phosphates on native vegetation, etc.)	Sign creation	2010 ongoing	Strategy and Environment	Sports & Recreation Planner
				Environmental Levy Program Leader
	Sign instillation		Operations	Bushland Maintenance Supervisor Building Trades Coordinator
	Signs enforcement		Development and Regulation	Manager - Regulations & Compliance
Development and distribution of Ku-ring-gai Walking Track and Fire Trail maps (as outlined within Action 2) (to public and staff) showing urban parks with designated DOG "off-leash" facilities.	Maps	Not Planned	Strategy and Environment	Environment Officer
				Sports & Recreation Planner
8) Education and awareness campaigns focusing on "Picking up after your Pet".	- Displays, - Signs, - Dog Day Out, - Banners	Ongoing	Strategy and Environment	Environment Officer
			Development and Regulation	Manager - Regulations & Compliance
			Communications	Manager Communications
Promote awareness of obligations under Code of Conduct. Through booked activities and user group engagement.	- Promotion, - Lease and licensing, booked activities	Ongoing	Strategy and Environment	Sports & Recreation Planner
				Environment Officer
			Community	Property Manager

Guidelines and Restrictions

Dogs are prohibited in the Council's Wildlife Protection Areas and Conservation Areas including Ku-ring-gai Flying-fox Reserve and Brown's Forest as well as the Ku-ring-gai Wildflower Garden.

Walking of dogs on-leash is permitted on formal walking tracks and fire trails.

Dogs must be kept under effective control by means of a leash, chain or similar.

Dog owners are responsible for the prompt removal and appropriate disposal of their dog's faeces deposited in public areas.

Owners are required to carry a plastic bag with them at all times, even if they have already cleaned up and disposed of dog's faeces.

Guidelines in place for bushwalking activities as outlined in Code of Conduct - Bushwalking in Natural Areas (Draft) (Ku-ring-gai Council 2010) are applicable.

Reference:

Companion Animals Act, 1998

Rock Climbing, Bouldering and Abseiling

Current Usage

Cliff Oval, Wahroonga and Lindfield Rocks (Soldiers Memorial Park), East Lindfield provide the principle sites utilised for rock climbing, bouldering and abseiling within the Ku-ring-gai local government area. These areas have been specifically categorised as Designated Escarpments for these activities.

Maps of the Cliff Oval and Lindfield Rocks climbing sites are contained in Appendix 1.

Less frequently used climbing sites include Darnley Oval at East Gordon, the disused quarry (Stone Mason's Forest) located just off Kalang Avenue in Killara, Blackbutt Creek behind Allen Park, West Lindfield and Seven Little Australians Park at Lindfield. Bolting activities have been undertaken at some of these sites.

With neighbouring jurisdictions either prohibiting adventure recreation activities (Ku-ring-gai Chase, Lane Cove and Garigal National Parks) or providing limited suitable sites (eg. Willoughby Council) for rock climbing, bouldering or abseiling, the designated sites within the Ku-ring-gai Local Government Area provide a valued public amenity for outdoor recreation.

The currently undesignated Ku-ring-gai sites have long been used by participants in these activities and, given their suitability and popularity, are likely to continue to attract usage well into the future.

Climbing and abseiling activities at Cliff Oval and Lindfield Rocks are currently pursued by clubs, schools and commercial groups. A significant proportion of those undertaking recreational climbing, bouldering or abseiling activities at these sites are private individuals and, as such, are not aligned with any commercial group.

Prescribed Actions for Facilitation of Rock Climbing, Bouldering and Abseiling Activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
9) Designation of "Designated Escarpments" (these are approved rock climbing / bouldering /abseiling sites: - Cliff Oval - Lindfield rocks	Outdoor recreation	2010	Strategy and Environment	Team Leader Natural Areas
			Operations	Environmental Levy Program Leader Bushland Maintenance Supervisor
10) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under Code of Conduct.	- Promotion - booked activities	2010/ ongoing	Community	Property Manager
			Strategy and Environment	Environmental Levy Program Leader Consultation Co-ordinator
11) Identification and assessment of non-designated climbing area to gauge suitability for future classification as Designated Escarpments.	Audit of climbing sites 10 year plan	2011/2012	Strategy and Environment	Sports & Recreation Planner Team Leader Natural Areas and Operations and community
			Strategy and Environment	Environmental Levy Program Leader
12) Create and install interpretive signs for appropriate use of site including code of conducts created for rock climbing rograding and boldering			Strategy and Environment	Environmental Levy Program Leader
			Operations	Bushland Maintenance Supervisor

13) Promotion and enforcement of safe and environmentally sensitive use of climbing activities at Designated Escarpments, through production of user friendly pamphlets from Code of Conduct, sent to: - Local schools as part of Outdoor Recreation programs - university and other climbing groups / clubs - Scout and Guide groups - Climbing community through local outdoor stores and climbing gyms.	Community Consultation Promotion	Not planned	Strategy and Environment Add enforcement Add bookings	Consultation Coordinator remove
				Sports & Recreation Planner
	2012	Community	Environmental Levy Program Leader	
			Manager Communications	

Guidelines and Restrictions

Refer to *Code of Conduct - Rock Climbing & Abseiling in Natural Areas (Draft) (Ku-ring-gai Council 2010)*.

References:

Ku-ring-gai Council, 2008. *Risk Assessment of Climbing Activities at Cliff Oval*

NSW Department of Environment and Climate Change website

<http://www.environment.nsw.gov.au/parks/RegionSydney.htm>

Sun, Surf and Sandstone A Rockclimber's Guide to Sydney website

http://www.sydneyclimbing.com/index_frames.html

Mountain Biking /BMX

Current Usage

The most recent Australian Government figures show that in 2008 over half a million of NSW adults (20% more than the previous year), rode a bike for recreation, exercise or sport.

In 2009, Australians bought over 1 150 000 new bikes, compared with 937 000 cars, representing the tenth consecutive year in which bike sales have outnumbered those of cars. Of those bicycle sales, mountain bikes represent approximately 40% of the market, BMX bikes around 10% and hybrid bikes (suitable for off-road use) a further 25%.

Mountain Bike Australia's membership has expanded considerably in recent years, particularly in NSW which now accounts for the largest of registered members, (Mountain Bike Australia 2008).

Popular mountain biking trails within the local government area include the Grosvenor Road to Gwydir Avenue fire trails and the Upper Lane Cove River Valley fire trails accessed via the Canoon Road and Kissing Point Road trailheads and from Pennant Hills Park.

Currently there is extensive use of mountain bike tracks, informally constructed behind Warrimoo Oval at St Ives.

Informal bike tracks and illegally constructed jumps cause damage and erosion to bushland reserves and conflict with passive recreational use. Located mostly along urban edges and on fire trails, Council has identified specific periods of activity eg. often constructed during school holidays, with Council actively working toward the remediation of impacts caused by such activities. A balance must be found between protecting the bushland and providing a "positive" experience of bushland for people from a variety demographics, interest groups and backgrounds, and in particular the needs of youth.

Two single track loops are operating under a trial program at Grosvenor Street, Wahroonga and Mc Rae Place Turramurra. These two sites were identified in an audit undertaken by the TORC (Turramurra Off Road Cycling) community user group to determine suitable loop areas utilising existing informal tracks.

Ongoing consultation with representatives as outlined in the Bushland Reserves Plan of Management, 2009.

There is planned a proposed expansion of mountain bike facility at Golden Jubilee Oval, Wahroonga and other sites. Construction will be subject to funding.

Maps of current and proposed mountain bike trails are contained in Appendix 1:

- Golden Jubilee and Clissold Rd Mountain Biking Areas.
- Grosvenor Street Mountain Bike Trail.
- McRae Place Mountain Biking Trail.

Recommendations for Continued Use

A nominal levy or contribution could be placed on regular users or bike shop sales of new bikes to facilitate production and distribution of a northern suburbs regional mountain bike map, ie. customer receives map with purchase of new bike.

Under the state government's BikePlan initiative, dollar-for-dollar funding is available for local councils to develop cycle networks (with a provision that networks connect across council boundaries) and to improve signage for existing facilities. Presently this is focused on road and commuter cycling

The currently well used informal Warrimoo track will be reviewed as to appropriateness of construction, according to MTBA standards with a view to remediation to bring it up to an acceptable standard. Continued communication will be sought between Council staff and main users and user groups. This site has been an active downhill off-road cycling area for up to ten years with a history of Council staff having to remove jumps and man made devices.

A detailed review of the *Ku-ring-gai Bicycle Plan 1995* is to be undertaken as per recommendations of the *Ku-ring-gai Council Integrated Transport Strategy Consultant brief 2009*.

Prescribed Actions for Facilitation of Mountain Biking Activities

Development of an integrated trail network as detailed in aforementioned *Prescribed Actions for Facilitation of Bush Walking Activities*.

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
14) Create viable integrated networks for mountain biking activities by: - identifying gaps in current mountain biking trail network - investigating further designation of trails to connect existing designated trails in both Ku-ring-gai and neighbouring jurisdictions - investigate and designate if suitable an off-road down hill site - connecting designated mountain biking trails and facilities with established and proposed on-road/urban cycleways to establish safe access from train stations, town centres and other local government areas.	Mountain biking 10 year plan	2010	Strategy and Environment	Strategic Traffic Engineer
			Operations	Environmental Levy Program Leader
15) Formal designation and associated development of mountain bike facilities including: - Golden Jubilee and Clissold Rd Mountain Biking Areas review single track - recall previous Grosvenor Street Mountain Bike Trail - McRae Place Mountain Biking Trail	Outdoor recreation	2010	Strategy and Environment	Environmental Levy Program Leader
			Operations	Bushland Maintenance Supervisor
16) Establish ongoing user maintenance of mountain bike facilities (eg. through the introduction of a "Bikecare" program)	Maintenance	2010	Strategy and Environment	Environmental Levy Program Leader

				Consultation Coordinator
			Operations	Bushland Maintenance Supervisor
17) Provision of regulatory and interpretive signage at trailheads/mountain biking facilities including: - user obligations under <i>Code of Conduct</i> - information regarding, and contact details for, user maintenance program - map of cycling trails - absolution of Council liability The siting of such signage adjacent to gate/entry point that requires cyclists to dismount and/or adjacent to a tap would significantly increase the likelihood of cyclists stopping to read to signage.	Signage	2010	Strategy and Environment	Team Leader Natural Areas
				Environmental Levy Program Leader
			Purchasing and Risks	Bill Bright
			Communications	Manager Communications
			Development and Regulation	Manager - Regulations & Compliance
			Operations	Bushland Maintenance Supervisor
18) Provision of route and directional signage on established mountain bike routes, particularly at trail junctions.	signage	Not planned	Public	Clubs
			Operations	Bushland Maintenance Supervisor
			Strategy and Environment	Environmental Levy Program Leader
19) Development and promotion of northern suburbs regional mountain biking map indicating trails and designated mountain biking facilities.	maps	Not planned	Strategy and Environment	Strategic Traffic Engineer
			Communications	Manager Communications
20) Pending designation of Golden Jubilee Oval as a mountain biking area: Continued development of proposed mountain bike facilities at Golden Jubilee Oval. (While Council funding has been committed for Stage 1 of the project, possibilities for funding from private schools or external grants for completion of facilities is to be explored.)	Construction	2010/11	Strategy and Environment	Sports & Recreation Planner
				Environmental Levy Program Leader
			Operations	Manager Open Space Projects
21) Promotion of safe and environmentally sensitive use of designated mountain bike facilities through production of user friendly pamphlets from Code of Conduct, sent to: - Mountain biking clubs / shops - Local schools - 'Outdoor Sport and Recreation programs'	Promotion	2011	Strategy and Environment	Sports & Recreation Planner
				Environmental Levy Program Leader
			Communications	Manager Communications
22) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under Code of Conduct.	Promotion booked activities	2010/ongoing	Communications	Property Manager
			Strategy and Environment	Consultation Coordinator
				Environmental Levy Program

				Leader
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Guidelines and Restrictions

Refer to Code of Conduct – *Mountain Biking in Natural Areas (Draft) (Ku-ring-gai Council 2010)*.

References:

Ku-ring-gai Council 1995. *Ku-ring-gai Bicycle Plan*.

Ku-ring-gai Council 2005. *People, Parks and Bushland, Open Space Strategy for Ku-ring-gai*.

Ku-ring-gai Council 2009. *Ku-ring-gai Bushland Reserves Plan of Management*.

Ku-ring-gai Council 2009. *Integrated Transport Strategy - Consultant Brief*.

Ku-ring-gai Council 2010. *Integrated Transport Strategy (Draft)*.

Ku-ring-gai Council 2010. *Updated Cycleways Map (Draft)*.

NSW Roads and Traffic Authority 2010. *NSW BikePlan*.

Mountain Bike Australia 2008. Website <http://www.mtba.asn.au>

Orienteering/Rogaining

Current Usage

The Sydney Summer Series, a mid-week series of orienteering events conducted throughout Sydney's northern suburbs from October to March each year, intermittently stages events incorporating Ku-ring-gai's bushland reserves. The series is organised by the Orienteering Association of NSW.

Bennelong Northside Orienteers hold annual events based around the St Ives Showground. Garingal Orienteers and Big Foot Orienteers are also involved in events in the Ku-ring-gai area.

Other user groups may make casual bookings throughout the year.

Prescribed Actions for Facilitation of Orienteering / Rogaining Activities

Development of an integrated trail network as detailed in aforementioned *Prescribed Actions for Facilitation of Bush Walking Activities*.

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
23) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under Code of Conduct.	Promotion booked activities	2010/ ongoing	Strategy and Environment	Environmental Levy Program Leader
				Consultation Coordinator
			Communications	Manager Communications
			Communications	Property Manager

Guidelines and Restrictions

Refer to *Code of Conduct – Orienteering/Rogaining in Natural Areas (Draft) (Ku-ring-gai Council 2010)*.

Bird Watching

Current Usage

Currently there are no formal provisions for this activity with any involvement occurring on an opportunistic basis.

The Ku-ring-gai Wildflower Garden, bordering Ku-ring-gai Chase National Park, provides a variety of habitats including heath communities, tall forest, sandstone outcrops, ponds and watercourses suitable for a diversity of bird species.

The STEP (South Turramurra) and Darri (North Turramurra) Tracks also offer varied environments amenable to bird watching activities.

Recommendations for Continued Use

Self-guided facilities may be established in comparatively accessible areas that have been identified as being rich in species diversity.

The suitability of selected areas may be enhanced by planting of appropriate native vegetation providing cover or food. Site improvements could be carried out through Bushcare programs or the Bushland management program.

Interpretive signage should include species descriptions with illustrations indicating diagnostic features and a brief natural history, information regarding planting to attract birds to one's garden with reference to the Wildthings program.

Prescribed Actions for Facilitation of Bird Watching Activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
24) Identification of areas suitable for self-guided facilities.	Bird watching 10 year plan	Not planned	Strategy and Environment	Environment Officer
25) Establish facilities including: - viewing area, platform or hide, with seating - interpretive signage including species information and photos, <i>Wildthings</i> program information.	Bird watching 10 year plan	Not planned	Strategy and Environment	Team Leader Natural Areas
				Environmental Levy Program Leader
			Operations	Bushland Maintenance Supervisor
				Manager Open Space Projects
26) Promotion of facilities: - with potential user groups (eg. Birds Australia, educational institutions or bushwalking groups). - through incorporation into Council's <i>Walks and Talks</i> program.	Promotions	Not planned	Communications	Manager Communications
			Strategy and Environment	Environment Officer
27) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under General Code of Conduct.	Promotion booked activities	2010/ongoing	Strategy and Environment	Environmental Levy Program Leader
				Consultation Coordinator
			Communications	Manager Communications
			Communications	Property Manager

Guidelines and Restrictions

Refer to *Code of Conduct - Bushwalking in Natural Areas (Draft) (Ku-ring-gai Council 2010)*.

Running/Jogging

Current Usage

Established annual community events include the Great NOSH Footrace in June, Jabulani Challenge in July and Oxfam Trailwalker in August. These events attract large and significant numbers of runners. Runners are restricted to a designated course over an established time frame on specific key dates.

North Shore Wanderers Hash House Harriers also hold informal trail runs during the summer months in the Hornsby-Ku-ring-gai area.

Various schools centre annual cross country events at the St Ives Showground. These events may incorporate limited use of the trails in surrounding bushland.

Other user groups may make casual bookings throughout the year.

Outside of established events, there is significant daily usage of fire trails and both formal and informal walking tracks by runners/joggers.

Recommendations for Continued Use

There is a marked overlap between facilities utilised by runners and bushwalkers, such that fire trails, formal and informal walking tracks are widely used by both groups. As such establishing provisions for one group quite effectively does so for the other.

Prescribed Actions for Facilitation of Running / Jogging Activities

Development of an integrated trail network as detailed in aforementioned *Prescribed Actions for Facilitation of Bush Walking Activities*.

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
28) Conduct an audit of user groups to facilitate effective promotion and booking.	Promotion	Not planned	Strategy and Environment	Sports & Recreation Planner
				Environmental Levy Program Leader
29) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under Code of Conduct.	Promotion booked activities	2010/ ongoing	Strategy and Environment	Environmental Levy Program Leader
				Sports & Recreation Planner
			Communications	Manager Communications
			Communications	Property Manager

Guidelines and Restrictions

For both commercial events and casual runners and joggers, guidelines in place for bushwalking activities as outlined in *Code of Conduct - Bushwalking in Natural Areas (Draft) (Ku-ring-gai Council 2010)* are applicable.

Horse Riding

Current Usage

Restricted use on trails within St Ives Showground precinct.

Prescribed Actions for Facilitation of Horse Riding Activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
30) Identification and designation of selected trail(s) suitable for horse riding. Existing designated areas include : -St Ives Showground including the Jim Watson Arena, Princess Anne Arena and the equestrian area. -Avondale (through bookings only)	Planning	Not Planned	Strategy and Environment	Team Leader Natural Areas
				Sports & Recreation Planner
			Community	Property Manager
			Operations	Bushland Maintenance Supervisor
31) Installation of appropriate on-site regulatory and interpretive signage.	Signs	Not Planned	Operations	Bushland Maintenance Supervisor
				Building Trades Coordinator
32) Engage user groups to undertake appropriate booking arrangements and promote awareness of obligations under Code of Conduct.	Promotion booked activities	2010/ ongoing	Strategy and Environment	Environment al Levy Program Leader
				Consultation Coordinator
			Communicat -ions	Manager Communicat ions
			Communicat -ions	Property Manager

Guidelines and Restrictions

Refer to *Code of Conduct – Horse Riding in Natural Areas (Draft) (Ku-ring-gai Council 2010)*.

Scouts and Girl Guides

Current Usage

There are 25 Scout/Guide Halls in the local government area, 23 of which are in current use.

Scout and Guide activities operate on a leasing and licensing system. Leases are specific to each site, individually negotiated with each user group.

Recommendations for Continued Use

Activities be limited to a prescribed area in vicinity of halls to minimise environmental damage, with noted provision regarding Endangered Ecological Communities.

Implement the construction of designated barbeque facilities at Scout and Guide Halls to facilitate the restriction on the use of open fires. The costs of construction and the maintenance of the facilities may be borne by user groups. Gas or electric barbeques would eliminate any requirement for firewood to be collected from surrounding bushland.

Prescribed Actions for Facilitation of Scouting and Guiding Activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
33) Implementation of requirements of Scout and Guide halls to be equipped with designated barbeque facilities.	Leasing	Not planned	Community	Property Manager
34) Liasion with user groups to promote appropriate use and ensure minimisation of environmental impacts eg. limitations of activity to prescribed areas around halls, restrictions on firewood collection, etc.	Consult	Not Planned	Community	Property Manager
			Strategy and Environment	Team Leader Natural Areas

Guidelines and Restrictions

Restrictions of use are stipulated within the relevant individual lease agreements.

Guidelines in place for bushwalking activities as outlined in *Code of Conduct - Bushwalking in Natural Areas (Draft) (Ku-ring-gai Council 2010)* are applicable.

Picnics, Barbeques, etc

Current Usage

Electric barbeques and other picnicking facilities are located at Ku-ring-gai Wildflower Gardens. Facilities are also provided at Echo Point, Bicentennial Park and St Ives Showground.

Established facilities in neighbouring jurisdictions include Bobbin Head and Apple Tree Bay in Ku-ring-gai Chase National Park, Lane Cove National Park, Garigal National Park, Crosslands Reserve.

Recommendations for Continued Use

Necessary infrastructure investment to establish new facilities may include parking, toilets, supply of potable water, gas or electric barbeques, rubbish disposal and recycling facilities and shelter areas. Prospective sites for new facilities should be selected on the basis of requiring minimal infrastructure development, whilst providing access to walking tracks and trails and, if possible to scenic vistas, eg. Golden Jubilee Oval and Cliff Oval.

Prescribed Actions for Facilitation of Picnics and Barbeques

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
35) Proposed suitable sites for picnic barbeques. Improve passive recreation opportunities	Planning Picnic area	Not planned	Strategy and Environment	Sports & Recreation Planner
			Operations	Parks Maintenance Supervisor

Guidelines and Restrictions

Open fires are restricted to designated barbeque facilities. Further restrictions may apply subject to government fire bans.

Disabled Accessible Recreation

Current Usage

The Ku-ring-gai Wildflower Gardens and Little Blue Gum Creek at West Lindfield offer wheelchair accessible trails and facilities.

Prescribed Actions for Facilitation of Disabled Accessible Recreation

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
36) Investigate future accessible recreational facilities.	Planning	2011	Strategy and Environment	Team Leader Natural Areas
				Environmental Levy Program Leader
			Community	CDO Aged & Disability Services
			Strategy and Environment	Sports & Recreation Planner
37) Effective promotion of accessible recreational facilities to current and potential user groups.	Promotions website and brochures	Not Planned	Strategy and Environment	Environmental Levy Program Leader
			Communications	Manager Communications
			Community	CDO Aged & Disability Services
38) Provision of appropriate interpretive signage at identified sites.	Signage	2011	Strategy and Environment	Environmental Levy Program Leader
			Communications	Manager Communications

Bushcare Activities

Current Usage

Bushcare activities in Ku-ring-gai currently involve over 700 participants participating in 80 bushcare groups across 83 sites. Council's Bushcare program facilitates the interests of residents who are able to undertake work on community land in bushland areas and community open space.

This program provides a variety of services including Street care, Park care and Bike care. Each care program includes development of a site management plan and is guided by staff who encourage generic and/or specific behaviour to minimise environmental impacts.

Guidelines and Restrictions

Public bush regeneration activities may only be co-ordinated by Council through the *Bushcare* program in collaboration with community groups. Public involvement in bush regeneration is restricted to the *Bushcare* program.

Prescribed Actions for Facilitation of Bushcare activities

Action	Services and Projects	Proposed Time Frame	Department	Responsible Officer
39) Develop site management plan/s	Planning	2010 ongoing	Strategy and Environment	Bushcare Trainer
			Operations	Supervisor Bushcare Volunteers
40) Develop community maintenance programs like streetcare, park care and bike care	Maintenance	ongoing	Strategy and Environment	Bushland Maintenance Supervisor
			Strategy and Environment	Bushcare Trainer
41) Provision of appropriate interpretive signage at identified sites.				Supervisor Bushcare Volunteers
42) Promotion and guidelines		Not Planned	Strategy and Environment Bookings	Nick ven de Peer Michelle Mackla

Reference:

Ku-ring-gai Bushland Reserves Plan of Management 2009

Prohibited activities

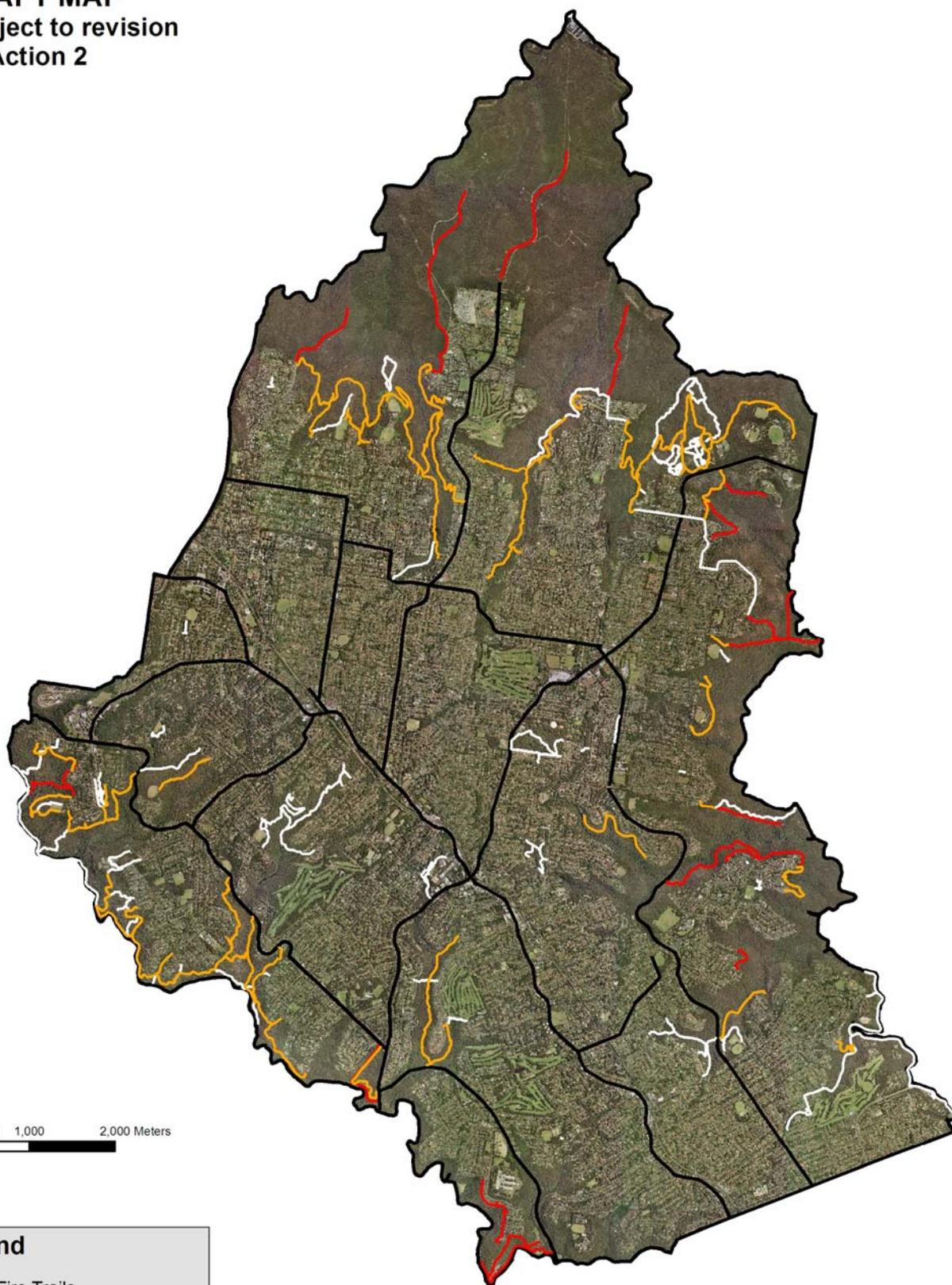
The following activities are prohibited in Council's bushland reserves:

- damage or removal of plants, animals, natural rock or timber;
- unauthorised driving of motorised recreational vehicles;
- open fires not restricted to designated barbeque facilities;
- discharging of firearms;
- overnight camping. (Limited camping is available within the St Ives Showground precinct with booking required through Council);
- any other activities deemed by Council to be detrimental to the environment;
- antisocial behaviour that may impact on other users or residents.

Appendix 1: Maps of Relevant Areas

- Bushland Tracks of Ku-ring-gai
- Cliff Oval rockclimbing site
- Lindfield rockclimbing site
- Golden Jubilee and Clissold Road Trails
- Grosvenor Street Track
- McRae Loop Track

DRAFT MAP
Subject to revision
by Action 2



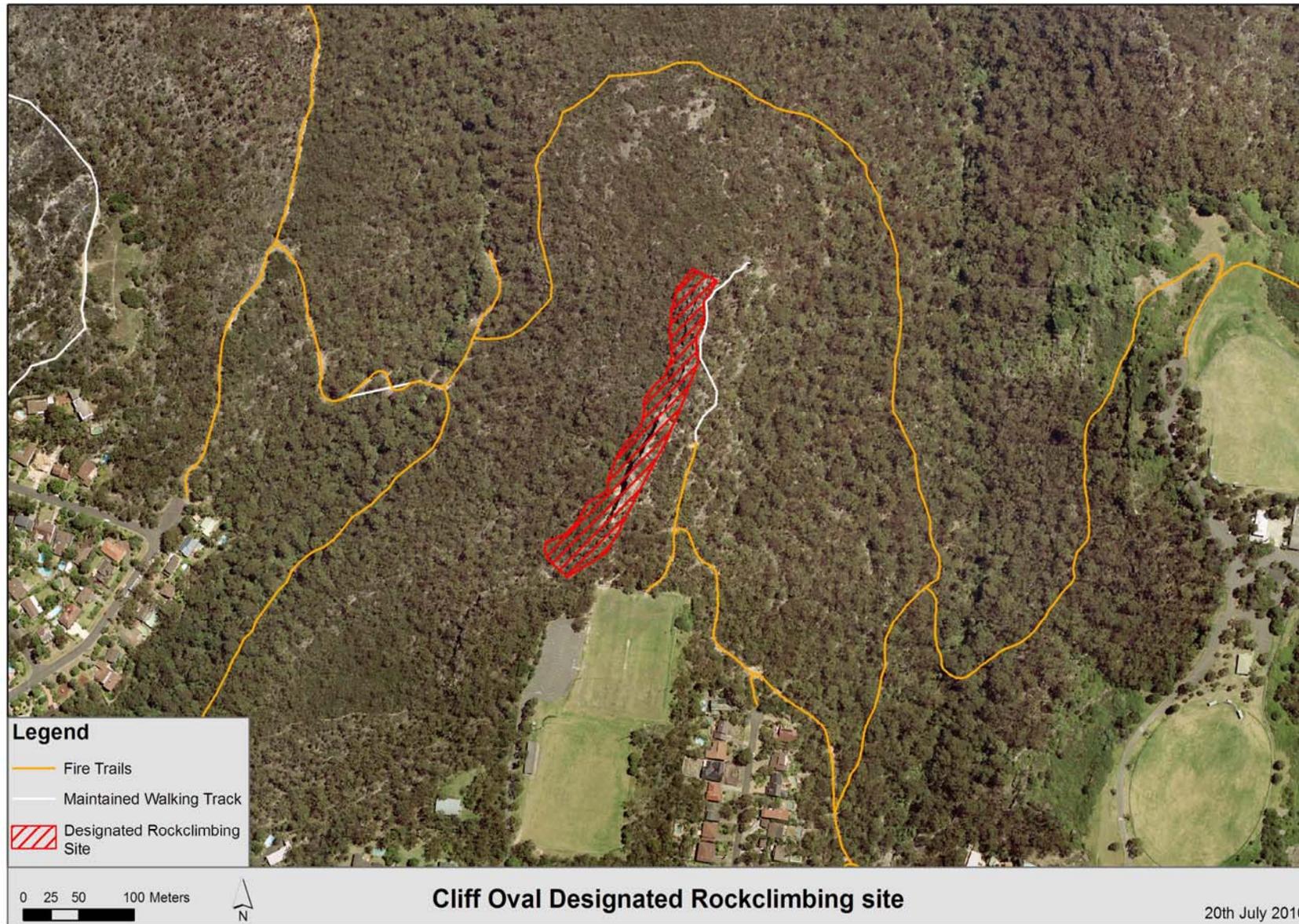
Legend

-  Fire Trails
-  Maintained Walking Track
-  DECCW Fire Trails
-  Main Roads

Bushland Tracks of Ku-ring-gai

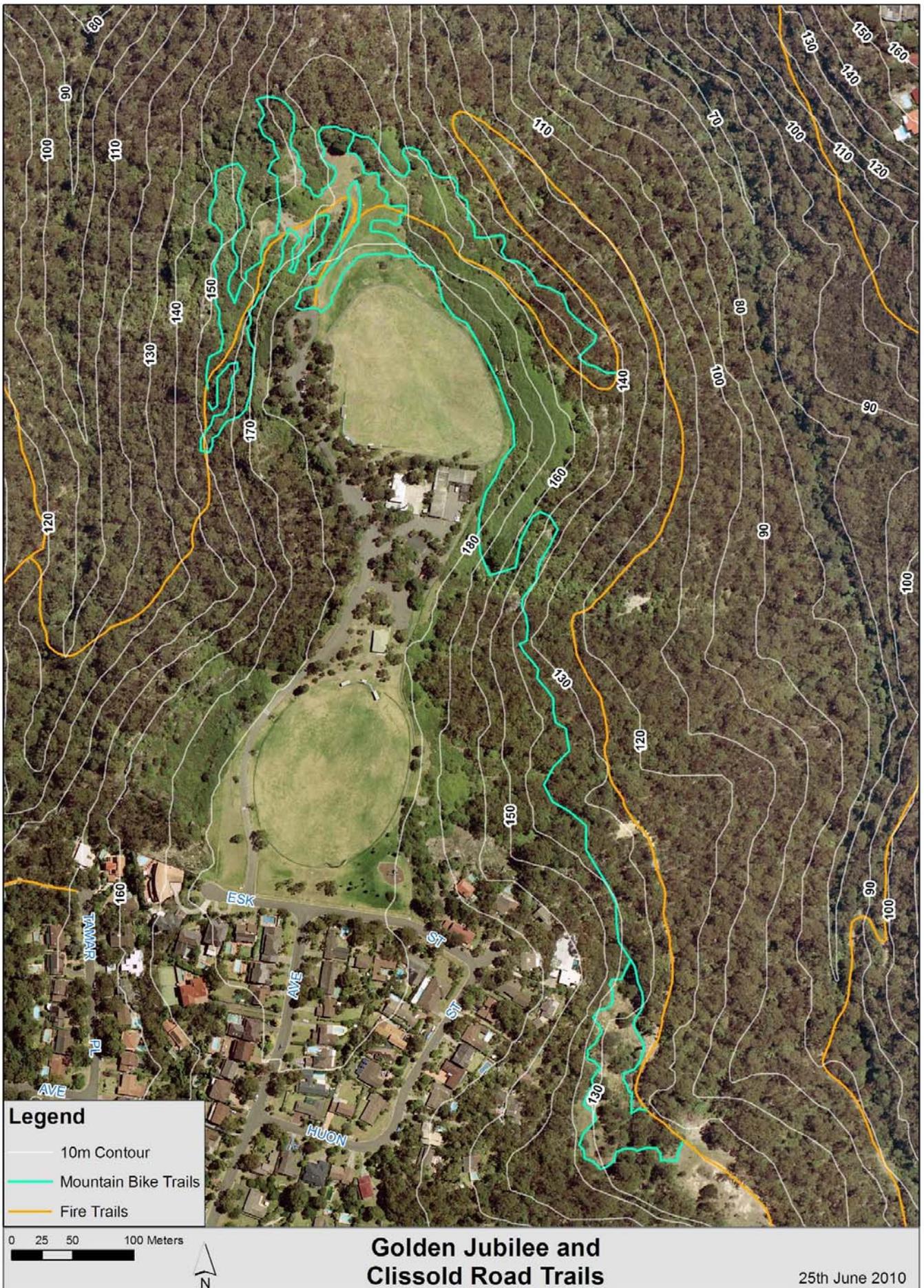
20th July 2010

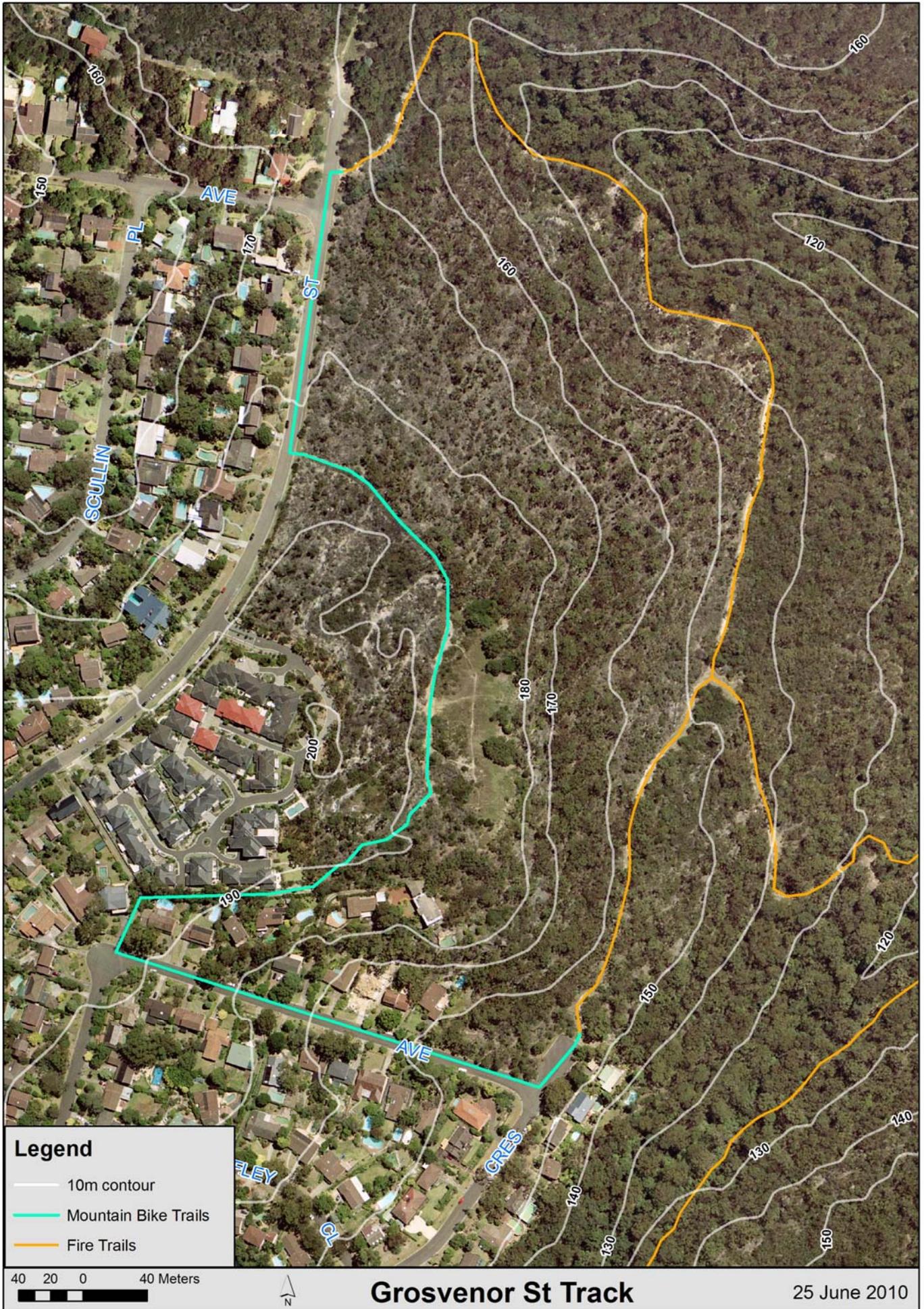
Cliff Oval Rock climbing Site



Lindfield Rock climbing Site



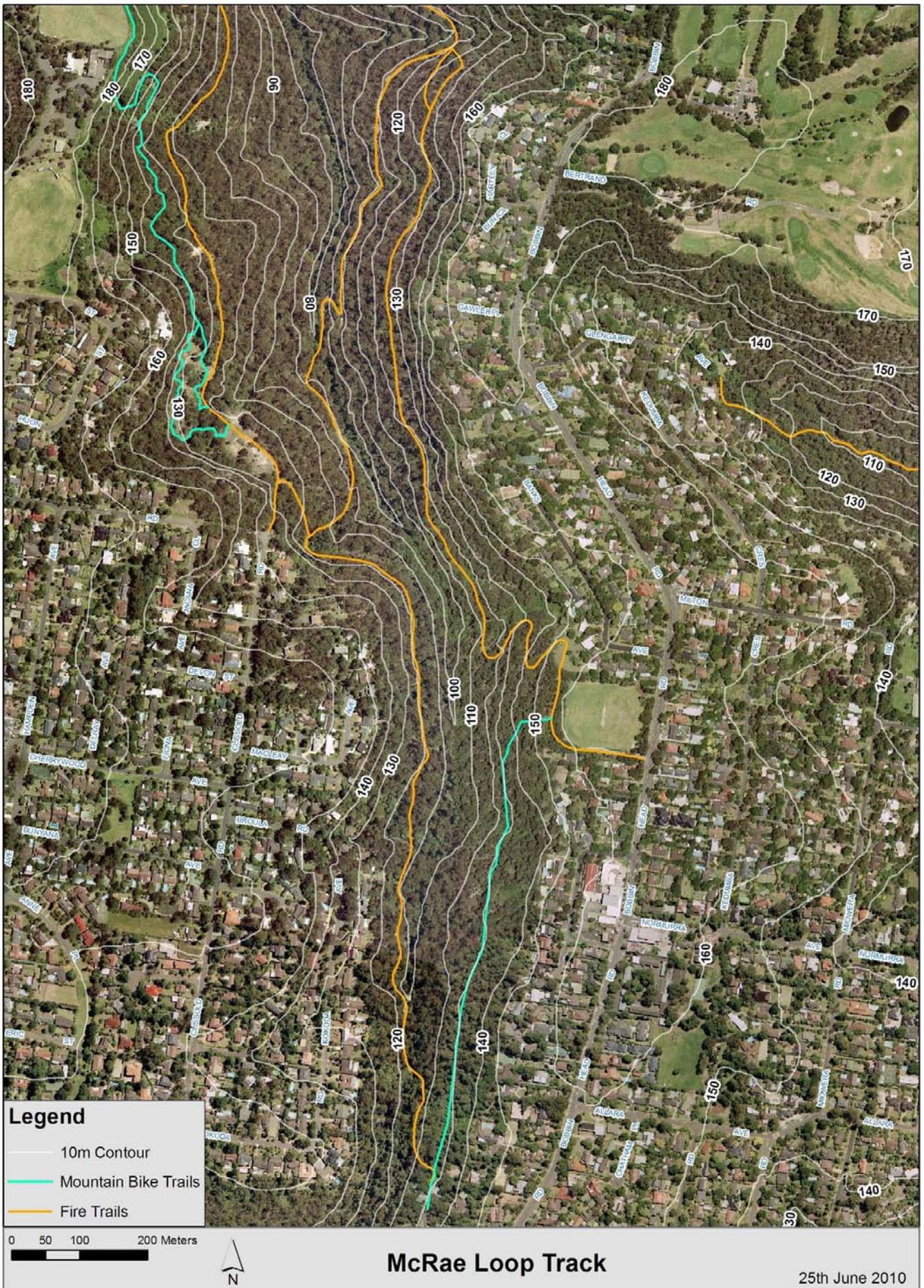




Grosvenor St Track

25 June 2010

McRae Loop Track



Appendix 2: LIST OF USER GROUPS

Bush walking

- The Local Environmental Conservation group STEP Inc
- Sydney Bushwalkers www.sbw.org.au
- Warringah Bushwalking Club
- Ku-ring-gai Bushwalking Activity and Social Group
- Sydney Bushwalks
- Newington Leisure Walkers (affiliated with Dept of Sport and Recreation)
- Wanderers Bushwalking Group
- National Parks Association of NSW

Running and Jogging

- Oxfam (organiser of Jabulani Challenge and Trailwalker)
- Bennelong Northside Orienteers (organiser of Great NOSH Footrace)
- North Shore Wanderers Hash House Harriers www.nswhhh.info

Climbing – Local Climbing Clubs/Gyms/Associations

- Maash Sports and Fitness – 9868 1200 (Rock climbing Gym – Marsfield)
- Climb Fit – 9436 4600 (Climbing Gym – St Leonards)
- The Rock House (Climbing Gym – Brookvale)
- The Edge Indoor Climbing – 9899 8228 (Climbing Gym – Castle Hill)
- Rock Climbing Sydney – 8324 9971 (Climbing Gym – CBD)
- Sydney University Sports & Aquatic Centre – 9351 4978 (Rock Climbing Darlington)
- Sydney Indoor Climbing Gym – 9716 6949 (Summer Hill)
- Sydney Indoor Climbing Gym – 9519 3325 (St Peters)
- The Pitch Climbing Centre – 9729 0212 (Wetherill Park)
- Sydney University Mountaineering Club
- Macquarie University Sports Clubs - 9850 7636 - (must check to see whether they have a climbing club)
- Health Motivated Boot Camp - Bootcamp Sydney – 8064 3649

Mountain Biking Clubs/Gyms/Associations

- Australian Mountain Biking Clinics – 0427 207 937 (Putney)
- Bicycle NSW – 9218 5400 – (CBD)
- NSW Cycling Federation – 9738 5850 (Bass Hill)
- Sydney University Sports & Aquatic Centre – 9351 4978
- Sydney University Women's Cycling & Triathlon – 9351 8111
- Macquarie University Sports Clubs– 9850 7636
- Health Motivated Boot Camp – boot camp Sydney – 8064 3649
- Mountain Bike Australia 2008. Website <http://www.mtba.asn.au>

Orienteering

- Orienteering NSW – 8116 9848 Orienteering Association of NSW.
- Bennelong Northside Orienteers
- Garingal Orienteers
- Big Foot Orienteers
- Macquarie University Sports Clubs – 9850 7636
- Sydney University Women's Cycling & Triathlon – 9351 8111

- Sydney University Sports & Aquatic Centre – 9351 4978
- Wilderness Society - 9282 9553 - (Surrey Hills)
- Health Motivated Boot Camp – boot camp Sydney – 8064 3649

Appendix 3: GENERAL CODE OF CONDUCT – RECREATIONAL ACTIVITIES IN NATURAL AREAS

General Code of Conduct – Recreational Activities in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety
- Preserve the opportunity to undertake recreational activities in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.
- ❖ Brown's Forest is protected as a Wildlife Protection Area (*Companion Animal Act 1998*)
- ❖ Dogs & Cats are prohibited in Ku-ring-gai Flying Fox Reserve and Brown's Forest under Voluntary Conservation Agreements (*National Parks and Wildlife Services Act 1974*)

Your Responsibilities

- Avoid undertaking activities during wet weather with the exception of bushwalking
- Any damages to the site must be reported immediately to Ku-ring-gai Council
- Avoid blocking the footpaths
- Avoid sites that are inhabited by endangered species and or during breeding periods
- Be aware of nesting patterns and behavioural patterns of wildlife on site
- Carry out your chosen activity safely without endangering yourself and other users
- Keep noise levels to a reasonable level to avoid disturbing fauna, adjoining landowners and residents
- Resolve disputes in a civilised way
- Respect any arrangements and restrictions in place at a given time
- Share the area fairly with other users
- Wash all soil from personal equipment, footwear and vehicles before you enter or leave a site to avoid transporting seeds or soil borne pathogens such as *Phytophthora*.

Prohibited Activities

The following activities are strictly prohibited on land classified as *Natural Areas without the expressed written permission of Council.

- Causing undue damage & disturbance to fauna (including touching and feeding) and flora (including picking and trampling)
- Damaging or vandalising caves, cliffs and rock faces
- Damaging, removing or vandalising any indigenous sites discovered
- Damaging, removing or vandalising bush rocks
- Dumping or polluting creeks and rivers
- Dumping rubbish
- Leaving dog faeces / horse faeces
- Lighting fires
- Removing logs and collecting wood
- Using motorised vehicles (with the exception for emergencies and authorised use e.g. Council and fire lighting vehicles)
- Vandalising or damaging infrastructure
- Walking unregistered and or unleashed dogs

Council Requirements & Regulations

- ✚ Activities require booking. Please contact Ku-ring-gai Council for details.
- ✚ You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any activity(s).
- ✚ Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).

Accidents and Hazards

Please observe the following:

- ✚ Council may occasionally prevent access to the areas due to fire, heavy rain, fallen rocks and trees and public events.
- ✚ Following an event (fire, heavy rain, fallen rocks etc), Council may close a track(s) to enable maintenance works to be carried out. Council will notify the public through on site signage and or Council's website (www.kmc.nsw.gov.au), where it is determined that the closure is significant.

Emergencies

- ✚ To report an emergency dial 000 (for mobiles, dial 112);

- ✚ To report any illegal/urgent incident(s) and or instance(s) of missing/overdue user(s), contact your local police station.
- ✚ To report unexpected trail closures (rock slide / tree fall etc), phone Ku-ring-gai Council on 9424 0000 (9am to 5pm Monday-Friday).

appendix 3: BUSHWALKING IN NATURAL AREAS

Code of Conduct - Bushwalking in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety
- Preserve the opportunity to undertake bushwalking in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.

Your Responsibilities

- Stick to the designated walking tracks

Council Requirements & Regulations

- ✚ You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any activity(s).
- ✚ Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).

Code of Conduct –Horse Riding in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety

- Preserve the opportunity to undertake horseriding in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.

Your Responsibilities

- Horse riding only permitted in designated tracks

Council Requirements & Regulations

- ✚ Horse riding requires a permit to be issued by Council and is subject to compliance with conditions (as per Council's *natural areas recreation policy*). Please contact Ku-ring-gai Council for details.
- ✚ You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any activity(s).
- ✚ Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).

Code of Conduct –Mountain Biking in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety
- Preserve the opportunity to undertake mountain biking activities in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.

Your Responsibilities

- Avoid riding in wet weather to prevent damages to existing tracks
- Mountain biking only permitted on designated trails
- Share the track. Tracks are used by the public and Council for a number of purposes (including walkers, service trail vehicles etc)
- Pedestrians must always be given the right of way
- Route markers and tapes can only be set in designated bike trails
- Wear a Helmet

Council Requirements & Regulations

- ✚ Mountain biking activities may require booking. Please contact Ku-ring-gai Council for details.
- ✚ You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- ✚ All temporary route markers must be removed at the end of activity(s)
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any activity(s).
- ✚ Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).

Prohibited Activities

The following activities are strictly prohibited on land classified as *Natural Areas without the expressed written permission of Council.

- Causing damages or disturbances to flora and fauna (e.g. spray painting or nailing signs to trees)
- Construction of mountain bike trails and trail technical features e.g. Jumps to damage or disturb flora and fauna

appendix 3: rock climbing & abseiling in natural areas

Code of Conduct – Rock Climbing & Abseiling in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety
- Preserve the opportunity to climb and abseil in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas in Cliff Oval and Lindfield Rocks, recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.
- ❖ Cliff /Rock areas are natural landforms that have formed over a long period of time and are continuously being subjected to natural environmental processes of erosion and weathering. As unique landforms, there are significant historic, Indigenous, scientific and natural, values associated with such site(s).

Climbing and Abseiling Sites

Designated Climbing areas

- Cliff Oval
- Lindfield Rocks--
- Please contact Ku-ring-gai Council 9424 0000 before establishing a new area or climb

Council Requirements & Regulations

- 🚧 Bookings must be made with Council for organised or commercial groups.
- 🚧 You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- 🚧 Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).
- 🚧 The impacts and use of individuals and groups will be monitored.
- 🚧 Ku-ring-gai Council has no regulations on how to Climb or Abseil.

- ✚ Do not use Ku-ring-gai Council structures to belay or abseil. They are not designed for this purpose and may pose a risk to users and the general public.
- ✚ Authorised Ku-ring-gai Council officers have the right to enforce Ku-ring-gai Council By-laws.
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any rock climbing and or abseiling activity(s).

"Clean Climbing and Abseiling" Practices

- ✚ Ku-ring-gai Council's philosophy is to encourage "Clean Climbing and Abseiling", the use of lead climbing techniques and protection as opposed to aid climbing and the indiscriminate or excessive use of all fixed equipment including bolts.
- ✚ Any damages to site must be reported immediately to Ku-ring-gai Council
- ✚ All ropes, slings and anchors and other equipment must be removed at the end of your activity

Your Responsibilities

- Act responsibly and follow this Rock climbing/Abseiling Code of Conduct.
- It is your responsibility to exercise judgement and discretion at all times. You are responsible for your own safety, the safety of your group and that of bystanders (any other visitors to the reserves that maybe impacted by your activities).
- Do not consume alcohol before or during Rock climbing or Abseiling
- All users are expected to test and assess the conditions of the Cliff faces including any artificial additions before relying upon its stability.
- Accepting personal responsibility also includes your use of bolts and lower offs:
 - All fixed protection has been placed by climbers and abseilers.
 - Beware of the dangers associated with using bolts and lower offs.
 - Bolting must only be carried out by experienced persons and to accepted practices. Council must approve all new bolting.
- Practise safe climbing methods in placing protection whilst leading, in belaying and in rope use.
- Use ONLY approved rock climbing/abseiling equipment

Note: If you are seeking the services of commercial instructors/leaders, then it is your responsibility to check whether they possess **industry accepted competencies** to lead and instruct rock climbing and/or abseiling. These competencies are designed to ensure user safety and enjoyment.

Instructor's / Leader's Responsibilities

- Commercial operators who wish to use site(s) within Council managed land(s) must lodge a booking application form with Council and seek approval. Operators must provide copies of certificates of competencies to Council to seek approval.
- Commercial operators will be charged a fee according to *Council's Adopted Fees and Charges 09/10*.
- Commercial operators must provide Council with a Certificate of Currency for a Public Liability Policy with a minimum cover of \$20 million.
- In using Cliff faces under the control of Ku-ring-gai Council, leaders and instructors must be able to satisfy themselves and the participants that they possess the skills and competencies to lead or instruct a group in these activities accounting for the specific sites and the skills/experience of the participants.
- The leader or instructor must make arrangements for a responsible person to be aware of the group, their location and expected time of return, to raise the alarm in cases of overdue return. The leader or instructor must inform Council of their intention to use the Cliff area where this is a condition of use.

Tread Lightly on the Earth

Please observe the guidelines below to minimise your environmental impacts during rock climbing and abseiling:

- ✓ Avoid disturbing soil at the top and base of cliff areas to prevent erosion
- ✓ Do not disturb vegetation as you will encourage erosion and promote the spread of pest plant species
- ✓ Do not remove existing vegetation from a Cliff
- ✓ Minimise to the best of your ability disturbing fauna including feeding..
- ✓ Stick to established access tracks – please don't create new tracks

Respect the Climbing & Abseiling Traditions

- ✓ Always utilise recognised tracks to approach and move between climbs. Where this is not possible or multiple tracks exist, take a moment to decide which track is the most appropriate and/or control group to have minimal impact (even if it means taking a longer way around).
- ✓ Avoid the placement of new pitons and bolts for protection for anchor points
- ✓ Avoid using trees or other vegetation for belay and as anchor points. If there is no alternative, they must be protected by using temporary tape slings to prevent cutting of the bark and rope protectors for webbing.
- ✓ Chipping of rock is illegal
- ✓ Climbing groups are not to use climbing equipment or techniques that damage the cliff face or any resident fauna
- ✓ Do not change an existing climb
- ✓ Do not climb or abseil during wet weather

- ✓ Do not climb or abseil on cliffs where people regularly pass underneath
- ✓ Do not deface any rock or tree
- ✓ Do not disfigure the rock face and disturb vegetation to create better access and routes.
- ✓ Do not engage in climbing or abseiling which requires extensive work to be done on a rock
- ✓ Do not fix materials including canvas and carpet to tree roots
- ✓ Do not leave or add to fixed equipment on the cliff including bolts
- ✓ Do not use fixed anchor points including rock bolting
- ✓ Do not use trees as anchor points before existing bolts and boulders
- ✓ Don't place bolts next to cracks or other natural protection
- ✓ It's ok to place "lower offs" – especially to reduce erosion and increase safety.
- ✓ Minimal bolting is acceptable but not encouraged
- ✓ Minimise cleaning practices on cliff faces
- ✓ Use ascent and descent tracks appropriately, considering site stability and erosion especially with larger group activities.
- ✓ Use minimal chalk
- ✓ Where holdfasts have been installed, these must be used rather than any vegetation or natural feature that maybe damaged.
- ✓ Wherever possible, choose sites that have a rocky base and top that can tolerate groups without causing vegetation damage and erosion of the area around climbs.

Accidents and Hazards

Please observe the following:

- ✚ Council may occasionally prevent access to the areas due to fire, heavy rain, fallen rocks and trees and public events.
- ✚ Following an event (fire, heavy rain, fallen rocks etc), Council may close a track(s) to enable maintenance works to be carried out. Council will notify the public through on site signage and or Council's website (www.kmc.nsw.gov.au), where it is determined that the closure is significant.

Emergencies

- ✚ To report an emergency dial 000 (for mobiles, dial 112);
- ✚ To report any illegal/urgent incident(s) and or instance(s) of missing/overdue user(s), contact your local police station.
- ✚ To report unexpected trail closures (rock slide / tree fall etc), phone Ku-ring-gai Council on 9424 0000 (9am to 5pm Monday-Friday).

References

- 1 Government of Western Australia-Department of Sport and Recreation, 2009, **Western Australian Adventure Activity Standard: Abseiling Version 1.1**, Accessed on: 20-05-10, from:www.outdoorswa.org/files/WA%20Adventure%20Activity%20Standard%20-%20Abseiling%20Version%201.1.pdf
- 2 Queensland Outdoor Recreation Federation – Outdoor Queensland, 2009, **Advocate: Rock Climbing Code of Conduct**, Accessed on: 20-05-10, from: www.qorf.org.au/01_cms/details.asp?ID=98
- 3 Launceston Council (Tasmania), **Rock-climbing Code of Conduct: For Cataract Gorge and Punchbowl Reserves**, Accessed on: 20-05-10, from: www.launceston.tas.gov.au/upfiles/lcc/cont/parks_and_recreation/pdfs/gorge/rock_climbing_code_of_conduct.pdf
- 4 The Climbing Club of South Australia, **The Rock Climbers and Abseilers Code for Using N.P.W.S.A Reserves**, Accessed on: 20-05-10, from: www.climbingclubsouthaustralia.asn.au/sarea_public/The%20Rock%20Climbers%20&%20Abseilers%20Code%20of%20Conduct%20for%20Using%20NPWSA%20Reserves.pdf

appendix 3: ORIENTEERING/ROGAINING IN NATURAL AREAS

Code of Conduct - Orienteering/Rogaining in Natural Areas

The purpose of the Code of Conduct is to:

- Conserve our natural resources
- Maintaining visitor safety
- Preserve the opportunity to undertake orienteering and rogaining activities in natural areas
- Promote the responsible use of natural areas

This code of conduct has been developed by Ku-ring-gai Council to ensure that *natural areas recognised as important sites of historical, Indigenous, cultural, recreational, scientific and natural assets are conserved and managed through sustainable practices of use.

***Natural Areas** – Council owned land(s) or land(s) under the care control and management of Ku-ring-gai Council

- ❖ By law, all plants, animals, historical, Indigenous, archaeological sites and geographic features are protected, so any damages or disturbances to these are illegal and prohibited.
- ❖ As a general rule approval for orienteering/rogaining within Aboriginal areas, historic sites, and environmentally sensitive areas, will not be permitted by Council, other than in exceptional circumstances.

Council Approval Requirements

- ✓ The proposed course must be clearly outlined and submitted with the booking form to Council. Council approval is required prior to commencement of activity(s).
- ✓ Where an activity traverses both NSW National Parks and Wildlife Services (NPWS) and Ku-ring-gai Council Bushland; Council may request users to obtain permits directly from NPWS. Council must be provided with this approved permit(s), before undertaking any activity(s).

Council Requirements & Regulations

- ✚ You must leave the site(s) tidy and clean and free of all rubbish at the end of your activity(s).
- ✚ Ku-ring-gai Council does not inspect or audit site(s) to ascertain whether they are safe or not, or whether there are any hidden dangers. It is up to you to use your own judgement and carry out your orienteering and or rogaining activity(s) safely.
- ✚ Ku-ring-gai Council accepts no responsibility for injuries, accidents and incidents resulting from any orienteering and or rogaining activity(s).
- ✚ Council reserves the right to request a bond (to ensure adequate protection, conservation and preservation of natural areas). Where Ku-ring-gai Council determines a bond is required for an activity(s); where it is determined that Council's guidelines were not adhered to, including maintaining

the condition of the immediate site(s) area(s) you used for the entire period of your activity(s); and where applicable, compensation maybe sought to satisfactorily remediate, rehabilitate or restore any site(s).

Your Responsibilities

- All tapes to mark control sites or specific routes must be removed after event.
- Respect the rights of other users of an area when an orienteering event is in progress by sharing or, if practical, avoiding public areas and other facilities.
- Read and adhere to organiser's and Ku-ring-gai Council's guidelines.

Course& Event Planning Guidelines

1. Selected areas including assembly areas and finishing areas must be capable of sustaining the scale of the proposed event without excessive impacts on the physical environment.
2. When selecting the route to remote start points, avoid creating tracks through vegetation.
3. Plan courses with a view to reducing the disturbance to any wildlife. This maybe done by having all courses following a same general direction or by leaving parts of the area free of controls or obvious route choices.
4. If the course happens to be set outside existing trails, then written Council approval is required.
5. Events should be scheduled taking into account seasonal and area sensitivities e.g. breeding, climatic extremes, presence of endangered species.
6. After consultation with Council, some areas maybe declared "out of bounds" because of management, security, privacy, environmental or seasonal factors. If so, such areas must be clearly notified to participants and marked on each participants map.
7. If the area contains known sites of natural or cultural significance which could be disturbed, avoid placing controls on or near these sites or setting legs which would concentrate the movement of participants through them.
8. If required, nearby residents and private landowners must be notified in advance about the event if it is going to have a major impact on them.
9. All participants must be made aware of any special conditions associated with Council approvals.
10. Placement of makers or other fixtures must not disturb the soil, substrate, rock or vegetation in a park or disturb wildlife or interfere with park infrastructure, its use and operation.
11. If a public announcement system is going to be used, locate these to minimise the spread of noise outside the assembly area.

Prohibited Activities

The following activities are strictly prohibited on land classified as *Natural Areas without the expressed written permission of Council.

- Accessing areas of sensitive rock using spiked shoes
- Causing damages or disturbances to flora and fauna (e.g. spray painting or nailing signs to trees)

Accidents and Hazards

Please observe the following:

- ✚ Council may occasionally prevent access to the areas due to fire, heavy rain, fallen rocks and trees and public events.
- ✚ Following an event (fire, heavy rain, fallen rocks etc), Council may close a track(s) to enable maintenance works to be carried out. Council will notify the public through on site signage and or Council's website (www.kmc.nsw.gov.au), where it is determined that the closure is significant.

Emergencies

- ✚ To report an emergency dial 000 (for mobiles, dial 112);
- ✚ To report any illegal/urgent incident(s) and or instance(s) of missing/overdue orienteering and or rogaining participant(s), contact your local police station.
- ✚ To report unexpected trail closures (rock slide / tree fall etc), phone Ku-ring-gai Council on 9424 0000 (9am to 5pm Monday-Friday).

References

- 1 Orienteering Australia, Orienteering Australia: Environmental Code of Conduct, Accessed: 20-05-2010, from <http://www.orienteering.asn.au/environment/envcode/>

Note: The environmental code of conduct was developed jointly by Orienteering Australia and its member associations. There was an acknowledgement by the Council of the International Orienteering Federation about maintaining the environmental friendly nature of orienteering in 1996.

WEST PYMBLE POOL TENDER

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the outcome of the recent public notification in accordance with Section 47 of the Local Government Act, 1993 and to advise Council of the tenders received for the management of West Pymble Pool.

BACKGROUND:

At its meeting of 25 May 2010 Council in part resolved:

- A. To approve the public notification of the proposal to enter into a management contract for a period of up to 20 years for the West Pymble Indoor Aquatic and Leisure Facility in accordance with S47 of the Local Government Act and*
- B. To call tenders for the management of the West Pymble Indoor Aquatic and Leisure Facility in parallel with the public notification.*

This report outlines the results of these actions.

COMMENTS:

The actions outlined in this report are steps in the delivery of this project.

RECOMMENDATION:

That Council notes the outcomes of the S47 notification for West Pymble Pool, resolves to not accept any tender for the management of West Pymble Pool, seek written quotes to manage the existing pool on behalf of Council for the 2010-2011 swim season and approve the calling of public tenders for the construction of West Pymble Pool.

PURPOSE OF REPORT

To advise Council of the outcome of the recent public notification in accordance with Section 47 of the Local Government Act, 1993 and to advise Council of the tenders received for the management of West Pymble Pool.

BACKGROUND

At the Ordinary Meeting of Council held 25 May 2010 Council resolved, in part:

- A. *To approve the public notification of the proposal to enter into a management contract for a period of up to 20 years for the West Pymble Indoor Aquatic and Leisure Facility in accordance with S47 of the Local Government Act and*
- B. *To call tenders for the management of the West Pymble Indoor Aquatic and Leisure Facility in parallel with the public notification.*

Compliance with Section 47 of the *NSW Local Government Act, 1993*

As previously advised, for Council to grant a lease to any party any lease longer than five years it must give public notice of the proposal by:

- placing a notice of the proposal on the land;
- notifying owners adjoining the land;
- notifying persons living in the vicinity of the land if the council believes that the land "is the primary focus of the person's enjoyment of community land" (eg by letterbox drop); and
- consider submissions made about the proposal.

If Council receives an objection to the proposal it must refer the proposal to the Minister for Local Government and cannot grant a lease (Management Contract) until the Minister gives consent.

Following the last resolution, Council notified its intentions to enter into a management contract through the following:

- public notification in the Ku-ring-gai Council News section North Shore Times on Friday 4 June 2010;
- affixing of signage at several prominent locations around the pool site on Friday 4 June 2010;
- the hand delivery of notification letters to surrounding residents on Friday 4 June 2010; and
- posting of letters to surrounding absentee owners on Thursday 3 June 2010.

The closing date for submissions was 5 July 2010. As no submissions were received Council can now enter into a contract for a period in excess of five (5) years.

Item 9

S08277/3
20 July 2010

Tender for the Management of West Pymble Pool.

In parallel with the S47 notification process, tenders were called for the management of the pool. Tenders closed on 13 July 2010 and three (3) tenders were received. A full evaluation was carried out by a tender assessment panel. Their report forms **Confidential Attachment B**.

COMMENTS

Any new aquatic centre project will have some uncertainties attached to it. From an operators' perspective the great unknowns are patronage and utilities costs. These uncertainties were reflected in the conservative commercial offers made to Council for the 20 year option.

Given the inherent risk from the perspective of a tenderer it is understandable that these offers were way below the estimates from the Sports and Leisure Solutions report.

This is further magnified by the disjointed nature of the initial term of the contract brought about by the cessation of management by the previous managers. Therefore, the initial term includes the operating of the current pool, the hiatus during construction and then the unknown of the new pool. The Sports and Leisure Solutions report modelled the new facility only.

There are two uncertainties with this project. The first being the cost of construction and the second being the return that an operator shall pay to Council. To date Council has spent some \$200,000 in community consultation, design development, advertising costs and legal fees on this project. These are sunk costs that are unrecoverable. Council's financial model is based upon the escalated construction quantity surveyor report. Final construction costs shall not be known until tenders have been received. The final income received from the fully constructed pool shall not be known until the pool has been up and running for a couple of years.

The market has demonstrated the minimal projected income from the new facility. Whilst it would be of benefit to have an operator appointed prior to construction, given the offers submitted it is now considered appropriate to continue with the development application and call tenders for construction. Prior to entering into a construction contract, Council is then afforded the opportunity to compare real construction costs to the model used for the pool.

It is estimated that beyond sunk costs, the cost to obtain development approval, including detailed design, construction certificate and to call public tenders would be of the magnitude of \$440,000. This was funded in the 2009/10 budget from reserves and not fully expended.

Leaving aside the apparent financial shortfall, the delivery of an indoor aquatic and recreation facility at Pymble is a long term strategic objective of Council. It shall provide the community with much needed facilities and further enhance the community's enjoyment of Council's regional park.

An interim solution

Council still requires the services of a management company for the upcoming swim season. This can be done through the appointment of an interim manager.

Item 9

S08277/3
20 July 2010

As the appointment of an interim manager would be for a period of less than 12 months and be at a cost of less than \$150,000 Council can make this appointment by way of written quotes.

CONSULTATION

The actions outlined in this report build upon the extensive consultation already carried out for this project.

FINANCIAL CONSIDERATIONS

Please refer to **Confidential Attachment A** for financial considerations.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This report was prepared by the Strategy and Environment Department in extensive consultation with Council's Corporate Services and Community Services Departments.

SUMMARY

This report has dealt with four (4) issues:

- reporting to Council that no submissions were received following the S47 notification of Council's intention to enter into a management contract for a period of up to 20 years;
- reporting to Council the results of the recent public tender for the management of the West Pymble Indoor Aquatic and Leisure Facility;
- the appointment of a suitable contractor to manage the pool until its closure for construction;
- the calling of public tenders for the construction the West Pymble Indoor Aquatic and Leisure Facility; and
- the capital expenditure budget in the 2010/11 Delivery Program be segmented to include an amount \$440,000 for the next stage of the West Pymble Indoor Aquatic and Leisure Facility project, being the cost to obtain development approval, including detailed design, construction certificate and calling of public tenders for construction.

All of these are steps in the process of delivering the project.

RECOMMENDATION

- A. That Council note the outcomes of the Section 47 notification for West Pymble Pool.
- B. That Council resolve to not accept any tender for the Management of West Pymble Pool.

Item 9

S08277/3
20 July 2010

- C. That Council seek written quotes to manage the existing pool on behalf of Council for the 2010-2011 swim season.
- D. That Council approve the calling of public tenders for the construction of West Pymble Pool.

Ian Dreghorn
Manager Strategic Projects

Andrew Watson
Director Strategy & Environment

Attachments: **A. Financial Considerations - Confidential**
 B. Tender Assessment Panel Report - Confidential

SPONSORSHIP AGREEMENT - TURRAMURRA LOOKOUT COMMUNITY GARDEN & TURRAMURRA COMMUNITY BANK

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the proposed five year sponsorship agreement between Turramurra Community Bank (a branch of the Bendigo Bank) and Council for the Turramurra Lookout Community Garden.
BACKGROUND:	<p>Council, through the Turramurra Lookout Community Garden committee recently received a sponsorship proposal from the Turramurra Community Bank for \$100,000 over five years.</p> <p>In June 2010, Council adopted the revised Sponsorship and Donations Policy to formalise the acceptance and processing of sponsorships and donations from the community. This is the first significant agreement to be covered by the revised policy.</p>
COMMENTS:	The Sponsorship and Donations Policy requires any donation over \$50,000 to be approved by Council. Due to the philanthropic nature of this sponsorship arrangement, Council recognises the proposed financial contribution by Turramurra Community Bank as both a sponsorship and donation.
RECOMMENDATION:	That Council enter into a sponsorship agreement with the Turramurra Community Bank to assist in the establishment and ongoing support of the community garden at Turramurra Lookout from 16 April 2010 to 16 April 2015.

PURPOSE OF REPORT

To advise Council of the proposed five year sponsorship agreement between Turrumurra Community Bank (a branch of the Bendigo Bank) and Council for the Turrumurra Lookout Community Garden.

BACKGROUND

In 8 June 2010, Council adopted the revised Sponsorship and Donations Policy to formalise the acceptance and processing of sponsorships and donations from the community. The policy requires any monetary donation over \$50,000 be approved at an Ordinary Meeting of Council. The Turrumurra Community Bank (a branch of Bendigo Bank) have offered a sponsorship of the Turrumurra Lookout Community Garden (a volunteer group under Ku-ring-gai Council's Community Volunteer Program) to provide financial support for the establishment and ongoing development of the garden. The total monetary value of this support is \$20,000 per annum for five years (April 2010 to April 2015). This proposed financial sponsorship for the garden is \$100,000 over five years and represents the first significant agreement to be covered by the new policy.

COMMENTS

The Sponsorship and Donations Policy differentiates a sponsorship from a donation by the commercial benefits received by the initiating sponsor. Although the Turrumurra Community Bank has requested public acknowledgement and commercial branding as part of the financial agreement, no excessive operating or access restrictions have been requested from the Bank.

Due to the philanthropic nature and intent expressed by the Bank, Council recognises this agreement as both a sponsorship and donation. Although the Policy requires all donations over \$50,000 to be approved at an Ordinary Meeting of Council, there are no financial limits required for sponsorship agreements. However, given the value of the sponsorship and profile of this project, it has been brought to Council's attention for its approval.

CONSULTATION

Lookout Park Community Garden group has been in existence for over one year, after passing a Council resolution agreeing that it was appropriate to create a community garden at Lookout Park. Council held a public meeting in July 2009 to ascertain community support for the concept and from that meeting a community garden executive was formed, which has since met on a monthly basis. The Community Garden has applied for and received a number of grants from various organisations including Ku-ring-gai Council and the Federal Government.

In October 2009, in partnership with Ryde TAFE, the design of the garden commenced that was officially opened in June 2010. The community garden project is highly visible and well supported both by the residents and the business community.

FINANCIAL CONSIDERATIONS

This sponsorship includes a monetary contribution by the Bank of \$20,000 per annum for five years. This sponsorship is valued at \$100,000 from 16 April 2010 to 16 April 2015. The support will help establish the Garden and ensure its financial sustainability until 2015.

No changes to Council's adopted works program are expected as a result of the establishment of the Turrumurra Lookout Community Garden. Community volunteers will fully maintain the Garden, however, being consistent with the Sponsorship and Donations Policy, this agreement is required to be reported to an Ordinary Meeting of Council for approval.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

This matter has been discussed with relevant Directors and Managers from Community, Recreation, Corporate Planning and Sustainability, Communications and Property Management. The development of the community garden itself has involved many areas of Council and this sponsorship should lessen the ongoing financial costs to the Operations Department with respect to site maintenance and provision of materials.

SUMMARY

This proposed sponsorship agreement between the Turrumurra Community Bank and the Turrumurra Lookout Community Garden involves a significant monetary contribution to establish and support the Garden over the next five years.

Due to the philanthropic nature of this proposal, the agreement is recognised as both a sponsorship and donation under the Sponsorship and Donations Policy. As such, this agreement is required to be reported to an Ordinary Meeting of Council for approval.

This is the first community and Council partnership agreement to be reported to Council under the new Sponsorship and Donations Policy and will greatly assist in delivering a successful community project.

RECOMMENDATION

That Council enter into a sponsorship agreement with the Turrumurra Community Bank to assist in the establishment and ongoing support of the community garden at Turrumurra Lookout from 16 April 2010 to 16 April 2015.

Nick Van de Peer
Consultation Co-ordinator

Peter Davies
Manager Corporate Planning
& Sustainability

Andrew Watson
Director Strategy &
Environment

Attachments: 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 part 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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URBAN DESIGN EXCELLENCE PANEL - TERMS OF REFERENCE AND APPOINTMENT PROCESS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council a process for the appointment and operation of the Urban Design Excellence Panel (UDEP) as required under Clause 6.4 - "Urban Design Excellence for Key Sites" of the "Ku-ring-gai Local Environmental Plan (Town Centres) 2010".

BACKGROUND:

Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010) was made on 25 May 2010. Clause 6.4 of the LEP requires Council to establish an Urban Design Excellence Panel (UDEP) to determine if development on key sites demonstrates urban design excellence and therefore qualify for additional height / floor space ratio. The *Town Centres Development Control Plan 2010* adopted by Council also contains urban design excellence principles that will guide the UDEP assessment of applications.

COMMENTS:

The Urban Design Excellence (UDE) process and procedures and *Urban Design Excellence Panel (UDEP) Terms of Reference*, they are in line with the KLEP 2010 requirements and provide the necessary mechanism for the effective and transparent assessment of urban design excellence for applications seeking the additional height / FSR under Clause 6.4. It is proposed that the cost of the UDEP operations be borne by the applicant. This will require an amendment to Council's Fees and Charges 2010-2011.

RECOMMENDATION:

That the "Urban Design Excellence Panel (UDEP) Terms of Reference" document be exhibited for a period of one month for public comment. That Council exhibit a proposed amendment to the Fees and Charges 2010-2011 to include a charge for applications under the UDE process.

PURPOSE OF REPORT

To present to Council a process for the appointment and operation of the Urban Design Excellence Panel (UDEP) as required under Clause 6.4 - "Urban Design Excellence for Key Sites" of the "Ku-ring-gai Local Environmental Plan (Town Centres) 2010".

BACKGROUND

Ku-ring-gai Local Environmental Plan (Town Centres) 2010 (KLEP 2010) was made on 25 May 2010. Clause 6.4 of the LEP requires Council to establish an Urban Design Excellence Panel (UDEP) to determine if development on key sites demonstrate urban design excellence and therefore qualify for additional height and floor space ratio (FSR).

The objective of the KLEP 2010 urban design excellence provision is to provide a mechanism for the delivery of the highest standard of urban and architectural design outcomes for Key Sites in the Ku-ring-gai town centres and to encourage the amalgamation of sites to provide opportunities for the expansion of, or improvements to, the public domain.

The Key Sites are nominated sites within the six town centre areas (Turramurra, Pymble, St Ives, Gordon, Lindfield, Roseville) that have been identified as having the position and potential to create positive activity hubs for the community. These sites are identified on the KLEP 2010 Key Sites Maps.

Provided that a Key Site has an area of 2,000sqm or more; or, has a primary street frontage of 36m or more, the KLEP 2010 enables development proposals of new buildings on Key Sites to apply for an additional height/floor space ratio (FSR) allowance. The incremental height and FSR that may be allocated to successful UDEP proposals are stated in Clause 6.4(5) KLEP 2010. The additional height permitted under the Clause is 3 metres (1 storey) and the additional FSR ranges from 0.3:1 to a maximum 0.5:1.

The UDEP has been endorsed in principle by the NSW State Government via the gazettal of the KLEP 2010.

A copy of the Clause 6.4 is included as **Attachment 1**.

Under Clause 6.4, the allocation of the additional height/FSR is to be regulated by an Urban Design Excellence Panel (UDEP). The UDEP is to be composed of at least 3 members that are professionals in the architecture/planning field with expertise in urban design and independent of Council.

The *Town Centres Development Control Plan 2010 (DCP)* was adopted by Council on 8 June 2010 and came into effect on 11 June 2010. Part 2 of the DCP provides guidance for development on land identified as a Key Site in Clause 6.4 and on the Key Sites Map of KLEP 2010.

The Urban Design Excellence Principles contained in Part 2 of the DCP are aimed at supporting and better articulating the consideration under subclause 6.4(3) of KLEP 2010 as it applies to a particular site and are provided to guide the UDEP as to the nature of urban design excellence

determined by Council to be appropriate for a particular site. Possible UDE solutions are also presented graphically in part 2 of the DCP.

COMMENTS

The gazettal of the KLEP 2010 alongside the operation of the Town Centres DCP 2010 has necessitated the requirement for Council to establish a process to enable development on Key Sites to occur in line with Clause 6.4 of the KLEP 2010. There are two elements for Council to consider in implementing and establishing the Urban Design Excellence provisions:

1. the adoption of a terms of reference for the appointment and operation of the UDEP itself; and
2. establishing a UDE application assessment process that is aligned with Council's overall objectives, ensuring that there is a high level of transparency, accountability and consistency in application of the process.

As the process needs to be able to integrate into Council's existing development assessment procedures there has been considerable collaboration with Development and Regulation in the preparation of the guidelines. Council's Corporate Lawyer and Internal ombudsman have also been consulted on the transparency and accountability aspects of the process and to ensure consistency with Council's Governance Codes and Policies.

It is important that the Council adopted process of implementing the Urban Design Excellence provisions is consistent with the provisions of Clause 6.4 and not so overly onerous so as to deter or prevent achievement of the development potential under the Clause. Also, the establishment of the process and the UDEP should occur in a timely and efficient manner so that Council is not perceived as hindering the process for development of the Town Centre Key Sites.

1. The Urban Design Excellence Panel (UDEP)

Clause 6.4 of the KLEP 2010 requires the establishment of an Urban Design Excellence Panel (UDEP) to determine if the design excellence elements included in a development proposal warrant the additional Height/FSR. In deciding whether a development proposal is eligible for additional Height/FSR, the UDEP must be satisfied that the KLEP 2010 requirements are satisfied

The proposed member selection and operation of the UDEP is detailed in the *draft Urban Design Excellence Panel (UDEP) Terms of Reference* at **Attachment 2**.

The proposed purpose of the UDEP will be to:

- contribute to the co-ordination of high design quality, sustainable development across the different town centres;
- provide guidance and assessment of development proposals on Key Sites that seek the additional Height/FSR in accordance with Clause 6.4 of the KLEP 2010; and
- provide a consistency of decision and high quality design across all Town Centres Key Sites.

Item 11

S08367
29 July 2010

It is proposed that the UDEP will consist of three (3) qualified professionals who will hold office for a two (2) year period. Each UDEP member will have:

- expertise in one or more of the following professions: architecture, urban design, landscape architecture, social or cultural planning (public art);
- a mix of the above disciplines with at least two members having urban design experience; and
- demonstrated expertise and experience in town centre planning and urban design.

In the interest of ensuring an independent expert decision making process, it is proposed that employees of Ku-ring-gai Council, including council officers, elected Councillors, and contracted consultants employed on an ongoing basis, will not be permitted to be a member of the UDEP.

The proposed recruitment and appointment process of UDEP members will be through an expression of interest (EoI) process conducted by the Director Strategy and Environment with recommendations to Council on the final make up of the panel.

The proposed process will involve the following:

- advertisement for EoI;
- shortlist selection of no more than 10 responders;
- interview and final selection;
- approval of selection through Council; and
- appointment, training and signing of contracts including *Urban Design Excellence Panel (UDEP) Terms of Reference, Ku-ring-gai Code of Conduct, and Confidentiality Agreement*.

It is proposed that the Panel consist of three (3) members who are appointed for a two (2) year term. It is also proposed that two alternate members also be appointed through the recruitment process.

The attached *draft Urban Design Excellence Panel (UDEP) Terms of Reference* also contains details on the Role and Responsibilities, Conditions of Office, Procedure for Meetings, and Code of Conduct for the UDEP Members.

2. The UDE Application Process

The UDE application process will be the mechanism whereby urban design excellence for Key Sites is regulated and implemented. It is important to ensure that the UDE process is aligned with Council's overall objectives and to ensure that there is a high level of transparency, accountability and consistency in application in the process; further, the UDEP process has been designed to enable its integration into existing development assessment procedures.

The UDE application process is illustrated in *Diagram A* below. The attached *draft Urban Design Excellence Panel (UDEP) Terms of Reference* document provides a more detailed account of the UDE application process and the roles of all parties involved.

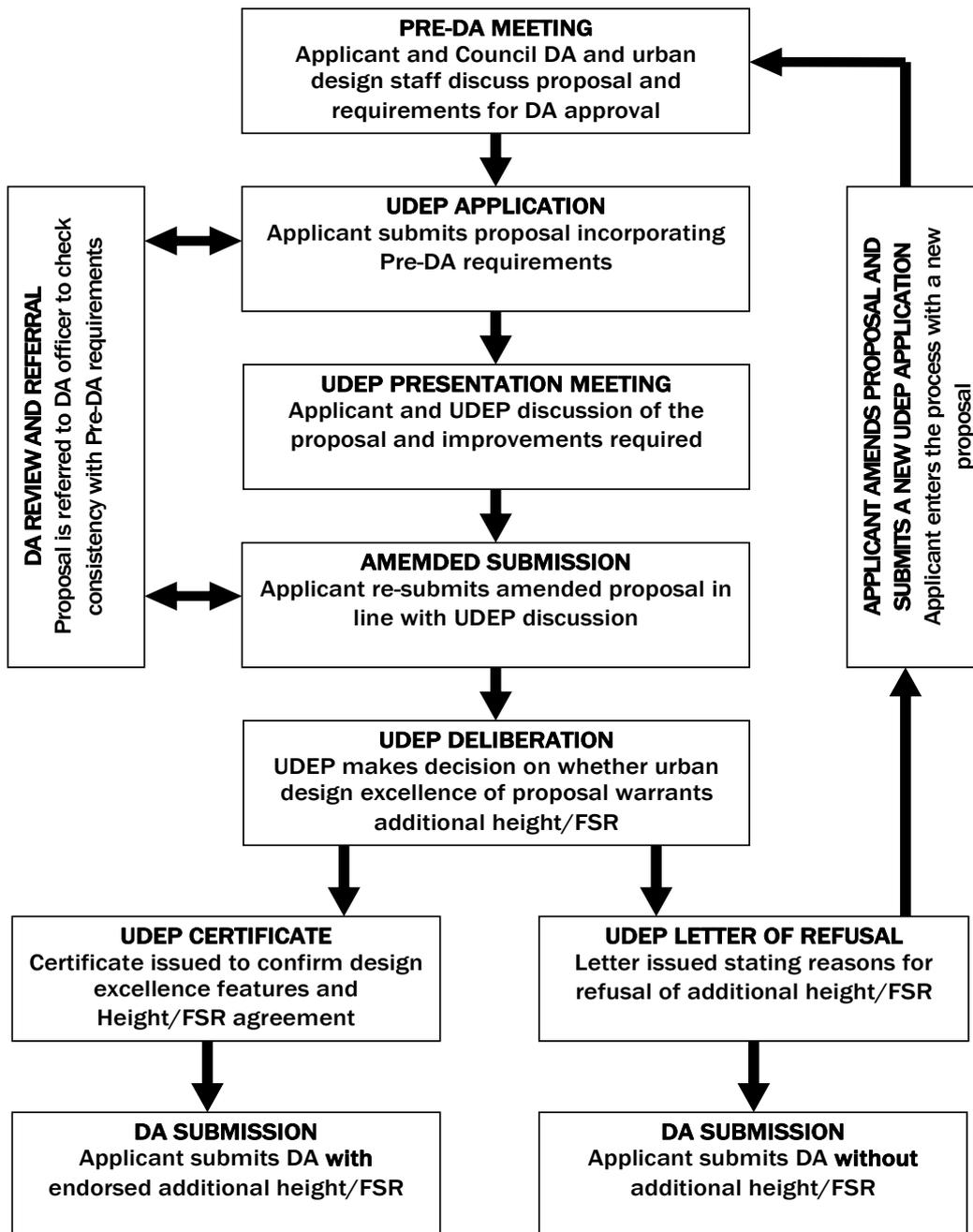
- ***The assessment process***

This process primarily involves the Applicant and the UDEP; however, a facilitator and development assessment officers will be involved in the process.

The facilitator will be a member of Council’s Urban Planning team. Their role will be limited to the co-ordination and administration of the UDEP process. They will have no influence on the UDEP decision.

Council’s development assessment officers will have a referral role during the UDEP process. This is to ensure that the application remains in line with both Council and other statutory documents.

DIAGRAM A – UDEP Process



Item 11

S08367
29 July 2010

The UDE application process and development assessment processes are two separate processes as stipulated in the *Urban Design Excellence Panel (UDEP) Terms of Reference*. All UDE applications are required to show evidence of attending and incorporating advice from the compulsory Pre-DA meeting with development assessment staff.

- ***The UDE Certificate, UDEP Letter of Refusal, and UDEP Report***

Where a proposal has successfully provided significant and contributory design excellence, the UDE assessment process will culminate in the UDEP issuing of the *UDE Certificate*.

The approval of a UDE proposal, through the issuing of the *UDE Certificate*, does not preclude that proposal from the development assessment process, nor does it guarantee any development approval.

Where a UDE proposal has not been able to demonstrate urban design excellence elements in line with the KLEP 2010, a *UDEP Letter of Refusal* will be issued to the Applicant indicating reasons for the proposal's failure to secure the additional Height/FSR.

Both the *UDE Certificate* and the *UDEP Letter of Refusal* will be accompanied by the UDEP Report. The report will be prepared by the Facilitator and document the decision making process during the UDEP meetings and from any relevant correspondence. The UDEP Report as well as the *UDE Certificate* and the *UDEP Letter of Refusal* will only be valid when they are signed off by all three members of the UDEP.

Urban Design Excellence Application on Council Sites.

There may be circumstances in the future where by Council is a party to or has interests in an application under the Urban Design Excellence provisions. This may be an application where Council is a land owner or joint Applicant, an immediate past land owner, or where a voluntary planning agreement is proposed between Council and the applicant. In these circumstances there may be a perceived or real conflict of interest on the part of Council if the above process for the assessing and administering the UDE process was followed. Therefore in the interest of transparency and accountability an alternative UDE process will need to be devised and implemented for applications in which Council has an interest.

It is envisaged that where Council is the applicant or immediately preceding landowner the UDE process will be outsourced so as to avoid any conflict of interest. The UDEP will remain in place and follow the terms of reference as for the privately owned land applications. This process will be developed separately and be reported to Council.

In the meantime it is vital that the proposed process for privately owned sites be put in place so that design excellence in public domain provision can be harnessed from these private developers.

CONSULTATION

The preparation of the draft Urban Design Excellence Panel (UDEP) Terms of Reference has involved considerable consultation with relevant stakeholders both internally and externally. Discussions with other Councils, namely Randwick, Waverly and City of Sydney Councils, provided

Item 11

S08367
29 July 2010

a research base of practical issues involved with creating and functioning of panels. Whilst their Panels were not for the same purpose as intended in the UDEP process, their operation and installation methods formed useful reference points.

Councillors have been provided with an overview of the UDEP process during the preparation of the DCP (Town Centres) 2010. On 3 August 2010 Councillors were also provided with a briefing on the final version of the UDEP process.

It is proposed that the community be provided with an opportunity to comment on the draft Urban Design Excellence Panel (UDEP) Terms of Reference and that it be placed on public exhibition for a period of 28 days. Comments will be then reported back to Council prior to final adoption. The recruitment of the UDEP members would not commence until such time the final Terms of Reference have been adopted by Council.

FINANCIAL CONSIDERATIONS

It is proposed that the operation of the UDEP be cost neutral to Council and that the cost of the UDE assessment process and operations of the UDEP be borne by the applicant.

The proposed application fee for a UDEP proposal is \$15,000.00 per application. This charge would cover the operation of the UDEP (including Panel Members, Facilitator, DA referrals, and any other staff required), and the UDEP process (including the production of the UDEP Report and UDEP Certificate). Where a specialist consultant is required, those services would need to be additional to the UDE application fee and would be charged to the applicant.

This UDE application fee would be in addition to the standard development application fee.

The levying of the UDE application fee will require an amendment to Council's Fees and Charges 2010-2011. It is proposed that this proposed amendment be advertised concurrently with the public exhibition of the draft Urban Design Excellence Panel (UDEP) Terms of Reference.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's Development Control Department have been integral in creating a UDEP process that is in synergy with the DA process. In addition, Council's Ombudsman and Corporate Lawyer have overseen contractual issues and have contributed towards making the UDEP process transparent and creating accountability of all staff involved in the UDEP process.

SUMMARY

The Urban Design Excellence (UDE) process and procedures and *Urban Design Excellence Panel (UDEP) Terms of Reference*, are the result of considerable inter-departmental consultation as well as discussions with other local authorities. They are in line with the KLEP 2010 requirements and provide the necessary mechanism for the effective and transparent assessment of urban design excellence within applications seeking the additional Height/FSR under Clause 6.4.

Item 11

S08367
29 July 2010

Extensive consultation has been conducted to ensure the UDEP process is aligned with Council's overall objectives and to ensure that there is a high level of transparency, accountability and consistency in application in the process; further, the UDEP process has been designed to enable its integration into existing planning procedures.

It is proposed that the cost of the UDEP operations be borne by the applicant. This will require an amendment to Council's Fees and Charges 2010-2011.

RECOMMENDATION

- A. That the *Urban Design Excellence Panel (UDEP) Terms of Reference* document be exhibited as a policy of Council for a period of 28 days for public comment. Following exhibition, results and amendments be reported back to Council.
- B. That Council exhibit a proposed amendment to the Fees and Charges 2010-2011 to include a charge for applications under the UDE process an initial fee of \$15,000, a second UDEP presentation meeting fee of \$1,500 and additional UDEP meetings \$2,000 per meeting.
- C. That a further report be brought back to Council on an alternative Urban Design Excellence process to be applied to Council where Council will have an interest in the application.

Rthna Gill
Urban Planner

Craige Wyse
Team Leader Urban Planning

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

- Attachments:**
- 1. "Ku-ring-gai Local Environmental Plan (Town Centres) 2010 - Clause 6.4 - Urban Design Excellence for Key Sites" - 2010/114904
 - 2. "Draft Urban Design Excellence Panel (UDEP) Terms of Reference" - 2010/112580

Ku-ring-gai Local Environmental Plan (Town Centres) 2010 - EXCERPT

6.4 Urban design excellence for Key Sites

- (1) The objectives of this clause are as follows:
 - (a) to deliver the highest standard of urban and architectural design outcomes for Key Sites in the Ku-ring-gai town centres,
 - (b) to encourage the amalgamation of sites to provide opportunities for the expansion of, or improvements to, the public domain.
- (2) This clause applies to land that is a Key Site.
- (3) A development proposal for the erection of a new building on land that is a Key Site may be eligible for additional height and floor space ratio in accordance with subclause (5) if the land:
 - (a) has an area of 2,000 square metres or more, or
 - (b) has a primary street frontage of 36 metres or more.
- (4) In deciding whether a development proposal is eligible for additional height and floor space ratio, the Urban Design Excellence Panel must be satisfied that:
 - (a) the proposal demonstrates urban design excellence, and
 - (b) the site planning, building form and external appearance of the proposed development will improve the quality and amenity of the public domain on and surrounding the site, and
 - (c) a very high standard of architectural design, materials and detailing, appropriate to the building type and location, will be achieved, and
 - (d) the proposal addresses the following matters:
 - (i) environmental impacts such as sustainable design, overshadowing, wind and reflectivity,
 - (ii) the achievement of the principles of ecologically sustainable development,
 - (iii) pedestrian, cycle, vehicular and service access and circulation requirements, and
 - (e) the proposal allows the development of adjoining sites in a way that is consistent with this Plan.
- (5) If the Urban Design Excellence Panel is satisfied the proposal meets the requirements of subclause (4), the consent authority may grant development consent in accordance with the following:
 - (a) despite clause 4.3, if the maximum height (the standard height) for the building as specified for the land on *the Height of Buildings Map* is not more than a standard height specified in Column 1 of the Table to this paragraph, the maximum height (the new height) of the building may be up to the new height specified in Column 2 of the Table opposite the standard height,

Table

Column 1	Column 2
Standard height	New height
17.5 metres	20.5 metres
20.5 metres	23.5 metres
23.5 metres	26.5 metres
26.5 metres	29.5 metres
29.5 metres	32.5 metres

- (b) despite clause 4.4, if the maximum floor space ratio (the standard ratio) for the building as specified for the land on the *Floor Space Ratio Map* is not more than a standard ratio specified in Column 1 of the Table to this paragraph, the maximum floor space ratio (the new ratio) for the building may be up to the new ratio specified in Column 2 of the Table opposite the standard ratio.

Table

Column 1	Column 2
Standard ratio	New ratio
2.0:1	2.3:1
2.5:1	3.0:1
3.0:1	3.5:1
3.5:1	4.0:1

- (5) In this clause:

Key Site means land identified as a Key Site on the Key Sites Map.

urban design excellence means providing urban design features that will benefit the broader community as part of the design of development on a site.

Urban Design Excellence Panel means a panel of at least 3 planning and design experts appointed by the Council.

urban design features includes building forecourts and court yards, view corridors, building setbacks, pedestrian arcades and walk ways through a site, and improved traffic and cycle access through a site.

Urban Design Excellence Panel (UDEP)

Terms of Reference

**Department of Strategy and Environment
Ku-ring-gai Council
AUGUST 2010**

DRAFT

CONTENTS

1.0 INTRODUCTION

2.0 PURPOSE

2.1 General

3.0 MEMBERSHIP

3.1 UDEP Selection

3.2 Alternate Members

4.0 CONDITIONS OF OFFICE

4.1 Attendance

4.2 Fees and Charges

5.0 ROLE AND RESPONSIBILITIES

5.1 General

6.0 PROCEDURES FOR MEETINGS

6.1 General

7.0 CODE OF CONDUCT

7.1 General Conduct

7.2 Relationship Between UDEP Members, Council And Council Staff

7.3 Protection and Use Of Information

**8.0 CONFLICT OF INTEREST; PECUNIARY AND NON-PECUNIARY INTEREST;
OTHER INTERESTS**

8.1 General

9.0 DONATIONS AND GIFTS

9.1 General

10.0 BREACH OF CODE OF CONDUCT

11.0 URBAN DESIGN EXCELLENCE PROCESS

11.1 Applicant Responsibilities

11.2 Facilitator Responsibilities

11.3 DA Officer Role

11.4 UDE Process and Council development applicationProcess

12.0 URBAN DESIGN EXCELLENCE DOCUMENTATION

12.1 UDE Submission

12.2 UDE Report

12.3 The UDE Certificate

12.4 The Letter of Refusal

13.0 DECLARATION

13.1 General

13.2 Agreement

1.0 INTRODUCTION

The *Urban Design Excellence Panel (UDEP) Terms of Reference* establishes the following:

- the procedure for the formation of the Urban Design Excellence Panel (UDEP)
- the scope of works for the UDEP
- the operation of the UDEP
- the process, on privately owned land, for the implementation of urban design excellence on Town Centre Key Sites. (A separate procedure will be developed for Council owned sites.)

2.0 PURPOSE

2.1 General

2.1.1 To contribute to the development of buildings of high urban design quality across the different Town Centres within the Ku-ring-gai local government area.

2.1.2 To provide guidance and assessment of development proposals on Key Sites that seek the additional height and FSR in accordance with clause 6.4 of the Ku-ring-gai LEP (Town Centres) 2010.

2.1.3 To provide consistency of decision making across all Town Centre Key Sites.

3.0 MEMBERSHIP

3.1 UDEP Selection

3.1.1 The UDEP shall comprise 3 members appointed by Council who have qualifications and professional expertise in one or more of the following:

- architecture
- urban design
- landscape architecture
- social or cultural planning (public art)

3.1.2 The membership of the UDEP must include a mix of the above disciplines with at least two Members having urban design experience.

3.1.3 All Members must have a demonstrated expertise and experience in town centre planning and design.

3.1.4 An employee of Ku-ring-gai Council is not permitted to be a Member of the UDEP. This includes council officers and contracted consultants employed on an ongoing basis.

3.1.5 Elected Councilors are not permitted to be Members of the UDEP.

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- 3.1.6** Members of any other Panel or Committee within Ku-ring-gai Council, or that has any dealings with Ku-ring-gai Council are not permitted to be members of the UDEP.
- 3.1.7** The appointment of any person as a Member of the UDEP shall be for a maximum of 2 years, however Council may reappoint any person to the UDEP at the end of any term of appointment.
- 3.1.8** Council may review and alter the membership of the UDEP at any time at its absolute discretion.

3.2 Alternate Members

- 3.2.1** Two Alternate UDEP Members are to be selected and appointed by the same process and at the same time as the UDEP Member selection.
- 3.2.2** The Alternate Members are to act in place of any Member of the UDEP who for any reason
- has to be absent from a UDEP meeting
 - has declared any type of interest in the proposal
- 3.2.3** The appointment of any person to be an Alternate Member of the UDEP shall be for a maximum of 2 years, however Council may reappoint any person to the UDEP at the end of any term of appointment.
- 3.2.4** Council may review the appointment of Alternate Members of the UDEP at any time at its absolute discretion.

4.0 CONDITIONS OF OFFICE

4.1 Attendance

- 4.1.1.** A mandatory review of UDEP membership is to be undertaken every 2 years from commencement of term; however, Council reserves the right to review UDEP membership and replace a Member at any time.
- 4.1.2.** UDEP Members are required to attend all UDE meetings to do with each proposal they are assessing. Where this is not possible, the Member is to inform the Facilitator well in advance so that an Alternate Member may be selected for that proposal

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4.1.3. Ku-ring-gai Council may replace Members where it considers their attendance at UDE meetings is inadequate.

4.1.4. Prior to the UDE Presentation of an application, it is expected that each UDEP Member commenting on the application will have received copies of the development proposal, be familiar with the proposal and will have attended a site visit of the subject site.

4.2 Fees and Charges

4.2.1. The Fees for a UDE Assessment Application will accompany the UDE Application and be a standard sum of \$15,000.00+GST per application.

4.2.2. All costs for the UDE process, including UDEP Members, Facilitator, development assessment referrals, will be covered by the Application fee.

4.2.3. All costs involved with the production of the UDE Report will be covered by the Application fee.

4.2.4. All costs associated with the Pre-DA meeting and with the development application are not included in the UDE application fee.

4.2.5. Where the UDEP is requested to attend a second UDE Presentation Meeting by the Applicant, the Applicant will be required to pay a secondary fee of \$1,500.00 for that additional meeting and any associated preparation.

4.2.6. Where the UDEP is required to reconvene to consider the potential extension of the *UDE Certificate* beyond the standard 18 months, the Applicant will be charged \$2000.00 to cover UDEP Member fees and administrative costs.

4.2.7. Where a specialist consultant is required, those services will be additional to the UDE fees and will be charged to the Applicant separately.

4.2.8. Each Member of the UDEP will be paid a maximum of \$2,500 per person per application.

4.2.9. Any variations to UDEP Members' fees will be considered on an individual basis and in line with these *UDEP Terms of Reference* and any other contractual agreements.

4.2.10. UDEP time includes, but is not limited to the following:

- preparation and ongoing reviews of proposal including consideration of the proposal prior to attending the UDE site meeting
- attending a group site meeting at least one day prior to the Presentation Meeting
- attending the Presentation Meeting
- attending Deliberation meetings (maximum 2 meetings)
- consideration of the proposal and decision on issuing the UDE Certificate
- signing and issue of the UDE Certificate, or the UDE Letter of Refusal (including reasons for refusal)

4.2.11. Provision will be made to reimburse the UDEP Members reasonable travel expenses to and from meetings.

5.0 ROLE AND RESPONSIBILITIES

5.1 General

5.1.1. The UDEP is both an advisory group and a decision-making body and deals with any Town Centre Key Site proposal seeking an additional FSR/height.

5.1.2. The UDEP advises on the Design Excellence of urban, landscape and architectural design to develop successful schemes that exhibit a high standard of urban design excellence.

5.1.3. Each UDEP Member must attend all UDE process meetings as far as is possible, and allow the necessary time to prepare for meetings.

5.1.4. Each UDEP Member may be provided with equipment and other resources to perform UDEP functions. All such resources are to be used only for UDEP purposes.

5.1.5. The UDEP makes the decision on whether the proposal's Urban Design Excellence warrants the additional FSR/Height in accordance with cl.6.4 Ku-ring-gai LEP (Town Centres) 2010.

5.1.6. Evaluation of design quality will be based on the Urban Design Excellence Criteria, having regard to the relevant LEPs, draft LEPs, DCPs, Draft DCPs, and other relevant plans/policies.

5.1.7. Where the UDEP agrees that the Urban Design Excellence of the proposal warrants the FSR/height, it issues a UDE Certificate (stating the approved FSR/height and listing Urban Design Excellence elements that have secured the

UDE Certificate) enabling the proposal to include the FSR/height in the development application.

- 5.1.8.** The UDEP is to ensure that the agreed urban design excellence provided in the proposal is maintained throughout the development application process. Where the development application process requires changes to the proposal, the UDEP is to determine whether the modifications retain the urban design excellence originally approved for the FSR/Height allowance.
- 5.1.9.** Where the UDEP consider that changes to the proposal as a result of the development application process continue to uphold the UDE criteria, an *Amending UDE Certificate* is to be attached to the referral document package, indicating consideration and approval of the changes by the UDEP.
- 5.1.10.** Where the amendments are considered to be a substantial alteration and no longer uphold the UDE criteria, an *UDE Certificate Cancellation* is to be attached to the referral document package. At this stage the Applicant has the choice of withdrawing the development application and entering the UDE process again with a new application, or proceeding with the development application process without the additional Height/FSR.
- 5.1.11.** If requested by Ku-ring-gai Council, the UDEP are to call for additional expert assistance in the assessment of a particular proposal. This additional expert may advise the UDEP, but may not vote on recommendations.

6.0 PROCEDURES FOR MEETINGS

6.1 General

- 6.1.1** UDE meetings including Site Meetings, Presentation Meetings, Deliberation Meetings will be conducted on an as needed basis. All meetings will be arranged by the Facilitator.
- 6.1.2** A quorum of 3 UDEP Members is required for every meeting, where this is not possible due to unforeseen circumstances, the meeting will be postponed.
- 6.1.3** Prior to the meeting, an agenda will be drawn up and circulated to the UDEP Members by the Facilitator.
- 6.1.4** The Facilitator will ensure time keeping and will record all proceedings during meetings.

-
- 6.1.5** UDEP Members are to be familiar with the proposal and issues surrounding it at each stage of the UDE process and be prepared for each meeting.
- 6.1.6** During the Presentation Meeting, the Applicant/Architect will have up to 30 minutes to present followed by up to 60 minutes of discussion.
- 6.1.7** Following the Presentation meeting, the UDEP will have 90 minutes to deliberate and list their design excellence requirements in order for the proposal to merit the FSR/Height provision sought

7.0 CODE OF CONDUCT

7.1 General Conduct

- 7.1.1** It is the personal responsibility of each UDEP Member and Alternate Member to comply with:
- the Ku-ring-gai Code of Conduct (2009)
 - the UDE Code of Conduct stated in this section.
- 7.1.2** UDEP Members are obligated to attend Code of Conduct training and sign agreement with the Code of Conduct.
- 7.1.3** The Codes will be kept under review and may be subject to changes. In particular, changes to the UDE Code of Conduct may be required to reflect the experience of the implementation and operation of the UDEP.
- 7.1.4** The Codes set out the minimum requirements of behaviour for UDEP Members in carrying out their functions. The Codes have been developed to ensure UDEP Members
- understand the standards of conduct expected of them
 - enable them to act honestly, ethically and responsibly
 - enable them to exercise a reasonable degree of care and diligence
 - act in a way that enhances public confidence in the integrity of role of the UDEP
- 7.1.5** Where personnel other than Council staff, such as external consultants, undertake functions to support the UDE process, they must ensure that they comply with both Codes.
- 7.1.6** Council staff responsible for preparing assessment reports and/or otherwise assisting the UDEP in the exercise of its functions are subject to the Ku-ring-gai Code of Conduct (2009).

7.1.7 All UDEP Members are subject to the Independent Commission Against Corruption Act 1988 and the Ombudsman Act 1974.

7.2 Relationship Between UDEP Members, Council And Council Staff

7.2.1 Each UDEP Member has a responsibility to promote and support effective and co-operative working relationship with the Council, General Manager and Council staff and consultants.

7.2.2 UDEP Members must not engage in inappropriate interactions when exercising their functions.

7.2.3 In relation to Council staff UDEP Members must not:

- approach, make requests of, make enquiries or issue instructions to Council staff other than through official channels and in accordance with the Codes Of Conduct
- be overbearing or threatening to Council staff
- make personal attacks on Council staff in a public forum
- direct or pressure Council staff in the performance of their work or recommendations they make
- influence or attempt to influence staff in the preparation of development assessment reports or other information to be submitted to the UDEP

7.2.4 Members must not hold private meetings, briefings or discussions in respect of the matter in the absence of other UDEP Members or without the UDE Facilitator being in attendance.

7.2.5 Members must not attend site visits unless they have been formally arranged by the UDE Facilitator and conducted as a group comprising other UDEP Members and the Facilitator.

7.2.6 Where meetings, briefings or site visits occur, Members should not express any preliminary views in relation to the UDEP's ultimate determination of the matter. All discussions are to be in the Facilitator's presence for recording in the UDE Report.

7.3 Protection and Use Of Information

7.3.1 Further to the *Ku-ring-gai Code of Conduct (2009)*, UDEP Members must comply with this part of the *UDEP Terms of Reference* document with regard to disclosure of information.

.....
7.3.2 All information regarding Key Site Proposals is confidential until the Application has been submitted for Development Assessment. Therefore, UDEP Members must:

- protect confidential information
- only release confidential information if specifically given the authority to do so
- only use confidential information for the purpose it is intended to be used
- not use confidential information gained through the position as a UDEP Member for the purpose of securing a private benefit for themselves or for any other person
- not use confidential information with the intention to cause harm or detriment to the UDEP or any other person or body
- not disclose any information discussed during the UDEP meetings and discussions

7.3.3 UDEP Members must not provide public comment or media interviews in relation to any UDE applications. The General Manager, Ku-ring-gai Council is solely responsible for speaking to the media on behalf of Council.

7.3.4 Where a Member is not participating in the UDE Process due to identified Interest or any other reason, that Member continues to be bound by all the Codes requirements of information use and protection.

8.0 CONFLICT OF INTEREST; PECUNIARY AND NON-PECUNIARY INTEREST; OTHER INTERESTS

8.1 General

8.1.1 Further to the Ku-ring-gai Code of Conduct (2009), UDEP Members must comply with this part of the *UDEP Terms of Reference* document.

8.1.2 To uphold the probity of UDEP decision making, each UDEP Member has a duty to disclose any form of interest in an UDE application. The onus is on the Member to identify the type of interest and take appropriate action if at any time during the UDE process any interest does arise. (When considering whether or not a Member has an Interest you should consider how others would view your situation.)

8.1.3 A Member of the UDEP who has any Interest in the Key Site:

- must disclose the nature of the Interest to the Facilitator as soon as practicable
- must make the declaration in the form of a letter stating the conflict

- must not take part in the consideration or discussion of the matter
- must not vote on any question relating to the matter

8.1.4 Where a UDEP Member has an Interest, they are not permitted to have any participation in the UDE process for that application. An Alternate Member will be called upon to replace them and be a part of the quorum for that proposal.

9.0 DONATIONS AND GIFTS

9.1 General

9.1.1 Further to the Ku-ring-gai Code of Conduct (2009), UDEP Members must comply with this part of the *UDEP Terms of Reference* document.

9.1.2 Each UDEP Member must be aware that political contributions or donations may give rise to a pecuniary or non-pecuniary interest. It is the responsibility of UDEP Member to declare all political donations regardless of type or size.

9.1.3 Each UDEP Member must make a disclosure where an interest arises because of a political donation.

9.1.4 Each UDEP Member must ensure that any outside employment or business they engage in will not:

- conflict with their functions as a UDEP Member
- involve using confidential information or resources obtained through their role as a UDEP Member
- discredit or disadvantage the UDEP

9.1.5 A UDEP Member may have reason to have private dealings with Ku-ring-gai Council (for example as a ratepayer). The Member must not expect or request preferential treatment in relation to any matter in which they have a private interest because of their role as a UDEP Member. The Member must avoid any action that could lead the public to believe that the Member is seeking preferential treatment.

9.1.6 A UDEP Member must not accept any gift, token or donation including:

- bribes or other improper inducement
- gifts or benefits of any kind, token or valuable
- offer of money, regardless of the amount
- gift or benefit that may create a sense of obligation on their part, or may be perceived to be intended or likely to influence them in carrying out their duty

- gift or benefit, regardless of size or value, where the other party may have an interest in the proceedings of the UDEP with regards to current proposals on Key Sites

9.1.7 Where a UDEP Member has accepted any gifts/tokens from persons who at a later date enter or are party to an application into the UDE process, that Member must disclose the past relationship as a Conflict of Interest and decline participation in the UDE process for that application.

10.0 BREACH OF CODE OF CONDUCT

10.1 General

10.1.2 Further to the Ku-ring-gai Code of Conduct (2009), UDEP Members must comply with this section.

10.1.3 UDEP Members are required to report suspected breaches of this Code. The Protected Disclosures Act 1994 provides protection to public officials who voluntarily report suspected corrupt conduct. A UDEP Member can make a report concerning suspected corrupt conduct to the General Manager, Ku-ring-gai Council.

10.1.4 The General Manager, Ku-ring-gai Council may take such steps as he thinks appropriate to investigate and take action in respect of the alleged breach.

10.1.5 A person who is alleged to have breached the Code must be given:

- the full particulars of the alleged breach
- an opportunity to respond to the allegations
- the right to have a legal or other representative present during any meetings/discussions in respect of the matter

10.1.6 Proven breaches of the Code may require removal of the UDEP Member from office.

11.0 URBAN DESIGN EXCELLENCE PROCESS

11.1 Applicant Responsibilities

11.1.2 The Applicant is to have sole responsibility for the organization of the UDE process on Key Sites, from the preparation of the Design Brief for their Architect through to meeting with the UDEP and throughout the development application process where alterations to the agreed UDE design are necessary.

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- 11.1.3** The Applicant is responsible for all costs associated with the UDE Process
- 11.1.4** The Applicant is to provide details regarding his architect including:
- name and contact information
 - RAIA registration and insurance details
 - list and photos of completed projects that illustrate expertise in mixed use buildings in similar urban contexts
- 11.1.5** The formal presentation of the proposal is to be made to the UDEP by the design architect, in the presence of the applicant.
- 11.1.6** The UDE application submission is to include a *Design Verification Statement* confirming that the proposal complies with:
- KLEP Town Centres 2010
 - controls of the Town Centres DCP 2010, in particular the specific requirements stipulated within Part 2
 - the Urban Design Excellence Criteria
 - the recommendations from The Pre-DA meeting

11.2 Facilitator Responsibilities

- 11.2.1** The Facilitator is a member of the Ku-ring-gai Strategy and Environment Urban Planning team, with detailed understanding of the Town Centre Key Sites.
- 11.2.2** The Facilitator is the point of contact for the Applicant throughout the UDE process, and oversees the administration of the UDE process.
- 11.2.3** The Facilitator is responsible for arranging dates/times of:
- compulsory site visit for UDEP
 - presentation meeting by Applicant to the UDEP
 - other meetings as required
- 11.2.4** The role of the Facilitator includes the following:
- Receiving and checking Applicant documentation/form/fees
 - Issuing documents to development assessment officer for development application referral (check inclusion of Pre-DA meeting recommendations)
 - Issuing all documents, including Applicant's submission, development application referral, proposal summary, and the Notice of Conflict/Pecuniary/Other Interest to UDEP
 - Informing Applicant of date/time/location/procedure of Presentation
- 11.2.5** In addition the Facilitator is responsible for:
- Briefing Alternate UDEP Members if needed

- Attending, co-ordinating, briefing, minuting and facilitating the UDEP site visit
- Recording all proceedings at all UDEP meetings for inclusion in UDE Report
- Receiving the Applicant's re-submission and forwarding it to the Development Assessment Officer for referral
- Sending the new proposal and new development application Referral to UDEP Members and arranging discussion meeting date and time
- Where a proposal has been approved by the UDEP, ensuring the *UDE Certificate* is endorsed by the UDEP prior to issuing to the Applicant
- Where a proposal has failed to achieve the criteria, ensuring a UDEP endorsed *Letter of Refusal* is sent to the Applicant with reasons why urban design excellence has not been achieved
- Checking compliance of the *UDE Certificate* through the development application process; where alterations to the design are made, the proposal will be sent to the UDEP for comment and decision on the UDE compliance of the proposal
- Informing the Development Assessment Officer whether the amended development application proposal does/does not comply with the issued *UDE Certificate*, and whether the *UDE Certificate* is valid or revoked

11.2.6 The Facilitator is responsible for the preparation of a UDE Report for each UDE proposal. The report is to contain the following:

- proposal summary
- pre-DA issues
- DA referrals
- UDEP site visit notes
- All UDEP meeting discussions
- UDEP/Applicant presentation and discussion
- UDEP decision and *UDE Certificate/Letter of Refusal* issue
- Copies of all drawings and correspondence
- Any other issues that are a result of the UDE process

11.3 DA Officer Role

11.3.1 The Facilitator is to provide the UDE application documents to the development assessment officer and request a referral on the proposal's compliance with the Pre-DA recommendations. Where the development assessment officer considers the requested pre-DA changes have not been incorporated into the UDE proposal, their referral will indicate that the proposal is unlikely to be approved at development application stage.

11.3.2 During the development application process, the development assessment Officer is to send the Facilitator submitted development application drawings and any further amendments resulting from the development application process. The UDEP will check the compliance of the development application proposal against the issued UDE Certificate and inform the development assessment Officer on the validity of that Certificate. Where the UDE Certificate is revoked due to significant changes in the proposal, the development assessment Officer may refuse the application due to the lack of a UDE Certificate validating the additional FSR/Height.

11.4 UDE Process and Council development application process

11.4.1 All Applicants must arrange and attend a Pre-DA meeting prior to the Urban Design Excellence Process.

11.4.2 All documentation submitted for the UDE process will be referred to the development assessment officer to check for compliance with the Pre-DA recommendations.

11.4.3 In making the development application submission, the applicant must provide the UDE Certificate (with certified design, signed by the UDEP Members, attached to it) stating the proposal's concurrence with the Urban Design Excellence criteria, and FSR/height allowance.

11.4.4 The UDE Certificate is to have signed copies of all the relevant documents and plans attached to it.

11.4.5 The issuing of a UDE Certificate will not fetter the Development Application process nor is it to be seen as a guarantee of development application approval.

11.4.6 During the development application process, the application proposal and any amendments will be referred to the UDEP to check ongoing compliance with the UDE Certificate.

12.0 URBAN DESIGN EXCELLENCE DOCUMENTATION

12.1 UDE Submission

12.1.1 Development on Key Sites seeking additional development potential must:

- follow the UDE process for Key Sites
- satisfy the requirements of clause 6.4 of the KLEP (Town Centres) 2010
- meet the objectives and comply with the controls of the Key Site as identified in Part 2 of the Town Centres DCP 2010
- provide one or more of the Urban Design Excellence principles identified for the particular site in Part 2 of the Town centres DCP 2010
- demonstrate consistency with the desired future character of the area or site as identified in Part 2 of the Town Centres DCP 2010

12.1.2 All proposals submitted for the UDE process must include the additional development potential in accordance with clause 6.4 of the KLEP Town Centres 2010.

12.1.3 Proposals must clearly demonstrate/annotate what elements of Urban Design Excellence are achieved by the proposal to warrant that additional development potential.

12.1.4 The UDE Application drawings are to include:

- 6 copies of the design proposal
- 6 copies of any supporting documents to be submitted at Council along with relevant forms and payment
- 1 soft copy (CD) of all submitted documentation

12.1.5 All drawings submitted with the UDE Application are to be clearly legible and at a scale of 1:100 or 1:200.

12.1.6 The UDE Application is to include:

- the contextual analysis and rationale for the design
- the manner in which Urban Design Excellence is achieved
- the FSR/Height incorporated into the proposal

12.1.7 The level of documentation required for the UDEP Presentation meeting should be sufficient to explain the design merits of the proposal and may include plans, elevations, models, montages and digital representations.

12.2 UDE Report

-
- 12.2.1** A UDE Report is to be produced by the Facilitator recording all documentation and proceedings of the UDE process. This includes but is not limited to all meetings, proceedings, decisions, conditions, changes resulting from the UDEP deliberation, pre-DA and development application advice/changes through to the issue/refusal of the UDE Certificate.
- 12.2.2** The UDE Report is to be prepared by the Facilitator and is to document the following for a *Key Site proposal*:
- Key Site details, Applicant details, Architect details
 - summary page of the Applicant's proposal prepared by Facilitator
 - comments page noting Pre-DA meeting notes and requirements
 - account of UDEP site visit discussion
 - account of Presentation meeting, including discussions and meeting proceedings
 - minutes on UDEP deliberation meeting and changes/elements required for the FSR/height allowance
 - notes on development application referrals
 - notes on any other consultation required
- 12.2.3** The Appendix to the UDE Report is to contain:
- a copy of the brief issued to the Applicant's architect
 - a copy of the Pre-DA meeting notes
 - A4 copies of all documents submitted by Applicant throughout the UDE Process from initial submission to UDE Certificate issue
 - A copy of the issued UDE Certificate with scaled copies (max A3 size) of agreed and signed documents of the proposal
- 12.2.4** The UDE Report is a public document produced to audit standards. Prior to issue, the report is to be circulated to development application officer and UDEP Members.
- 12.2.5** The UDE Report is to be agreed upon and finalized with signatures of each UDEP Member, and then circulated to the Applicant, UDEP Members and development assessment officer upon the issuing of the UDE Certificate.
- 12.2.6** All costs related to the production of the UDE Report will be met by the Applicant. Standard changes are included within the UDE process fee, however should the scope of works for the Report extend beyond the standard requirements, then the Applicant is to be sent a further account.

12.3 The UDE Certificate

-
- 12.3.1** The *UDE Certificate* entitles the Applicant to submit a development application proposal that includes the UDEP approved additional FSR/Height, in line with the requirements of clause 6.4 of the KLEP (Town Centres) 2010.
- 12.3.2** The *UDE Certificate* comprises the following:
- a statement of the FSR/Height approved
 - a list of the Urban Design Excellence elements provided within the proposal
 - an attachment of signed drawings illustrating the stated elements of urban design excellence
- 12.3.3** The *UDE Certificate* is declared final when the signatures of the UDEP quorum complete it.
- 12.3.4** Changes made to the design proposal after the issue of the *UDE Certificate* render the Certificate null and void unless an *Amending UDE Certificate* is attached to it indicating consideration and approval of the changes by the UDEP.
- 12.3.5** The *UDE Certificate* is valid for a term of 18 months from the date of issue. The *UDE Certificate* is to state the date of expiry. The Applicant is to submit a development application proposal that includes the UDE Certificate's agreed additional height/FSR within that 18 month period. After the 18 month period the UDE Certificate will be deemed null and void. Any development application thereafter will be unable to utilize its provisions.
- 12.3.6** In extremely exceptional cases this period may be extended by the UDEP, at its absolute discretion, following a written request to the General Manager received prior to the date of expiry. The Applicant will be charged \$2000.00 for the reconvening of the UDEP to consider the potential extension of the *UDE Certificate*. Agreement for the consideration of an extension does not guarantee an extension of time.
- 12.3.7** The *UDE Certificate* is bound to the specific proposal and site and may be transferred to a new owner of the land/property. The new owner must comply with the UDE conditions and obligations. Any changes to the original proposal must adhere to the UDE requirements and process.
- 12.3.8** Provision of the *UDE Certificate* does not guarantee development application consent. Proposals must comply with the relevant LEP, DCP and other documents and enter into the separate development application process following the UDE application process.

12.3.9 The *UDE Certificate* is valid at the time of issue. Council and the UDEP are not liable for any external changes that render the Certificate invalid.

12.4 The Letter of Refusal

12.4.1 Where a proposal does not warrant the design excellence additional height and FSR, the UDEP is to issue a *Letter of Refusal*, stating reasons for the refusal.

12.4.2 Where a *Letter of Refusal* has been issued, the Applicant may choose one of two options:

- modify the proposal and enter the UDE APPLICATION process under a new application
- modify the proposal, removing the additional height and FSR, and submit an application for DA. This falls out of the UDE APPLICATION process and hence is not bound by any UDE criteria

13.0 DECLARATION

13.1 General

13.1.1 This declaration is a binding agreement between Ku-ring-gai Council and any person that is not an employee of Ku-ring-gai Council.

13.1.2 This declaration binds the signatory to the *UDEP Terms of Reference for the Urban Design Excellence UDE application process* as stated within this document.

13.1.3 This declaration is an agreement that the signatory will attend the *Code of Conduct* training and sign *The Code of Conduct Agreement* prior to entering the UDE APPLICATION process.

13.2 Agreement

I have read and agree to abide by these UDEP Terms of Reference during my employment with Ku-ring-gai Council.

NAME (in full):	SIGNATURE:
POSITION :	DATE:

FUTURE PROPOSED ROAD CLOSURE - DENLEY & UNNAMED LANES, ST IVES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider the formal public road closure of Denley Lane, St Ives and a nearby unnamed lane, in order permit discussions to commence with owners of the St Ives Shopping Village to achieve planning proposals inline with the Ku-ring-gai Development Control Plan (Town Centres) 2010.

BACKGROUND:

On 28 June 2008, Council received a request from the owners of the St Ives Shopping Village (E.K. Nominees) for Council to provide owners consent for the lodgement of a Development Application (DA) regarding the proposed redevelopment of the St Ives Shopping Village. This application would include a proposal to incorporate part of the existing Denley Lane and the nearby unnamed lane, and provide a connection between Denley Lane and Mona Vale Road in accordance with the adopted Development Control Plan.

COMMENTS:

Although further discussions and negotiations are required between Council and the adjoining owners prior to any potential land transfer, there is nothing deterring Council from commencing the formal public road closure process.

RECOMMENDATION:

That a formal road closure application for Denley Lane, St Ives and the nearby unnamed lane be submitted to the NSW Land & Property Management Authority.

PURPOSE OF REPORT

For Council to consider the formal public road closure of Denley Lane St Ives and a nearby unnamed lane, in order permit discussions to commence with owners of the St Ives Shopping Village to achieve planning proposals inline with the Ku-ring-gai Development Control Plan (Town Centres) 2010.

BACKGROUND

Denley Lane is a Council-owned public lane connecting, and parallel to, Mona Vale Road St Ives. It is also located between the St Ives Shopping Village and the strip shops on the north-western side of Mona Vale Rd. The unnamed lane is also a Council-owned public lane off Mona Vale Road and is approximately 27m long and is located approximately 45m west of Denley Lane.

Denley Lane is constructed and currently provides access to the St Ives Shopping Village basement car park/service vehicle area, as well as rear lane access to the strip shops on the north-western side of Mona Vale Road. The unnamed lane is also a constructed lane and similarly provides access to the St Ives Shopping Village basement car park as well as pedestrian access to the St Ives Shopping Village shops (**Attachment A**).

On 8 June 2010, Council adopted the Ku-ring-gai Development Control Plan (Town Centres) 2010 (DCP). The adopted DCP identified the proposed closure of part of Denley Lane and the unnamed lane, and site consolidation with the adjoining commercial property (St Ives Shopping Village), along with a new lane to be constructed connecting the remainder of Denley Lane with Mona Vale Road (through 188 Mona Vale Road). Under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010 ("LEP"), Denley Lane and the unnamed lane are currently zoned B2 (Local Centre).

It is proposed that the road closure application seek to close all of Denley Lane which extends from Mona Vale Road through to Durham Avenue and Village Green Parade. The reason for this is to provide Council with flexibility in regards to the potential future land transfer and the quantum of land (following formal road closure) to be transferred as part of the overall development, which will then allow the remaining portion to be dedicated as public road once planning details are known.

Other parcels of land identified in the DCP ,as being connected to the redevelopment of the St Ives Shopping Village include Lot 103 DP672012 (176 Mona Vale Road, currently an at grade car park) and Lot 105 DP629388 (parcel of land connecting 176 Mona Vale Road with Denley Lane). Council has already resolved to commence the process to convert these lots to operational lands and the Planning Proposal commencing this process is currently with the Department of Planning.

On 28 June 2008, Council received a request from the owners of the St Ives Shopping Village (E.K. Nominees) for Council to provide owners consent for the lodgement of a Development Application (DA) regarding the proposed redevelopment of the St Ives Shopping Village. This application would include a proposal to incorporate part of the existing Denley Lane and the unnamed lane, and provide a connection between Denley Lane and Mona Vale Road in accordance with the adopted DCP (**Attachment B**).

COMMENTS

Further discussions and negotiations are required between Council and E.K. Nominees prior to any potential land transfer. Until Council has finalised land transfer negotiations it is not proposed to provide owners consent for development on Council land. However, there is nothing deterring Council from commencing the formal road closure of the lanes as this is a lengthy statutory process, which is outlined below.

There are two stages to a road closure process, the first of which requires a resolution of Council, which is then formalised through the NSW Land & Property Management Authority (LPMA) (subject to the requirements of the *Roads Act, 1993*). The Roads Act requires consultation with all affected/ adjoining property owners and concurrence from service and utility providers prior to Council making a submission to the NSW LPMA. The second stage involves Council and the NSW LPMA (who consult with other instrumentalities). Once the formal closure of the lanes has been gazetted, the NSW LPMA will issue a Certificate of Title to Council in Fee Simple. The process is expected to take between 12 – 18 months.

It is important to note, that the commencement of the road closure application does not in any way bind Council to the transfer of part of Denley Lane or the unnamed lane to the St Ives Shopping Village. It merely initiates a lengthy and detailed statutory process, of which any potential transfer would require a resolution of Council prior to any land transfer. It is only once Council holds Title over the land that final negotiations would be undertaken for any potential land transfer.

Further, the initial road closure application with the NSW LPMA requires that Council nominate whether the land be classified as Operational or Community as defined under the *Local Government Act 1993*. In order for Council to consider the future development of Denley Lane and the unnamed lane, it is recommended that Council resolve for the lanes to be classified as Operational land.

Classification of the land as Operational will provide Council with the flexibility to on-sell the lane in the future, as is implicit in the adopted DCP. As previously discussed, the final decision to sell public land requires a further formal resolution of Council in order to proceed.

CONSULTATION

Formal application and approval is made through the NSW LPMA, who also undertake a separate public notification process prior to formal approval.

The *Roads Act, 1993* requires public notification to all affected/adjoining property owners, service and utility providers. It is only with the concurrence of other State Government instrumentalities that a Certificate of Title will be issued to Council.

FINANCIAL CONSIDERATIONS

NSW LPMA currently charges between \$860 - \$2,000 to process and finalise a Road Closure application.

A formal survey of Denley Lane and the unnamed lane will be required for submission with the application to Lands. This is estimated to cost \$3,000.

Any future discussions and/or negotiations with the owners of St Ives Shopping Centre relating to a land transfer will be submitted in a separate report to Council.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from the Strategy and Environment and Operations Departments have provided input into the development of this report.

SUMMARY

On 8 June 2010, Council adopted the *Ku-ring-gai Development Control Plan (Town Centres) 2010*. The adopted DCP identified the proposed closure of part of Denley Lane and the unnamed lane, and site consolidation with the adjoining commercial property (St Ives Shopping Village), along with a new lane to be constructed connecting the remainder of Denley Lane with Mona Vale Road.

On 28 June 2008, Council received a request from the owners of the St Ives Shopping Village for Council to provide owners consent for the lodgement of a Development Application for the proposed development of the St Ives Shopping Village, which would include the proposal to incorporate part of the existing Denley Lane and the unnamed lane, and provide a connection between Denley Lane and Mona Vale Road in accordance with the adopted DCP.

Although further discussions and negotiations are required between Council and the owners of the St Ives Shopping Village prior to any potential land transfer, there is nothing deterring Council from commencing the formal public road closure process.

The proposed closure of part of Denley Lane and the unnamed lane accords with the planning outcomes of the Town Centres DCP for St Ives.

RECOMMENDATION

- A. That a formal road closure application for Denley Lane and the unnamed lane be submitted to the NSW Land & Property Management Authority.
- B. That, upon closure and issuance of the Certificate of Title for the land known as Denley Lane and the unnamed lane St Ives be classified as Operational Land.

Item 12

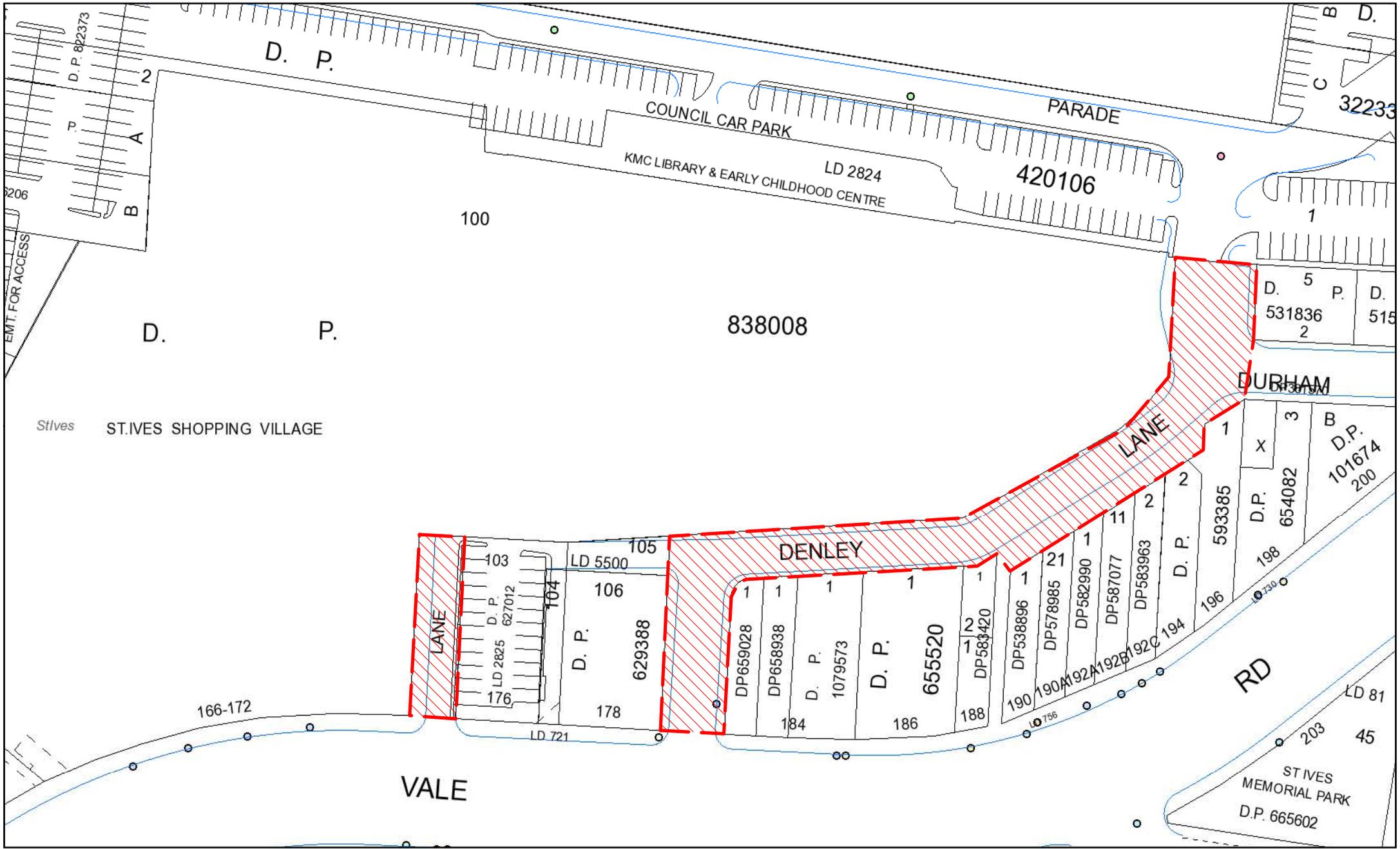
88/05363/01
30 July 2010

- C. That EK Nominees be invited to give Council a presentation on their proposals for the St Ives Shopping Village redevelopment, including Council owned land.
- D. That future discussions and negotiations with E.K. Nominees are reported to Council and accord with development outcomes identified in the Town Centres DCP for St Ives, prior to owners consent being issued in relation to the potential development of part of Denley Lane and the unnamed lane.

Deborah Silva
Manager Strategic Assets & Property Management

Andrew Watson
Director Strategy & Environment

Attachments: A. Location Map - 2010/143224
 B. Development Control Plan Extract - 2010/143241




 Date : 30/07/2010

 North

Location Sketch - Proposed Road Closure

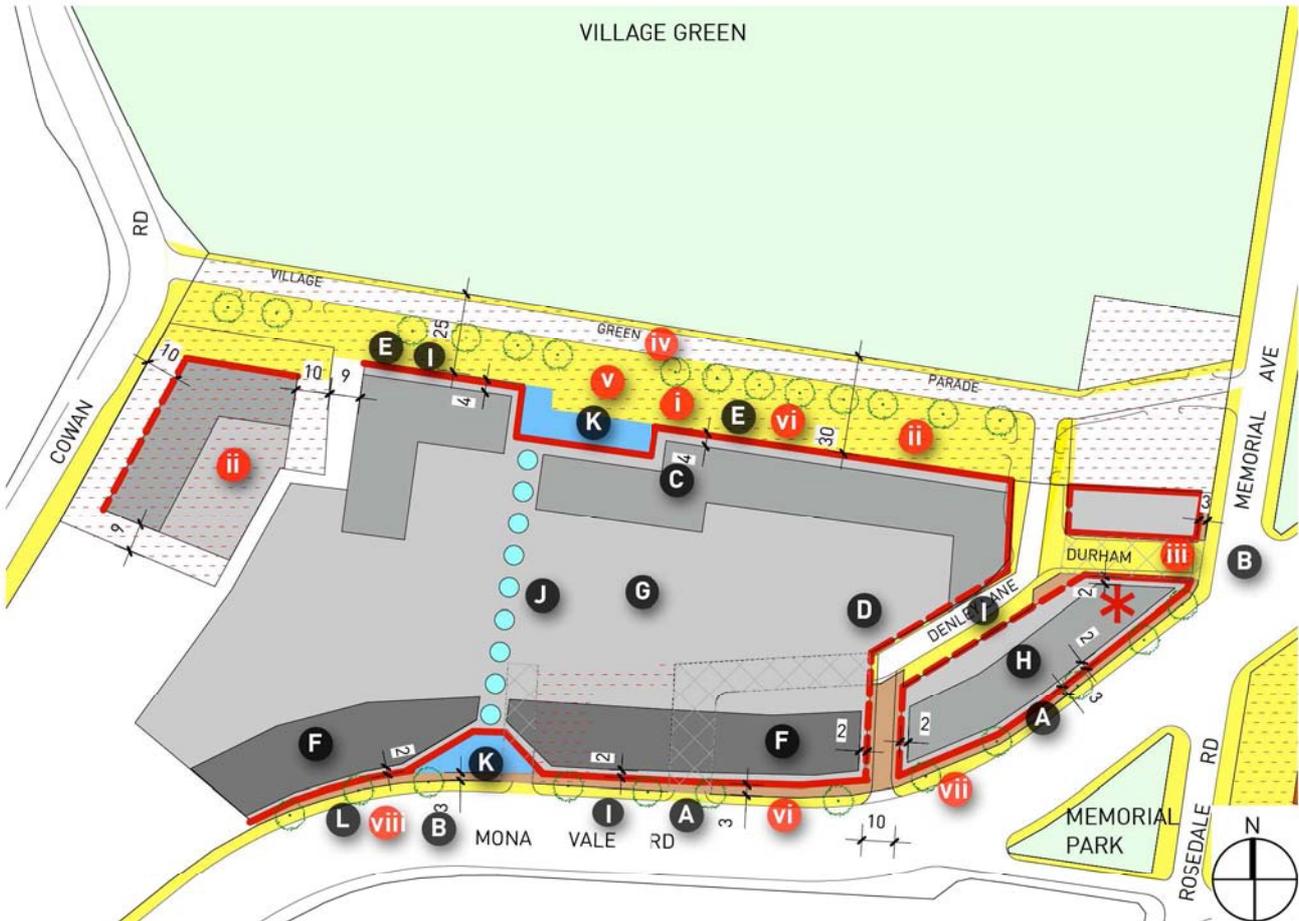
Denley Lane and Unnamed Lane, St Ives

KU-RING-GAI COUNCIL

 Ku-ring-gai Council

2A.2 KEY SITE OBJECTIVES, PRINCIPLES AND CONTROLS (continued)

2A.2.1 Key Site S1: St Ives Shopping Village (continued)



KEY SITE S1 INDICATIVE BASE PLAN

Key Community Infrastructure- Key Site S1

Key Community Infrastructure to be provided by Council and funded through the Ku-ring-gai Contributions Plan 2010 or by Voluntary Planning Agreement (VPA):

- i** A new town square on Council land between the shopping centre and the Village Green.
- ii** A new Council owned facility incorporating library, neighbourhood centre, youth facility and childcare centre. There are two options for the location of this facility:
 - on Council land fronting Cowan Road; or
 - on the Council land between the Shopping centre and the Village Green Parade.
- iii** Conversion of Durham Avenue to a pedestrian only area (vehicle access to No.2 Durham Avenue retained as shared way).
- iv** Reconstruction of Village Green Parade as a narrow one way street with on street parking and avenue planting.
- v** A broad pedestrian promenade and landscaped area along the northern edge of shopping centre. Public car parking relocated to basement parking under.
- vi** Embellishment of the public domain including underground powerlines, new lighting, high quality paving and furniture.
- vii** Extension of Denley Lane to connect with Monna Vale Road in new location.

Works to be funded by VPA or conditions of consent:

- viii** A new signalised intersection for vehicle and service access to the St Ives Shopping Village via Monna Vale Road (final location to be determined in consultation with the RTA and Council).

2A.2 KEY SITE OBJECTIVES, PRINCIPLES AND CONTROLS (continued)

2A.2.1 Key Site S1: St Ives Shopping Village (continued)

2A.2.1B Base Design Principles

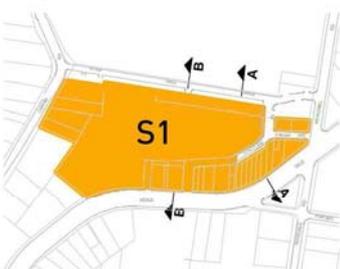
The Base Design Principles are to:

- A** Create a consistent street wall of 3 storeys or equivalent that is built parallel to the street alignment of Mona Vale Road to complement the traditional 'main street' facades. All levels above the street wall height are to have a setback. Refer to Sections AA and BB.
- B** Set back buildings along the street boundary of Mona Vale Road and Memorial Avenue to create new slip lanes off Mona Vale Road to enter the shopping centre.
- C** Locate residential buildings along northern edge of the site to maximise views over the Village Green and to optimise residential amenity.
- D** Locate taller buildings towards the centre of the site to minimise building bulk and scale when viewed from the Village Green.
- E** Create a consistent 3 storey street wall that is built parallel to the street alignment of the Village Green Parade. All levels above the street wall height are to be setback to provide garden courtyards and minimise bulk and scale. Refer to Sections AA and BB
- F** Locate commercial buildings located along the southern edge of the centre fronting Mona Vale Road.
- G** Provide private roof gardens located on the podium for residential amenity.
- H** Retain part of Denley Lane outside the main shopping centre, providing alternative retail area with shop-top housing.
- I** Provide active street frontages along Mona Vale Road, the Village Green Parade and Durham Avenue, and along Denley Lane wherever possible.
- J** Incorporate a pedestrian arcade or galleria, aligned north to south between Mona Vale Road and the Village Green, lined with shops. The arcade is to be publicly accessible during business hours.
- K** Provide an entry plaza or forecourt on Mona Vale Road and Village Green Parade as a public address to the building and its location should be closely aligned with new traffic signals (final location will be determined by internal layout of shopping centre). Refer to Section BB.
- L** Locate the main retail/commercial vehicle access on the Mona Vale Road frontage in conjunction with the new signalised intersection.

Legend

	principal active street frontage
	supporting active street frontage
	community building
	priority residential zone (on podium)
	new or upgraded public park
	retail/commercial zone (on ground floor)
	priority commercial zone
	proposed road closure
	landmark element
	internal pedestrian link
	land to be dedicated to council and form part of the public domain
	privately owned land publicly accessible and designed to be consistent with the public domain areas
	public domain areas
	other council owned and managed land

Key



HERITAGE MATTER - 23 TELEGRAPH ROAD, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide Council with information on the ability of Council to apply an Interim Heritage Protection Order over the curtilage of the property known as 23 Telegraph Road, Pymble.

BACKGROUND:

On 20 July, 2010 Council resolved that they be provided with a report as to whether Council can apply for an Interim Heritage Order over the curtilage of the property known as 23 to 29 Telegraph Road, Pymble due to the proposed sale of the property.

COMMENTS:

This report details the history of the property at 23-29 Telegraph Road Pymble and the processes for requesting an interim heritage order from the Minister for Planning.

RECOMMENDATION:

That Council receive and note the information.

PURPOSE OF REPORT

To provide Council with information on the ability of Council to apply an Interim Heritage Protection Order over the curtilage of the property known as 23 Telegraph Road, Pymble.

BACKGROUND

On 20 July, 2010 Council resolved that they be provided with a report as to whether Council can apply for an Interim Heritage Order over the curtilage of the property known as 23 to 29 Telegraph Road, Pymble due to the proposed sale of the property.

Description

23 Telegraph Road Pymble (Lot B, DP 340653) is a 3,927 square metre site with tennis court, self contained two bedroom cottage and a right of way from Taunton Street, Pymble. 29 Telegraph Pymble (Lot 1, DP 303397) is a 5,716 square metre site with a five bedroom house, two car garage and swimming pool. The gardens on both sites are mature and well established, and include several mature trees. The Heritage Inventory Sheet for 29 Telegraph Road, Pymble is **Attached**.

Current status under the Ku-ring-gai Local Environmental Plan (Town Centres) 2010

The Walter Burley Griffin designed house known as the “Eric Pratten House” (aka Coppins) at 29 Telegraph Road Pymble (Lot 1, DP 303397) is identified in schedule 5 of *Ku-ring-gai Local Environmental Plan (Town Centres) 2010* as a heritage item of State significance. The adjoining lot, identified as 23 Telegraph Road Pymble (Lot B, DP 340653) is not included in Schedule 5 nor on the NSW State Heritage Register.

Site map for 23 and 29 Telegraph Road, Pymble



Item 13

CY00294
2 August 2010

History of the site

The house at 29 Telegraph Road was included on the State Heritage Register in 2000 (gazettal date 22 December 2000). At the time of listing the property was subdivided. The property was sold to the current owners in 2001.

Information on current sale

Both 23 and 29 Telegraph Road Pymble are currently for sale through the real estate agent LJ Hooker. As the lots are on separate titles they are being offered for sale jointly or separately.

COMMENTS

Pursuant to section 24 of the *Heritage Act 1977*, the Minister for Planning has the power to make an interim heritage order for a place, building, work, relic, moveable object or precinct. The interim heritage order affords the building and/or place the same level of protection as a heritage item on the State Heritage Register.

The Minister also has the power under to section 25 of the *Heritage Act 1977* to grant Councils the power to make interim heritage orders for items of local heritage significance. This power has not been granted to Ku-ring-gai Council. If Council wants to protect a place with an interim heritage order it must make a formal request to the Minister for Planning.

The Heritage Branch of the Department of Planning is currently reviewing the heritage significance of 23 Telegraph Road Pymble as curtilage to the heritage listed item at 29 Telegraph Road Pymble. It is understood that the issue will be discussed at the meeting of the State Heritage Register Committee on the 4th of August 2010.

CONSULTATION

Officers from the Heritage Branch of the Department of Planning were consulted in the writing of this report.

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 with input from Council's Heritage Advisor where relevant.

SUMMARY

On 20 July, 2010 Council resolved that they be provided with a report as to whether Council can apply for an Interim Heritage Order over the curtilage of the property known as 23 Telegraph Road, Pymble. The urgency for the listing was brought about by the current owners placing the property for sale. The Heritage Branch of the Department of Planning are aware of the current threat to the

Item 13

CY00294
2 August 2010

curtilage of 29 Telegraph Road Pymble and is in the process of reviewing the significance of 23 Telegraph Road Pymble and its suitability for State listing.

RECOMMENDATION

That Council receive and note the information.

Andreana Kennedy
Heritage Specialist Planner

Antony Fabbro
**Manager Urban & Heritage
Planning**

Andrew Watson
**Director Strategy &
Environment**

Attachments: Heritage inventory sheet for 29 Telegraph Road, Pymble – 2010/144749

Heritage inventory sheet for 29 Telegraph Road, Pymble

Eric Pratten House

Item

Name of Item: Eric Pratten House
Other Name/s: Coppins
Type of Item: Built
Group/Collection: Residential buildings (private)
Category: House
Location: Lat: 151.14269254 Long: -33.74023186
Primary Address: 29 Telegraph Road, Pymble, NSW 2073
Local Govt. Area: Ku-Ring-Gai

Property Description:

Lot/Volume Code	Lot/Volume Number	Section Number	Plan/Folio Code	Plan/Folio Number
LOT	1	-	DP	303397

All Addresses

Street Address	Suburb/Town	LGA	Parish	County	Type
29 Telegraph Road	Pymble	Ku-Ring-Gai			Primary
Graham Avenue	Pymble	Ku-Ring-Gai			Alternate
Taunton Street	Pymble	Ku-Ring-Gai			Alternate

Owner/s

Organisation Name	Owner Category	Date Ownership Updated
	Private	19 Oct 05

Statement of Significance

The Eric Pratten house is important as Griffin's largest domestic commission in Australia. It was one of his last works before leaving Australia for India and completed by his associate, Nicholls. It is one of three large Griffin houses in Ku-ring-gai. The Eric Pratten house is important as a large intact Griffin designed residence, which includes the house within its garden setting. It is rare, as the majority of his residential commissions in Australia are relatively small houses, typically one storey. The house demonstrates a high level of technical competence and excellence, particularly related to stone construction in Australia during the 1930s.

Date Significance Updated: 09 Jan 08

Note: There are incomplete details for a number of items listed in NSW. The Heritage Branch intends to develop or upgrade statements of significance and other information for these items as resources become available.

Description

Designer/Maker: Walter Burley Griffin
Construction Years: 1935 - 1936

Physical Description:

The house is set within a large corner site of 0.572 Ha/9647 sq.m on two titles. The Telegraph Road section of the site is fairly level, but Graham Avenue falls about 5 m from Telegraph Road. The house is sited near the western boundary on the highest part of the site. It is approached via a long gravel drive. The drive terminates at the stone and tile garage, which has similar detail to the main house. There is a secondary pedestrian entrance from Telegraph Road along a path behind the house to the kitchen and garage. The south-eastern part of the site drops off and a large pool is located there. It is not visually obvious from the house or the entrance. To the west of the pool and behind the garage is a private courtyard area defined by stone walls and largely screened from view due to the fall of the site.

The site contains many large mature trees, believed to be part of Griffin's original planting layout. The site is located behind a high stone wall, which is covered by a vine. The house is almost totally obscured from view due to the number of large mature trees on the site and also on the footpath along Telegraph Road.

The design elements of the house demonstrate some of Steiner's ideas about spirituality and the concepts of anthroposophy. The house is formed from carefully articulated sandstone masses with battered walls, angular paws and deep reveals set beneath a series of sailing roofs in a re-interpretation of the Wrightian Prairie house. The ground floor window reveals, cut into the stone batters, have lintels dressed in a low triangular motif. The effect is somewhat Tudor Gothic, but is also reminiscent of the trapezoidal windows, which characterize Steiner's work. The Eric Pratten house is designed at the high point of Griffin's Steiner phase incorporating some of Steiner's motifs.

Landscape:

The gardens of the estate include several formal and informal garden elements that result from a landscape concept for the estate. There is a deliberate and considered relationship between these elements and the design of the main house.

The layout of the large garden elements are arranged in response to the house's planning and fenestration. These elements, e.g.: the swimming pool terrace, the rose garden and the sunken courtyard, are aligned along significant axes with the house.

The development and construction of the estate was progressive, with the final large elements, i.e.: the swimming pool, being constructed approximately 15 years after completion of the house.

Following an interview with the original owners, it has since been learnt that the initial garden was done in collaboration with a designer named Campbell from New Zealand. It appears that the garden design and spatial arrangement was worked out with the construction of the house.

The later larger elements were designed by John Suttor of

Suttor & Cox. It is very possible that Suttor used design details from Griffin's work on the house, stone wall and entry gate to tie in these later garden elements to the house and the original garden features.

The design of the house is evidence that the initial siting of the house and the planned outlook of the rooms, were designed by Griffin to take command of the site, as well as to focus on the house as the principal feature of the landscape. The house was deliberately located with its back to the west, on a knoll at the corner where the two original lots met. This was the only position allowing the house and the rooms within to interact with all areas of the site, while taking advantage of the views. The location of the house was also likely to have considered the future uses of the various areas of the garden, and catered to the formal/public and private needs of the various users (Tropman & Tropman, 2002, 7).

The place conveys the stylistic cohesiveness notable in Griffin's work, and is particularly significant as the house stands within large formal grounds with a sunken garden, tennis court and pool - even the dog kennel was designed by Griffin. Many mature trees, most considered to be part of the original planting layout, have survived. Griffin scholars believe that the complexity of the garden layout suggests that Marion Mahony, Griffin's wife, may have been responsible for its design (Nicholas, 2001, 5).

The site is occupied by the following:

- a formal entry sequence, featuring double wrought-iron entry gates opening onto a curving gravel driveway with gradually revealed vistas leading to the house;
- the residence;
- formal presentation gardens, including formal expanses of lawn, a series of garden rooms and terraces, located north and east of the house;
- a sunken courtyard garden with lily pond north of the house;
- recreational features in the southern part of the gardens, including a swimming pool and terrace, tennis court, linked by an entertainment courtyard containing the changing pavilion and barbeque area. The swimming pool terrace and tennis court feature extensive sandstone battered walling and there is a pump room and boiler next to the sandstone retaining wall below the swimming pool next to the semi-circular apse;
- a productive garden including a glass house, various sheds, vegetable/fruit beds and composting pits south of the garage;
- various structures south of the garage - i.e.: the dog kennel and run, various aviaries, a timber bird house and various garden sheds;
- a service entry corridor from Telegraph Rd. located along the western boundary on the western side of the house, leading to the rear kitchen entry to the house;
- windmill and a header water tank on a tall stand west of the garage and house;
- a gardener's lodge located next (west) to the tennis court;
- a grazing paddock with tall forest trees, to the west of the tennis court and gardener's lodge;
- remnants of a rear driveway, i.e.: sandstone edging and

split-face pavers from the garage to the south-west corner of the site;

- various sandstone retaining walls;
- sandstone boundary walls, set with wrought iron pedestrian gates, and topped with wrought iron fences (Tropman & Tropman, 2002, 5).

**Physical Condition and/or
Archaeological Potential:**

The house is remarkably intact with almost no change from its original construction. No known archaeological potential. The place ...is particularly significant as the house stands within large formal grounds with a sunken garden, tennis court and pool - even the dog kennel was designed by Griffin. Many mature trees, most considered to be part of the original planting layout, have survived. Griffin scholars believe that the complexity of the garden layout suggests that Marion Mahony, Griffin's wife, may have been responsible for its design (Nicholas, 2001, 5).

Date Condition Updated: 28 Aug 06

Modifications and Dates:

1934-5: first land parcel bought, house designed and built. Garden elements likely to have been constructed were: sunken courtyard; driveway including wrought iron entry gates; garden beds and plantings along Telegraph Rd. boundary and driveway; squared off area of lawn adjacent to driveway and front rooms, later to hold the flag pole; garage; stone wall and steps beside garage; windmill; tank stand; 1939: second land parcel with rear access to Taunton St. & Pymble Station purchased. by 1943: driveway, garage, tank stand, windmill, sunken courtyard and front gardens all established; squared off area of lawn adjacent to front rooms bound by hedge established; beginnings of productive garden south of garage; level area of lawn south-east of house (used to corral the daughter's horse); by 1947: terraces along eastern boundary adjacent to Graham Ave. established; productive garden and utility area south of garage well established; informal path from garage to rear entry to site at Taunton St. established; by 1951: gardener's lodge and tennis court established; retaining wall of swimming pool terrace in construction - central apse to wall built (1951 aerial photo); service driveway established from rear of garage; skirting productive garden and tennis court to Taunton Ave. entrance; by 1956: features and layout of garden (as visible in present day (2002) are well established; swimming pool terrace and axial path to house, changing pavilion constructed; by 1961: glasshouse built behind garage (Tropman & Tropman, 2002, 9). 1960s-2000: some of the bathrooms and the kitchen were up-dated. The gardens were also amended somewhat 2002: unapproved works undertaken: - a new (non) boundary fence built (potentially a new boundary fence); - new plants planted and established (altering current boundary structures); - new watering system installed; and - five bathrooms gutted, including the possible removal of original tiling fabric from two of the five bathrooms.

Further Information:

Nominated by Ku-ring-gai Council with support of Walter Burley Griffin Society.

Current Use:

Residence

Former Use:

Residence

History

Historical Notes:

Robert Pymble, a settler and orchardist, was granted 600 acres by the Crown in the parish (as later defined) of Gordon in 1823. Unlike many grantees of his time, Pymble

became a permanent resident and pioneer of the region. He retained most of his estate for most of his life. It was not until 1882, when the district was beginning to expand to accommodate upper class dwellers from the city, that large-scale alienation of the Pymble properties took place. The projected building of the North Shore railway (begun in 1887 and opened from St. Leonards to Hornsby in 1890) was a powerful incentive for development.

In 1883, Pymble sold 2 large blocks, totalling 100 acres, on Lane Cove Road and on the junction of a government road (later Telegraph Road). The subject block of 3 acres, on Telegraph Rd., was sold to a medical doctor, Walter O'Reilly, in 1883. Dr O'Reilly and his wife and family heirs retained the land, building on a portion of it, until they began to dispose of it in the 1920s.

In 1922 O'Reilly's widow and sons sold the Graham Avenue portion to James Kebblewhite, merchant. Kebblewhite's widow and son sold it to Eric Herbert Pratten in 1934. The adjacent portion (in respect of its south section) was acquired by Pratten in 1939.

Eric Pratten's father, Herbert was a printer, engineer and politician who had settled in Telegraph Road. (Cable, Ken, in Tropman & Tropman, 2002, 3).

Herbert Pratten and his half brother migrated from England to Australia and started Pratten Brothers Printing. They were a successful firm, and were also involved in mining and manufacturing. Herbert Pratten became a leading national politician. He built a large house for his family in Telegraph Road.

When his two sons, Eric and David married in the early 1930s, their father gave them land in Telegraph Road and funds to build a house to their own design. It is believed that the two brothers were inspired when seeing the Cameron house in Marion Street Killara, designed by Walter Burley Griffin and completed in 1933. The two brothers, David and Eric commissioned Griffin to design their houses.

By this time, Griffin, a long-time Theosophist, had joined Rudolf Steiner's Anthroposophical Society. Steiner's influence on his later architecture is controversial... Neither Pratten brother was a student of architecture or an exponent of New Age religion. Griffin's third attempt for David Pratten's house, the most conservative version, was accepted and built. Eric's took only two versions. In 1935, before the plans for Eric's house, 'Coppins', were completed, Griffin had gone to India where, after an extraordinary burst of creativity, he died in 1937. The house was finished and construction supervised by Griffin's partner and former assistant, Eric Nicholls. A disciple of Griffin and a sharer of his Anthroposophical beliefs, Nicholls was obliged to modify some of Griffin's symbolism. It seems to be accepted opinion that the result is closer to work that Griffin had done in Frank Lloyd Wright's studio in the USA, reminiscent of the Prairie School (of architecture).

Authorities are divided on the place of Coppins and its contemporaries in the Griffin canon. To Peter Harrison (1995 edition), they 'did not afford Griffin much satisfaction...far removed from the domestic retreats in which he delighted.' A more sympathetic estimate is in the Powerhouse Museum volume: 'though designed at the highest point of Griffin's Steiner phase and incorporating some Steiner motifs, (the Pratten House) is in fact a reprise of the central design problem of the Griffins' Chicago years: how to create a radical house for a conservative client.' (Cable, Ken, in Tropman & Tropman, 2002, 3).

The David Pratten house at the corner of Telegraph Road and Mona Vale Road was opposite the Pratten family house. The house that was eventually built was the third design by Griffin. The first two schemes were single storey flat roofed residences with stone rubble walls featuring typical Griffin design elements such as projecting panels of stonework over the window openings. The client eventually approved a more conventional design with a low-pitched hip and gable ended roof form. Nicholls supervised the construction of this house after Griffin's departure for India.

The David Pratten house features a circular lounge which projects as a single storey bay from the rectangular plan. The curved bay of the lounge is reflected in the semi circular terrace, which extends the house into the garden. Unfortunately this house has been remodelled with loss of much of the original Griffin decorative elements.

The Eric Pratten house is the second design by Griffin for the site at the corner of Graham and Telegraph Roads. The first design which expressed Griffin's vigorous decorative elements (related to his belief in Rudolf Steiner's Anthroposophy) was rejected by the client in favour of a more Wrightian scheme similar to Griffin's early work in Wright's Oak Park Studio. Griffin left Australia before the house was completed and his associate, Eric Nicholls supervised completion of the works and was responsible for some the landscape works.

Landscape:

The gardens of the estate include several formal and informal garden elements that result from a landscape concept for the estate. There is a deliberate and considered relationship between these elements and the design of the main house.

The layout of the large garden elements are arranged in response to the house's planning and fenestration. These elements, e.g.: the swimming pool terrace, the rose garden and the sunken courtyard, are aligned along significant axes with the house.

The development and construction of the estate was progressive, with the final large elements, i.e.: the swimming pool, being constructed approximately 15 years after completion of the house.

Following an interview with the original owners, it has since been learnt that the initial garden was done in

collaboration with a designer named Campbell from New Zealand. It appears that the garden design and spatial arrangement was worked out with the construction of the house.

The later larger elements were designed by John Suttor of Suttor & Cox. It is very possible that Suttor used design details from Griffin's work on the house, stone wall and entry gate to tie in these later garden elements to the house and the original garden features.

The design of the house is evidence that the initial siting of the house and the planned outlook of the rooms, were designed by Griffin to take command of the site, as well as to focus on the house as the principal feature of the landscape. The house was deliberately located with its back to the west, on a knoll at the corner where the two original lots met. This was the only position allowing the house and the rooms within to interact with all areas of the site, while taking advantage of the views. The location of the house was also likely to have considered the future uses of the various areas of the garden, and catered to the formal/public and private needs of the various users (Tropman & Tropman, 2002, 7).

The place conveys the stylistic cohesiveness notable in Griffin's work, and is particularly significant as the house stands within large formal grounds with a sunken garden, tennis court and pool - even the dog kennel was designed by Griffin. Many mature trees, most considered to be part of the original planting layout, have survived. Griffin scholars believe that the complexity of the garden layout suggests that Marion Mahony, Griffin's wife, may have been responsible for its design (Nicholas, 2001, 5).

The house was sold after Eric Pratten died in the mid 1960's being purchased by the Denning family who occupied it until 2000. During that time little fundamental change was made to the house although some of the bathrooms and the kitchen were up-dated. The gardens were also amended somewhat without changing the main features of the house and its relationship to the garden (Nicholas, 2001, 5).

In December 2000 the property was subdivided and placed on the State Heritage Register. It was subsequently sold to the current owners, Michael and Helen Kwok, for \$6.1m in 2001. In June 2010 it was placed on the real estate market (SMH, 1-2/6/2010).

Historic Themes

Australian Theme (abbrev)	New South Wales Theme	Local Theme
3. Economy - Developing local, regional and national economies	Environment - cultural landscape - Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings	Landscapes of urban amenity -
3. Economy - Developing local,	Environment - cultural landscape - Activities associated with the interactions between humans,	Landscapes and gardens of domestic

regional and national economies	human societies and the shaping of their physical surroundings	accommodation -
3. Economy - Developing local, regional and national economies	Environment - cultural landscape - Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings	Landscapes used for self reliant recreation -
3. Economy - Developing local, regional and national economies	Environment - cultural landscape - Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings	Landscapes demonstrating styles in landscape design -
3. Economy - Developing local, regional and national economies	Environment - cultural landscape - Activities associated with the interactions between humans, human societies and the shaping of their physical surroundings	Significant tree(s) providing urban amenity -
4. Settlement - Building settlements, towns and cities	Accommodation - Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities.	(none) -
4. Settlement - Building settlements, towns and cities	Accommodation - Activities associated with the provision of accommodation, and particular types of accommodation – does not include architectural styles – use the theme of Creative Endeavour for such activities.	Housing the prosperous - mansions in town and country -
4. Settlement - Building settlements, towns and cities	Land tenure - Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal	Changing land uses - from rural to suburban -
4. Settlement - Building settlements, towns and cities	Land tenure - Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal	Fencing boundaries - retaining walls and embankments -
4. Settlement - Building settlements, towns and cities	Land tenure - Activities and processes for identifying forms of ownership and occupancy of land and water, both Aboriginal and non-Aboriginal	Sub-division of large estates -
4. Settlement - Building settlements, towns and cities	Towns, suburbs and villages - Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages	Developing suburbia -
4. Settlement - Building settlements, towns and cities	Towns, suburbs and villages - Activities associated with creating, planning and managing urban functions, landscapes and lifestyles in towns, suburbs and villages	Creating landmark structures and places in urban settings -
8. Culture - Developing cultural institutions and ways of life	Creative endeavour - Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities.	Building in response to natural landscape features. -
8. Culture - Developing cultural institutions and ways of life	Creative endeavour - Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have	Designing landscapes in an exemplary style -

	inspired such creative activities.	
8. Culture - Developing cultural institutions and ways of life	Creative endeavour - Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities.	Landscaping - 20th century interwar -
8. Culture - Developing cultural institutions and ways of life	Creative endeavour - Activities associated with the production and performance of literary, artistic, architectural and other imaginative, interpretive or inventive works; and/or associated with the production and expression of cultural phenomena; and/or environments that have inspired such creative activities.	Architectural styles and periods - 20th c. Chicago Prairie style -
8. Culture - Developing cultural institutions and ways of life	Domestic life - Activities associated with creating, maintaining, living in and working around houses and institutions.	Living in a new house -
8. Culture - Developing cultural institutions and ways of life	Leisure - Activities associated with recreation and relaxation	Gathering at landmark places to socialise -
9. Phases of Life - Marking the phases of life	Persons - Activities of, and associations with, identifiable individuals, families and communal groups	(none) -
9. Phases of Life - Marking the phases of life	Persons - Activities of, and associations with, identifiable individuals, families and communal groups	Associations with Eric Nicholls, architect -
9. Phases of Life - Marking the phases of life	Persons - Activities of, and associations with, identifiable individuals, families and communal groups	Associations with Walter Burley and Marion Mahony Griffin architects and landscape architects -

Assessment of Significance

SHR Criteria a)

[Historical Significance]

The Eric Pratten house is important as Griffin's largest domestic commission in Australia. It was one of his last works before leaving Australia for India and completed by his associate, Nicholls. It is one of three large Griffin houses in Ku-ring-gai.

Griffin is one of the most influential architects to work in Australia, coming here after his winning design for Canberra. Griffin had a very prolific career in Australia, designing a wide range of buildings from small shelters, houses, utilitarian buildings such as incinerators, major buildings such as Newman College, whole suburbs and towns. A noted characteristic of his work is a close connection with the Australian landscape. His later work is influenced strongly by Steiner's philosophies and the belief in anthroposophy.

Donald Lesley Johnson in his book, *The Architecture of Walter Burley Griffin* holds the view that this house is a disappointment because it seems antithetical to the philosophies of architecture, landscape design and

SHR Criteria c)
[Aesthetic Significance]

planning Griffin formulated and practised during his stay in Australia.

The Eric Pratten house is important as a large intact Griffin designed residence, which includes the house within its garden setting. It is rare, as the majority of his residential commissions in Australia are relatively small houses, typically one storey.

The house, formed from carefully articulated sandstone masses with battered walls, angular brows and deep reveals set beneath a series of sailing roofs in a re-interpretation of the Wrightian Prairie house. The design elements of the house demonstrate Griffin's ideas about spirituality influenced by Steiner and the concepts of anthroposophy. The Eric Pratten house is designed at the high point of Griffin's Steiner phase.

The house demonstrates a high level of technical competence and excellence, particularly related to stone construction in Australia during the 1930s.

Assessment Criteria

Items are assessed against the  **State Heritage Register (SHR) Criteria** to determine the level of significance. Refer to the Listings below for the level of statutory protection.

Recommendations

Management Category	Description	Date Updated
Recommended Management	Produce a Conservation Management Plan (CMP)	

Procedures /Exemptions

Section of Act	Description	Title	Comments	Action Date
57(2)	Exemption to allow work	Standard Exemptions	<p>SCHEDULE OF STANDARD EXEMPTIONS HERITAGE ACT 1977 Notice of Order Under Section 57 (2) of the Heritage Act 1977</p> <p>I, the Minister for Planning, pursuant to subsection 57(2) of the Heritage Act 1977, on the recommendation of the Heritage Council of New South Wales, do by this Order:</p> <p>1. revoke the Schedule of Exemptions to subsection 57(1) of the Heritage Act made under subsection 57(2) and published in the Government Gazette on 22 February 2008; and</p> <p>2. grant standard exemptions from subsection 57(1) of the Heritage Act 1977, described in the Schedule attached.</p> <p>FRANK SARTOR Minister for Planning Sydney, 11 July 2008</p> <p>To view the schedule click on the Standard</p>	Sep 5 2008

			Exemptions for Works Requiring Heritage Council Approval link below.	
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Standard Exemptions for Works Requiring Heritage Council Approval

Listings

Heritage Listing	Listing Title	Listing Number	Gazette Date	Gazette Number	Gazette Page
<i>Heritage Act - State Heritage Register</i>		01443	22 Dec 00	168	13888
<i>Heritage Act - Under consideration for SHR/IHO listing</i>	Potential curtilage extension		20 Jun 10		
<i>Local Environmental Plan</i>	Coppins		04 Nov 89		

References, Internet links & Images

Type	Author	Year	Title	Internet Links
Written	Paul Rappaport Architect P/L	2002	Statement of Heritage Impact - Proposed modifications to the existing building 'Eric Pratten House', 29 Telegraph Rd., Pymble, NSW	
Written	Tropman & Tropman Architects	2002	Heritage Assessment - Coppins Villa Estate, 23-29 Telegraph Rd., Pymble	
Written	Paul Rappaport Architect P/L	2001	Statement of Heritage Impact - Proposed modifications to the existing building 'Eric Pratten House', 29 Telegraph Rd., Pymble, NSW	
Written	Nicholas, Joanna	2001	Recording the Past	
Written	Ku-ring-gai Municipal Council	2000	Nomination	

Note: Internet links may be to web pages, documents or images.



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PROPOSED MODIFICATIONS TO THE CODES SEPP

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To provide Council with a draft submission on the Department of Planning's proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP').

BACKGROUND:

The State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP') was gazetted on 12 December 2008 and commenced on 27 February 2009. A number of new provisions have subsequently been included.

COMMENTS:

The Department of Planning is seeking comment on further amendments to the Codes SEPP. The proposed amendments relate to small lot housing and to changes to the general housing code and the internal alterations code.

RECOMMENDATION:

That Council make a submission to the Department of Planning as outlined in Ku-ring-gai Council's Response to NSW Housing Code: Expansion to cover small lots/Discussion Paper.

PURPOSE OF REPORT

To provide Council with a draft submission on the Department of Planning's proposed amendments to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP').

BACKGROUND

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP') was gazetted on 12 December 2008 and commenced on 27 February 2009. The Codes SEPP gave legal effect to a series of state-wide exempt and complying development codes for certain types of development. The Codes SEPP currently includes:

1. General Exempt Development Code (49 types)
2. General Housing Code (Lots greater than 450m² & wider than 12m)
3. Housing Internal Alterations Code
4. General Commercial and Industrial Code
5. Subdivisions Code.

When the Codes SEPP was introduced the Government indicated that over time it would increase the range of development types that the SEPP covered.

The Department's current discussion paper (**Attachment 1**) provides an outline of:

- development types that are proposed to be included in the Codes SEPP;
- existing development standards that are to be modified; and
- new development standards to be introduced.

The new codes being introduced are:

1. Small Lots Code.
2. Housing Alterations Code (replacing the Housing Internal Alterations Code).

In general the amendments will allow complying development for dwelling houses and ancillary development across most residential lot types.

Complying development has been in place in NSW since 1998. This planning and construction approval path was developed by the Department of Planning to allow low risk, low impact development types to avoid assessment via the merit path of a development application and hence encourage development whilst reducing costs to homeowners.

COMMENTS

GENERAL HOUSING CODE

This code permits complying development on residential and rural properties. To date it has not included environmentally sensitive areas such as heritage areas, bushfire prone lands etc. This revision to the Codes SEPP presents complying development that may be permitted within heritage conservation areas (see section on Heritage Areas).

Item 14

CY00054/2
2 August 2010

The main amendments proposed to this Code are as follows:

1. Lot Area

The lowering of site area covered by this code from 450sqm to 300sqm. This inclusion is supported.

2. Lot Width

The changes proposed reduce the lot widths necessary for each lot area. This is not supported as it will affect the local amenity and character.

3. Side and Rear Setbacks

The setbacks were previously based on a formula that enabled a sliding scale to be applied. The proposed changes provide fixed values according to wall heights facing the boundary. The minimum setback is now proposed to be to a 4.5m high wall instead of a 3.8m wall. This is to allow complying and development on sloping sites, and to allow for more contemporary roof designs.

This is not supported as side and rear setbacks as proposed will have the result of compromising the character and identity of different low density residential areas.

4. Undersized Lots

Lots of a size below that permitted in the relevant zone in an environmental planning instrument previously did not permit complying development. The Department proposes to delete this prohibition, as it considers that the inclusion of controls for smaller lots will address the issue. This is not supported, as the controls for smaller lots are based on a general smaller lot character, rather than the existing pattern of development. Merit consideration is required for such sites.

5. Garages, Carport or Car Parking Space

The alteration to the code specifies a single garage door to buildings on a smaller lot width, and a double garage door to larger lots irrespective of their size. This is supported as it will reduce triple (or greater) garage doors on large width sites being constructed, as was previously possible with the percentage controls.

6. Outbuildings and Outbuildings with a Frontage to a Laneway

Outbuildings referred to in the Codes SEPP include decks, terraces, pergolas, carports, garages, cabanas, garden sheds, and other structures that are detached from the dwelling house. However, the new proposal for outbuildings with a frontage to a lane way allows a height of 6m and includes references to bedrooms and studios. This implies that secondary dwellings are being included in this category.

Garages (due to vehicular movement) and secondary dwellings (due to their requirements of amenity considerations for habitable spaces alongside the necessity for the separation of services) have impacts that are far greater than the impact of a garden shed, gazebo, cabana, deck, terrace, pergola. The outbuilding type should be clearly defined as a building that is not a garage and is not habitable.

These building forms should not be used as a backhanded way of providing studios or secondary dwellings. Therefore, it is recommended that if secondary dwellings are to be included as complying development, their controls be improved and relocated from the Affordable Housing SEPP to the Codes SEPP so that all information is easily found within the one document.

Item 14

CY00054/2
2 August 2010

7. Basement and Excavation

Excavation to a maximum of 40m² is allowed provided it is contained within the footprint of the dwelling house or ancillary development.

The proposed changes are supported as they will accommodate the topography of the Ku-ring-gai area as well as enable a small basement storey to be created rather than an upper storey. It enables better access for living areas directly to garden areas and reduces the need for deck areas at elevated levels.

8. Demolition of Dwelling Houses

The Codes SEPP allows demolition except for dwellings on environmentally sensitive land such as in heritage conservation areas. Safeguards are added to ensure the safety of common walls. This improvement is supported, however concerns remain that potential heritage items may be demolished.

NEW SMALL LOTS CODE

The Small Lots Housing Code is proposed to apply to infill development as well as in Greenfield areas. It is specific to lots with a width of 6-10m and area of 200-300m².

This code will apply to a limited number of sites within Ku-ring-gai. Since these are special sites, merit assessment should be required. It is recommended that the Code only apply to those LGAs where small lots are predominant.

HOUSING ALTERATIONS CODE

This has previously been known as the Housing Internal Alterations Code. The changes proposed include alterations that are within the existing building footprint of the dwelling house or outbuilding, minor external alterations to existing windows and external walls for dwelling houses and outbuildings.

These are not considered to create major impact and therefore no objection is raised.

This code includes a new section permitting attic conversions with dormer windows of specified dimensions.

This amendment is not supported since dormers are features and the standardisation of their appearance may not be appropriate to locations in the Ku-ring-gai area where both the variety and pattern of dwelling elevation is paramount to the character of the public domain. It is acknowledged that attic conversions may be appropriate to small lots where space is a premium. It is not required on lots 300sqm and greater.

HERITAGE CONSERVATION AREAS

The Code proposes the following complying development be permitted in heritage conservation areas (in line with the rest of the General Housing Code):

1. Unattached additions and outbuildings.
2. Battleaxe dwellings in a heritage conservation area.
3. Demolition of secondary buildings.

Overall, the changes to the housing code with regard to heritage conservation areas are not considered as minor works. Outbuildings (studios, sheds etc.) are significant in the understanding of the heritage fabric of an area. The demolition of buildings and the addition of unattached two storey structures should be considered as significant works. To conserve and enhance the cultural

Item 14

CY00054/2
2 August 2010

significance of heritage conservation areas these types of works should require a heritage impact statement (HIS) to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area concerned. Not requiring a HIS is akin to stating the significance of any heritage conservation area is not worth conserving. None of the proposed changes are supported.

CONSULTATION

The Department of Planning has publicly exhibited and made presentations of the amendments to the Codes SEPP. All background study pages information their paper are provided on their website.

Council's Development and Regulation Department and the Heritage Reference Committee have been consulted and relevant comments included in this report.

A briefing was held with Councillors on the Codes SEPP on 3 August 2009.

FINANCIAL CONSIDERATIONS

There will be negligible financial impact on Council as a result of the proposed changes.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's Development and Regulation Department have been consulted and relevant comments included in this report.

SUMMARY

The NSW Government is seeking comments on a discussion paper on proposed amendments to the Codes SEPP. A draft submission has been prepared outlining concerns re the proposed amendments in relation to the Ku-ring-gai area.

RECOMMENDATION

That Council make a submission to the Department of Planning as outlined in Ku-ring-gai Council's Response to NSW Housing Code: Expansion to cover small lots/Discussion Paper (Attachment 2).

Rthna Gill
Urban Planner

Antony Fabbro
Manager Urban & Heritage
Planning

Andrew Watson
Director Strategy &
Environment

Attachments: 1. Department of Planning, NSW Housing Code: Expansion to cover small lots/Discussion Paper - 2010/144170
2. Ku-ring-gai Council's, Response to NSW Housing Code: Expansion to cover small lots/Discussion Paper - 2010/135090

NSW Housing Code

Expansion to cover small lots | DISCUSSION PAPER



Planning

TAKE PART IN THE DISCUSSION

The Department of Planning is seeking feedback on the next steps of the NSW Housing Code.

The proposal includes:

- Expansion of and amendments to the Housing Code
- New Small Lots Housing Code
- Expansion of Housing Internal Alterations Code
- Improvements to some of the existing development standards.

Send your comments to:

Web: <http://housingcode.planning.nsw.gov.au>

Email: codes@planning.nsw.gov.au

Post: Special Projects

Department of Planning

GPO Box 39 Sydney NSW 2001

If you have questions about the Codes SEPP and the General Housing Code and other exempt and complying development you can contact the Codes Information Officer on 1300 305 695.

The closing date for comments is 6 August 2010.

NSW Housing Code expansion to cover small lots Discussion Paper

(c) State of New South Wales through NSW Department of Planning 2010

NSW Department of Planning
23-33 Bridge Street Sydney, NSW Australia
www.planning.nsw.gov.au
ISBN 978-1-74263-064-9

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NSW HOUSING CODE

Expansion to cover small lots | Discussion Paper

Contents

Introduction

Executive Summary

General Housing Code: 300m² - 1500m² +

New Small Lots Code: 6-10m and 200m²+

New development types common to Small Lots Housing Code and General Housing Code

Housing Alterations Code

Introduction

State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (the 'Codes SEPP') was gazetted on 12 December 2008, and commenced on 27 February 2009. The Codes SEPP gives legal effect to a series of State-wide exempt and complying development codes for certain types of development. The Codes SEPP currently includes:

- General Exempt Development Code (49 types);
- General Housing Code (Lots greater than 450m² & wider than 12m);
- Housing Internal Alterations Code;
- General Commercial and Industrial Code; and
- Subdivisions Code.

When the Codes SEPP was introduced the Government was clear that over time it would increase the range of development types that the SEPP covered. This included the expansion of the General Housing Code to cover lots of land less than 450m².

The General Housing Code currently applies to single and two storey dwelling houses, alterations and additions and ancillary development on residential zoned land and alterations and additions and ancillary development on rural and residential zoned land where a lot of land has a width 12m or greater and an area of 450m² or greater.

The purpose of this paper is to examine the expansion of the Codes SEPP to cover residential zoned lots with a width less than 12m and lot area less than 450m². The Department has developed this discussion paper from extensive analysis of a number of councils' existing development policies, particularly as they relate to smaller sized lots, other states' planning controls, and from workshops with stakeholders and local government.

It is proposed to introduce complying development on lots of land less than 450m² by doing the following:

- Extend the General Housing Code to apply to lots with a minimum area of 300m² and a boundary to a primary road of at least 10m;
- Develop a new Small Lots Housing Code to apply to lots that have a boundary to a primary road of at least 6m, but no greater than 10m and an area of at least 200m²; and
- Expand the Housing Internal Alterations Code to allow minor external alterations (but no additions). This will be known as the Housing Alterations Code.

It is also proposed to simplify and improve some of the existing development standards which will apply to both the General Housing Code and the proposed Small Lots Housing Code.

The proposed development types and development standards will be introduced using the existing Codes SEPP structure and format as the guiding template. This approach includes generally maintaining the existing land based exemptions and lot requirements under which complying development can take place. The general land exemptions and the specific exemptions for the General Housing Code are considered to be generally appropriate and should be carried across for the expansion of the Code to lots less than 450m². There are separate investigations being undertaken to review the land based exemptions and develop additional development standards or procedures; in particular for land that is bush fire prone land or a flood control lot.

For smaller lots, it is worth noting that the width of a lot's frontage becomes increasingly important in terms of managing impacts on adjoining properties and protecting the visual harmony of the streetscape. In this regard the proposed Small Lots Housing Code includes additional development standards that are tailored to the constraints of developing smaller lots while respecting the amenity and quality of the neighbourhood.

This summary discussion paper provides an outline of the development types that are proposed to be included in the Codes SEPP. Importantly it details the existing development standards that are to be modified or the new development standards to be introduced.

ABOUT COMPLYING DEVELOPMENT

The NSW *Environmental Planning and Assessment Act 1979* allows for an environmental planning instrument to identify development that can be addressed by specified predetermined development standards as complying development. Complying development has been in place in NSW since 1998. This planning and construction approval path was developed to ensure low risk and low impact development types do not have to be assessed via the merit path of a development application. For these low impact and low risk developments, the complying development path has obvious time and cost savings for homeowners, industry as well as local government.

CONSISTENCY WITH OTHER STATES

Complying development for residential properties is not unique to NSW. A number of other states have implemented the equivalent of complying development covering a range of development types on varying residential lot sizes.

- Victoria: State planning and building controls allow the construction of a dwelling house on lots greater than 300m² without having to obtain planning approval.
- South Australia: If all conditions are met, complying development may be undertaken for new and alterations and additions for detached and semi detached dwellings on any size lot. There are different development standards for lots above and below 300m².
- Western Australia: The R-Codes provide development standards for different sized residential lots. Planning approval is not required for the erection of a new single dwelling on a lot greater than 350m².
- Queensland: Does not have a State-wide residential code. Brisbane City Council has a Small Lots Code that applies to lots with a width less than 15m and an area less than 450m². Where the development complies with the acceptable solutions specified in the Code it may be 'self assessable' and not require an impact assessment.

WHAT TYPES OF DEVELOPMENT ARE PROPOSED

The complying development path is intended for low risk residential development that has a low environmental impact. Based on the background research and analysis, as well as the structure of the existing General Housing Code, the following types of development are proposed to be introduced into the Codes SEPP as complying development on smaller lots:

- New dwelling houses on lots with a frontage to a primary road greater than 6.0m;
- External alterations such as replacement of windows and doors – including changing the size of openings;
- Attic conversions;
- Basements;
- Additions to existing dwelling houses with a frontage to a primary road greater than 6.0m;
- Garages and carports;
- Rear laneway development ; and
- Detached outbuildings in heritage conservation areas.

The following types of development will **not** be complying development on smaller lots:

- Total demolition of semi detached or attached dwelling houses;
- Demolition of attached outbuildings;
- New dwelling houses on lots with a frontage to a primary road less than 6.0m;
- Additions to existing dwelling houses on lots with a frontage to a primary road less than 6.0m;
- Development of a height greater than 2 storeys (excluding any attic as an attic does not constitute a storey);
- Demolition of dwelling houses and construction of new dwelling houses or attached additions to existing dwellings houses in heritage conservation areas;
- Demolition of any kind to a heritage item or draft heritage item; and
- Any external alterations to an existing dwelling house in a heritage conservation area which are visible from the street.

EXECUTIVE SUMMARY

It is proposed that the development standards for complying development on lots less than 450sqm and greater than 300m² will generally be an extension of the current development standards in the General Housing Code. Some simplification of the existing development standards are proposed in response to feedback received from industry and local councils.

The proposed Small Lots Housing Code will include small lot-specific development types and development standards which seek to address the amenity of existing and future neighbourhoods, and particularly the amenity of adjoining properties.

As part of the expansion of the General Housing Code a series of changes to existing development standards are proposed. These have been raised by industry, local government and practitioners through workshops, the Complying Development Expert Panel and inquiries received on the General Housing Code. The changes include:

- Simplifying side and rear setbacks – replacing the formula standard with a simple setback standard for single and two storey walls;
- Amending lot width requirements to ensure certain lots which meet the minimum lot size requirement are not inadvertently excluded as they do not meet the lot width requirement;
- Allowing basements under the footprint of a dwelling house; and
- Allowing minor low impact development in heritage conservation areas that do not alter or add to the existing dwelling – e.g an outbuilding to the rear of the property.

The Department of Planning is also currently preparing a Rural Lots Code that will cover dwelling houses on land zoned RU1, RU2, RU3 and RU4. A discussion paper was released by the Department for comment up until 28 May 2010. It proposes to create a new Rural Lots Code for rural properties that have an area greater than 4000m².

Once the Small Lots Code and the Rural Codes have been completed and the General Housing Code and Housing Alterations Code are expanded as outlined in this discussion paper, the Codes SEPP will generally allow complying development for dwelling houses and ancillary development across most residential lot types.

The following table sets out the range of lot types that will be covered by the codes SEPP, and the development standards tailored to reflect the particular characteristics of the lot size and width. The unshaded boxes of the table relate to the existing General Housing Code and include the revised development standards proposed by this review shown in italics.

TABLE 1: GENERAL DEVELOPMENT STANDARDS

	SMALL LOTS CODE		GENERAL HOUSING CODE					RURAL CODE subject to separate discussion
LOT WIDTH	6-10	6-10	10+	10+	12+	15+	18+	18+
Lot Size	200-250m ²	250m ² +	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +	4000m ² +
Side Setbacks	0.9m up to 4.5m; 1.2m above 4.5m	0.9m up to 4.5m; 1.2m above 4.5m	0.9m up to 4.5m; 1.2m above 4.5m	0.9m up to 4.5m; 1.2m above 4.5m	0.9m up to 4.5m; 1.2m above 4.5m	0.9m up to 4.5m; 1.5m above 4.5m	2.5m	10m
Built to Boundary	Lot width 6-8m: both sides Lot width 8-10m: one side Built to boundary up to 3.3m or match party wall or adjoining built to boundary wall		N/A	N/A	N/A	N/A	N/A	N/A
Height	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m	8.5m
Floor Area	90%	85%	270	330	380	430	430	N/A
Site Coverage	70%	65%	55%	50%	50%	40%	30%	N/A
Rear Setback	up to 4.5m = 3m above 4.5m, lot width 6-8m: average of rear setbacks on adjoining above 4.5m, lot width 8-10m: 6m		up to 4.5m = 3m above 4.5m = 8m	up to 4.5m = 3m above 4.5m = 8m	up to 4.5m = 3m above 4.5m = 8m	up to 4.5m = 5m above 4.5m = 12m	up to 4.5m = 10m above 4.5m = 15m	10m
Street Setback	3.0m or average	3.0m or average	4.5m or average	4.5m or average	4.5m or average	6.5m or average	10.0m or average	10.0m or average
Landscaping	10%	10%	15%	20%	25%	35%	45%	N/A
Private Open Space	16m ²	16 m ²	24m ²	24m ²	24m ²	24m ²	24m ²	N/A
Outbuilding Max Floor Area	36m ²	36m ²	45m ²	45m ²	45m ²	60m ²	100m ²	
Outbuilding Side & Rear Setback	0.9m	0.9m	0.9m	0.9m	1.2m	1.5m	2.5m	N/A
	Built to boundary provisions apply							
Outbuilding Max Height When Setback	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	4.8m	N/A
Outbuilding to rear laneway. Max Floor Area	50m ²	50m ²	60m ²	60m ²	75m ²	100m ²	100m ²	
Outbuilding to Rear Lane Max Height	6m	6m	6m	6m	6m	6m	6m	N/A

GENERAL HOUSING CODE: 300m² – 1500m²+

An extension of the current General Housing Code will enable new dwelling houses and alterations and additions to existing dwelling houses as complying development to be undertaken on lots with a frontage to a primary road of greater than 10m and area of at least 300m².

The specific changes to existing development standards in the existing General Housing Code relate to:

- lot width for lots 450-600m²;
- side setbacks;
- rear setbacks; and
- garage doors.

All other development standards remain unchanged. New development standards are introduced for lots 300-450m².

LOT WIDTH

The current General Housing Code contains a lot requirement that specifies the minimum dimension for a lot's boundary with a primary road. This minimum dimension varies depending on the lot area.

The current lot requirement was based on certain assumptions about lot dimensions, which did not fully reflect common lot sizes and subdivision patterns across NSW, and in particular metropolitan Sydney. In some circumstances, the minimum lot width requirement unnecessarily restricts the use of the General Housing Code on lots that do not meet the lot width, but do meet the lot size requirements. For example, the current General Housing Code cannot apply to a lot with an area greater than 450m² with a lot width of less than 12 metres.

It is proposed to amend the lot width requirements as set out in the table below to better align the General Housing Code to actual lot sizes. Importantly, the impacts to adjoining properties will continue to be addressed through the setback controls which increase the setback of a wall from a boundary as the wall increases in height.

For minimum lot widths, it is proposed that the General Housing Code will be amended as follows:

TABLE 2: MINIMUM LOT WIDTH

Site Area	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +
Existing Lot Width Requirement	N/A	12	12	15	18
Proposed Lot Width Requirement	10	10	12	15	18

Your feedback is sought

There are circumstances where some lots may meet the minimum lot area requirement but not the minimum lot width requirement. For example the General Housing Code cannot be used on a lot with an area of 616m² and with a width of 11m. The Department is seeking feedback on where these anomalies occur, and whether they should be incorporated into the General Housing Code.

Is it necessary to have different minimum lot width requirements? Could the General Housing Code apply to all lots with a lot width of at least 10m?

SIDE SETBACKS

There has been considerable discussion and comment made on the current side setback standards. In part this relates to the complexity associated with the use of a formula to determine setbacks. The objective of the clause was to ensure that as a dwelling house increased in height, it was setback further from a side or rear boundary so as to minimise amenity impacts to neighbours.

In response to feedback from both local government and industry, we are seeking feedback on an option to simplify the setback development standard as part of this amendment.

The requirement of a side setback is to ensure that there is adequate solar access to adjoining properties and that adequate privacy is maintained between adjoining dwelling houses. Typically on streets characterised by wider lots the space between the dwelling houses is larger than streets characterised by narrower lots.

The side setback standard should respond to the width of the lot frontage, not just the area of the lot. This approach better manages the actual impacts to adjoining neighbours. The proposed amendment will also provide an outcome more tailored to the subdivision pattern, and provide a consistent pattern of separation between dwelling houses within a street.

Consistent with the approach taken to date and to ensure 'breathing space' and reasonable solar access, there are greater setbacks at first floor than at the ground floor. The Department is seeking feedback on the following amendments:

TABLE 3: SIDE SETBACK DEVELOPMENT STANDARDS

Lot Width	10-15m	15-18m	18m+
Setback to Boundary/Wall Height	0.9m up to 4.5m 1.2m above 4.5m	0.9m up to 4.5m 1.5m above 4.5m	2.5m

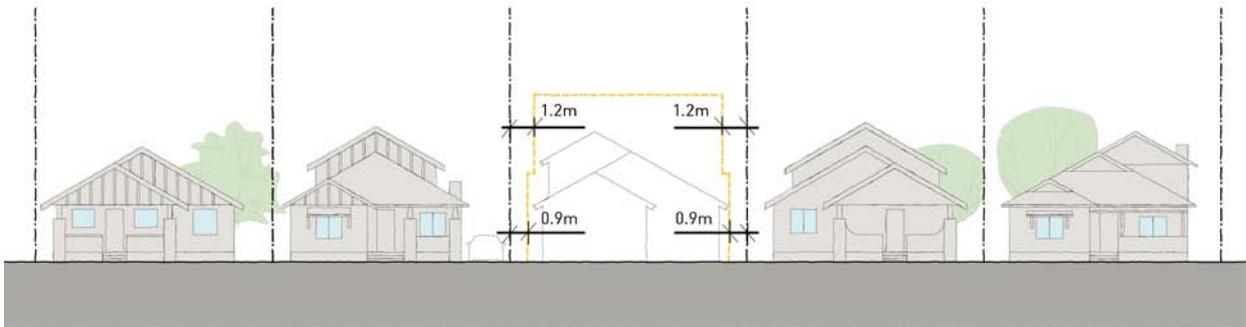


FIGURE 1: MIN. SETBACKS FOR BOUNDARY WITH PRIMARY ROAD AT LEAST 10M BUT LESS THAN 15M

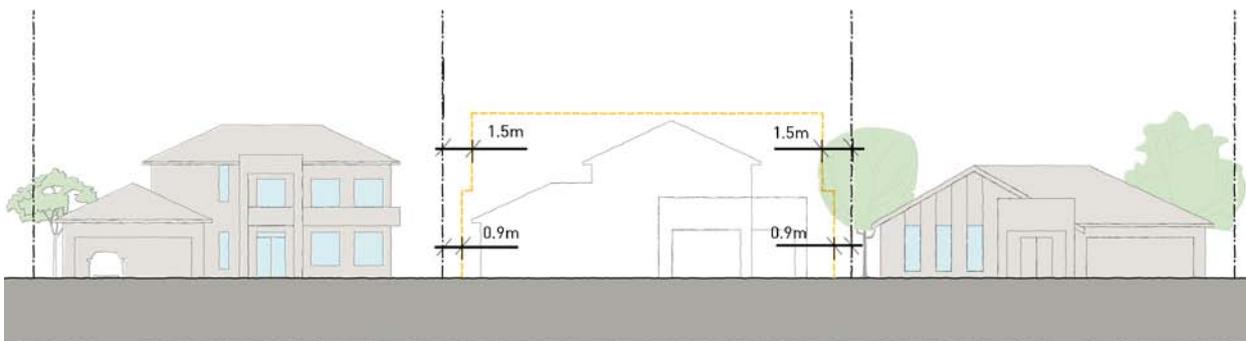


FIGURE 2: MIN. SETBACKS FOR BOUNDARY WITH PRIMARY ROAD AT LEAST 15M BUT LESS THAN 18M

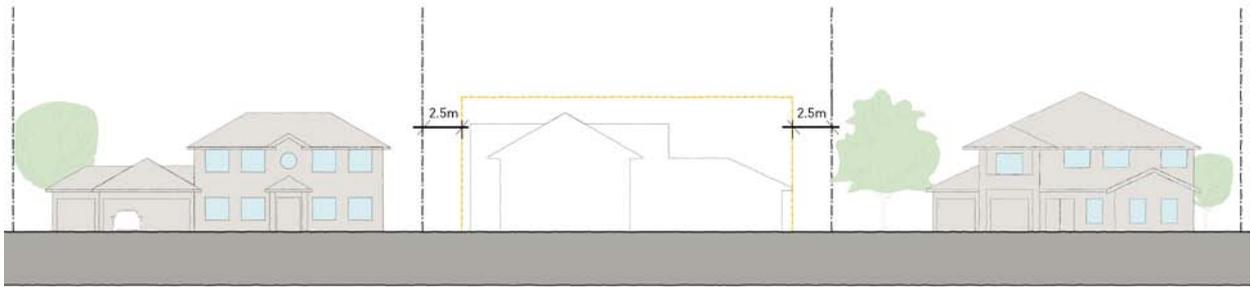


FIGURE 3: MIN. SETBACKS FOR BOUNDARY WITH PRIMARY ROAD: 18M OR GREATER

TABLE 4: COMPARITIVE SIDE SETBACKS: EXISTING & PROPOSED

Building Height at Side Wall	450-600m ² / 12m		600-900m ² / 12m		900-1500m ² / 15m		1500m ² + / 18m	
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
3.8m	900mm	900mm	900mm	900mm	1.5m	900mm	2.5m	2.5m
4.4m	1.05m	900mm	1.05	900mm	1.65m	900mm	2.65m	2.5m
5.0m	1.2m	1.2m	1.2m	1.2m	1.8m	1.5m	2.8m	2.5m
6.2m	1.5m	1.2m	1.5m	1.2m	2.1m	1.5m	3.1m	2.5m
8.0m	1.95m	1.2m	1.95m	1.2m	2.55m	1.5m	3.55m	2.5m
8.5m	2.08m	1.2m	2.08m	1.2m	2.68m	1.5m	3.68m	2.5m

REAR SETBACKS

The Department is seeking feedback on an option to simplify the rear setbacks. Similar to the approach taken with side setbacks, the rear setback standard is proposed to be simplified by replacing the formula approach with set standards. Greater setbacks are required for the first floor in order to reduce privacy and overshadowing impacts to adjoining properties.

TABLE 5: GENERAL DEVELOPMENT STANDARDS

Lot size	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +
Rear Setback	3.0m up to 4.5m 8.0m above 4.5m	3.0m up to 4.5m 8.0m above 4.5m	3.0m up to 4.5m 8.0m above 4.5m	5.0m up to 4.5m 12.0m above 4.5m	10.0m up to 4.5m 15.0m above 4.5m

TABLE 6: COMPARITIVE REAR SETBACKS: EXISTING & PROPOSED

Building Height at Rear Wall	450-600m ²		600-900m ²		900-1500m ²		1500m ² +	
	Existing	Proposed	Existing	Proposed	Existing	Proposed	Existing	Proposed
3.8m	3.0m	3.0m	3.0m	3.0m	5.0m	5.0m	10.0m	10.0m
4.4m	4.8m	3.0m	4.8m	3.0m	6.8m	5.0m	11.8m	10.0m
5.0m	6.6m	8.0m	6.6m	8.0m	8.6m	12.0m	13.6m	15.0m
6.2m	8.0m	8.0m	8.0m	8.0m	12.0m	12.0m	15.0m	15.0m
8.0m	8.0m	8.0m	8.0m	8.0m	12.0m	12.0m	15.0m	15.0m
8.5m	8.0m	8.0m	8.0m	8.0m	12.0m	12.0m	15.0m	15.0m

Your feedback is sought

Should the existing formula for determining the side and rear setbacks be simplified? What are your views on the alternative standards proposed?

DWELLING DENSITY CONTROLS – MAXIMUM FLOOR AREA, SITE COVERAGE, LANDSCAPE AREA

Density is currently controlled in the General Housing Code by limiting the maximum floor area of development on a site, setting maximum site coverage and ensuring that a minimum percentage of landscape area is provided. The existing General Housing Code development standards are proposed to be maintained for lots with an area less than 450m², but greater than 300m²

The table below outlines the standards as they are proposed to be included in the General Housing Code.

TABLE 7: DENSITY STANDARDS (PERCENTAGE OF THE LOT AREA)

Lot size	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +
Maximum Floor Area	270m ²	330m ²	380m ²	430m ²	430m ²
Maximum Site Coverage	55%	50%	50%	40%	30%
Minimum Landscape Area	15%	20%	25%	35%	45%

Note: The landscape area development standard for the existing General Housing Code is currently being reviewed in response to the Local Exclusion and Variation Expert Panel's recommendations.

GARAGES

A garage, carport or car parking space is currently required to be at least 1m behind the building line, or at least 5.5m from a road boundary where the dwelling house has a setback of less than 4.5m. This standard is to be retained.

Currently the doors or door to a garage that faces a primary, secondary or parallel road (often a laneway) must:

- not have a total width that is more than the greater of 6m or 60% of the width of the building on a lot between 12m and 15m; and
- no greater than 50% of the width of that building on lots greater than 15m wide.

It is proposed to simplify the garage requirements in the General Housing Code where they relate to a primary street frontage as outlined in the following table:

TABLE 8: MAXIMUM WIDTH OF GARAGE DOOR

Lot width	10-12m	Above 12m width
Maximum garage door width	3.2m	6.0m

The requirement for the percentage of the width of the building will be deleted.

NEW SMALL LOTS CODE: 6-10m and 200m²+

GENERAL REQUIREMENTS

It is proposed to introduce a new Small Lots Housing Code to enable complying development on a lot that has a frontage to a primary road (measured at the building line) of at least 6m and no more than 10m, and an area greater than 200m².

A lot that has an area less than 300m² will generally have a narrower frontage to a primary road. This narrow frontage means that dwelling houses tend to be closer together, with less room across the site on which to place a dwelling house.

The Small Lots Housing Code proposes to include additional development standards that will be required to be met for lots with a narrow frontage.

It is also common for dwelling houses to be built to the boundary on narrower lots to maximise the use of the available site area. Under the Small Lots Housing Code development standards are being proposed to ensure where appropriate, walls can be built to the boundary. Where necessary, safeguards such as the existing condition relating to the protection of adjoining properties during construction (EP&A Regulation) will be strengthened.

LOT WIDTH

It is proposed that the new small lots code will only apply to lots with a width of between 6 and 10m.

HEIGHT AND SETBACK CONTROLS

Building envelope standards determining setbacks and building height are used to control amenity for adjoining properties and provide a consistent and integrated streetscape.

The combination of the height and setback controls ensure that there is adequate solar access and privacy maintained between adjoining dwelling houses.

HEIGHT

The maximum height limit for new dwelling houses and any new building work will be 8.5m. This is consistent with the current General Housing Code.

Outbuildings (such as studios, workshops and detached garages) will have a maximum height limit of 4.8m, except for outbuildings to rear lanes which will have a proposed maximum height of 6 metres (see discussion below).

FRONT SETBACK

The front setback will generally be the average of the setback of the nearest two neighbouring properties. Where there are no properties within 40m, then the setbacks will be as per Table 9.

TABLE 9: FRONT SETBACK DEVELOPMENT STANDARDS

Lot size	200 - 250m ²	250m ² +
Street Setback	3.0m or the average of the adjoining	3.0m or the average of the adjoining

This approach is consistent with the approach taken in the existing General Housing Code.

SIDE SETBACKS AND BUILT TO BOUNDARY WALLS

The requirement of a side setback is to ensure that there is adequate solar access to adjoining properties and that adequate privacy is maintained between adjoining dwelling houses. It is proposed that the side setback standards responds to the subdivision pattern, in particular the lot frontage as viewed from the street, rather than being determined by the area of a lot. This will provide an outcome more tailored to the subdivision pattern and provide a consistent pattern of separation between dwelling houses within a street.

To ensure ‘breathing space’ and improved solar access, there are greater setbacks at first floor than at the ground floor. The setbacks standards will be the same as those proposed for the General Housing Code.

TABLE 10: SIDE SETBACK DEVELOPMENT STANDARDS

	Small Lots Housing Code	General Housing Code		
Lot Width	6 - 10m	10 - 15m	15 - 18m	18m+
Setback to Boundary / Wall Height	0.9m up to 4.5m 1.2m above 4.5m	0.9m up to 4.5m 1.2m above 4.5m	0.9m up to 4.5m 1.5m above 4.5m	2.5m

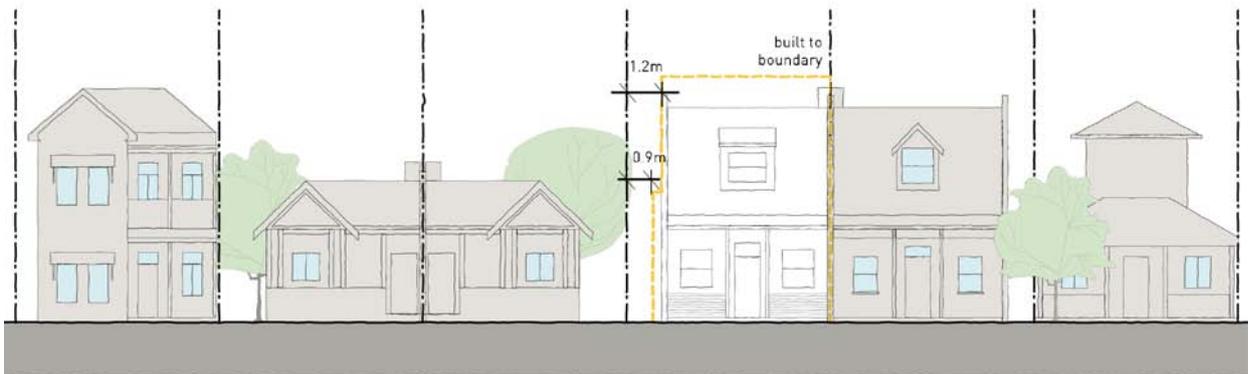


FIGURE 4: MIN. SETBACKS FOR BOUNDARY WITH PRIMARY ROAD AT LEAST 6M BUT LESS THAN 8M

It is common for dwelling houses on lots with a frontage less than 10m to be built to the boundary. Under the proposed Small Lots Housing Code it is proposed to allow new walls to be built up to the boundary under certain conditions.

A wall that is constructed on or within 150mm of a side or rear boundary is considered to be ‘built to boundary’. It is preferred to build the wall on the boundary, however tolerance is provided to accommodate irregular boundaries and construction tolerances. A development standard will be provided to reduce potential gaps between buildings.

To minimise the impact of the walls the ‘built to boundary’ walls are to be limited in length and height.

The following table outlines the proposed standards:

TABLE 11: BUILT TO BOUNDARY WALLS DEVELOPMENT STANDARDS

	Lot Width Requirement	Maximum Height	Maximum Length
Built to boundary on one side	8 - 10m	3.3m or no higher than an existing or common wall, to which it is proposed to abut	10m or 50% of the boundary length (whichever is the greater); or the length of an existing or wall ‘built to boundary’ on an adjoining lot
Built to boundary on one or both sides	6 - 8m		

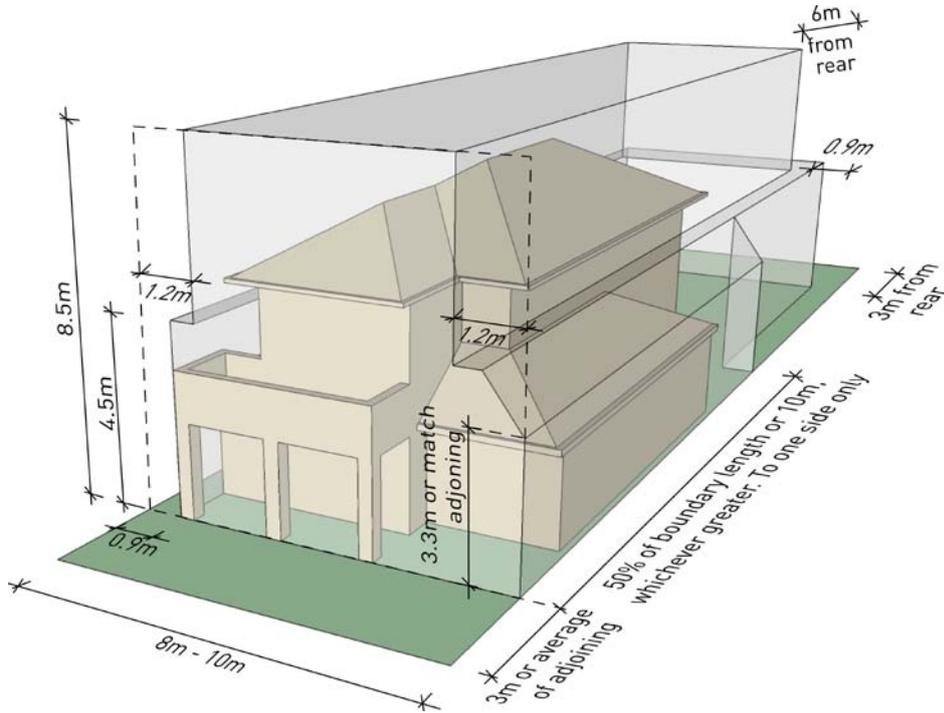


FIGURE 7: FRONTAGE AT LEAST 8M BUT LESS THAN 10M: BUILT TO ONE BOUNDARY

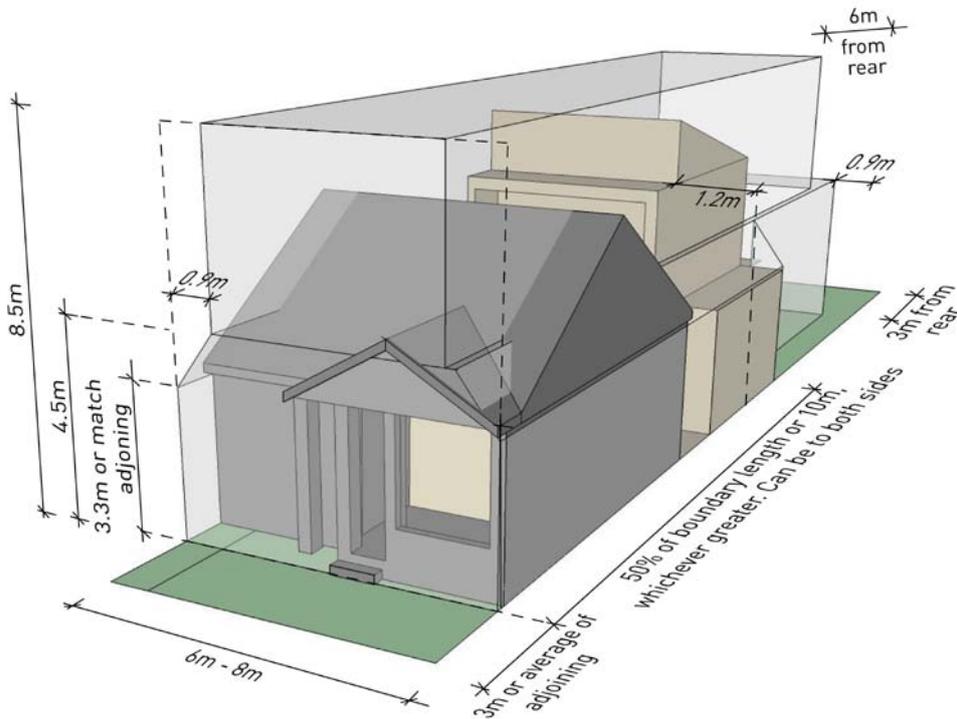


FIGURE 8: FRONTAGE AT LEAST 6M BUT LESS THAN 8M: BUILT TO BOTH BOUNDARIES

NOTE:
 These diagrams represent the setback standards for a dwelling house under the proposed small lots housing code. The diagrams do not factor in the other constraints imposed by maximum floor area, maximum site coverage and landscaped area which will further reduce the developable envelope.

PROTECTING ADJOINING PROPERTIES

If a wall to a dwelling house on an adjoining property is located less than 0.9m from the boundary and it is constructed of a material other than masonry (e.g. timber), or contains windows, then you are not permitted to build to the boundary, for that part of the boundary.

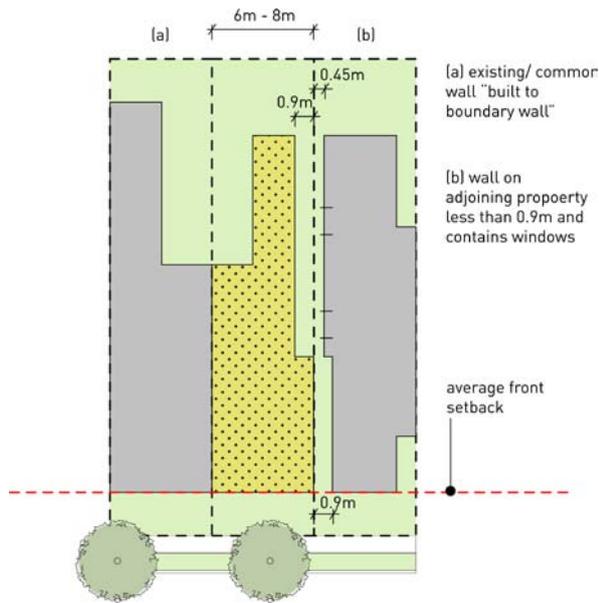


FIGURE 9: MATCH EXISTING BUILT TO BOUNDARY WALLS AND WALL ON ADJOINING PROPERTY LESS THAN 0.9M

Any wall proposed to be located on a boundary is required to be constructed on or within 150mm of the boundary to ensure that there is no unusable space between the buildings. Building Code of Australia requirements relating to fire protection and structural support will apply. The wall will also be required to be of masonry construction so that maintenance requirements are minimised. A development standard will be provided to close off any gaps that may be created between abutting walls

COMMON PARTY WALLS

Older dwelling houses often have common party walls that share structural support. The Building Code of Australia provides specific requirements that ensure structural stability of adjoining properties as part of a development involving a common party wall.

It is important that this issue is properly addressed. To minimise disputes and avoid damage to an adjoining property, certifying authorities should ensure:

- A surveyor verifies that the wall is located on the subject property.
- A Structural Certificate be provided by a structural engineer verifying the structural integrity of the existing party walls will not be affected and that the party wall will not take any additional loads; and
- The applicant discusses the issue with the affected neighbour.

Fire protection and structural protection of an adjoining property is already built into the Environmental Planning and Assessment Regulation 2000 and the Building Code of Australia. In recognition of the importance of maintaining structural stability of adjoining properties it is proposed to strengthen the existing regulation condition. The existing regulation condition will be amended to ensure protection of the adjoining property from possible damage.

BUILDING ATTACHED/SEMI DETACHED DWELLING HOUSES AT THE SAME TIME

The Small Lots Housing Code is proposed to apply to infill development as well as in greenfield areas. The background research undertaken to inform the development of the Small Lots Housing Code highlighted that new housing on smaller lots, known as attached or semi detached dwelling houses, often incorporates a common boundary wall. They are commonly built at the same time. This development type is common in greenfield areas and should be enabled as complying development under the Small Lots Housing Code.

For this type of development there are particular requirements proposed around the common party wall and simultaneous construction.

The common wall requirements will apply when two dwelling houses are proposed to be built on adjoining lots at the same time, and under the one complying development certificate (CDC).

It is proposed to allow a CDC to cover two or more lots, provided that construction is undertaken concurrently and will result in a single dwelling house on a single lot. This will enable two or more attached dwelling houses to be approved under the one CDC sharing a common wall. Where this development type occurs, the development standards relating to side setbacks for that common wall do not apply.

Any such development will still need to comply with all other relevant development standards. This type of development is more likely to occur in greenfield areas where more than one dwelling house with common boundary walls are likely to be constructed at the same time.

It is proposed to allow a CDC to apply to multiple lots provided that upon completion of the development there will be only one dwelling house on a lot. This will enable attached or semi detached dwelling houses to be constructed at the same time on adjacent lots with common walls. The lots must be in existence prior to the approval of the CDC. It may be necessary to place a requirement on the CDC that construction must occur concurrently for the two dwelling houses.

REAR SETBACKS

Rear setbacks are important to ensure that adequate space is provided in the rear yard for landscaping and recreation.

Greater setbacks are required for the first floor in order to reduce privacy and overshadowing impacts to neighbours at the rear of the property.

To provide extra protection on lots with a narrow frontage, the first floor (building works above 4.5m) rear setback is to be consistent with that of adjoining dwelling houses. This applies to lots with a boundary to a primary road less than 8.0m. For development above 4.5m, the setback from the rear boundary is to be at least the average first floor setback of the adjacent dwelling houses. Where there is only one adjacent dwelling house, the setback is to be at least the same as the adjacent dwelling house.

The following rear setbacks are proposed:

TABLE 12: GENERAL DEVELOPMENT STANDARDS – REAR SETBACKS

Lot Width	6 - 10m
Between 6 - 8m	3.0m setback up to 4.5m building height The average of the rear setback of the first floor of the adjacent dwelling house/s above 4.5m building height.
Between 8 - 10m	3.0m setback up to 4.5 building height 6.0m setback above 4.5m building height

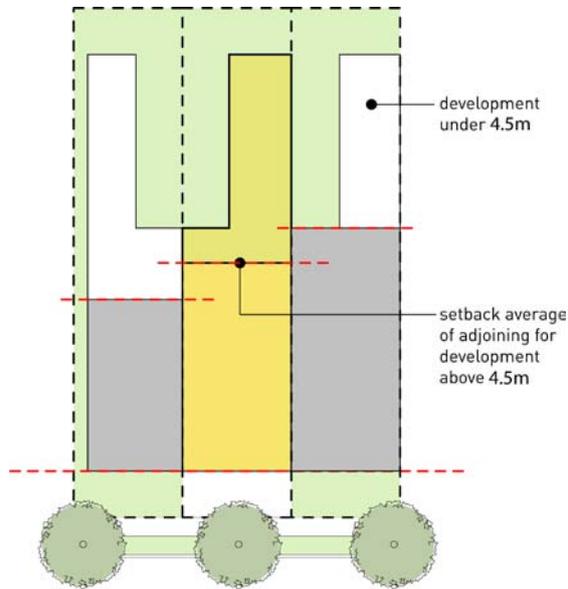


FIGURE 10: REAR SETBACK FOR FIRST FLOOR ON LOTS WITH A FRONTAGE LESS THAN 8.0M

DWELLING DENSITY CONTROLS – MAXIMUM FLOOR AREA, SITE COVERAGE, LANDSCAPE AREA

Consistent with the General Housing Code, dwelling density will be controlled by limiting the maximum floor area of development on a site, setting a maximum site coverage and ensuring that a minimum landscape area is provided.

The standards proposed are outlined in the table below:

TABLE 13: DENSITY STANDARDS AS A PERCENTAGE OF THE LOT AREA

	Lot Size	Maximum Floor Area	Maximum Site Coverage	Minimum Landscape Area
New Small Lots Code	200 - 250m ²	90%	70%	10%
	250m ² +	85%	65%	10%
Expanded General Housing Code	300 - 450m ²	270m ²	55%	15%
Existing General Housing Code	450 - 600m ²	330m ²	50%	20%
	600 - 900m ²	380m ²	50%	25%
	900 - 1500m ²	430m ²	40%	35%
	1500m ² +	430m ²	30%	45%

MAXIMUM FLOOR AREA

For smaller lots, it is proposed to introduce a “percentage of the lot size” requirement for maximum floor area. This is particularly relevant for smaller lots to ensure the change in building form is consistent with the size of the lot.

SITE COVERAGE

On Small lots it is proposed to have maximum site coverage as follows:

TABLE 14: SITE COVERAGE DEVELOPMENT STANDARDS

	200 - 250m ²	250m ² +
Maximum Site Coverage	70%	65%

This means that at least 30% of a lot between 200 – 250m² will remain undeveloped. For example, on a 200m² lot, at least 60m² of the site will not be able to be built on.

LANDSCAPED AREA

It is proposed to have a minimum landscaped area of 10% for lots with an area of 200-300m² (which equates to at least 20m²) under the proposed Small Lots Housing Code.

GARAGES – SMALL LOT HOUSING CODE

A garage, carport or car parking is currently required to be at least 1m behind the building line, or at least 5.5m from a primary road boundary where the dwelling house has a setback of less than 4.5m. Under the proposed Small Lots Housing Code the same development standard will apply.

It is proposed to simplify the garage requirements consistent with the General Housing Code where they relate to a primary street frontage as outlined in the following table:

TABLE 15: GARAGE DEVELOPMENT STANDARDS

Lot Width	6.0 - 8.0m	8.0 - 10.0m
Maximum Garage Door Width	No garage on the primary road frontage	3.2m

NB: Single and double garages will be permitted to rear lanes (parallel roads).

PRIVACY

Privacy controls contained within the General Housing Code are considered adequate and are consistent with nationally accepted standards. These controls are proposed to be retained.

This ensures that privacy screens or translucent glazing are provided to windows to a habitable room (other than a bedroom) that have a sill less than 1.5m above floor level when:

- the window faces a boundary that is less than 3m away; and
- the floor level is more than 1m above the existing ground level.

For outbuildings, privacy will also be required for windows on the first floor that face into a lot where the lot width is less than 8.0m.

OUTBUILDINGS

Outbuildings are defined as decks, terraces, pergolas, carports, garages, cabanas, garden sheds, and other structures that are detached from the dwelling house.

The maximum height of an outbuilding will remain at 4.8m above the existing ground level. Under the Small Lots Housing Code, an outbuilding will be able to be built to the side and rear boundaries in accordance with the proposed development standards for the dwelling house.

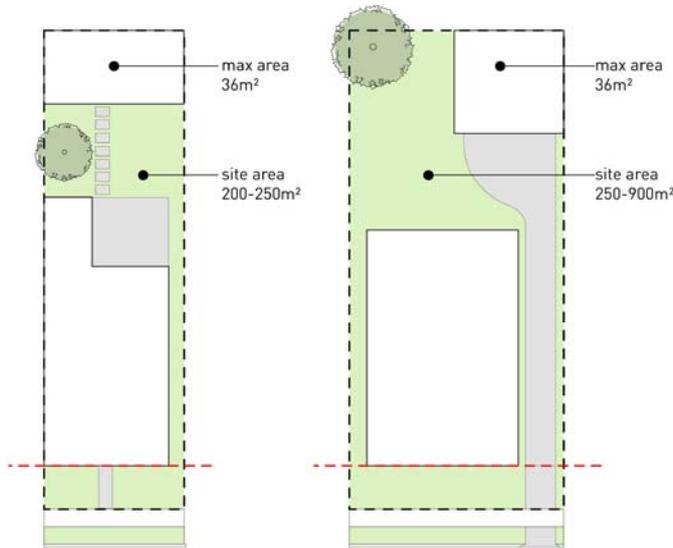


FIGURE 11: OUTBUILDINGS

TABLE 16: MAXIMUM FLOOR AREA FOR OUTBUILDINGS

Lot Size	200 - 250m ²	250m ² +
Outbuilding maximum area	36m ²	36m ²

PRINCIPAL PRIVATE OPEN SPACE

Outdoor living space is highly valued in the New South Wales climate; it is a recreation area that is often an extension of the internal living spaces such as a deck, patio, terrace or paved area which is directly accessible from a living area. A new dwelling house must have a minimum outdoor living area of 16m² with a minimum dimension of 3m.

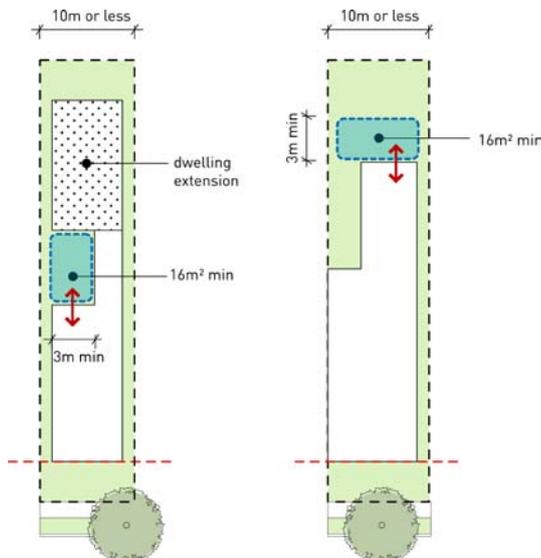


FIGURE 12: PRIVATE OPEN SPACE

SWIMMING POOLS

A swimming pool will be permitted as development under the Small Lots Housing Code. The development standards will be similar to the current Housing Code. Compliance with the Landscape Area development standard will be required.

NEW DEVELOPMENT TYPES COMMON TO SMALL LOTS HOUSING CODE AND GENERAL HOUSING CODE

BASEMENT AND EXCAVATION

Basements are currently not permitted under the General Housing Code, and excavation associated with the erection of or alterations and additions to a dwelling house or ancillary development is limited to a maximum of 1.0m. Basements can provide accommodation for motor vehicles, storage and can reduce the height and impact of a new development.

It is proposed that additional excavation be allowed provided it is contained within the footprint of the dwelling house or ancillary development, and the area is limited to:

- 25m² in the Small Lots Housing Code; and
- 40m² in the General Housing Code

Note: The definition of a basement is as per the Standard Instrument.

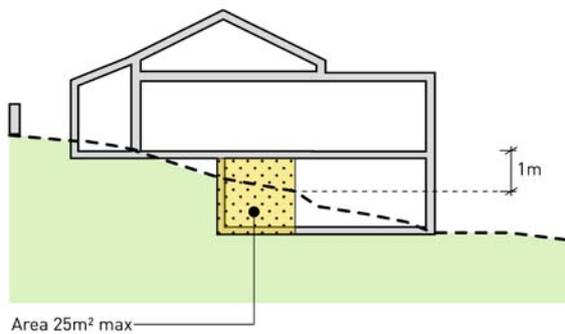


FIGURE 13A: SMALL LOTS HOUSING CODE: AREA OF BASEMENT UNDER THE FOOTPRINT OF THE DWELLING

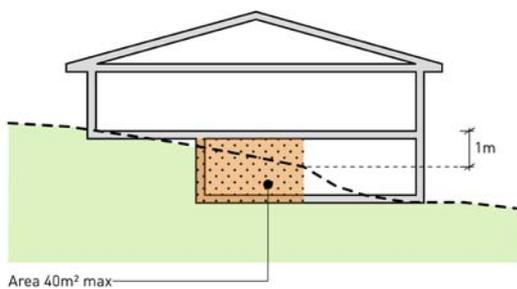
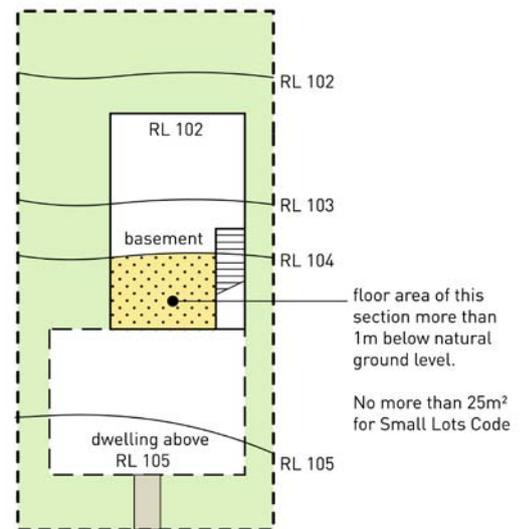
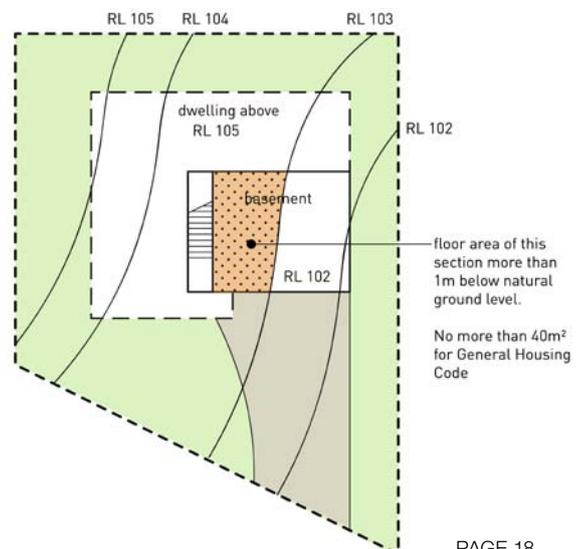


FIGURE 13B: GENERAL HOUSING CODE: AREA OF BASEMENT UNDER THE FOOTPRINT OF THE DWELLING



OUTBUILDINGS WITH A FRONTAGE TO A LANEWAY

Locating garages and studios (or an additional bedroom) in a rear lane is quite common in inner city areas and new small lot greenfield areas. When studios or bedrooms are located above or adjacent to garages on rear lanes, they provide passive surveillance over the laneway thereby increasing safety and generally improving the amenity of the laneway.

Under the Codes SEPP a laneway is defined as a parallel road frontage.

It is proposed to allow an outbuilding on a lot that has a boundary greater than 6m to a rear lane. The proposed development standards for an outbuilding fronting a lane are:

- A maximum width of outbuilding at the boundary of 9.0m;
- A maximum depth of outbuilding of 7.0m;
- A maximum height of outbuilding of 6.0m;
- May be built to the boundary of the lane way;
- Is required to be separated from the dwelling house by a minimum of 3m;
- Privacy controls apply to upper level windows facing into a lot on lots with a width less than 8.0m.

The outbuilding should be separated from the main dwelling house by at least 3m and all other relevant controls of either the General Housing Code or the Small Lots Housing Code will still apply.

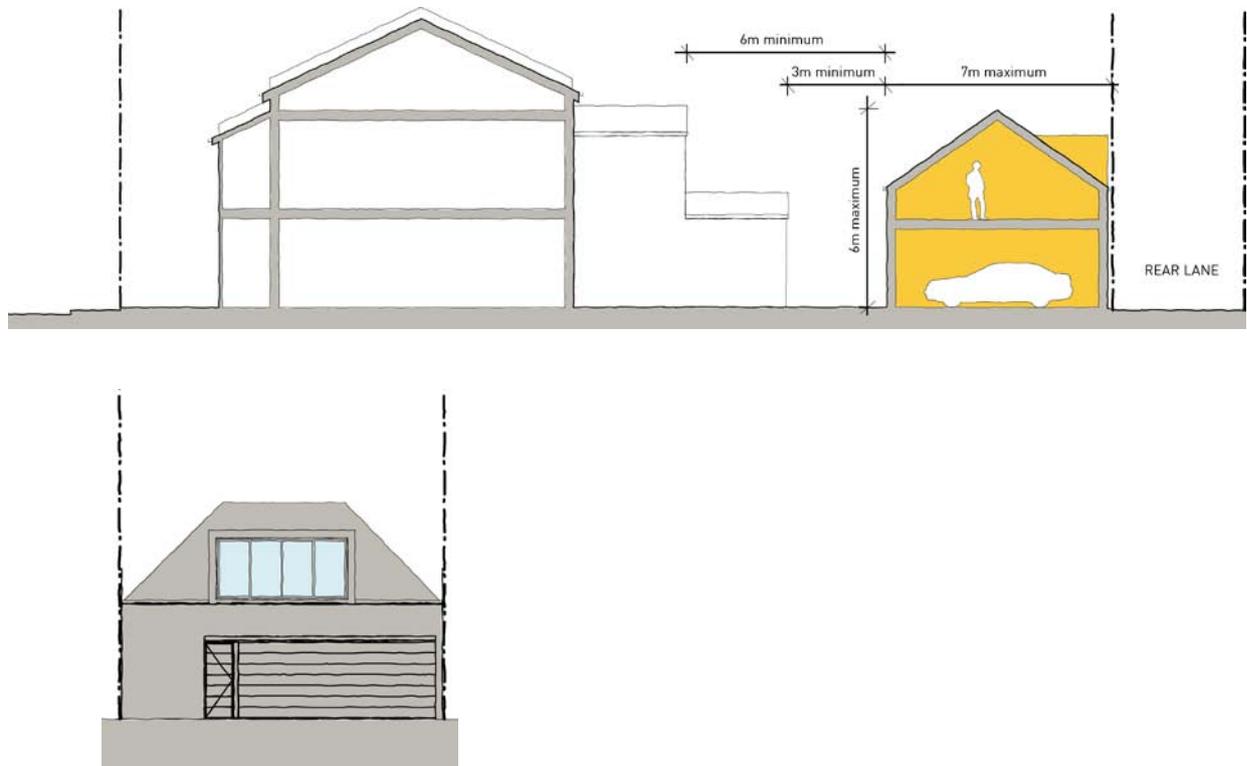


FIGURE 14: OUTBUILDING WITH A FRONTAGE TO A LANEWAY

	SMALL LOTS CODE		GENERAL HOUSING CODE				
LOT WIDTH	6-10	6-10	10+	10+	12+	15+	18+
Lot Size	200-250m ²	250m ² +	300-450m ²	450-600m ²	600-900m ²	900-1500m ²	1500m ² +
Outbuilding to rear laneway. Max Floor Area	50m ²	50m ²	60m ²	60m ²	75m ²	100m ²	100m ²
Outbuilding to Rear Lane Max Height	6m	6m	6m	6m	6m	6m	6m
Outbuilding to Rear Lane Rear Setback	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m	0m up to 4.5m; 0.9m above 4.5m
Outbuilding Rear Lane Side Setback	0.9m	0.9m	0.9m	0.9m	1.2m	1.5m	2.5m
	Built to boundary wall permitted						

The floor area and site coverage of any outbuilding will be included within the minimum floor area, landscape area and site coverage standards that apply to the site generally. This is consistent with the current approach under the General Housing Code.

HERITAGE CONSERVATION AREAS

The General Housing Code currently does not apply to heritage conservation or draft heritage conservation areas. Internal alterations are currently permitted under the Housing Internal Alterations Code for conservation and draft conservation areas.

A number of complying development council development control plans currently in place allow complying development in heritage conservation areas, however often this development is restricted to minor external works and works that are not visible from the street. It is considered that these minor works could be permitted as complying development while still protecting the significance of the heritage conservation areas.

It is proposed that the following minor development be allowed in both the draft heritage conservation areas and heritage conservation areas:

- Detached additions/outbuildings. The addition is to be located behind the dwelling house;
- Demolition of detached outbuildings and ancillary development (located behind the dwelling house) will be permitted;
- Attic conversions with flush roof windows located at the rear and not visible from the street (see separate discussion on attic conversions).

The following development will **not** be permitted in a heritage conservation area:

- Demolition of a dwelling house;
- New dwelling house; and
- Additions attached to a dwelling house.



FIGURE 15: LOW IMPACT DEVELOPMENT AT REAR OF DWELLING IN HERITAGE CONSERVATION AREA

Your feedback is sought

The Department is seeking feedback on any additional development that could be covered as complying development within heritage conservation areas.

RESTRICTIONS ON DEMOLITION OF DWELLING HOUSES

Currently under the General Housing Code, demolition of a dwelling house is permitted on land not identified as being environmentally sensitive such as in heritage conservation areas and heritage items. On smaller lots, there is a greater prevalence of semi detached and attached dwelling houses. Safeguards are proposed to ensure common walls of attached and semi detached dwelling houses are protected.

The following development standards are proposed:

- Demolition of entire attached or semi detached dwelling houses will not be permitted;
- Partial demolition of an attached or semi detached dwelling house behind the roof ridge or behind the first 6m of the dwelling will be permitted to allow for the new building works which meet the development standards; and
- Demolition of any part of a common wall is not permitted.

MINIMUM LOT SIZE IN ENVIRONMENTAL PLANNING INSTRUMENTS

Clause 1.18 (2A) of the Codes SEPP requires that, if an environmental planning instrument (EPI) has a provision establishing a minimum allotment size for the erection of a dwelling house then that area, where it is greater than the minimum lot size under the Codes SEPP, is the minimum lot size at which the Codes SEPP applies. For example, if a site has a minimum lot size in an LEP of 550sqm, and the area of a lot is 500sqm then the Codes SEPP does not apply to that site.

This restriction was included in the Codes SEPP to force lots with an area less than the typical subdivision pattern of a local area to be subject to a merit assessment when a new dwelling house is proposed.

However, the General Housing Code provides tailored development standards for different sized lots. This ensures that the development standards applied are appropriate to the lot size and width for lots that have been already zoned as suitable for residential development through the council’s policy controls.

The Department has received strong feedback that this restriction in the application of the Codes SEPP has little justification. If a lot has been already been legally created and zoned for residential use, then complying development and the development types of the Codes SEPP should apply.

However, it is proposed to keep this restriction for lands with a rural zoning to overcome the issues arising out of dwelling entitlements for lots below the minimum lot size.

HOUSING ALTERATIONS CODE

Part 4 of the Codes SEPP contains the Housing Internal Alterations Code. Under this Code internal alterations to an existing dwelling or existing ancillary development that is associated with a dwelling, (other than development that is the erection or conversion of a basement) is development that can be undertaken as complying development. The Housing Internal Alterations Code applies to a reduced set of general land exemptions (clause 1.19).

Recent amendments extended the code from a dwelling house to a dwelling which permits internal alterations to single dwellings, as defined in the Standard Instrument LEP which includes multi-unit dwellings.

It is proposed to expand this code to include minor external alterations to existing windows and external walls for dwelling houses, including detached, semi-detached, and attached and outbuildings as well as allowing roof areas within an existing dwelling house to be converted to an attic (see discussion below). It is proposed to rename this Code to the Housing Alterations Code. These provisions will only apply to a dwelling house.

Alterations must be contained within the existing building footprint of the dwelling house or outbuilding and will **not** be allowed to be undertaken where the proposed development:

- results in a change in the floor area of the building; and
- is in a heritage conservation area and the proposed alterations are in the front façade of a dwelling to a primary or secondary street and is visible from the street

Existing windows and doors can be enlarged except where the floor level is greater than 1m above existing ground level.

ATTICS AND DORMER WINDOWS IN EXISTING DWELLING HOUSES

The roof space in an existing dwelling house can provide additional floor area at a minimal cost and impact to the surrounding neighbours and streetscape. This is a common development type in many inner and middle ring metropolitan councils, approved every day through development applications. It is proposed that this common yet minor development type be included as complying development. The development standards proposed are:

- The attic must be contained within the existing roof space;
- Enabling a new dormer window on an existing roof with development standards to control window size and placement but to allow for appropriate head height within the roof space. The standards reflect the controls in existing council policies setting proportions and placement of windows;
- An attic will not be counted as a storey (consistent with SEPP No. 6 – Number of Storeys and the existing definition of a storey under the Codes SEPP);
- For an attic conversion to an existing dwelling house, new work is not to exceed the existing ridge height;
- In Heritage Conservation areas, dormer windows or roof extensions will not be permitted. Only flush roof windows will be permitted where they are not visible from the street (i.e the rear plane of the roof);
- In dwellings constructed prior to the commencement of the amendments, the attic will not be included as part of the floor area to take into account that the existing building may exceed the maximum floor area requirements;
- Roof extensions to the rear of the dwelling house are to have a:
 - Setback of more than of 500mm from the side walls,
 - Set down of more than 200mm below the ridge line (measured along the slope of the roof from the ridge); and
 - Width of no more than 4.0m

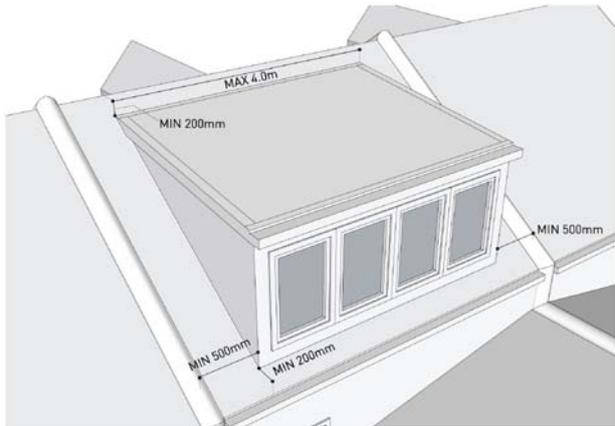


FIGURE 16: ROOF EXTENSION AT REAR.

- Dormer windows are to:
 - be limited to one dormer window where the house is less than 6m wide, and two dormer windows where the lot is greater than 6m;
 - Setback of more than 500mm from the side walls;
 - Setback of more than 200mm below the ridge line (measured along the slope of the roof from the ridge);
 - Width of no more than 1.3m wide; and
 - Be vertically proportioned at a ratio of 1.5:1 measured from head to sill of the window frame
- Flashing or waterproofing not to span the roof ridge.

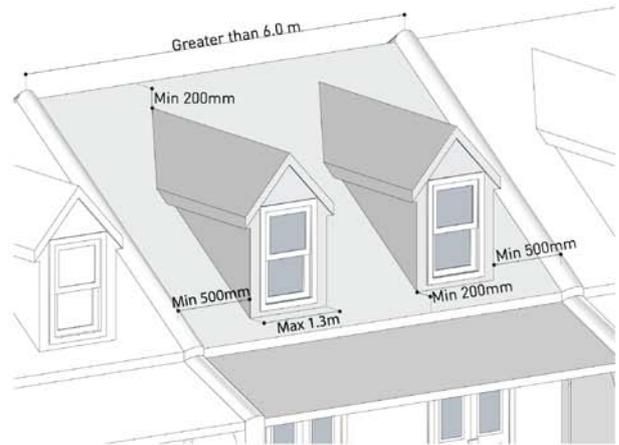
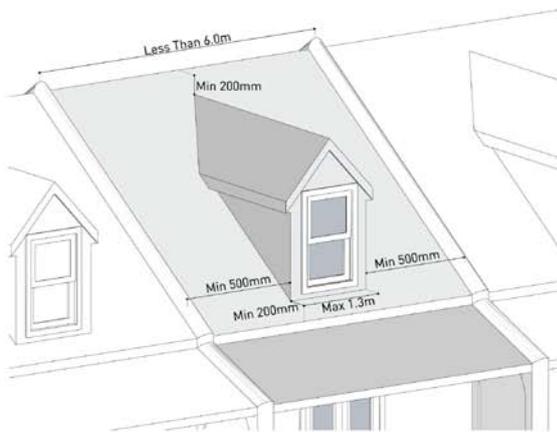


FIGURE 17: DORMER WINDOWS

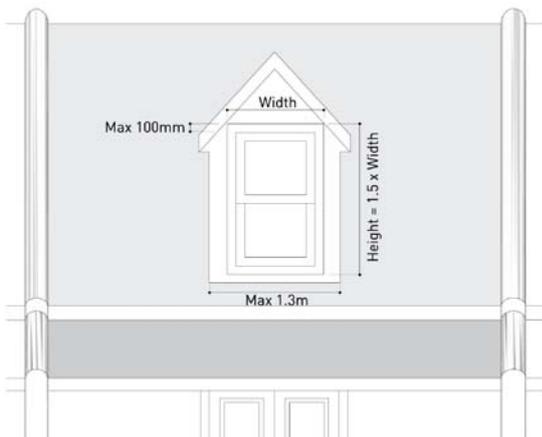


FIGURE 18: PROPORTION OF DORMER WINDOWS

Response To NSW HOUSING CODE Expansion to cover small lots /Discussion Paper

Thank you for the opportunity to comment on the Discussion Paper in relation to the NSW Housing Code. Council supports the streamlining of planning processes through complying development, but has strong concerns that the proposed amendments are going too far, and will undermine the character and pattern of development in a local 'place', and result in unacceptable impacts on neighbouring amenity. Our specific concerns are outlined below.

GENERAL HOUSING CODE

Extension of general housing code to lots 300 -450m²

The extension of the housing code to lots of 300 -450m² is acceptable, however, only where such lot sizes are permissible in the zone. Otherwise, development has the potential to be out of scale with the local area, and result in greater amenity impacts on neighbouring larger sites, than is usual or expected in that locality.

Lot width

Most low density residential lots in Ku-ring-gai are more than 600m². Lots smaller than this have generally resulted from subdivision following development for a dual occupancy. These lots generally have the same street frontage as the original lot, so these comments apply to these smaller lots as well.

The Housing Code specifies the minimum lot width based on the street frontage. Where controls are then provided based on that lot width, it is clear that the assumption is made that the lot is regular. However, there are numerous examples throughout Sydney of lots that are wider at the rear, or narrower at the rear, or are battleaxe lots, (where the 'lot width' may only be, say, 3.6m). An average lot width would provide a better means to ensure that the controls provide outcomes that are consistent with the local character and amenity.

The minimum 10m width *may* be adequate for the smaller lots, however, it is inadequate for the larger lots. The proposal to require only a 10m lot width irrespective of lot size is not supported. Many councils have requirements for lot width that exceed those in the Housing Code. Lots that are narrower than these requirements may be so for historical reasons, or as individual anomalies in a subdivision. These require merit assessment to ensure that local amenity and character are not compromised.

For instance, the Ku-ring-gai Planning Scheme Ordinance, which covers most of the low density residential areas in Ku-ring-gai, requires lot widths of 18m, measured at a distance of 12.2m from the street alignments. The relevant minimum lot sizes are 790m², 836 m² and 929 m² dependent on the zone. This is part of the pattern of development, that supports the local character. The current Housing Code minimum lot width of 12 and 15m for these lots fails to recognise that where these narrower lots occur, consideration of the pattern of development in the locality is essential to avoid uncharacteristic and unacceptable solar access, overlooking or streetscape outcomes. A consistent 10m requirement would be a race to the bottom – namely to the lesser amenity provided for 300m² lots in certain areas of Sydney.

It is recommended that the minimum lot width be based on:

- the minimum lot width required in the LEP; or
- where there is no minimum lot width requirement in the LEP, incremental as it is at the moment, with lot width increasing as lot size increases.

Side and rear setbacks

The Housing Code Background Paper acknowledges the role setbacks play in local character as well as amenity. However, the side and rear setbacks as proposed will have the result of compromising the character and identity of different low density residential areas. Ku-ring-gai retains generous lot sizes and frontages, and the more generous setbacks contribute significantly to differentiating this area from other LGAs and suburbs within the LGA from each other. The character of Ku-ring-gai is strongly influenced by landscaping in all setback areas.

Side setbacks:

An area in the south of the LGA, the lots are smaller. Figure 1 provides an illustration of the Roseville area. Lots to the east are generally 15m wide with side setbacks, generally around 900mm, but up to 1.5m. These dwellings were generally constructed prior to the current DCP, and comply with the minimum fire separation requirements under the Building Code of Australia. Wider lots at approximately 24m have side setbacks generally about 1.5m. The DCP has a minimum side setback for a single storey of 1.5m, with wider setbacks for 2 storeys.

On these narrow lots, the smaller side setbacks break up the built form, but are too small to provide softening through landscaping. These areas of Roseville have a more urbanised character in this regard.

On the other hand, the majority of the LGA has larger and wider lots. Figure 2 provides an example from the middle area of the LGA – St Ives. The lots shown are generally 20m – 26m wide with minimum side setbacks generally around 1.5 – 2m (with a DCP requirement of a minimum of 1.5m for a single storey dwelling), with some dwellings having non-compliant elements and the wider lots with more generous setbacks from 2m - 3m or more.

As can be seen from figures 1 and 2, the increase in side setbacks is characterised by landscaped views between dwellings, contributing to the character of this locality. Reducing side setbacks as proposed will result, over time, in the loss from the public domain of this landscaped view between houses.

Such simplification of the controls in the Housing Code, will result in the loss to the public domain character of local areas. It would be preferable to provide side setback controls that relate to the existing setbacks within the street, with the simpler controls limited to Greenfield areas. If there is genuine concern about the use of a formula, a building height plane may be a more appropriate approach. The individual council could insert the applicable height at the boundary, from which the height plane is drawn. However, the current formula is not complicated. It must be considered that the development must comply with the Building Code of Australia, which is far more complicated. A relatively simple formula should not be a challenge in comparison.

Figure 1 – Roseville



Rear setbacks:

Minimum lot sizes for low density development in Ku-ring-gai are mostly 790m², 836m² and 929m². The rear setbacks as proposed would allow 3m and 5m rear setbacks where the rear wall is 4.4m. Council's DCP 38 provides for a 12m rear setback or, for lots with a depth of less than 48m, 25% of the average site depth.

Accordingly, rear setbacks in Ku-ring-gai are usually very generous. This has allowed for large rear yards for resident social and recreational uses, as well as providing space for extensive landscaping with tall trees. The DCP requires the inclusion of a number of trees to at least 13m tall (consistent with the natural character of the locality), but many reach up to 30m tall. Setbacks of 3 or 5m do not provide adequate space for the safe retention or replenishment of these trees (especially as there is no requirement in the housing code to assess the impact of a development on a tree adjacent to the development). Further, such a setback would result in most trees becoming exempt from tree preservation controls, resulting in further loss.

Further, these large yards have allowed the retention of remnants of ecological communities that are listed as either critically endangered or endangered under both state and federal legislation. They have also retained some biocorridors and the ability to restore biocorridors between these remnants.

In Council's recently gazetted Ku-ring-gai LEP (Town Centres) 2010, not only are significant patches of vegetation identified, but areas with the potential for restoration to improve the connectivity between these patches are identified. Allowing such small setbacks as complying development would compromise Council's ability to meet the objectives of the LEP.

Figure 2. St Ives



The proposed rear setback requirements are based on the height of the rear wall. This assumes that the rear element of the dwelling will be of a reasonable size. However, it would also be possible for small rear setbacks to be provided to 2 storey buildings, for instance where the roof is steeply pitched allowing an attic or mezzanine, or where the rear element is very small, with a second storey element only a metre or two from the rear wall.

The Housing Code, by reducing all setbacks to a common, relatively small distance for most suburban lots, limits the ability to plant trees for shaded private open space areas. Given that climate change will make the need for such spaces even more important, this seems especially short-sighted.

On the other hand, the Housing Code provides no solar access provisions, depending rather on setback requirements, increasing only based on lot width and wall height. It fails to consider aspect or topography, so solar access to neighbouring living and private open space areas will be compromised on a regular basis. If no solar access controls are to be provided, setbacks should be far more generous, and/or vary with aspect and topography.

Setbacks to battleaxe and corner lots

Although not discussed in this paper, it is notable that it is often difficult to determine which is the side setback, and which the rear, both on corner lots and on battleaxe lots. Battleaxe lots are particularly sensitive, as they are usually surrounded by existing development on all sides, and therefore need more careful consideration than regular lots. It is recommended that standards be prepared to clarify this, which increase the setbacks especially to the short boundaries of battleaxe lots.

Height of wall

The proposed raising of the maximum wall height adjacent to setbacks from 3.8m to 4.5m will also have impacts on solar access to neighbouring development. The amendment is justified, in part, to allow for sloping sites. However, it is these sites where solar access to neighbouring private open space, living areas and solar panels/water heaters, are more likely to be compromised by the additional height.

Again, a building height plane could address this issue to some extent.

A better option to address solar access, however, would be provisions for maximum overshadowing as required in most DCPs for setbacks to walls above 3.8m.

Dwelling density controls

Currently density is controlled by limiting the maximum floor area of development on a site, setting maximum site coverage, and minimum percentage of landscape area provision. Density standards are set as a percentage of the lot area. Since there are no alterations to the existing standards, this amendment is acceptable.

Garages

The alteration to the code specifies a single garage door to buildings on a smaller lot width, and a double garage door to larger lots irrespective of their size. This is supported as it will reduce triple (or greater) garage doors on large width sites being constructed as was previously possible with the percentage controls. Since there are no major impacts as a result of the alterations to the existing standards, this amendment is accepted.

Outbuildings

Outbuildings referred to in the Codes SEPP include decks, terraces, pergolas, carports, garages, cabanas, garden sheds, and other structures that are detached from the dwelling house. However, the discussion implies that secondary dwellings and garages may be included in this category. Garages (due to vehicular movement) and secondary dwellings (due to their requirements of amenity considerations alongside the necessity for the separation of services) have impacts that are far greater than the impact of a garden shed, gazebo, cabana, deck, terrace, pergola. Including secondary dwellings as an outbuilding enables buildings with no controls on provision of good habitable environment quality, nor does it ensure that such structures duly consider their relationship to the primary dwelling. This proposal will result in the construction of secondary dwellings with no consideration for quality and sustainable affordable housing that is of a standard that will have longevity as living quarters beyond one generation of owner. The outbuilding type should be clearly defined as a building that is not a garage and is not habitable.

These building forms should not be used as a backhanded way of providing studios or secondary dwellings; therefore, it is recommended that if secondary dwellings are to be included as complying development, their controls be improved and relocated from the Affordable Housing SEPP to the Codes SEPP so that all information is easily found within the one document.

Outbuildings with a frontage to a laneway

The definition of a rear laneway is one with a road frontage parallel to the main street frontage. This proposal is supported in principle, however the same reservations as for the general outbuilding category apply to the construction of

secondary dwellings particularly as this category allows up to 100sqm to be built with no controls on quality or amenity considerations.

The outbuilding type should be clearly defined as a building that is not a garage and is not habitable. All secondary dwellings/granny flat type buildings should be considered as a separate development type – not an outbuilding. The proposed 6m height limit is clearly provided to enable habitable areas and studios to be built at the first floor level, but no provisions are included in relation to privacy or overshadowing of neighbouring development or the dwelling on the site (except for very narrow lots). The height should be the same as for other outbuildings.

These building forms should not be used as an indirect way of providing studios or secondary dwellings. It is recommended that if secondary dwellings are to be included as complying development, their controls be improved and relocated from the Affordable Housing SEPP to the Codes SEPP so that all information is easily found within the one document.

Basement and excavation

The proposed changes are supported as they will accommodate the topography of the Ku-ring-gai area as well as enable a basement storey to be created rather than an upper storey. It enables better access for living areas directly to garden areas and reduces the need for deck areas at elevated levels.

Since there are no major impacts as a result of the alterations to the existing standards, this amendment is accepted.

Demolition of Dwelling Houses

The Codes SEPP allows demolition except for dwellings on environmentally sensitive land such as in heritage conservation areas. While the changes are an improvement dealing with adjoining walls, it is recommended that demolition be permitted only with consent to ensure that potential heritage items are retained.

SMALL LOTS CODE

The Small Lots Housing Code is proposed to apply to infill development as well as in Greenfield areas. It is specific to lots with a width of 6-10m and area of 200-300m².

This code will apply to a limited number of sites within Ku-ring-gai. Since these are special sites, they require merit assessment. It is recommended that the Code only apply to those LGAs where small lots are predominant.

HERITAGE CONSERVATION AREAS

Unattached additions and outbuildings

The proposed maximum height for an unattached outbuilding is 4.8m with an additional 1.0m for excavation. This presents the possibility of a two storey unattached addition with a maximum floor area of 36m².

The scenario in Figure 15 of the discussion paper could potentially represent a ground level garage with a studio above. In a conservation area of single storey character, this would be a new and contradictory visual element, highly visible from the street. In addition, the materials used on this visible building and its form may not be responsive to the context of the Heritage Conservation Area and could be potentially uncharacteristic and detracting. Under the EPI, this type of development would require a Heritage Impact Statement.

Any complying development in a heritage conservation area should require that buildings visible from the public domain should respond to the context of the Heritage Conservation Area in terms of form, scale, siting, materials, height and colour.

Battleaxe dwellings in a heritage conservation area

The proposed changes make reference to not permitting complying development to “a dwelling house on the front facade on a primary or secondary street and is visible from the street”.

In Ku-ring-gai several potential conservation areas are under review for inclusion in the Draft Comprehensive LEP, with significant and contributory dwellings located on battleaxe blocks. In some instances, these dwellings represent the original layer of development, with the more recent houses on the primary street. As these dwellings are not visible from the street, the proposed complying development such as roof windows and alterations contained within the original footprint, presumably can be located on any side of these battleaxe dwelling houses.

This change in policy with regards to complying development and visible elements of the Heritage Conservation Area gives weight only to the aesthetic value of the conservation area and fails to give consideration to the potential historical, scientific, cultural, social, archaeological, architectural and natural values which may contribute to the heritage significance of the conservation area.

The inclusion of this provision has the potential to undermine the values of a Heritage Conservation Area and should not be included.

Should the provision nevertheless be included, the definition of primary facade also needs to be tightened to conserve the significance of contributory houses within a conservation area that are not visible from the street.

Demolition of secondary buildings

The demolition of secondary buildings not attached to the primary dwelling may result in loss of significant buildings and fabric that are contributory to the Heritage Conservation Area. These could include original garages, stables, and in the case of terrace houses backing onto laneways, outhouses.

Secondary buildings, including outbuildings, defined in the statement of significance as significant elements to the Heritage Conservation Area, should not be permitted to be demolished under complying development.

Overall, the changes to the housing code with regards to heritage conservation areas are not minor works. The demolition of buildings and the addition of unattached two storey structures should be considered as significant works. To conserve and enhance the cultural significance of heritage conservation areas these types of works should require a heritage impact statement (HIS), to assess the extent to which the carrying out of the proposed development would affect the heritage significance of the heritage conservation area concerned. Not requiring a HIS is akin to stating the significance of any heritage conservation area is not worth conserving.

HOUSING ALTERATIONS CODE***Attics and dormer windows in existing dwellings***

This has previously been known as the Housing Internal Alterations Code. The changes proposed include alterations that are within the existing building footprint of the dwelling house or outbuilding, minor external alterations to existing windows and external walls for dwelling houses and outbuildings. These are not considered to create major impact and are acceptable.

This code includes a new section on permitting attic conversions with dormer windows of specified dimensions. This inclusion is not supported since dormers are features and the standardisation of their appearance may not be appropriate to locations in the Ku-ring-gai area where both the variety and established pattern of dwelling elevation is paramount to the character of the streetscape. It is acknowledged that attic conversions may be appropriate to small lots where space is a premium, however such conversions on lots 300sq m and greater are not required, and should be considered on merit.

OTHER MATTERS***Minimum lot size in environmental planning instruments***

Where a lot smaller than that permitted under an EPI has been approved, complying development should not be permitted on that site. Such sites require merit assessment to ensure that the impact of the development on the smaller lot is acceptable.

If the Department determines to allow lots smaller than those permissible in an EPI to be able to undertake complying development, the standards for the permissible lot size and width should be applied for setbacks, landscaped area and site coverage, and the smaller floor space area, to ensure that the development is consistent with the existing pattern of development in the locality.

Environmentally sensitive areas

While this aspect of the SEPP is not currently on exhibition, it is important that this issue be brought to the Department's attention.

The approach taken in relation to complying development and its relationship to natural resource management provisions in the standard LEP is strongly opposed. When a consent authority has carried out the studies required to incorporate mapping and associated NRM provisions in the LEP, allowing complying development to undermine this strategic work is irresponsible, and counterproductive. The requirement to separately apply to the Department of Planning for local variations to the Codes SEPP adds significant additional unnecessary work for both the Department and the relevant council, not to mention, time, during which the strategic objectives of the provisions may be being undermined.

While complying development is generally seen to be less risk than development that does not meet the standards in the Codes SEPP, the risk to NRM is extremely poorly addressed in the Codes SEPP. This approach permits 'death by a thousand cuts' and should be reconsidered.

An example of this was an application for works in a riparian zone within Ku-ring-gai. The matter went to the Land and Environment Court which dismissed the appeal due to their potential impact on the riparian zone (Silva v Ku-ring-gai Council [2009] NSWLEC 1060).

However, complying development is permitted in riparian zones under the Codes SEPP and the applicant then applied for a Complying Development Certificate for a pool in the riparian zone, which was approved.

This is an instance where the health and connectivity of the riparian zone and waterway will be affected, not to mention the potential for overland flow waters to dump rubbish and sediment in the pool, or in the worst case scenario, raise the pool out of the ground, contributing to damage downstream.

In addition, the clause in the Codes SEPP relating to tree removal, does not address development that does not specifically remove a tree (or trees), but may do either of the following:

- damage the tree/s (eg by substantial excavation in the root zone) which will make it dangerous, and requiring its eventual removal, or
- build adjacent to a tree, bushland, or other vegetation, that then become exempt under Clause 5.9 (and associated DCP controls) – allowing future removal without any assessment of its significance or health.

Excluding complying development from identified areas of high biodiversity significance, as identified on the Natural Resource Sensitivity map, is essential to ensure that these areas are not compromised, a few trees at a time. While it is acknowledged that the threatened species legislation still applies, many Private Certifiers are not aware, or appropriately skilled to assess, whether existing vegetation that may be impacted (but not directly removed) is listed as threatened, resulting in the loss of vegetation and habitat of high conservation value.

Allowing exempt development, in these areas is acceptable due the much smaller scale and impact of such developments.

However, it is strongly recommended that complying development be specifically excluded from all areas identified on Natural Resource Sensitivity maps.

Simplicity of working with exempt and complying development

The discussion paper proposes a number of amendments to one of 4 EPIs (that is excluding DCPs) where there are standards for exempt and complying development, namely, the Codes SEPP, the Infrastructure SEPP, the Affordable Housing SEPP and Council LEPs. This makes it far from simple for your average person to find out whether their proposal is exempt or complying. The overlap is recognised in the discussion paper, in the referencing of studio and secondary dwellings in the consideration of outbuildings. The instruments should be consolidated to streamline the controls and the process. As a first step, it is recommended that all exempt and complying development from the Affordable Housing SEPP, and private small scale development in the Infrastructure SEPP (such as solar panels), be rolled into the Codes SEPP. It is hoped that all of these will eventually be located in the standard LEP instrument.

7 TO 11 DERBY STREET, ST.IVES - TO RELOCATE AND AMEND TERMS OF COUNCIL'S DRAINAGE EASEMENT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To seek approval to relocate and amend the terms of Council's drainage easement at 7 to 11 Derby Street, St Ives.
BACKGROUND:	An application has been submitted a request to Council to relocate a drainage easement traversing the property. The existing unlined watercourse is not within the currently defined easement. The current terms of drainage is for draining road water only. The property does not have legal benefit to the easement. For future development, relocation the drainage easement to include the unlined watercourse and amendment the terms of the easement in Pursuant to 88B instrument of the <i>Conveyance Act 1919</i> , is sought.
COMMENTS:	Council's DCP 47- Water Management, Chapter 7 section 7.2 (1) and 7.2(4) requires any development adjacent to or over existing drainage systems to preserve existing stormwater flow and integrity of existing open water bodies. The applicant's request would satisfy one of the objectives.
RECOMMENDATION:	That Council approve the relocation and changing of the terms of the drainage easement.

PURPOSE OF REPORT

To seek approval to relocate and amend the terms of Council's drainage easement at 7-11 Derby Street St. Ives.

BACKGROUND

The applicant, 101 Building Solutions on behalf of owners, New Nella Pty Ltd, seeks Council's approval to relocate a drainage easement traversing the property. The relevant application fee has been paid and an agreement has been received to pay all legal costs and disbursements associated with the relocation of the easement.

The subject property is Lot 7, Deposited Plan No. 208381. The area is 5711m² with a frontage to Derby Street and Yarrabung Road. The property is burdened by a drainage easement 2.44m wide, along the southern side, as shown in **Attachment 1**. The purpose of the drainage easement is to drain street water only.

While a natural watercourse traverses the property and is mostly located within the easement for the majority of the length, some sections of the watercourse are located outside the easement.

One of the objectives of Council's DCP 47 – Water Management, in relation to development adjacent to watercourse, is to preserve the existing stormwater flow and natural water bodies. With the intention and preparation for future development, the applicant seeks Council's approval to relocate the easement to allow the existing natural watercourse to be within the drainage easement.

COMMENTS

Survey information submitted by the applicant confirms part of the watercourse is located just outside the existing drainage easement.

Relocation of the watercourse is subject to procedural constraints whereby:

- Relocation of the watercourse to within the existing easement would require permission or permit from the Department of Environment, Climate Change and Water; and
- DCP 47- Water Management, Chapter 7 section 7.2 (1) and 7.2(4) would require any development adjacent to or over existing drainage system to preserve existing stormwater flow and integrity of existing open water bodies.

Proposal

The applicant proposes to relocate Council's easement so the watercourse would be wholly contained within a new easement alignment as shown in **Attachment 2**. Additionally, the applicant is seeking to amend terms of the easement, pursuant to 88B instrument of the *Conveyance Act 1919*, such that the new terms would provide legal benefit for the property for future development.

The proposal requires extinguishment and creation of new easement to drain water, of similar width of 2.44.m, pursuant to Section 88B of the *Conveyancing Act 1919*.

The realignment of the easement is considered the preferred option environmentally and meets the requirements of Council's DCP 47- Water Management.

CONSULTATION

The applicant has been advised verbally and by letter regarding the requirements and process of obtaining Council's approval for relocation and amendment to the terms of the drainage easement.

FINANCIAL CONSIDERATIONS

All costs associated with the extinguishment of the easement are to be met by the property owner.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable

SUMMARY

The property at 7-11 Derby Street, St Ives, (Lot 7, DP. 208381), contains a 2.44m wide easement and a section of natural watercourse which is located outside the easement. The easement was created for the purpose of draining street water only.

The applicant proposes to relocate Council's easement so as the watercourse would be wholly contained within a new easement alignment and to have an amendment of the terms of the easement in which to provide legal benefit for the property for future development.

The proposal requires extinguishment and creation of new easement to drain water, of similar width of 2.44.m, pursuant to Section 88B of the *Conveyancing Act 1919*.

RECOMMENDATION

- A. That Council approve the relocation of the drainage easement traversing No 7 to 11 Derby Street, St Ives (Lot 7, DP 208381).
- B. That authority be given to affix the common seal of the Council to the appropriate instrument for the extinguishment and creation of new easement.

Item 15

FY00002/3
13 July 2010

- C. That cost for extinguishment of the drainage easement and Council's legal costs and disbursements be borne by the applicant.

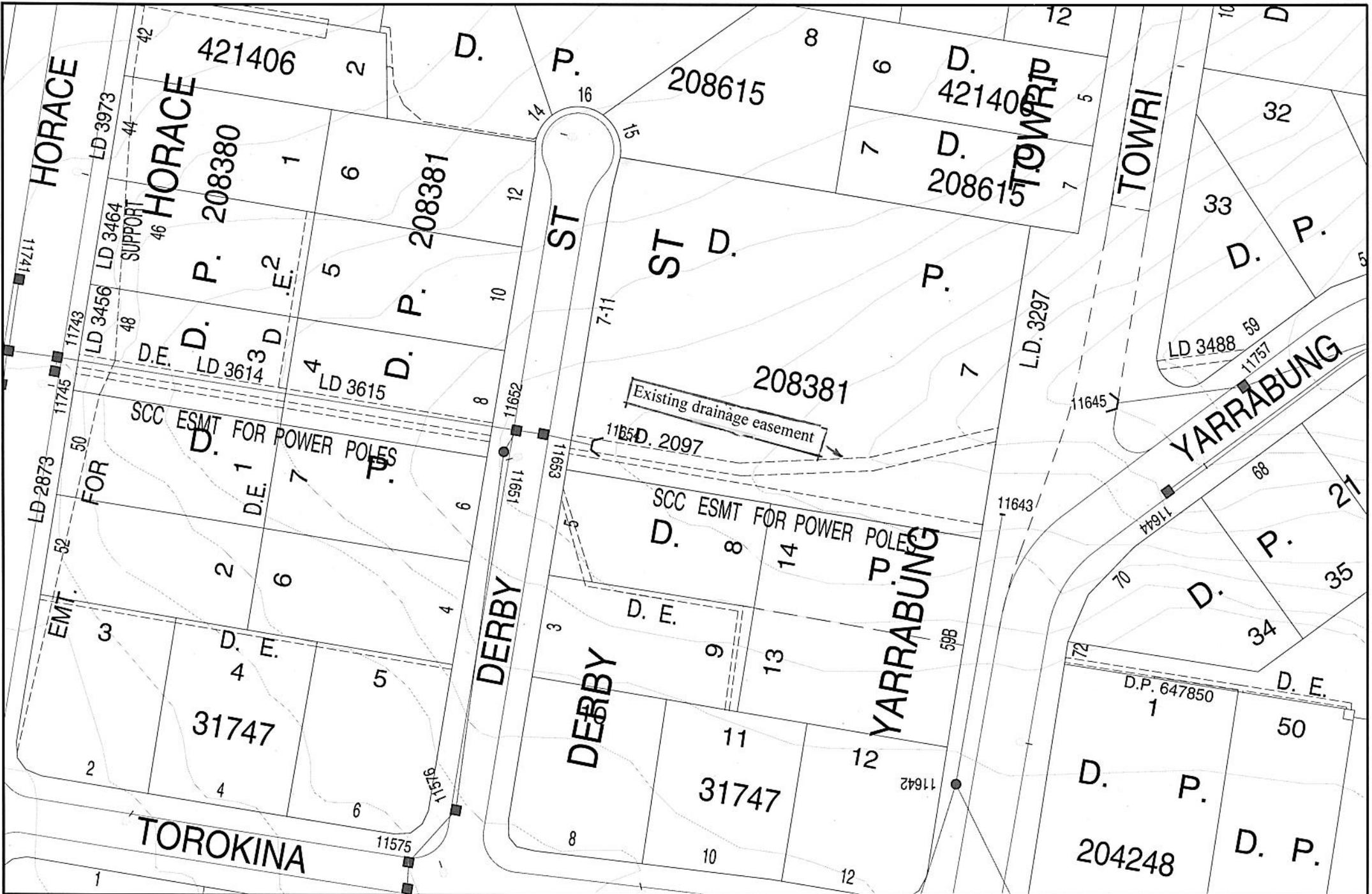
Eng Tan
Drainage Assets Engineer

Ian Taylor
Manager Engineering
Services & Projects

Greg Piconi
Director Operations

Attachments:

1. Existing Location of drainage easement - 2010/128171
2. Proposed drainage easement - 2010/128177



06-07-2010
1:1000

No7-11 Derby Street, St.Ives – Relocation of Drainage Easement
Location Plan of Existing Drainage Easement

Attachement 1



DERBY STREET

6.095

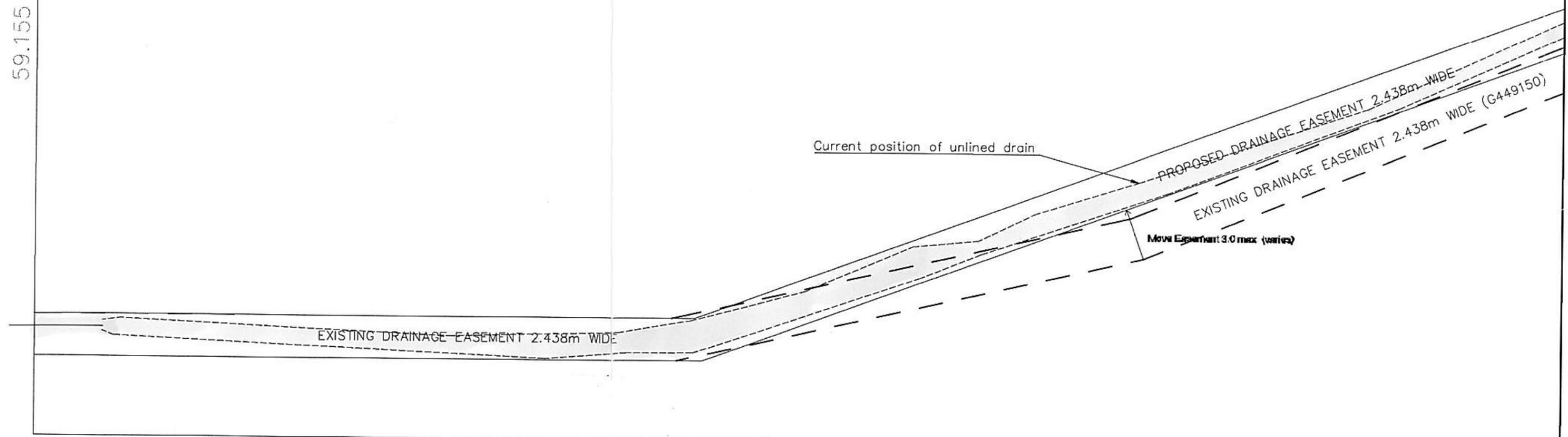
86.93

7
208381

59.155

65.205

127.48
HYDRANT



No.7-11 Derby Street, St.Ives – Relocation of Drainage Easement
Plan showing proposed & existing drainage easement

Attachement 2

RTA PROGRAM FUNDING 2010 TO 2011

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the RTA funding program for 2010/2011 and adopt the various grants as provided by the RTA.

BACKGROUND:

In October 2009, Council submitted a list of projects for the 2010/2011 RTA program seeking funding for various projects.

COMMENTS:

By letter dated 9 July 2010, the RTA advised Council of the approved grants for the various programs for 2010/2011. A copy of the RTA letter is attached to this report.

RECOMMENDATION:

That Council accept the grants for the various programs as listed in the report but not accept the Traffic Facilities component of the Regional Roads Block Grant for 2010/2011.

PURPOSE OF REPORT

To advise Council of the RTA funding program for 2010/2011 and adopt the various grants as provided by the RTA.

BACKGROUND

In October 2009, Council submitted to the RTA a list of projects, in order of priority, for the financial year 2010/2011 in the RTA program areas.

Under the current Memorandum of Understanding, the RTA requires advice of acceptance of the grants by 1 October 2010.

In the past, Council has resolved to accept the Traffic Management Grant, Road Safety Grant, Repair Program Grant, the Block Grant Roads and the Supplementary (ex 3 x 3) Grant but has not accepted the Traffic Facilities Block Grant as it does not provide sufficient funds for the requirements of this service. The acceptance of this grant would require Council to provide resources to undertake traffic facilities work. As consequence, the RTA will be required to continue its existing traffic facility services to Council.

COMMENTS

On 9 July 2010, Council were advised by the RTA of the proposed grants for 2010/2011 and a copy of the letter from the RTA is **attached**.

The RTA has offered the following grants under the Traffic Management Section of its 2010/2011 Program Funding:

Location	Suburb	Treatment	Grant
Lady Game Drive	West Pymble	Widening to provide cycleway access	\$100,000
Woodlands Road	East Lindfield	Median island	\$5,000
Yanko Road	West Pymble	Upgrade pedestrian refuges	\$25,000
Grosvenor Road	Lindfield	Replace crossing	\$14,000
Lady Game Drive	West Pymble	Upgrade 2 splitter islands for pedestrian access	\$12,000
Rosedale Road	Gordon	Install pedestrian fencing	\$2,000
TOTAL			\$158,000

The Traffic Management Grant must be matched by Council on a 50/50 basis. Council's share can be funded from both the Traffic Facilities and Footpath Programs for 2010/11.

Item 16

S02585
20 July 2010

With regard to Council's current program as adopted in the Delivery Program, the following items were included in the Footpath and Traffic Facilities Program:

Location	Description	Amount
De Burgh Road Killara	Connection of footpath to cycleway	\$99,700
Woodbury Road St Ives	Traffic devices	\$164,800

Lady Game Drive, West Pymble – shoulder

Council has completed the construction of the cycleway along Lady Game Drive from Blackbutt Creek to Ryde Road. The grant from the RTA will enable the completion of the cycleway from Blackbutt Creek to De Burgh Road. Council has provided funding for its share of the project in the Delivery Program and therefore, this grant should be accepted.

Woodlands Road, East Lindfield – Median island

This work involves the construction of a median island in Woodlands Road at intersection Archbold Road, East Lindfield to assist pedestrian safety. The project cost is estimated at \$10,000 and the grant is \$5,000. Hence, matching funding can be made available from the Traffic Facilities program by reducing the funding for Woodbury Road St Ives.

Yanko Road, West Pymble – Upgrade pedestrian refuges

This grant is for the upgrade to four (4) pedestrian refuges between Lofberg Road and Andrew Avenue, West Pymble. The estimated cost is \$50,000 and the grant is \$25,000. Hence, matching funding can be made available from the Traffic Facilities program by reducing the funding for Woodbury Road St Ives.

Grosvenor Road, Lindfield – replace crossing

This grant is for the upgrade of the existing pedestrian crossing to a wombat crossing in Grosvenor Road, Lindfield. The estimated cost of the upgrade is \$28,000 and the grant is for \$14,000. This work can be done in conjunction with the road reconstruction work. Hence, matching funding can be made available from the Traffic Facilities program by reducing the funding for Woodbury Road St Ives.

Lady Game Drive, West Pymble – upgrade two (2) splitter island

This grant is for the upgrade of the roundabout splitter islands at Fiddens Wharf Road, West Lindfield to accommodate pedestrian movements. The estimated cost of the work is \$24,000 and the grant is for \$12,000. Hence, matching funding can be made available from the Traffic Facilities program by reducing the funding for Woodbury Road St Ives.

Rosedale Road, Gordon – install pedestrian fencing

This grant is for the installation of a new pedestrian fence for school safety at West Gordon Public School. Hence, matching funding can be made available from the Traffic Facilities program by reducing the funding for Woodbury Road St Ives.

Item 16

S02585
20 July 2010

The reduction of funding for works on Woodbury Road St Ives, from \$164,800 to \$106,800 will still allow for the installation of traffic calming devices. If there is a shortfall the project can be extended into 2011/12 to allow full completion of the project. Further investigation and design is required for this project at this stage. Therefore the full extent of the funding requirements is not known and Council will be further advised when details are known at a quarterly budget review time.

The matching funding is required for these other worthwhile projects to proceed.

ROAD SAFETY

This program helps fund the salary and program costs for Council's Road Safety Officer and must be matched by Council on a dollar for dollar basis. The RTA has allocated \$44,000 and Council's \$44,000 share has been allowed for in the Operation Department's portion of the 2010/2011 Management Plan Budget.

Acceptance of the Road Safety grant is recommended.

BLOCK GRANT TRAFIC FACITITIES

Council has been offered a grant of \$305,000 for Traffic Facilities for 2010/2011. Council has not previously accepted the Traffic Facilities component of the Block Grant. Community perception is that the maintenance of traffic facilities infrastructure is a Council responsibility, but this work is currently the responsibility of the RTA on both regional and local roads. Funds available under this component are currently administered and expended by the RTA on Council's behalf.

The RTA believes that Council should accept responsibility for facilities on local roads and will not fund Local Area Traffic Management Schemes or facilities that it considers non-essential.

By accepting this grant, Council would be accepting full responsibility for the maintenance of all road markings and signage on both regional and local roads. Council has contended that the grant offered is inadequate, that the existing infrastructure is still degraded and that the RTA should upgrade the facilities before Council accepts responsibility for their maintenance. Council would need to employ additional staff to undertake this work and investment in suitable equipment.

While 31 of the 41 councils in the Sydney region have accepted the grant, some of these councils consider the allocated funds are insufficient to maintain facilities on local and regional roads in their areas.

Council was previously advised that the funds required to bring its traffic facilities up to a satisfactory standard was \$2,355,144 and the annual expenditure required to maintain the standard is \$589,274.

Funds allocated to councils that do not accept the grant are pooled. Each council is allowed to draw from the pool until funds are exhausted. It is considered that this arrangement does not materially affect councils such as Ku-ring-gai whose past grants have been inadequate. This has been demonstrated in previous years by Council's allocation being fully expended early in the new financial year. By submitting a significant number of work requests early in recent financial years, Ku-ring-gai has received more than its share of pooled funds.

Item 16

S02585
20 July 2010

It is recommended that Council not accept the Traffic Facilities component from the Block Grant for 2010/2011 and continues to monitor the impact of any changes when work has been assigned to the RTA.

BLOCK GRANT ROADS

The RTA provides this component of the Block Grant to assist with maintenance of regional roads. In 1996, the RTA adopted a distribution formula to determine the allocation of funds amongst the 41 councils in the Sydney region. The formula takes into account heavy traffic, traffic volume, and pavement area based on the length of regional roads and number of lanes.

Since then the Regional Roads component has increased annually and for 2010/2011 is \$203,000.

It is proposed to use the Block Grant and the Supplementary Grant for heavy patching on the following regional roads in 2010/2011:

- ◆ The Comenarra Parkway
- ◆ Eastern Road
- ◆ Burns Road
- ◆ Killeaton Street
- ◆ Archbold Road
- ◆ Bobbin Head Road
- ◆ Kissing Point Road

Acceptance of this component of the Block Grant for 2010/2011 is recommended.

BLOCK GRANT SUPPLEMENTARY ROAD COMPONENT

This was formerly known as the Ex 3x3 component of the Block Grant. The grant of \$82,000 is the same as that provided in previous years. These funds are available for any roadwork on regional roads as determined by Council. It has been the practice to use these funds for maintenance on Regional Roads.

Acceptance of this component for Supplementary Roads from the Block Grant for 2010/2011 is recommended.

This year Council did not receive any grants for the reconstruction of regional roads from the repair program. The projects submitted were Eastern Road and Stanhope Road. Consequently, the roads program will need to be amended as these projects were included on the basis the grants would be approved.

The adjustments will be made at the time of reporting the first quarter budget review.

CONSULTATION

Most of the proposed works covered by the RTA grants have been included in the current Delivery Program and Operational Plan. A number of these projects have been discussed with the community.

FINANCIAL CONSIDERATIONS

Acceptance of the RTA grants requires an equal contribution from Council totalling \$202,000. Adjustments will be required to the Traffic Facilities program to allow for the nominated projects to be completed. The recommended adjustments will be incorporated in the first quarter budget review of projects.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place with Council's Corporate Department with regard to funding sources.

SUMMARY

In September 2009, Council submitted a list of projects for the financial year 2010/11 in the RTA program areas. A letter was received on 16 July 2010, **attached**; from the RTA advising of Council's component of the 2010/2011 State Roads Budget was \$792,000.

The grants are provided annually and formal advice of acceptance is required by 1 October 2010.

It is recommended that Council accept the RTA Traffic Management grant of \$158,000, Road Safety grant of \$44,000. The funding is conditional upon Council matching these funds on a dollar for dollar basis and completing the work by 30 June 2011.

The RTA provides funds to assist Council with the maintenance of regional roads. The Block Grant has a Traffic Facilities component of \$305,000, a Roads component of \$203,000, and a Supplementary Roads component of \$82,000.

Council has previously accepted the Roads component and the Supplementary Roads component of the Block Grant. Council has not previously accepted the Traffic Facilities component.

RECOMMENDATION

- A. That Council accepts the grant offer of \$158,000 for the shoulder work and the upgrade of two (2) splitter islands in Lady Game Drive, the median island at Woodlands Road, East Lindfield, the pedestrian refuge upgrades in Yanko Road, West Pymble, the replacement crossing in Grosvenor Road, Lindfield and the installation of a pedestrian fencing in Rosedale Road, Gordon. under the Traffic Management and Footpath Program.
- B. That Council accepts the grant of \$44,000 under the Road Safety Program.
- C. That Council accepts the Roads component of \$203,000 and the Supplementary Road Component of \$82,000 of the Regional Roads Block Grant for 2010-2011.

Item 16

S02585
20 July 2010

- D. That Council not accept the Traffic Facilities component of the Regional Road Block Grant for 2010-2011 and continues to use RTA resources to carry out traffic facilities work.

Greg Piconi
Director Operations

Attachments: Letter from RTA on funding program - 2010/134387

Our Reference: 238.5415
Contact: Mr Doug Lamont
Telephone: 8849 2110
Date: 9th July 2010



The General Manager
KU-RING-GAI COUNCIL
DX 8703
GORDON



Attention: Greg Piconi
Manager Design & Projects

SUBJECT: 2010_2011 Program Funding

Dear Sir/Madam

Please find attached a list of funding allocations to KU-RING-GAI COUNCIL for 2010_2011 following the release of the NSW State Budget. The amounts shown in the attached table are for all projects to be undertaken by Councils. Projects to be undertaken by the RTA are not included in the list.

The funding includes Block Grant and REPAIR Program funding allocations to assist Council to manage its Regional Roads. The Minister for Roads has also included a Supplementary Roads allocation under the Block Grant to be used at Council's discretion for works on Regional Roads.

The 2010_2011 Regional Road Block Grant Agreement applies to all funds for works accepted for the Block Grant components.

The funding listed in the attached table includes the provision of various Local Road initiatives for both road safety and amenity related projects. The table does not include funding allocations under the AUSLINK Blackspot Programme as these have already been announced officially by the Federal Government.

Individual program managers will be contacting council with regards to details of specific work and any special arrangements that might apply.

Council Funding and Project Acceptance:

The funds are provided in accordance with the Authority's document "*Arrangements with Councils for Road Management*" (<http://www.rta.nsw.gov.au/doingbusinesswithus/lgr/index.html>) and require Council's formal acceptance of both the funding allocations and commitment to the works. **Under the current Memorandum of Understanding (MOU) with Council advice of Council's acceptance and commitment to the work(s) is required by 1 October 2010.** Failure to comply might be interpreted that the work(s) will not be proceeding and the funds could be withdrawn and re-allocated.

Roads and Traffic Authority

Claim for Payments:

Payments to Council will follow the same format as last year, namely, Council has only to submit a claim for payment using the *Recipient Created Tax Invoice (R.C.T.I)* and not a Tax Invoice. However, claims for payment for works covered by the *Regional Road Block Grant Agreement* are not required as the Authority will make quarterly payments to Council during the 2010_2011 financial year as outlined in the Memorandum of Understanding (MOU). For the *Traffic Route Lighting Subsidy* the Authority will forward the payment automatically to Council towards the end of the 2010_2011 financial year.

Council can issue invoice for Claim for Payments under the Local Government Road Safety Program (LGRSP) as follows,

- 80% of total allocation upon the receipt of Council's acceptance letter
- 20% of total allocation around 31st May 2011

In your submission of claims please include the project number on the claim form as listed next to the project on the attached list.

Project Completion:

Council is reminded that in line with the *Memorandum of Understanding* the State funded works should be targeted for completion no later than mid May 2011. **However, projects with Program Position number commencing with 26__ should be undertaken as a matter of urgency.** These projects are safety related and any delay could expose Council to litigation should an accident occur that could otherwise have been prevented. Desirably the works should be completed in the 2010 calendar year.

Please note that the advice of funds now contained on the attached sheet is for actual value of work and does not include GST - the 10% GST component will be added when the RTA makes payment.

A copy of the *Memorandum of Understanding (MOU)*, which includes the *Program Management Cycle, Key Requirements* under the MOU and *Project Pro-formas*, is available on the RTA Internet Web Site

<http://www.rta.nsw.gov.au/doingbusinesswithus/trafficfacilities/localcouncils/memorandumofunderstanding.html>

Yours faithfully



Mario Pace
AV Council Liaison & Regional Projects Manager

KU-RING-GAI COUNCIL

2010_2011 Program Funding

ONLY for Projects undertaken by Council.
Does **NOT** include projects undertaken by RTA

Traffic Management Section: Contact Divna Cvetojevic 8849 2591

PROJECT	PROGRAM POSITION	PROJECT DESCRIPTION	RTA ALLOCATION
T/03972	27304	Lady Game Dr, West Pymble - shoulder	\$ 100,000
T/04549	27401	Woodlands Rd, East Lindfld-Median island	\$ 5,000
T/04560	27401	Yanko Rd, West Pymple-upgrade ped refuges	\$ 25,000
T/04561	27401	Grosvenor Rd, Lindfld - replace crossing	\$ 14,000
T/04563	27401	Lady Game Dr - upgrade 2 splitter island	\$ 12,000
T/04564	27401	Rosedale Rd, Gordon - install ped fencing	\$ 2,000
TOTAL			\$158,000

Road Safety: Contact Paul Murray 8849 2361

PROJECT	PROGRAM POSITION	PROJECT DESCRIPTION	RTA ALLOCATION
082797	16106	Ku-ring-gai - Road Safety Officer Funded 50/50	\$44,000
TOTAL			\$44,000

Regional Roads: Contact Doug Lamont 8849 2110

PROJECT	PROGRAM POSITION	PROJECT DESCRIPTION	RTA ALLOCATION
098484	27504	Block Grant TRAFFIC FACILITIES	\$ 305,000
A/04866	22601	Block Grant ROADS	\$ 203,000
A/04869	22604	Block Grant Supplementary Road Component	\$ 82,000
TOTAL			\$590,000

TOTAL Allocation	\$792,000
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DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	17 DUDLEY AVENUE ROSEVILLE - MODIFICATION OF DA1095/05 PROPOSING CHANGES TO FRONT FENCE.
WARD:	Roseville
DEVELOPMENT APPLICATION N^o:	MOD0133/10
SUBJECT LAND:	17 Dudley Avenue Roseville.
APPLICANT:	Shannon Sengupta
OWNER:	Shannon Sengupta
DESIGNER:	North Shore Building Design Group.
PRESENT USE:	Residential
ZONING:	Residential 2(a)
HERITAGE:	No
PERMISSIBLE UNDER:	Ku-ring-gai Planning Scheme Ordinance
COUNCIL'S POLICIES APPLICABLE:	KPSO, DCP 38: Residential Design Manual, DCP 40: Construction and Demolition Waste Management, DCP 56: Notification.
COMPLIANCE WITH CODES/POLICIES:	Yes
GOVERNMENT POLICIES APPLICABLE:	SEPP 55, SREP (SHC) 2005
COMPLIANCE WITH GOVERNMENT POLICIES:	No
DATE LODGED:	2 June 2010
40 DAY PERIOD EXPIRED:	12 July 2010
PROPOSAL:	Modification of DA1095/05 proposing changes to front fence.
RECOMMENDATION:	Approval.

DEVELOPMENT APPLICATION N^o MOD0133/10

Item 17

PREMISES: 17 DUDLEY AVENUE ROSEVILLE
PROPOSAL: MODIFICATION OF DA1095/05
PROPOSING CHANGES TO FRONT
FENCE.
APPLICANT: SHANNON SENGUPTA
OWNER: SHANNON SENGUPTA
DESIGNER: NORTH SHORE BUILDING DESIGN
GROUP.

PURPOSE FOR REPORT

To determine modification of consent application MOD0133/10, which seeks retrospective approval for a constructed front fence.

Retrospective approval can be granted under an application lodged pursuant to S96 of the Environmental Planning and Assessment Act.

This matter was called to full Council by Councillor Duncombe on 5 July 2010.

EXECUTIVE SUMMARY

Issues:	Height/ solid form, streetscape
Submissions:	One submission
Land & Environment Court Appeal:	No
Recommendation:	Approval

HISTORY

Site history:

DA1095/05 – Alterations and additions

The application proposed the construction of a double carport within the front setback, first floor addition and associated internal modifications, alteration of the existing driveway and the construction of deck attached to the rear of the dwelling. The DA was approved on 28 April 2006. The approved architectural plans referred to the construction of a new front fence and gate. The details of the fence were shown on the approved landscape plan. The details of the approved fence are as follows:

- Predominantly 1.2 metres in height (with minor height increases to account for the slope of the land)
- Predominantly open metal palisade fence with three, relatively narrow masonry columns separating the metal palisade elements

Item 17

The works have been undertaken and are for the most part completed.

DA0679/06 – Swimming pool

The application proposed the construction of a swimming pool within the rear yard of the subject site. The proposal was approved under delegated authority on 21 August 2006. The swimming pool has been constructed.

MOD0079/07 – Modification of consent

The application sought to modify development application DA1095/05 by converting the carport to a garage, privacy screen, window reconfigurations and internal floor plan changes. The application was approved under delegated authority on 23 May 2007.

MOD0157/08 – Modification of consent

The application sought to modify the consent to development application DA1095/05 in the following manner:

1. Deletion of the approved, detached garage adjacent to the front elevation of the dwelling and introduction of two parking space at the basement level of the dwelling (within the existing building's sub floor area);
2. Introduction of a cellar, bathroom, access stairs and plant to the basement level of the dwelling;
3. Alterations of the ground floor internal layout;
4. Reconfiguration of the window arrangements along the side (eastern & western) elevations of the dwelling;
5. Conversion of the roof form above the terrace at the rear (south –western) corner of the dwelling and minor modification of the stairs to the pool area.

The application was approved under delegated authority on 16 May 2008. The works have been commenced pursuant to this application.

Compliance referral and Notice of Intention to Serve and Order

An issue was raised regarding unauthorised works in relation to a constructed front fence. Council's Compliance Unit was asked to investigate the matter and subsequent to a site inspection it became apparent that the front fence that was constructed varies greatly from that approved under DA1095/05. The fence is of a predominantly non-transparent, masonry construction of up to 1.8m in height. Council's Compliance Officer referred the matter to the assessment unit for planning comments. The assessment concluded that the constructed fence if lodged as an application would not have been supported. Following the referral, Council's Compliance Officer issued a Notice of Intention to Serve an Order for the fence's removal on 10 March 2010.

Pre-application discussions with applicant

In response to the Notice, the owner of the subject site indicated to Council an intention to lodge a Section 96 application to seek retrospective approval of the constructed front fence. Representatives from Council's Assessment Unit met with the applicant prior to the lodgement of the current Section 96 application to discuss the issues with the fence as constructed. There was

Item 17

some constructive dialogue with the owner and Council's issues with the constructed fence were made clear and some design resolutions were explored that would go some way to addressing the issues raised by Council officers. The modifications suggested by Council officers primarily related to lowering the height of the fence to be more consistent with the surrounding streetscape. However, this was not proposed in the subsequent s.96 application.

THE SITE AND SURROUNDING AREA

The site:

Zoning:	Residential 2(a)
Visual Character Study Category:	1920 to 1945
Lot Number:	B
DP Number:	436485
Area:	882.36m ²
Side of Street:	Southern
Cross Fall:	West to East
Stormwater Drainage:	To the street
Heritage Item:	No
In the vicinity of a Heritage Item:	Yes – The site is in close proximity to 7 and 8 Dudley Street, which are both listed as local heritage items.
Heritage Conservation area:	No
Integrated Development:	No
Bush Fire Prone Land:	No
Endangered Species:	Yes, Sydney Blue Gum High Forest. The proposal will not impact this endangered ecological community.
Urban Bushland:	No
Contaminated Land:	No

The subject site is legally described as Lot B in DP 436485 and is otherwise known as 17 Dudley Avenue, Roseville. The site is rectangular in shape and has an area of 882.36m² with a frontage of 15.24m and maximum depth of 57.9m. The site has a cross fall from west to east of 2.06m (RL100.23 AHD to RL98.17AHD). The site contains a single dwelling house that is two storeys in height with a basement level and swimming pool. The front setback has been landscaped with lawn, hedge planting and shrubs. The site also contains a masonry/ sandstone front fence that ranges in height from 400mm to 1.8m, which is the subject of this application.

Surrounding development:

The surrounding area mainly consists of single dwelling houses varying in age and architectural style. The dwellings vary from single to two storeys in height and have been built from a variety of materials. Front fences are typical along Dudley Avenue and vary in design from low masonry walls, dwarf wall and piers with picket infill to timber picket fences. Generally, the fences fall with the slope of land or step down to compensate for the difference in levels. Typically, the fences along Dudley Avenue meet Council's height controls.

Item 17

THE PROPOSAL

The front fence as proposed under this application has already been constructed, including the section that has been nominated to be removed on the plans. The current application is in response to Council's investigation into the unauthorised works at the subject site.

The approved front fence was a low masonry wall with some masonry components but predominantly timber picket to a maximum height of 1.2m at any point, as illustrated below in **Diagram 1**:

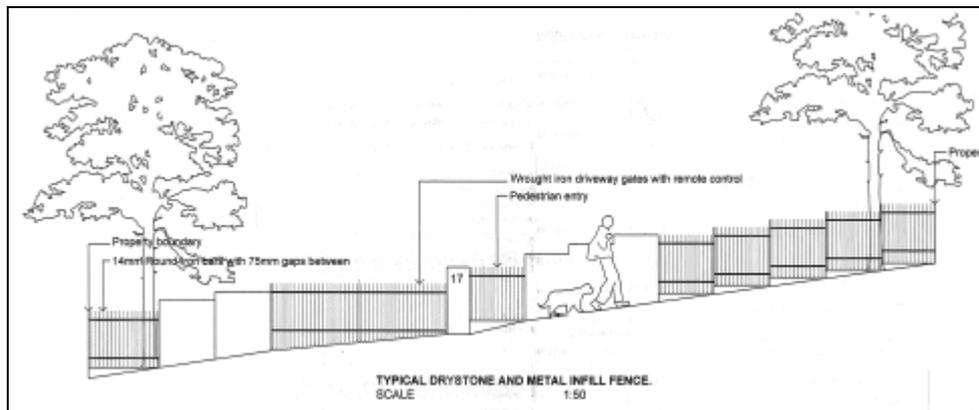


Diagram 1 (As approved under DA1095/05)

Under the current application retrospective approval is sought to modify the approved front fence to a solid masonry sandstone wall that varies in height from 400mm to 1.8m in height at the pier adjacent to the entry gate, as detailed in **Diagram 2** below:

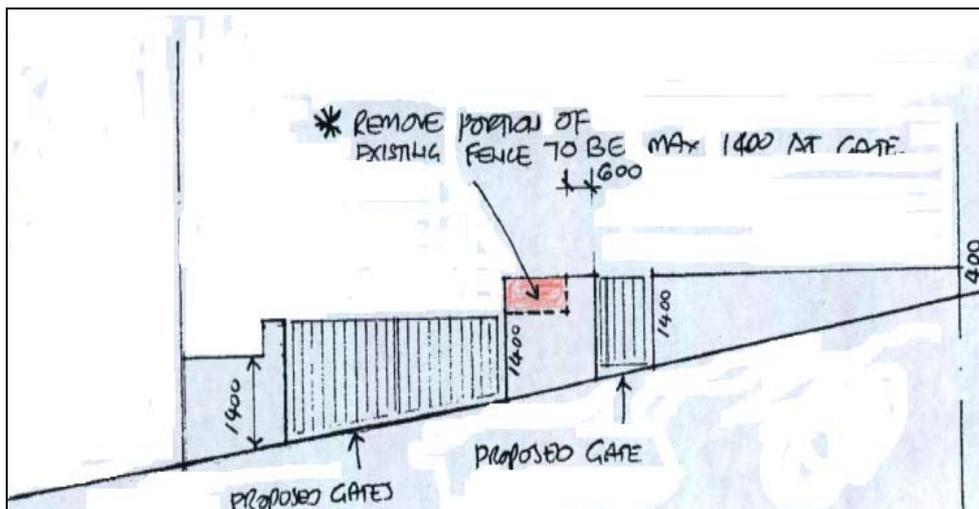


Diagram 2 (As proposed and constructed)

The proposed gates are solid timber elements but have not yet been installed.

Item 17

CONSULTATION - COMMUNITY

In accordance with Council's Notification DCP, adjoining owners were given notice of the application. One submission from the following address was received:

1. Charles Powell: 15 Dudley Avenue, Roseville

The submission raises the following issue:

The application fails to meet the provisions of DCP 38 in relation to front fences including compatibility with the streetscape

It is agreed that the front fence fails exceeds the maximum 900mm height control for solid fences contained within DCP 38. As a result of the non compliance, the development will have a detrimental impact on the streetscape and does not satisfy the objectives of the control. Nevertheless, the impacts can be reduced by a condition of consent requiring the lowering of the fence. The lowering of the fence will ensure the proposal will meet the underlying objectives of the control and provide a reasonable outcome for the site and the streetscape.

CONSULTATION - WITHIN COUNCIL

No internal referrals were necessary for this application.

CONSULTATION - OUTSIDE COUNCIL

No external referrals were necessary for this application.

PROVISIONS OF RELEVANT LEGISLATION

The Environmental Planning & Assessment Amendment Act 1979 Section 79C

This application is a Local Development under Part 4 of the Environmental Planning & Assessment (Amendment) Act and the proposal does require development consent in accordance with the Kuring-gai Planning Scheme Ordinance.

Section 96(1a) Modifications involving minimal environmental impact

In accordance with the provisions contained within s.96(1a) the Environmental Planning Assessment Act, 1979 (EP&A Act) Council needs to be satisfied that the development to which the consent "as modified" relates is substantially the same development as the development for which consent was originally granted. Consistent with *Nazero Constructions Pty Ltd v North Sydney Council, unreported LEC No 10335A of 2000, Murrell, C*, a development can be said to be substantially the same if it is *essentially* or *materially* the same or has *the same essence*. The subject modification is substantially the same for the following reasons:

- 1) The original development application included a new front fence;
- 2) The proposed modification is not beyond the scope of the approved development;

Item 17

- 3) The proposal, as modified is essentially the same in that it remains as a front fence in character and form.

As a result of the above, the proposed development is considered to be substantially the same and therefore can be considered under the provisions of s.96 of the EP&A Act.

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

The provisions contained within this policy were considered as part of the assessment of the previous applications. No concerns or issues were raised under the previous assessments in relation to the site potentially containing contamination given its historical residential use. The proposed modification of consent does not alter this conclusion, consequently the proposal is satisfactory in this regard.

Sydney Regional Environmental Planning Policy (Sydney Harbour Catchment) 2005 (SREP (SHC) 2005)

Matters for consideration under this policy 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 will not result in a significant detrimental impact contrary to the provisions contained in this policy as the site is not in close proximity to, or within, or restricts views of Sydney Harbour, Middle Harbour, Lane Cove River or any waterway, wetland associated with the catchment. In relative terms, the changes are minor in scale and will not result in any significant detrimental impact upon the catchment.

Therefore, in respect to impact on the Sydney Harbour Catchment, the proposed development will not have a significant detrimental impact contrary to the provisions contained within this Policy.

Ku ring gai Planning Scheme Ordinance (KPSO)

Permissibility:

The proposed modification of consent to the front fence is permissible, as ancillary development to a permissible residential use.

Clause 60C Built upon area

There is no change to the built upon area given that the footings of the modified front fence remain the same size as that approved under the original development consent DA1095/05.

Clause 61E Development within the vicinity of heritage items

The subject site is located in close proximity to 7 and 8 Dudley Avenue, which are locally listed heritage items. The proposal will not have a significant detrimental impact on the heritage values of these sites given that it is well separated from them. Further, Council's Heritage Advisor has not raised a significant issue in this regard.

Item 17

Schedule 9 Aims and objectives for residential zones

The aims of the zone seek to maintain and where appropriate improve the existing amenity and environmental character of residential zones; to permit new residential development only where it is compatible with the existing environmental character of the locality and has a sympathetic and harmonious relationship with adjoining development.

The proposal fails to meet these objectives as the front fence is excessive in height which is compounded by its solid masonry finish. The front fence is higher and bulkier than most of the fencing along Dudley Avenue and will therefore result in a detrimental impact on the character of the street. Nevertheless, the impacts of the development can be managed by a condition reducing the height of the structure and stepping it down along its frontage to reflect Council's controls, characteristics of fencing along Dudley Avenue and the cross fall of the land as discussed in detail under the DCP 38 Residential Design Manual discussion.

Development Control Plan No.38 – Residential Design Manual (DCP 38)

Section 4, Clause 4.1.5 Front fences

The relevant assessment criteria and objectives contained within this Part require development to:

- *to ensure that the development is sensitive to the landscape setting, environmental conditions and established character of the street and locality;*
- *to ensure that the appearance of new development is of a high visual quality, enhances the streetscape and complements good quality surrounding development;*
- *maintain the streetscape character;*
- *be consistent with the established pattern of fences; and*
- *allow private gardens to merge with their neighbour and support the landscape character of the area.*

To achieve the above the clause provides that visually solid forms of fences (such as masonry) should be restricted in height to 900mm. The visual character study also notes features of residential development constructed between 1920-1945 have low brick, timber or herbaceous front boundary fences. These characteristics of the existing streetscape are also acknowledged within the applicant's Statement of Environmental Effects.

The front fence varies in height from 400mm at its lowest point on the western (high) side of the lot up to 1.8m at the eastern pier to the driveway entrance. The fence is proposed to be marginally stepped in approximately the middle of the site adjacent to the footpath entry gate from a peak of 1.6m down to 1.4m. The driveway gate will continue horizontally with the height increasing because of the cross fall of the site to a maximum 1.8m, which will match the pier height noted earlier. The fence then drops to a height of 1.4m and continues along to the eastern boundary to have a maximum height of 1.5m because of the cross fall of the site. Although not clear within the accompanying plans, the owner of the property has indicated that the gates are to be solid timber.

The front fence exceeds the height limit for solid form front fences by up to 0.9m. The fence varies in height with the majority of the length, approximately 11.54m of the 15.24m (75.7%) will be greater than 900mm above natural ground level. The proposed front fence fails to meet the underlying objectives of this Part of the DCP. As noted in the surrounding area description, front

Item 17

fences are typical along Dudley Avenue. The fences vary in design from low masonry walls, dwarf wall with piers and picket infill to timber picket fences. Generally, the fences fall with the slope of land or step down to compensate for the cross fall of the site adjusting to the difference in levels. Typically the fences along Dudley Avenue meet Council’s height controls.

The failure of the proposal to meet the height control results in an unacceptable outcome. The excessive scale of the fence combined with its solid bulky constitution results in a detrimental impact on the streetscape.

The impact can be reduced by a condition requiring the fence (including footpath entry gate) to be stepped down to follow the cross fall of the site. This would need to be supported by a requirement to space the infill of the gates a minimum 20mm. A condition to this effect would lower the height of the fence, reduce visual bulk and more closely reflect the character of other sandstone and masonry fences along Dudley Avenue. The condition would result in a stepped fence with a height no exceeding 1.4m as shown in **Diagram 3**:

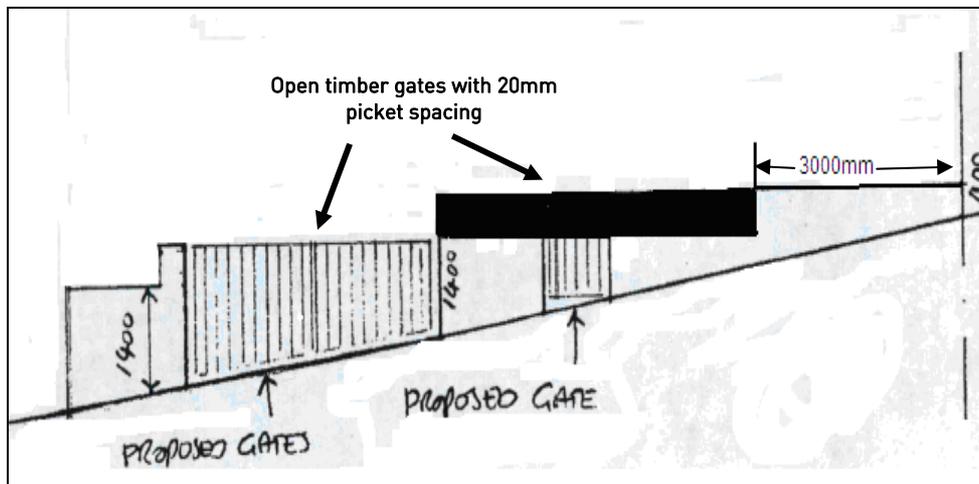


Diagram 3: (Front fence and gates as conditioned)

Section 4, Clause 4.2.15 External materials

In accordance with the provisions contained within this clause, the colour and finish of external materials should minimise the overall visual impact of new development and be sympathetic to the surrounding locality and blend with the natural environment. Subject to **Condition 23a** stepping the front fence and spacing the infill of the gates, the sandstone and timber gates will improve the visual relationship with the dwelling and streetscape.

As a consequence, the proposed materials are considered reasonable in this instance, subject to a reduction in height.

Section 4, Clause 4.4.3 Safety and Security

The objective of this control is to ensure that front fencing and screening should enable outlook from a dwelling to the street for safety and surveillance and should be generally low and visually permeable. The clause requires that the objectives should be achieved by restricting the height of solid front fences to a maximum of 900mm. Post and piers may exceed this requirement. As

Item 17

conditioned, the proposed front fence will more closely meet the outcomes of this control and can be supported in this regard.

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

A waste management plan was lodged as part of the original development application. Any further works undertaken in relation to the subject application will be required to be consistent with this plan. Further, **Condition 15** of the original consent required appropriate sediment and erosion control measurements to be undertaken for the construction of the fence. The subject proposal does not seek to alter these elements of the approved development. As a consequence, the proposal is satisfactory in regard to DCP 40.

Development Control Plan No.56 – Notification (DCP 56)

The application was notified in accordance with the requirements set out within DCP 56.

LIKELY IMPACTS

The likely impacts will be minimal subject to a condition requiring the lowering of the fence and spacing between the vertical timber palings for the reasons given within the report.

SUITABILITY OF THE SITE

The site is suitable for the proposed development, subject to conditions, given its ancillary nature to the residential development.

ANY SUBMISSIONS

One submission objecting to the proposed development was received. The submission was addressed earlier in the report.

PUBLIC INTEREST

Approval of the application, subject to a condition, is not considered to be contrary to the public interest for the reasons given throughout the report.

OTHER CONSIDERATIONS

There are no other matters for consideration.

CONCLUSION

Having regard to the provisions of section 79C and section 96 of the Environmental Planning and Assessment Act, 1979, the proposed development is considered to be satisfactory, subject to a condition.

RECOMMENDATION

That Ku ring gai Council, as the consent authority, modify development consent to Development Application No. DA 1095/05 proposing changes to the front fence and gates on land at 17 Dudley Avenue, Roseville, in the following manner:

1. Condition No. 1 is modified so as to read as follows:

Approved architectural plans and documentation (s.96)

The development must be carried out in accordance with the following plans and documentation listed below and endorsed with Council’s stamp:

Plan no.	Drawn by	Dated
025.05, Sheets 1 of 7, 3 of 7, 4 of 7, 5 of 7, 6 of 7 and 7 of 7	North Shore Design Group	June 2005 and lodged with Council on 28 September 2005
Landscape Plan 284, Issue 01	Peter Fudge Garden Design	9 September 2005 and lodged with Council on 28 September 2005.

Except where amended by that work shown in colour on the S.96 plans endorsed with Council’s stamp, as listed below, and except where amended by other conditions of this consent:

s.96 plan no.	Drawn by	Dated
Plan No.1	North Shore Design Group - Mr ken Yardley	26 July 2010

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

2. The following condition is to be inserted:

Conditions to be satisfied prior to the issue of the construction certificate:

23a. Design changes

The following design changes are to be undertaken:

- The front fence including the footpath entry gate is to be stepped down in height as marked in red on the approved plans. The step down is to be at 3.0m as measured from the western boundary along the fence so it has a maximum height of 0.9m at the point of the pedestrian footpath entrance gate. The pier on the eastern side of the pedestrian footpath gate is also to be reduced in height to a maximum 1.0m level with the western side as measured from the footpath

Item 17

level and also marked in red on the approved plans.

- The footpath entrance gate and the driveway gate are to have a minimum 20mm spacing between each vertical paling as marked in red on the approved plans.

Details of the above design changes are to be submitted to the Principal Certifying Authority prior to the release of the Construction Certificate.

Reason: To minimise streetscape impacts.

S Garland
Team Leader
Development Assessment -
South

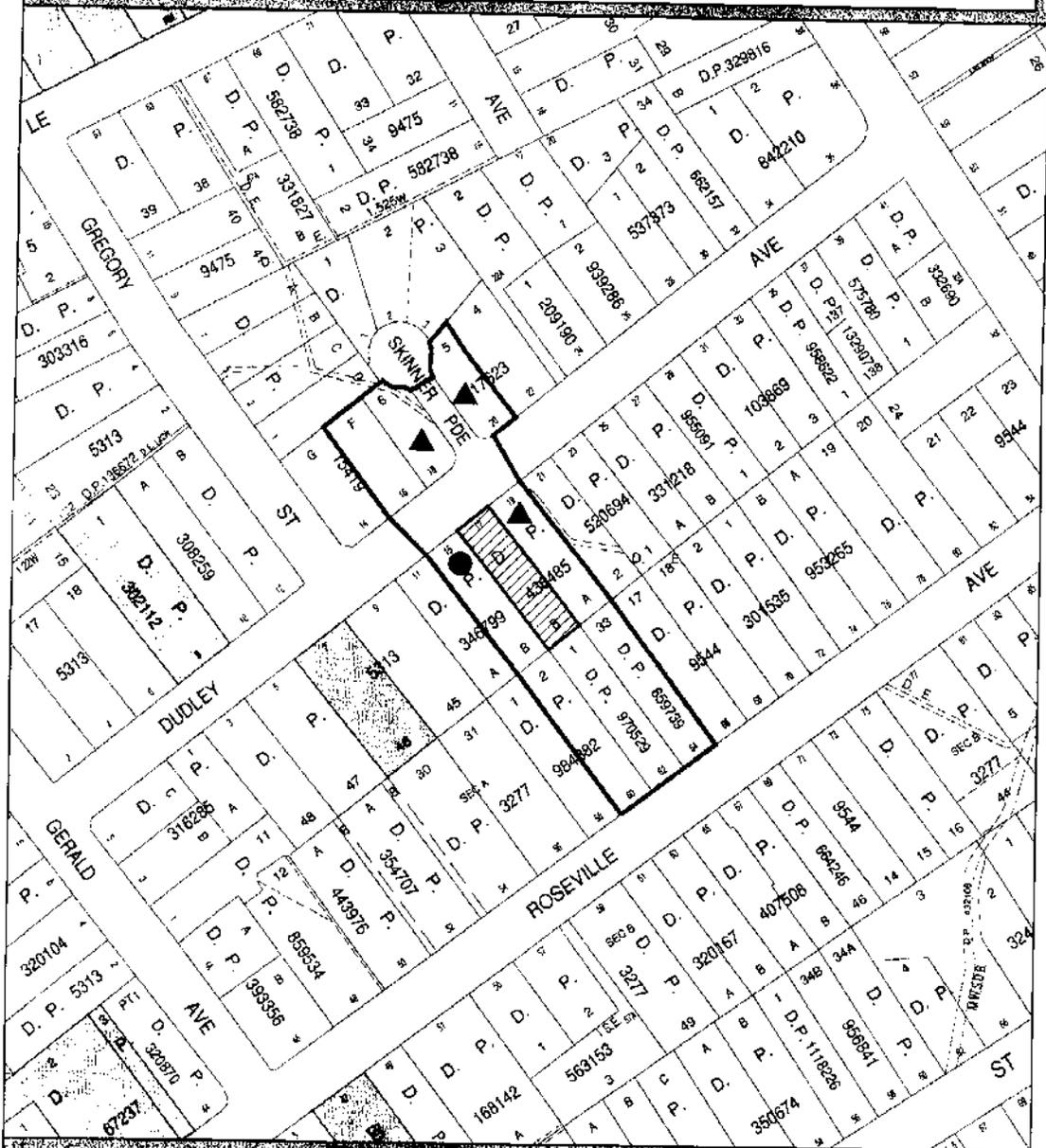
C Swanepoel
Manager
Development Assessment
Services

M Miotic
Director
Development &
Regulation

- Attachments:**
1. **Location sketch – 2010/145486**
 2. **Zoning extract – 2010/145488**
 3. **Architectural Plans – 2010/145485**

LOCATION SKETCH

17 Dudley Avenue, ROSEVILLE
DEVELOPMENT APPLICATION No MOD133/10



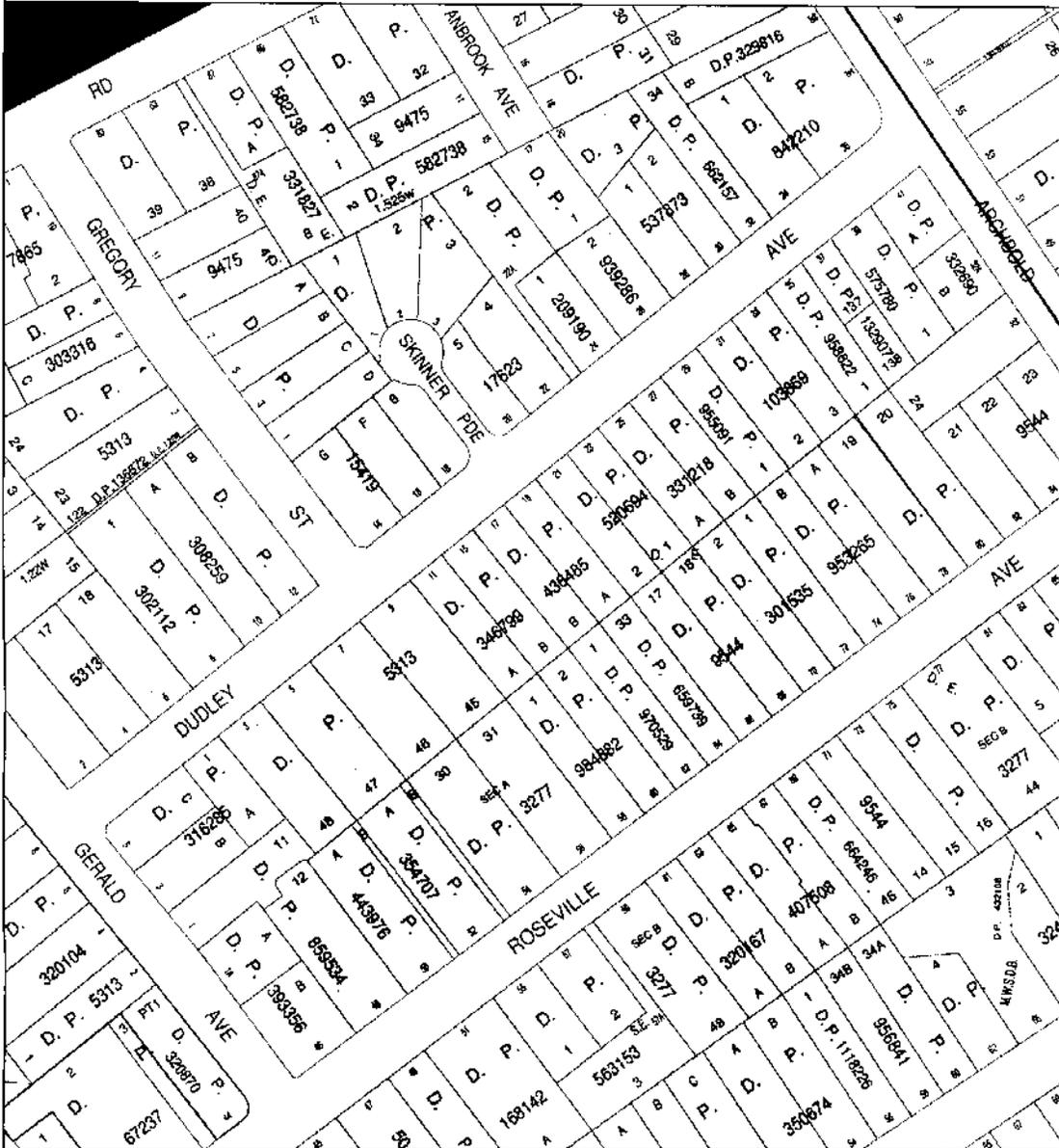
Scale : 1:2000
27-07-2010

▲	AGREEMENT		SUBJECT LAND
●	OBJECTION		HERITAGE ITEM
▴	PETITION		CIRCULATED AREA
■	SUBMISSION		

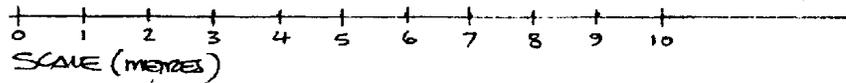
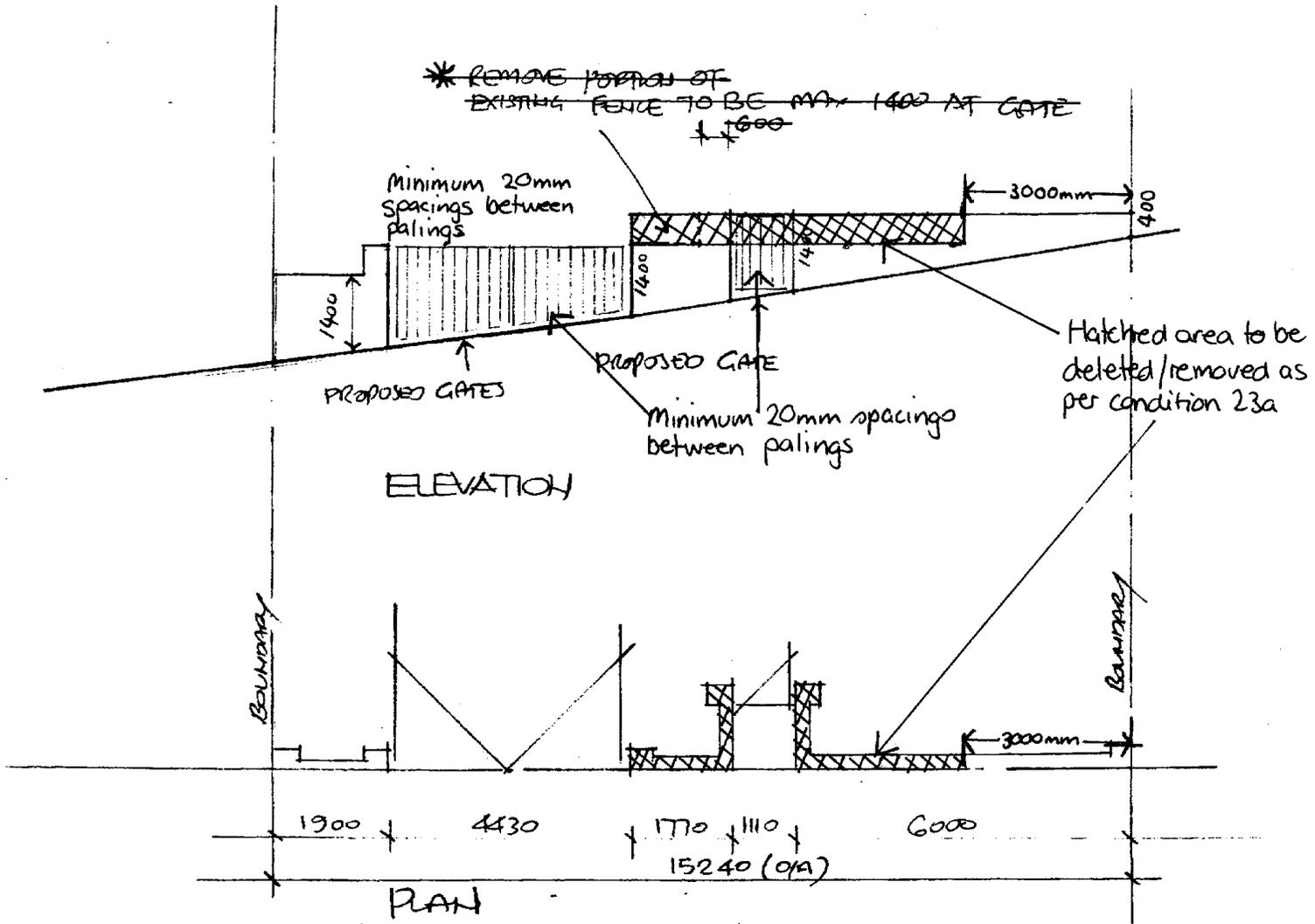


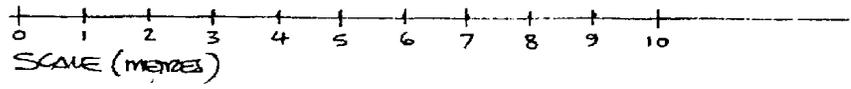
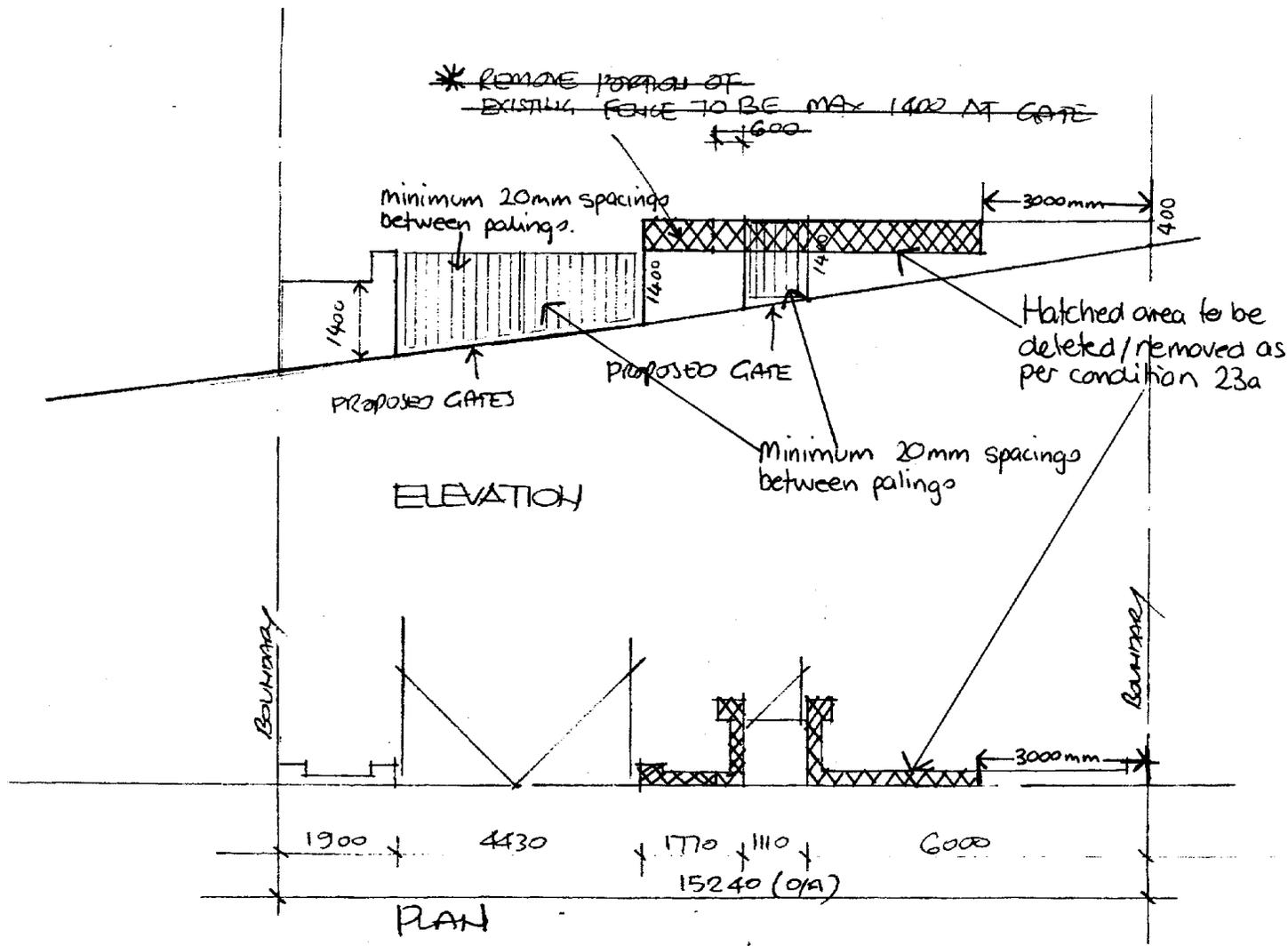
Zoning Extract

17 Dudley Ave, ROSEVILLE - MOD133/10



ZONES	RESERVATIONS	GENERAL
<p>2. RESIDENTIAL</p> <ul style="list-style-type: none"> (01) RESIDENTIAL A (02) RESIDENTIAL B (03) RESIDENTIAL C (04) RESIDENTIAL C1 (05) RESIDENTIAL C2 (06) RESIDENTIAL D (07) RESIDENTIAL D1 (08) RESIDENTIAL D2 (09) RESIDENTIAL E (10) RESIDENTIAL F (11) RESIDENTIAL G (12) RESIDENTIAL H 	<p>3. BUSINESS</p> <ul style="list-style-type: none"> (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 	<p>5. SPECIAL USES</p> <ul style="list-style-type: none"> (a) SPECIAL USES A (b) SPECIAL USES B (c) SPECIAL USES (TRAFFIC) <p>6. OPEN SPACE</p> <ul style="list-style-type: none"> (a) RECREATION EQUIPMENT (b) RECREATION EQUIPMENT (c) RECREATION EQUIPMENT
	<p>OPEN SPACE</p> <ul style="list-style-type: none"> (a) OPEN SPACE (Public Parks & Recreation) (b) EXISTING OPEN SPACE <p>SPECIAL USES</p> <ul style="list-style-type: none"> SPECIAL USES (Parking etc.) <p>ROADS</p> <ul style="list-style-type: none"> (a) COUNTY ROAD PROPOSED (b) COUNTY ROAD WIDENING (c) LOCAL ROAD PROPOSED (d) LOCAL ROAD WIDENING 	<p>GENERAL</p> <ul style="list-style-type: none"> EXISTING COUNTY ROAD OTHER PLANNING INSTRUMENTS <div style="text-align: center;"> <p>Scale: 1:2000 Date: 27-07-2010</p> </div>





NOTICE OF RESCISSION

JOINT REGIONAL PLANNING PANEL

Notice of Rescission from Councillor T Hall, Cr J Anderson and Cr C Hardwick dated 22 July 2010

We move that:

"The undersigned seek to rescind Minute No 212 of the Ordinary Council Meeting of 20 July 2010 and the Minute is hereby rescinded."

RECOMMENDATION

That the above Notice of Rescission as printed be adopted.

Tony Hall
Councillor for St Ives Ward

Jennifer Anderson
Councillor for Roseville Ward

Carolyn Hardwick
Councillor for St Ives Ward

Attachments: **Background Information under separate Cover:**
Council Minute No 212 of 20 July 2010 - 2010/1373851

RESOLUTION OF ORDINARY MEETING OF COUNCIL

20 JULY 2010

212 Joint Regional Planning Panel

File: S08324

In accordance with the *Local Government Act 1993* and the *Local Government (General) Regulation 2005*, in the opinion of the General Manager, the following business is of a kind as referred to in section 10A(2)(g) of the Act, and should be dealt with in a part of the meeting closed to the public.

Section 10A(2)(g) of the Act permits the meeting to be closed to the public for business relating to advice concerning litigation, or advice that would otherwise be privileged from production in legal proceedings on the ground of legal professional privilege.

This matter is classified confidential under section 10A(2)(g) because it contains advice concerning a legal matter that:

- (a) is a substantial issue relating to a matter in which the Council is involved
- (b) is clearly identified in the advice, and
- (c) is fully discussed in that advice.

It is not in the public interest to release details of the legal advice as it would prejudice Council's position in court proceedings.

Report by Corporate Lawyer and Director Development & Regulation dated 19 July 2010

Resolved:

(Moved: Councillors Keays/Szatow)

That Council proceed in accordance with the action discussed.

For the Resolution: Councillors Holland, Malicki, Keays, Szatow,
Hardwick & McDonald

Against the Resolution: Councillors Anderson, Duncombe & Hall

NOTICE OF MOTION

QUALIFIED RESEARCHERS

Notice of Motion from Councillor C Szatow dated 22 July 2010

I move that:

"When reports are presented to Council on reviews of services or operations, the review is to have been conducted by suitably qualified researchers using industry standard quantitative and/ or qualitative methodology.

The results of any research or review are to be presented to Council in a clear and easily understood format."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Cheryl Szatow
Councillor for Gordon Ward

NOTICE OF MOTION

CIRCUS PERFORMANCES IN KU-RING-GAI

Notice of Motion from Councillor J Anderson dated 2 August 2010

I move that:

- "A. Council not permit circus performances of wild and/or exotic animals at any Council controlled facility within Ku-ring-gai.
- B. Council permit circus performances of domestic animals at Council controlled facilities within Ku-ring-gai."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Jennifer Anderson
Councillor for Roseville Ward

Attachments: **Background Information under separate cover:**
 Ordinary Meeting of Council Minute No 151 of 16 May 2000 - 898079

**RESOLUTION OF ORDINARY MEETING OF COUNCIL OF
16 MAY 2000**

151 **PROHIBITION OF ANIMAL CIRCUS PERFORMANCES IN KU-RING-GAI**

File: 06/0629

Notice of Motion from Councillor Ian de Vulder dated 11 May 2000

The following members of the public addressed Council:

**Mr P Barrett, 171 Bobbin Head Road, Turramurra
Mr J McDonald, 12 Bylos Street, Chester Hill
Mr N Ballment, Loganholme, Queensland
Mr M Pearson, Winsell Street, Kotara
Ms B Anderson, 18 Gloucester Avenue, West Pymble
Ms K Rogers, 19 Lister Street, Pymble**

BACKGROUND

On 22 October 1996 Council resolved to reaffirm its existing policy allowing circuses that use performing animal acts to continue in Ku-ring-gai stating that, "...Council does not wish to impose any view about circuses on the Ku-ring-gai public".

The Councillors of the day had visited a circus at the request of circus owners and concluded that there was no case to answer.

Council's resolution of the 22 October 1996 was contrary to a staff recommendation in a report prepared by the Manager Environment & Regulatory Services, M McCafferty and the Director Development Control & Health Services, I Glendinning, which said in conclusion that:

"Any entertainment or educational value asserted to be provided by performing animals is at best highly questionable".

"The training, transport and confinement of wild animals for circus performances results in stress and suffering".

The staff recommendation was,

- A. That Council not permit the use of any Council controlled facility for the use of circuses which involve any performing wild and /or exotic animal acts.
- B. That Council not approve of any application seeking approval for any circus involving performing wild and/or exotic animals on any land within Ku-ring-gai.

To maintain Council's image of caring for its environment and wildlife, it must reject the exploitation of animals in circuses as other municipalities have.

NOTICE OF MOTION

LEGAL ADVISINGS

Notice of Motion from Councillor Tony Hall dated 2 August 2010

As Councillors may be aware there has been a growing practice by Council staff, delegated to do so, to seek legal opinions /advising for the purposes of Council's administration, orally in some circumstances and the legal consultant then replies in terms of what they consider to be the Council's Instructions for that Advice. This practice was prevalent in earlier councils until it was decided to ensure ALL staff requests/Instructions for Advice from the Council's Panel of Legal consultants were in writing at all times to avoid any misinterpretation of those Instructions /requests at Ratepayers' expense.

I move:

"That Delegation A1-Legal granted to the General Manager be amended forthwith, to ensure all Instructions/requests sought by staff under this delegation, be in writing at all times with no exception, and a copy of such Instructions be made available to Councillors contemporaneously for information."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Tony Hall
Councillor for St Ives Ward