



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 23 MARCH 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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APOLOGIES

DECLARATION OF PECUNIARY 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 2 March 2004

Confirmation of Minute No 99 – Inspection Committee Minutes of 28 February 2004 –
22-24 Henry Street, Gordon – Memorandum from Senior Governance Officer
dated 16 March 2004

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 9 March 2004

Minutes numbered 117 to 139

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Inspections Committee

File: S02131

Meeting held 13 March 2004

Minutes numbered INS7 to INS8

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 and without debate.*

GB.1 **Evaluation And Acceptance Of Tender For New Waste And Recycling Collection Contract** **1**

File: S03185

To present to Council the outcome of the tender for the new waste and recycling collection contract and the evaluation of the tenders received.

Recommendation:

That Council accepts the tender for the Waste and Recycling Collection Contract from Collex Pty Ltd and that tenders for the sale of recycling product be prepared.

That charges are phased in over three years and charges included in Council's Management Plan and Fees and Charges.

GB.2 **Delegation Of Authority** **38**

File: S02355

For Council to give consideration to the issue of Delegations during the period between the last Council meeting and the Election of Mayor in new Council.

Recommendation:

That the Mayor exercise those powers as granted in a caretaker capacity until such time as the new Mayor is elected.

GB.3 Bicycle Advisory Committee Meeting - Minutes Of 18 February 2004 42

File: S02696

To advise Council of the Minutes of the Ku-ring- gai Bicycle Advisory Committee meeting of 18 February 2004.

Recommendation:

That Council receives and notes the Minutes of the Bicycle Advisory Committee meeting held on 18 February 2004.

GB.4 47 Bent Street, Lindfield - Supplementary Report 50

File: DA1262/03

To address issues raised in a supplementary report to Council and seek Council's determination of the development application.

Recommendation:

Approval, subject to conditions.

GB.5 20 Park Crescent, Pymble - Supplementary Report 153

File: DA1772/02

To report in relation to an independent landscape assessment of the proposal and to determine a Development Application for the construction of a dwelling to create a detached dual occupancy.

Recommendation:

That the independent landscape assessment be noted and that the application be approved, subject to conditions.

GB.6 West Pymble Pool Business Strategy 243

File: S02381

The purpose of this report is to advise Council of feedback received during the period of public exhibition of the draft West Pymble Pool Business Strategy, associated funding implications and to endorse the business strategy for future actions.

Additionally the existing lease expires in September 2004 and as per the previous resolution Council requires that a tender process be undertaken to market test the lease incorporating items outlined in the business strategy.

Recommendation:

That Council adopt Option 2, as outlined in the Draft West Pymble Pool Business Strategy. Council support a detailed feasibility to be considered in the 2004/05 Management Plan, a selective tender process be used for the provision of commercial swimming pool management services and that a future report be considered by Council at the conclusion of the tender evaluation process.

GB.7 Water Management Development Control Plan 265

File: S02252

To present the Water Management Development Control Plan (DCP47) to Council for adoption following exhibition.

Recommendation:

That Council adopt the Water Management DCP (DCP47) as attached to this report. That Draft DCP47 be reviewed upon commencement of BASIX.

GB.8 Character Statement Of Ku-ring-gai 279

File: S02152

Following Council's resolution dated 9 March 2004 to adopt two statements on heritage and character, that Council consider its options for incorporating the statements into planning and policy documents.

Recommendation:

Council note the report and include the statements in future planning and policy documents.

GB.9 Heritage Conservation Draft LEP28 – 50 Pentecost Avenue, Pymble

File: S03037, P55568

To finalise draft (Heritage Conservation) LEP28.

Report to be circulated separately.

EXTRA REPORTS CIRCULATED AT MEETING**MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN**

NM.1 **Traffic Study Of Proposed Medium Density Of Council Depot And Adjoining Sites** **284**

File: S02054

Notice of Motion from Councillor J Kitson dated 17 March 2004.

I move:

- A. That Council undertake a study of the traffic implications, in conjunction with residents, for the precinct of Carlotta, Pearson, Mount William, Highlands, Park Avenue on the traffic generated from the proposed rezonings associated with the five storey residential development of the Council Depot site and other potential medium density sites in the precinct.
- B. That the study particularly refer to the potential impact on the two exit/entry points through the Werona/Pearson/Park Avenue intersection or the slip road off Mona Vale Road into Pacific Highway during peak traffic times.
- C. That the study refers to the proposed location of potential road access points for any development of the Council Depot site or adjoining medium density sites.

NM.2 **Guidelines For Regeneration Of Riparian Vegetation** **285**

File: S02251

Notice of Motion from Councillor A Little dated 17 March 2004.

I move:

That Council develop guidelines and procedures suitable for use by development control staff, landscape professionals, bush care volunteers and the general public for environmentally sensitive regeneration of native riparian vegetation. This is to be considered for inclusion in the next Council Management Plan.

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 14 OF MEETING REGULATION

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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

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***Environmental Planning & Assessment Act 1979
(as amended)***

Section 79C

1. Matters for consideration - general

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

a. The provisions of:

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

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

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

EVALUATION AND ACCEPTANCE OF TENDER FOR NEW WASTE AND RECYCLING COLLECTION CONTRACT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present to Council the outcome of the tender for the new waste and recycling collection contract and the evaluation of the tenders received.
BACKGROUND:	Council previously considered a report on the new waste collection strategy associated with the new waste and recycling contract and included various options in the new tender. Tenders closed on 12 February 2004.
COMMENTS:	Five major waste and recycling collection contractors tendered for the new waste and recycling contract. This report covers the evaluation of the tenders received and recommends acceptance of a preferred tenderer.
RECOMMENDATION:	<p>That Council accepts the tender for the Waste and Recycling Collection Contract from Collex Pty Ltd and that tenders for the sale of recycling product be prepared.</p> <p>That charges are phased in over three years and charges included in Council's Management Plan and Fees and Charges.</p>

PURPOSE OF REPORT

To present to Council the outcome of the tender for the new waste and recycling collection contract and the evaluation of the tenders received.

BACKGROUND

At Council's meeting of 17 December 2002, Council considered a report on the Waste Services Strategy associated with the next waste and recycling collection contract. Council resolved to undertake vegetation trials to determine the preferred method for collection of garden waste considering that the existing rapid rail bins have past their useful life and are no longer manufactured in Australia. An extension of one year was granted to the contractor to provide sufficient time to assess the garden waste trials and determine the preferred waste disposal options.

The report on the vegetation trials was tabled at Council's meeting of 14 October 2003 and Council resolved to include a provision in the schedule of prices for the fortnightly collection from 340 litre mobile waste containers with the contractor to supply the new 340 litre bins over a three-year period. Also, to include the weekly collection from 240 litre mobile containers with the contractor to supply the new bin. A separate contract will be established for a mulching service based on a 'phone-in request.

At Council's meeting of 9 December 2003, Council considered a report on the proposed tender conditions associated with the new waste and recycling collection contract and resolved to include the following conditions and options in the new tender:

1. Inclusion of a whole of service contract with the contractor to provide new waste collection vehicles and the provision of new bins with supply and maintenance to be undertaken by the contractor.
2. The prices be submitted for contract terms of 7 and 10 years.
3. The collection of garden waste from 340 litre bins on a fortnightly basis and 240 litre bins on a weekly basis.
4. The collection of bottles and plastics in a 120 litre or 240 litre mobile bin.
5. The inclusion of a pricing option for Council to own the recycling material and also the pricing option for the contractor to own the material.
6. Collection starting times to remain the same as per the current contract.

The current contract which has been extended, ceases in August 2004. Consequently, the new tender is to take effect from 1 September 2004.

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Tender documents were prepared and the above conditions were included in the tender documents. The tender documents were also reviewed by one of Council's legal firms experienced in the preparation and review of contract documents.

COMMENTS

Tenders were called in December 2003 and closed on 12th February 2004. During the tender period there were two pre-tender conferences held to explain Council's tender and service requirements and also give the tenderers any opportunities to seek clarification of tender conditions.

The prospective tenderers were given written conformation of any requests from any company and any resulting changes to the documents. The tenderers were required to indicate in their tender, acceptance and agreement to the changes or information provided.

Approximately twelve (12) companies collected the tender documents but at the closing of tenders only five (5) companies tendered for the contract.

A tender committee consisting of representatives of Council's Waste Management Section, Finance and Business Section and Human Resources section formed the tender evaluation committee. Following assessment of the tender prices and proposed method of operation four (4) companies were selected for interviewing with regard to their tenders and further questions developed by the tender evaluation committee. A member of Council's Auditors firm was present at the interview to ensure probity issues were followed.

A copy of the tender evaluation committee's report is attached as **Appendix 1** of the confidential attachments to this report as the information in the report and associated attachments contains information which is regarded as commercial in confidence.

The tender evaluation committee considered both price and non-price items before formulating its recommendation and below is a summary of the Committees' comments:

1. Collex Waste Management Pty Ltd

Collex is Council's current collection contractor and holds contracts with surrounding Councils including Warringah, Hornsby, and Ryde. Collex's performance has improved over the last twelve months with changes to supervising staff and better procedures.

Collex has proposed to resource the vehicle fleet consistent with the current numbers and size of vehicles including 4cm rear load compactor's for the units services and stainless steel 29cm side load compactor's with Euro lifters for the vegetation.

The remaining vehicle fleet numbers and type of vehicles are standard for their application and are considered suitable for the purpose.

Collex are proposing to structure their work force with specific employment conditions that meets the quality expectations identified in Council's contract. The 38 hours per week nominated is considered reasonable and in keeping with industry practice without over utilisation of resources.

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A number of value added services are proposed to be included in the offer including assistance to Council in the areas of education and assessment of development consents. These services have not been quantified in detail and the extent and value of the service would require further negotiation in the event that Collex was successful with this tender.

Reference checks with Ryde and Hornsby Councils indicate they are satisfied with the performance of Collex and would recommend them for future contracts.

Assessment of the pricing indicates that little value has been placed between a Council owned recycling option compared to the Collex owned option. Under this circumstance the opportunity exists for Council to further investigate the income potential likely to be received with Council owning the recyclable products.

2. Cleanaway

Cleanaway is a subsidiary of Brambles Aust and has been operating within the waste industry for a number of years both in the collection of waste and processing of recyclables in owning and operating Material Recovery Facilities (MRF).

Current contracts held by Cleanaway include Kogarah, Hurstville, Penrith, and Drummoyne. Referee checks with Kogarah and Hurstville Councils indicates Cleanaway is performing the services as required under their contracts to the satisfaction of Council.

Cleanaway proposes to resource the Contract with fewer vehicles than the remaining short-listed tenderers. Vehicles proposed for the units waste and recycling are 6 cm to 8 cm capacity however Cleanaway have submitted that should the vehicles be not suitable due to their size, alternative vehicles would be used to replace these vehicles.

Cleanaway has negotiated an Enterprise Bargaining Agreement that includes provisions for productivity, OH&S dispute resolution and quality.

Cleanaway have indicated that they intend operating the service over a 12-hour duration each day to accommodate the service numbers with the nominated vehicle fleet.

This proposal results in a higher utilisation of vehicles and man hours than offered from the remaining short listed tenders and as the number of services required from each vehicles is higher and the EBA appears to be more focused on productivity rather than quality.

Cleanaway have proposed with their tender a number of value adding options that would assist Council in the implementation of any new service and for on-going education of the community including a specific program for schools. Cleanaway has also nominated the opportunity for the disposal of last loads of waste and green waste to the Eastern Creek landfill which would result in Councils tipping costs being reduced from the current total cost. Notwithstanding this offer, Council has negotiated an agreement with Waste Service NSW to dispose of waste at its Belrose Transfer at a reduced rate for 2 years commencing from November 2003.

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Further, Council will be required at a future date to formally tender disposal services either jointly or individually depending on the outcome of the ACCC Application by NSROC which is seeking Authorisation under the Trade Practices Act to conduct a joint tender with other NSROC member Councils. The results of the process will impact on the ability to take up the Cleanaway offer and as such, this part of Cleanaway's value adding option could only be utilised in the event Waste Service NSW was successful in any tender for disposal services.

The remaining value adding services offered by Cleanaway are considered substantial and would greatly assist Council in its community education services. Features included in the package are an overall education strategy, production of written information including services, assistance, contamination, clean up handy phone numbers, telephone interpreter services, listing of organisations which accept second hand goods and a Web site at no initial cost or maintenance charges.

Cleanaway have included in their submission an agreement proposed with Visy to accept recyclables at nominated rates against percentage contamination rates for the term of the Contract.

The rebate offered for the receipt of the paper products explains the greatly reduced cost in offering the paper recycling service when compared to the remaining short listed tenderers.

3. United Resource Management

URM hold current contracts with Pittwater, Mosman, Lane Cove and Nth Sydney Councils

The company is experienced in the collection of waste and recyclable having operated contracts over a numbers of years with various Councils.

Referee checks confirm URM is performing services within the requirements of their contracts and to the satisfaction of their Councils.

After the interview process dated 24 February URM advised Council of a mistake in their tender after assessing the costs spreadsheet provided by Council which requested tenderers to confirm the tendered prices in their bid.

URM advised Council that they have misinterpreted the pricing structure requested for the recycling service for single dwellings and have submitted a revised price for these services. The result of the alleged mistake renders their original bid in the higher costs when compared to the other bids. An adjustment submitted of the revised bid positions URM in the third cheapest short listed tenderers.

As the adjusted submission for the URM bid would be viewed as substantially altering the original tender, legal opinion has been sought on the relevant sections of the Local Government Act in URM submitting the amended costs. (See Attachment 7 of the tender evaluation committee report which contains the legal opinion received on this matter.)

The legal opinion received by Council advises that Council should not accept the amended price as the tender would be substantially altered and as such under the Act, Council is not able to consider

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this adjustment, notwithstanding the alternation was deemed to be a mistake. Under this circumstance the URM bid is costed well above the bids from Collex, Staples and Cleanaway.

However, as Council has the opportunity to negotiate with any tenderer should it feel that a more positive outcome could be achieved by not accepting any of the tenderers, the opportunity would then exist for Council to negotiate with URM on an amended price.

The resource considerations in this tender are within the expected vehicle numbers types and employee numbers. The vehicles nominated for the units collection are subject to conformation as to the size and compaction body arrangement however irrespective of this URM have committed to provide suitably designed vehicles to complete task.

URM are well positioned to market the collected material as they are currently the operational contractor for the Belrose Transfer station and have interests in the Earthcare MRF and Beneficiation Plant in Botany.

The value-added option contained in their bid includes the opportunity to supply scrap metal services and a negotiated white goods service.

4. Staples Waste

The Staples Waste Company has been operating in the waste and recycling business for many years and has held contracts with Drummoyne, Hornsby and currently with Wingecarribee and Bega Councils.

Referee checks indicates this company has a good reputation and has performed at satisfactory levels for their client Councils.

Staples Waste has resourced their bid in keeping with the expected vehicle numbers and normal work hours and conditions expected to provide for a quality service. Their vehicles submitted for the units' collection are larger than the 4-cubic metre compactor submitted by Collex however in the advent that the vehicles were not suitable both Staples have committed to substituting the vehicles with of a smaller design at their cost.

Staples have not tendered a bid for the contractor to own and market the recyclable products and as such Staples are not able to be compared to the remaining bids within this part of the service offer.

Staples have committed a number of value added options in the bid including a co-operative Council/Staples education program, attendance at public events, and the conduct of waste audits although details of the degree of committee and frequency have not been quantified.

5. J J Richards

Although this company is a professional company with a number of contracts operating throughout Queensland and New South Wales, their tender prices were considered to be too high and therefore it was not considered appropriate for the tender evaluation committee to interview them.

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Attached, as **Appendix 2 of the confidential attachments** is the tender price for each service offered by the tenderers with the lowest price for each service highlighted.

Attached, as **Appendix 3 of the confidential attachments** is a summary of the total tender prices for the 10 year contract showing the various service options for Council to consider and the resultant domestic waste charge.

A briefing session was held with several Councillors on 1 March 2004 to go through the tender prices and the various service options.

Below is a commentary on the advantages and disadvantages of each of the proposed service options:

Council to own the Recycling Products

Council's current paper product is considered to be of a high quality because of its separation from other recycling products. The current market for paper is considered to be quite stable and it is expected that Council would receive good income for the sale of this product. For Council to own the paper product, any risk associated with price variation over the period of the contract would be removed for the Contractor.

With regard to the new collection of all forms of container recycling, it is anticipated that the cost of the various products is likely to be cost neutral based on other contracts and information received from the tenderers.

It should be noted that the price for the provision of a new container recycling service includes the supply of new 240 litre mobile bins in place of the existing crate system. Consequently, the recycling products will be collected on alternate weeks.

Contractor to own Recycling Products

Some of the tenderers have competitively tendered for this service while others have been more conservative in their tender.

The preferred option for these options would be dependent on the tenderer selected by Council.

Supply of New 340 Litre Mobile Bins for Green Waste Collection Fortnightly

Council currently provides the collection of green waste from old rapid rail 340 litre bins on a fortnightly basis. Because there are no current local manufacturers for these bins, Council has had to provide 240 litre bins for the green waste.

Council has received a number of complaints about the replacement of 340 litre bins with 240 litre bins because they have not been able to contain all the green waste material placed out for collection.

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If Council were to select this option, the contractor will be required to source the manufacture of new 340 litre bins from either a local supplier or overseas manufacturers. The price of this provision has been included in the tender documents.

Supply of New 240 Litre Mobile Bins for Green Waste Collection Weekly

The supply of 240 litre mobile bins is readily available in the local market.

The provision of a weekly service provides a greater quantity available for green waste, i.e. 480 litres per fortnight, compared with the other option.

However, it should be noted that while the increased service provision is intended, the reduction in the bin size might cause community concern.

While it can be seen from the tender prices, the weekly service provides a lower cost to the residents, the smaller sized bins may create difficulties for the size of materials generally placed in these bins.

The consequence of the tender prices received will result in a significant increase in the domestic waste charge because of the supply of new bins and the provision of new vehicles for all services by the contractor.

Council has a total of \$2.6 million in the domestic waste reserve, taking into account current commitments of \$100,000 for waste education, \$160,000 for vehicle modifications and \$805,000 for land fill remediation works. Accordingly, it is proposed to phase in the Domestic Waste Charge increase over the next three (3) years and reduce the Domestic Waste Reserve. The estimated waste charges proposed are as follows; however, the final figures will need to be determined when Council considers the fees and charges:

2003/2004	\$212	current charge
2004/2005	\$230	
2005/2006	\$250	depending on CPI adjustments and preferred option
2006/2007	\$267	depending on CPI adjustments and preferred option

Included in the attachments is a comparison of current waste charges by surrounding councils.

Following publication of the Council report on Council's web site, one of the tenderers has written to Council clarifying its tender and addressing some of the comments raised by the Tender Evaluation Committee.

Attached is a copy of the letter dated 8 March 2004 from Cleanaway Municipal Services and a memorandum in response to the issues raised by Cleanaway from the Tender Evaluation Committee.

In Cleanaway's letter, they have indicated that they respect Council's right to award the Tender and are not seeking to challenge the validity of the process.

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The Tender Evaluation Committee has examined each of the issues raised by Cleanaway and whilst they acknowledge that the tender from Cleanaway did indicate that they propose to operate their vehicles over a ten hour day and not a twelve hour day, as indicated in the report, their assessment is still considered appropriate and their recommendation is unchanged.

The Tender Evaluation Committee has thoroughly assessed all tenders for both price and non-price items and the resource levels to be provided is an integral part of the service to be provided and will impact on the tender prices offered.

The recommendation as printed in the report not only considers the evaluation of the tenders received, but also the desired level of service to be provided to the residents.

The report is not intended to present a poor reflection on Cleanaway as it is accepted that Cleanaway are a professional Waste Services contractor, but the report provides an analysis and comparison with all tenderers.

CONSULTATION

The waste strategy has since been resolved by Council and a vegetation trial was undertaken to gain feedback on the preferred service by Council.

Generally, those involved in the vegetation trials indicated preference for the 340 litre bins but there was also support for a weekly 240 litre green waste service. **Attached** is a copy of the summary of responses received on the vegetation trials.

FINANCIAL CONSIDERATIONS

Funding for the new waste and recycling collection service will involve an assessment of the proposed waste charges as the budget for this service is externally restricted and separated from Council's operating budget and needs to be cost neutral in accordance with Section 496 and 504 of the Local Government Act 1993. Council also currently has an operating surplus in the Domestic Waste Reserve which is intended to be extinguished over the next three (3) years.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Extensive consultation with Council's Finance and Business Section has taken place in the evaluation and assessment of the likely waste charge structure for the new waste collection contract and other charges.

SUMMARY

Council called tenders for the new waste and recycling tender in accordance with Council's waste strategy. Included in the tender documents were various service options as resolved by Council at its meeting of 9 December 2003.

The current contract ceases in August 2004 with the new contract to commence on 1 September 2004.

Generally, the new contractor will require a significant lead time to enable the manufacture of new collection vehicles and new mobile bins.

The tender evaluation committee has assessed each of the tenders for both price and non-price issues, particularly with regard to the number of resources to be provided and the quality of the service to be provided.

As part of the service provided, consideration will need to be given to the option for Council to own the recycling products and whether the collection of green waste is undertaken fortnightly using 340 litre bins or weekly using 240 litre bins.

CONCLUSION

Tender Evaluation Committee Conclusion

Assessment of the options included in the tender indicates that a 10-year term contract with a weekly green service provides savings to Council when compared to the 7-year term. Attachment 4 indicates the cost difference in the comparative options over the short listed tenderers. In the case of a Collex contract with Council owning the recycling material a further net saving can be achieved with the income received from the sale of the paper products. From the details provided from the other tenderers it can be seen that the value placed on the income achieved from the recycling product would be in the order of \$400,000 pa.

Comparison of the resources committed to undertake the service indicates Collex Waste Management Pty Ltd, are considered the better bid with the provision and number of vehicles with URM and Staples close behind.

This issue is a core criteria in the assessment, and is particularly relevant in the services associated with the vegetation and units collection. The unit's service both for the waste and recycling collection requires specifically designed smaller vehicles to accommodate the restricted access conditions existing within these buildings.

The other tenderers have nominated 6 cm and 8 cm capacity vehicles to complete this task. Based on the existing vehicles design having 4cm capacity and the limitations on access being restricted even for vehicles of 4cm capacity, it is considered the 4cm vehicle is best suited to the current conditions.

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All tenderers have submitted compaction units for the vegetation service supplied with stainless steel lining to inhibit corrosion. However, Staples have proposed 6 vehicles and Collex have proposed 5 vehicles compared to the 4 vehicles nominated by URM, and Cleanaway and as such the Staples and Collex bids come with less risk due to OH&S, breakdown or planned maintenance.

Another aspect which is considered to be advantageous to Council is the Collex Enterprise Bargaining Agreement structured on a 38 hour week with conditions that meets the quality conditions in the collection contract. This issue compared to the Cleanaway option of operating the collection over a 12-hour duration and having an emphasis on productivity, is consideration more in keeping with the outcomes expected in the Contract. The 12-hour duration for collection coupled with the lesser number of vehicle results in the Cleanaway bid operating a maximum level with a higher risk of breakdown and OH&S risk compared to the Collex bid.

In the case of the waste collection Collex and Staples have also provided a greater number of vehicles including spare vehicles than the other tenderers.

Assessment of the domestic services only indicates the Cleanaway bid is the cheapest for these services. The price offered concerning the recycling services indicates that Cleanaway has placed a high value on the income received for the paper product.

However, as indicated in the non-price assessment, the Cleanaway bid is offering to operate the services with fewer vehicles and for longer hours than the comparative tenderers and notwithstanding the reduced cost in providing the service, the higher risk and associated impacts on services are considered to outweigh the benefits of the cheaper price.

Staples waste has provided a tender bid, which is considered suitable to conduct the service however the price variation between the Collex bid which is also resourced adequately is considered more advantageous.

Director's conclusion

Notwithstanding the Tender Committee's recommendation relating to the green waste, it is considered that a greater community acceptance will be achieved by replacing the existing green waste containers with the same sized containers. This will allow for larger sized material to be placed in the bins, as has been the current practice. Despite the cost savings associated with a 240 litre weekly service, it is considered inappropriate to introduce a service that is unlikely to meet the acceptance of the residents. The introduction of a weekly service may also result in an increase in waste disposal costs but this has not been included in the assessment of the calculations.

The preferred tenderer is Collex Waste Management Pty Ltd and if this contractor is selected by Council, it is recommended that Council select the option to own the recycling product and call tenders for the sale and/or disposal of this recycling product over the life of the contract.

The preferred contract period is 10 years, as this will offer a saving per year compared to the seven year period and more certainty of price over a longer period.

RECOMMENDATION

- A. That Council accepts the tender for the Waste and Recycling Collection Contract to Collex Waste Management Pty Ltd for a 10 year period including the following service options:
 - 1. The supply of 340 litre mobile containers for green waste to be collected on a fortnightly frequency.
 - 2. Council to own the recycling product and direct the contractor to the transfer site as nominated by Council.
- B. That Council prepares tender documents and call tenders for the sale of its recycling product
- C. That the Mayor and General Manager be delegated authority to sign the contract documents and affix the seal of Council.
- D. That the waste charges be phased in over a three year period by a reduction in the Domestic Waste Reserve with the domestic and trade waste charges to be finalised and included in Council's adopted Management Plan and Fees and Charges.

Greg Piconi
Director Technical Services

John McKee
Director Finance and Business

Attachments: **Summary of Responses on Vegetation Trial**
 Comparison of Waste Charges
 Appendix 1 Tender Evaluation Report-Confidential
 Appendix 2 Tender Prices-Confidential
 Appendix 3 Summary of Tender Prices and likely charges for various
 options-Confidential

DELEGATION OF AUTHORITY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to give consideration to the issue of Delegations during the period between the last Council meeting and the Election of Mayor in new Council.
BACKGROUND:	The Local Government Election is to be held on Saturday, 27 March 2004 and the last Council meeting is scheduled for 23 March 2004.
COMMENTS:	Under Section 230, the Mayor should continue to exercise his Section 226 powers until such time as a new Mayor is elected.
RECOMMENDATION:	That the Mayor exercise those powers as granted in a caretaker capacity until such time as the new Mayor is elected.

PURPOSE OF REPORT

For Council to give consideration to the issue of Delegations during the period between the last Council meeting and the Election of Mayor in new Council.

BACKGROUND

The Local Government election is to be held on Saturday, 27 March 2004 and the last Council meeting is scheduled for 23 March 2004.

It is likely to be 2 to 3 weeks before Council meets again to conduct business, because the first meeting of Council cannot be conducted until after the Poll is Declared. This meeting would be called by the General Manager for the first Tuesday after the Poll is Declared provided that three days notice is given. It is usual that this meeting would involve election of the Mayor, Deputy Mayor, etc and normal Council business is not usually transacted.

Given the above scenario, it is appropriate that the Council consider the matter of Delegations of Authority so that the normal business of Council can be conducted during this recess period.

Section 377 of the Local Government Act sets out a number of functions which Council cannot delegate under any circumstances. These are:

- *the appointment of a general manager*
- *the making of a rate*
- *a determination under section 549 as to the levying of a rate*
- *the making of a charge*
- *the fixing of a fee*
- *the borrowing of money*
- *the voting of money for expenditure on its works, services or operations*
- *the compulsory acquisition, purchase, sale, exchange or surrender of any land or other property (but not including the sale of items of plant or equipment)*
- *the acceptance of tenders which are required under this Act to be invited by the council*
- *the adoption of a management plan under section 406*
- *the adoption of a financial statement included in an annual financial report*
- *a decision to classify or reclassify public land under Division 1 of Part 2 of Chapter 6*
- *the fixing of an amount or rate for the carrying out by the council of work on private land*
- *the decision to carry out work on private land for an amount that is less than the amount or rate fixed by the council for the carrying out of any such work*
- *the review of a determination made by the council, and not by a delegate of the council, of an application for approval or an application that may be reviewed under section 82A of the Environmental Planning and Assessment Act 1979*
- *the power of the council to authorise the use of reasonable force for the purpose of gaining entry to premises under section 194*
- *a decision under section 356 to contribute money or otherwise grant financial assistance to persons*

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- *the making of an application, or the giving of a notice, to the Governor or Minister*
- *this power of delegation*
- *any function under this or any other Act that is expressly required to be exercised by resolution of the council.*

Section 233 of the Local Government Act states that all Councillors hold office until the day appointed for the next Ordinary Election. This means that Councillors cease to hold office after Midnight on 26 March 2004.

However, Section 230 of the Local Government Act states that the Mayor holds office until a successor is declared and elected to office. Accordingly, the Mayor, Councillor Ian Cross, will continue to hold office until the election of the Mayor in the new Council. This means that the Mayor continues to exercise his powers which are provided in Section 226 of the Act. These are:

- *to exercise, in cases of necessity, the policy-making functions of the governing body of the council between meetings of the council*
- *to exercise such other functions of the council as the council determines*
- *to preside at meetings of the council*
- *to carry out the civic and ceremonial functions of the mayoral office.*

The Department of Local Government has previously advised that the functions of the mayor as set out in Section 226 should be exercised in a **caretaker capacity** until the election of the Mayor in the new Council.

COMMENTS

In accordance with Section 230, the Mayor should continue to exercise his Section 226 powers until such time as a new Mayor is elected. However, it would be appropriate that the Mayor exercise these powers in a caretaker fashion, ie he would only take those decisions which are absolutely necessary in the interests of the efficient operation of the Council.

To ensure the efficient operation of the Council during the period 24 March 2004 until the inaugural meeting of the Council, it is necessary to delegate powers of the Council to the Mayor and General Manager so that urgent decisions can be made, however, these should also be exercised in a caretaker capacity (ie only those decisions which are absolutely necessary are to be taken).

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

- A. That the Mayor exercise those powers as granted in Section 226 of the Local Government Act 1993 in a caretaker capacity until such time as the new Mayor is elected.
- B. That the General Manager, Brian Bell, and the Mayor, Councillor Ian Cross, be granted Delegated Authority to exercise all powers, authorities, duties and functions of Council except those that are set out in Section 377 of the Local Government Act 1993 for the period 24 March 2004 until the election of the Mayor of the new Council subject to the following conditions:
 - 1. Such powers, authorities, duties and functions may only be exercised by the Mayor and General Manager jointly and any decision of the General Manager whether or not to exercise any such power, authority, duty or function or as to the manner of such exercise shall not be subject to any direction by the Mayor.
 - 2. Any such power, authority, duty or function shall only be exercised by the Mayor and General Manager jointly where they are both of the opinion that the exercise of any such power, authority, duty or function could not be deferred until a meeting of the new Council.

Brian Bell
General Manager

BICYCLE ADVISORY COMMITTEE MEETING - MINUTES OF 18 FEBRUARY 2004

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To advise Council of the Minutes of the Ku-ring-gai Bicycle Advisory Committee meeting of 18 February 2004.
BACKGROUND:	Council's Bicycle Advisory Committee meets once every two months to consider bicycle issues including a review of Council's Bicycle Transport Plan. Two meetings of the Committee were held in 2003.
COMMENTS:	The meeting discussed the review of the current Bike Plan and priorities of cycling projects. A draft consultant's brief is to be considered at the April meeting. Roads and Traffic Authority plans and those of adjoining Councils are to be incorporated or linked to Council's revised Bike Plan.
RECOMMENDATION:	That Council receives and notes the Minutes of the Bicycle Advisory Committee meeting held on 18 February 2004.

PURPOSE OF REPORT

To advise Council of the Minutes of the Ku-ring-gai Bicycle Advisory Committee meeting of 18 February 2004.

BACKGROUND

Council's Bicycle Advisory Committee meets every two months to consider bicycle issues including a review of Council's Bicycle Transport Plan. Two meetings of the Committee were held in 2003.

COMMENTS

The Minutes of the Bicycle Advisory Committee meeting of September and November 2003 were reported to Council on 2 December 2003. A copy of the Minutes of the meeting of 18 February 2004 are **attached** to this report.

A list of Council's cycleway nomination projects for 2003 was distributed and discussed (copy attached). The Committee agreed that completion of the bike path on Kissing Point Road should be ranked highest in future funding applications.

A draft consultant's brief for the revision of the Bike Plan is being prepared for consideration at the next meeting. The representative of the RTA advised that the Authority is likely to provide funds for this study. RTA proposals and those of adjoining Councils will be incorporated or linked into Council's revised Bike Plan.

The Committee discussed the RTA's proposal to provide its regional Hornsby to South Turrumurra bicycle route as well as the presentation of Council's bike routes on its website. A bicycle ride was proposed for Sunday 29 February 2004.

CONSULTATION

Consultation has taken place with representatives of the Bicycle Committee.

FINANCIAL CONSIDERATIONS

Not applicable at this stage, however, funds may be required for the updating of the Bike Plan but this is likely to be included in 2004/05 budget. An application will be forwarded to the RTA for the costs associated with the updating of the Bike Plan.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation will take place with representatives of Open Space and Community Services with regard to recreational uses and locations for bike paths.

SUMMARY

Two Bicycle Advisory Committee meetings were held in 2003. The meeting of 18 February 2004 considered reviewing of the current Bike Plan and cycling priorities. A draft consultant's brief will be prepared for consideration at the April meeting. RTA plans and those of adjoining Councils will be incorporated or linked to Council's revised Plan.

RECOMMENDATION

That Council receives and notes the Minutes of the Bicycle Advisory Committee meeting held on 18 February 2004.

George Koolik
MANAGER TRAFFIC & TRANSPORT

Greg Piconi
DIRECTOR TECHNICAL SERVICES

Attachments:

- 1. Bicycle Advisory Committee Minutes - 18 February 2004**
- 2. List of Council's cycleway nominations to RTA for 2003**

47 BENT STREET, LINDFIELD - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To address issues raised in a supplementary report to Council and seek Council's determination of the development application.

BACKGROUND:

- Application lodged 1 October 2003
- Council considered a report and a confidential supplement at its meeting on 24 February 2004.
- Council resolved to defer the matter in order to address issues raised at the meeting.

COMMENTS:

The issues raised at the Council meeting are addressed in this report.

RECOMMENDATION:

Approval, subject to conditions.

PURPOSE OF REPORT

To address issues raised in a supplementary report to Council and seek Council's determination of the development application.

BACKGROUND

- The application was lodged on 10 October 2003.
- Council deferred the application at its meeting on 24 February 2004 to address issues raised in a supplement presented and clarify conditions relating to the riparian zone.
- The application is the subject of an appeal lodged on the basis of deemed refusal and has been set down for hearing on 17 May 2004.

COMMENTS

On 24 February Council recommended that:

That the matter be deferred to:

1. *Address the issues raised in the supplement to the Council report.*
2. *Clarify in the conditions the status and function of the riparian zone and the use of indigenous riparian species in the Landscape plan and the exclusion of the rear patio of the second dwelling from the riparian area.*

Potential impact on endangered ecological communities

The comments made by the Council's Bio-diversity Officer in the supplement presented to Council raised the possibility that there was potential impact on endangered ecological communities as a result of the proposed development. These comments related to the following:

- the proximity of this site to Paddy Pallin Reserve which contains the endangered ecological community Sydney Turpentine and Ironbark Forest (STIF) and the potential for detrimental impacts of the development on the reserve.
- the existence of a number of trees on site which are consistent with STIF.
- reports of the occurrence of threatened species Powerful Owl and Grey Headed Flying Fox in the local area and the requirement to consider impacts of the development on these species.

The Landscape Services Team Leader suggested that the proposed development was unlikely to have any significant impact upon the threatened species or endangered ecological community due to:

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- an improved design and reduced environmental impact (over the previous application)
- the fact that only one significant tree will be removed.
- the rehabilitation of the riparian zone.
- the removal of all noxious and environmental weeds.

However, given that this issue has been raised, if there was any doubt as to the impact, the applicant should prepare an eight-part test. Under Part 4 of the Environmental Planning and Assessment Act 1979, the Council must not grant consent in relation to an activity that is likely to affect the environment or threatened species, populations or ecological communities or their habitats. Section 5A of the Act requires that the following be taken into account (eight-part test):

(a) in the case of a threatened species, whether the life cycle of the species is likely to be disrupted such that a viable local population of the species is likely to be placed at risk of extinction,

(b) in the case of an endangered population, whether the life cycle of the species that constitutes the endangered population is likely to be disrupted such that the viability of the population is likely to be significantly compromised,

(c) in relation to the regional distribution of the habitat of a threatened species, population or ecological community, whether a significant area of known habitat is to be modified or removed,

(d) whether an area of known habitat is likely to become isolated from currently interconnecting or proximate areas of habitat for a threatened species, population or ecological community,

(e) whether critical habitat will be affected,

(f) whether a threatened species, population or ecological community, or their habitats, are adequately represented in conservation reserves (or other similar protected areas) in the region,

(g) whether the development or activity proposed is of a class of development or activity that is recognised as a threatening process,

The applicant has prepared an eight-part test to determine whether the development would constitute a significant impact on the endangered ecological community and species. The report that deals with the eight-part test is attached and concludes with the following statement:

This property is in an area zoned for residential development in which dual occupancy is permitted. The development of this land for dual occupancy has economic and social benefits to the community. If this proposed development were approved there should be no net lasting adverse

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effect on any threatened species, population or critical habitat assessed under the Threatened Species Conservation Amendment Act 2002 provided that the measures proposed by Mr Lee in his Development Application, and conditions imposed by the Ku-ring-gai Council to protect the environment. Indeed there should be an improvement in the biodiversity of the threatened Shale-Sandstone Transition Series Forest community due to the reinstatement of the indigenous vegetation on this property.

The Landscape Services Team Leader concurs with this conclusion and Council's Biodiversity Officer commented as follows on the findings:

I have assessed the Statement of Environmental Effects (SEE) and eight-part test written by Professor Nancy Logan for 47 Bent Street Lindfield. The study is generally adequate in its coverage of relevant issues associated with the proposed development. The report provides little information on offsite impacts particularly on threatened plant communities. However, with suitable conditions for stormwater control, planting schedules and the recommended 5m riparian area near the creek the proposed development should not have a significant impact.

Appropriate conditions have been included (See Conditions No's 26, 27, 37, 44 and 66).

Clarification regarding the Riparian Zone

In respect of the second part of the resolution it is recommended that:

- the courtyard of the rear dwelling be located outside of the riparian zone adjacent to the western side of the dining room (See Condition No 60)
- clearing of the weed species on the riparian area must be progressively conducted, in consultation with DIPNR and according to sound riparian bush regeneration principles to minimise potential erosion during flood periods.(See Condition No 44)
- all replenishment plantings below the top edge of the watercourse embankment shall be derived from species within the Sydney Turpentine/Ironbark Forest assemblage of vascular plants that naturally inhabit riparian zones. These plantings should also use a minimum 50% provenance stock (grown from locally sourced plants) (See Condition No 37).
- at least 50% of all tree and shrub plantings within the site, beyond the top edge of the watercourse embankment, shall be derived from the Sydney Turpentine/Ironbark Forest assemblage of vascular plants (See Condition No 37).
- Stormwater control measures are used to reduce the impacts of run-off (See Condition No's 26, 27 and 66)

SUMMARY

The proposed dual occupancy represents an improvement over that previously proposed and refused on the site. The proposed dwellings are appropriately designed and located to minimise bulk and

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scale and respect the streetscape and character of the area. The dwellings have been designed and located to minimise impacts upon adjoining properties to an appropriate degree. Adequate information has now been provided to address concerns regarding impacts on flora and fauna and classification of the riparian zone.

The Landscape Services Team Leader and the Biodiversity Officer now have no objections to the proposal and appropriate conditions are included. The proposal has been assessed against the Environmental Planning and Assessment Act, 1979 and is recommended for approval, subject to the following conditions:

RECOMMENDATION

That Development Application No 1262/03 for the demolition of the existing dwelling and construction of a detached Dual Occupancy on Lot 1, DP 955134, 47 Bent Street, Lindfield, be approved for a period of two (2) years, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1262/03 and Development Application plans prepared by J Wood, Drawing No's DA 02 to DA 08 and DA10, dated August 2003 and lodged with Council on 1 October 2003, DA 09A, dated October 2003 and DA11A-12A and DA13B, all dated January 2004 and landscape plans prepared by Precinct Landscapes, Drawing No. 1178-2, dated 12 September 2003.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.
6. To ensure compliance with the relevant standards, an effective and approved safety fence with self closing gate complying with the minimum requirements of Australian Standard 1926-1986 "Fences and Gates for Private Swimming Pools" shall be provided to the Principal Certifying Authority's satisfaction in the location indicated on the approved plans prior to any water being placed in the pool.
7. Compliance with the general terms of approval issued by Department of Infrastructure, Planning and Natural Resources, to be attached to the Notice of Determination.

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8. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
9. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
10. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

11. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
12. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
13. To maintain existing ground levels all excavated material shall be removed from the site.
14. For the purpose of maintaining visual amenity, no permanent electricity supply poles are to be erected forward of the building setback without the prior Consent of Council. It is the onus of the applicant to consult with the authorised statutory electricity provider prior to construction commencing to ensure that direct connection to the building is possible. Details of any proposed permanent pole must be submitted to and approved by Council prior to installation.
15. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
16. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

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17. If an excavation associated with the erection or demolition of a building extends below the level of the base of the footings of a building on an adjoining allotment of land, the person causing the excavation to be made:
- must preserve and protect the building from damage, and
 - if necessary, must underpin and support the building in an approved manner, and
 - must, at least 7 days before excavating below the level of the base of the footings of a building on an adjoining allotment of land, give notice of intention to do so to the owner of the adjoining allotment of land and furnish particulars of the excavation to the owner of the building being erected or demolished.

The owner of the adjoining allotment of land is not liable for any part of the cost of work carried out for the purposes of this clause, whether carried out on the allotment of land being excavated or on the adjoining allotment of land.

In this clause, allotment of land includes a public road and any other public place.

18. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
19. If the work involved in the erection or demolition of a building:
- is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

20. All noise generating equipment associated with any proposed mechanical ventilation system/s shall be located and/or soundproofed so the equipment is not audible within a habitable room in any other residential premises before 7am and after 10pm Monday to Friday and before 8am and after 10pm Saturday, Sunday and Public Holidays. Furthermore, the operation of the unit outside these restricted hours shall emit a noise level of not greater than 5dbA above the background when measure at the nearest adjoining boundary.
21. Sites shall not be re-shaped, re-contoured, excavated nor the levels on any part of the site altered without the Consent of the Council being obtained beforehand.

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22. For the purpose of health and amenity, effective measures are to be taken at all times to prevent any nuisance being caused by noise, vibrations smells, fumes, dust, smoke, waste water products and the like.
23. The applicant's attention is directed to any obligations or responsibilities under the Dividing Fences Act in respect of adjoining property owner/s which may arise from this application and it is advised that enquiries in this regard may be made at the nearest Local Court.
24. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
25. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
26. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the watercourse within the site, via the site drainage systems for each dual occupancy. For any new connections to the watercourse, a headwall and energy dissipater structure shall be constructed at the discharge point. Unless specified by plans approved with the Development Consent or other Conditions of this Consent, this structure is to be solidly constructed from mortared sandstone bushrock so that it has a low impact on local landscape and vegetation. It must not impede flows along the watercourse nor or lead to ongoing erosion of the watercourse.
27. To alleviate drainage impacts downstream, an on-site stormwater detention system must be provided in accordance with Council's Stormwater Management Manual, and generally in accordance with the "Stormwater management general arrangement plan" by Xenith Project Services, drawings 03-121-DA01 to DA 03 inclusive, dated 13 September 2003 (except where modifications are required under the conditions of this consent). Separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

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NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings. This is available from Council upon request.

28. For stormwater control all paved areas are to be drained through the main drainage system.
29. The dual occupancy structure closest to the watercourse shall be constructed in accordance with the details on the "flood extent plan" drawing CO1A, and documentation with reference and job number 03/0516, by Richmond Ross Consulting Engineers, dated 19 and 22 December 2003. In accordance with this submission, the following measures shall be adopted:
 - a. Finished floor level of rear dwelling to be set at minimum level of RL 56.93, with minimum freeboard of 500mm provided between 1:100 year top water level and habitable areas.
 - b. Rear portion of dwelling at rear to be constructed on reinforced concrete piers socketed into underlying rock, and capable of withstanding water and potential impacts of debris associated with conveyance of the 1:100 year flood event through the site.
 - c. The sub-floor area under the slab within the flood zone is to be maintained free from any structure/impediments to water flow.
30. Driveways and access ramps must be designed not to scrape the underside of cars. In all respects, the proposed vehicle access and accommodation arrangements must be designed and constructed to comply with Australian Standard AS 2890.1 – "Off-Street car parking".
31. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works. A safe pedestrian circulation route a minimum of 1.5m wide and with a pavement free of trip hazards must be maintained at all times on or adjacent to the public footways fronting the construction site. Where the footpath is damaged, repair works must be carried when directed by Council officers. Where circulation is diverted on to the roadway clear directional signage and protective barricades must be installed in accordance with Aust AS1742-3 1996 "*Traffic Control Devices for Work on Roads*". If pedestrian circulation is not satisfactorily maintained, and action is not taken promptly to rectify the defects, Council may undertake proceedings to stop work.
32. The relocation or adjustment of any utility service facilities must be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
33. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate

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unnecessary erosion and loss of sediment. These facilities must be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps must be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.

34. A Section 73 Compliance Certificate under the Sydney Water Act 1994 must be obtained. Application must be made through an authorised Water Servicing Coordinator. Please refer to "Your Business" section of Sydney Water's web site at www.sydneywater.com.au then the "e-developer" icon or telephone 13 20 92. Following application a "Notice of Requirements" will detail water and sewer extensions to be built and charges to be paid. Please make early contact with the Coordinator, since building of water/sewer extensions can be time consuming and may impact on other services and building, driveway or landscape design.
35. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.
36. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

37. Landscape works shall be carried out in accordance with Landscape Drawing No 1178A prepared by Precinct Landscapes and dated 12 September 2003 submitted with the Development Application, except as amended by the following:
 - 2 *Eucalyptus punctata* (Grey Gum) shall be replaced by 2 *Angophora costata* (Sydney Red Gum) as amended in red.
 - At least 50% of all replenishment plantings should be of provenance stock (grown from locally sourced plants) and seed from trees to be removed be passed on to Council's community nursery for propagation.
 - All replenishment plantings below the tip edge of the watercourse embankment shall be derived from species within the Sydney Turpentine/Ironbark Forest assemblage of vascular plants that naturally inhabit riparian zones.
 - All mulch shall consist of native leaf litter instead of woodchip.
 - At least 50% of all tree and shrub plantings within the site, beyond the top edge of the watercourse embankment, shall be derived from the Sydney Turpentine/Ironbark Forest

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assemblage of vascular plants, as the site is located between 100 and 300 metres from urban bushland.

38. All disturbed areas, which are not to be built upon or otherwise developed, shall be rehabilitated to provide permanent protection from soil erosion within fourteen (14) days of final land shaping of such areas.
39. Any imported fill material shall be restricted to material from the local soil landscape on which the site is located or be derived from sandstone geology sites.
40. Excavation for the installation of stormwater within the specified radius of the trunk/s of the following tree/s shall be carried out using the thrust boring method. Thrust boring shall be carried out at least 600mm beneath natural ground surface at the tree/s to minimise damage to tree/s root system. Documentary evidence of compliance with this condition shall be submitted to Council with the final Certificate of Compliance.

Tree/Location	Radius From Trunk
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T1- <i>Araucaria heterophylla</i> (Norfolk Island Pine) On the property's southwestern (side) boundary 6 metres south of the watercourse.	3 metres
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T7- <i>Syncarpia glomulifera</i> (Turpentine) Close to the property's southwestern (side) boundary	3 metres
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41. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.
42. Transplanting of the following trees/shrubs shall be directly supervised by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.

Species/Location

T9-*Archontophoenix cunninghamiana* (Bangalow Palm)/Adjacent to the driveway's southwestern side.

43. On completion of the landscape works including tree and screen planting, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of final Certificate of Compliance.
44. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. **Removal of the weed species shall be progressively conducted in consultation with the Department of Infrastructure, Planning and Natural Resources and according to sound riparian bush regeneration**

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principles to minimise potential erosion during flood periods. Documentary evidence of compliance with this condition shall be submitted to the Principal Certifying Authority prior to the release of the final Compliance Certificate:

Plant Species

Ageratina adenophora (Crofton Weed)
Ageratina riparia (Mist Weed)
Asparagus densiflorus (Asparagus Fern)
Cardiospermum grandiflorum (Balloon Vine)
Celtis australis (Nettle Tree) seedlings
Chlorophytum comosum (Spider Plant)
Cinnamomum camphora (Camphor laurel)
Conyza sp (Fleabane)
Hedychium gardnerianum (Ginger lily)
Impatiens balsamina (Impatiens)
Ipomoea indica (Morning Glory)
Ligustrum lucidum (Large-leaved Privet)
Ligustrum sinense (Small-leaved Privet)
Macfadyena unguis-cati (Cat's-claw Creeper)
Ochna serrulata (Ochna)
Olea europaea subsp. africana (African Olive)
Senna pendula (Cassia)
Setaria palmifolia (Palm Grass)
Solanum nigrum (Blackberry Night-shade)
Tradescantia albiflora (Wandering Jew)

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

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE RELEASE OF THE
CONSTRUCTION CERTIFICATE

46. Proof of receiving the 3A permit from Department of Infrastructure and Natural Resources shall be submitted to Council prior to the release of the Construction Certificate.
47. To minimise damage to the root systems of the following trees protected under Council's Tree Preservation Order and located on the subject property and adjoining property, the applicant shall ensure that the stormwater drainage lines and pits are located within 1 metre of the external walls of the rear house and garage. Details of the amended plans shall be submitted to Council for approval prior to release of the Construction Certificate:

Tree/Location

T3-*Syncarpia glomulifera* (Turpentine)
3 metres from the western façade of the rear house.

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T7-*Syncarpia glomulifera* (Turpentine)

3 metres from the southern façade of the rear house.

T11-*Syncarpia glomulifera* (Turpentine)

3 metres from the southeastern corner of the rear house.

T11A-*Brachychiton acerifolius* (Flame Tree)

3 metres from the northern corner of the rear garage.

T12-*Eucalyptus resinifera* (Red Mahogany)

On the property's northeastern side boundary near the rear garage.

48. A Landscape Assessment fee of \$120.00 shall be paid to Council prior to release of the Construction Certificate.
49. A CASH BOND/BANK GUARANTEE of \$2,000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

50. A CASH BOND/BANK GUARANTEE of \$10,000.00 shall be lodged with Council prior to the release of the Construction Certificate to ensure that the following trees are maintained in the same condition as found prior to commencement site development work.

The bond will be returned following issue of the final Certificate of Compliance, provided the trees are undamaged.

In the event that any specified trees are found damaged, dying or dead as a result of any negligence by the applicant or its agent, or as a result of the construction works at any time during the construction period, Council will have the option to demand the whole or part therefore of the bond.

Tree/Location

T3-*Syncarpia glomulifera* (Turpentine)

3 metres from the western façade of the rear house.

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T7-*Syncarpia glomulifera* (Turpentine)

3 metres from the southern façade of the rear house.

T11-*Syncarpia glomulifera* (Turpentine)

3 metres from the southeastern corner of the rear house.

T11A-*Brachychiton acerifolius* (Flame Tree)

3 metres from the northern corner of the rear garage.

51. The Construction Certificate shall not be released until a Site Management Plan is submitted to the Principal Certifying Authority and approved by a suitably qualified professional.

The plan shall indicate the planned phases of the construction work, erosion and drainage management, tree protection measures, areas nominated for storing materials, site access and where vehicle parking is proposed, during construction.

52. To minimise damage to the root systems of the following trees protected under Council's Tree Preservation Order and located on the subject property and adjoining property, the applicant shall ensure that the stormwater drainage lines and pits are located within 1 metre of the external walls of the rear house and garage. Details of the amended plans shall be submitted to Council for approval prior to release of the Construction Certificate:

Tree/Location

T3-*Syncarpia glomulifera* (Turpentine)

3 metres from the western façade of the rear house.

T7-*Syncarpia glomulifera* (Turpentine)

3 metres from the southern façade of the rear house.

T11-*Syncarpia glomulifera* (Turpentine)

3 metres from the southeastern corner of the rear house.

T11A-*Brachychiton acerifolius* (Flame Tree)

3 metres from the northern corner of the rear garage.

T12-*Eucalyptus resinifera* (Red Mahogany)

On the property's northeastern side boundary near the rear garage.

53. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate.

Note: Required if cost of works exceed \$25,000.00.

54. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit

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the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).

55. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.
56. The balconies off bedroom 1 of the front and rear dwellings are to be roofed to assist in the control of solar access to the bedrooms. Details to be provided for approval with the construction certificate.
57. The following privacy measures are to be provided:
 - a. A 0.5m wide horizontal projection is to be provided from the window sill of the western lounge room window of the rear dwelling and obscure glazing is to be provided to a height of 1.5m above the floor level of alternatively a highlight window to the same height is to be provided to the southern lounge room window to ensure the protection of privacy to the adjoining rear yard.
 - b. The balcony off bedroom 1 of the front dwelling is to have a 1.5m high privacy screen provided to the eastern edge, wrapping around the northern edge for a distance of 1m to ensure the protection of privacy of the adjoining rear yard.
 - c. The first floor eastern hall windows of the front dwelling are to be provided with obscure glazing and the east facing bedroom 1 window is to have obscure to a height of 1.5m above the floor level of alternatively a highlight window to the same height is to be provided.

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Details of the above privacy measures are to be provided for approval with the construction certificate.

58. The plans are to be amended to correct the erroneous height shown for the front dwelling. The first floor ceiling of the front dwelling is not to exceed RL 72.1 and the roof is not to exceed RL73.7. The amended plans to this affect are to be approved with the construction certificate.
59. The courtyard to the north eastern boundary of the front dwelling is to be reduced in width by 1.5m, with the 1.5m strip being retained at existing ground level and landscaped to ensure an appropriate landscaped separation between the proposal and the neighbouring property. Details are to be provided for approval with the construction certificate.
60. Proposed Landscape Plan No 1178.2 shows the courtyard /patio of the rear house (between the living and dining rooms) is located within the 5 metres riparian zone. This is not approved. The courtyard/patio shall be relocated to the west of the dining room and shall not be located in the riparian zone.
61. The submitted "Stormwater management general arrangement plan" by Xenith Project Services, drawings 03-121-DA01 to DA 03 inclusive, dated 13 September 2003, shall be amended to address the following issues:
 - a. The on-site detention tank for proposed "lot B" shall be relocated outside the 1:100 year flood zone identified on the "flood extent plan" drawing CO1A, job number 03/0516, by Richmond Ross Consulting Engineers, dated 22nd December 2003.

Full construction drawings of the proposed method of achieving the requirements for on-site stormwater detention and all supporting calculations are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council requirements. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

62. Due to the location of the development site on the narrow section of Bent Street, the Applicant shall produce a Traffic Control Plan, in general accordance with the documents SAA HB81.1 – 1996 – Field Guide for Traffic Control at Works on Roads – Part 1 and RTA Traffic Control at Work Sites (1998), addressing all of the following matters:

Safe Ingress and Egress

- a. How the site will be safely accessed by all vehicles servicing the site including provision for forward ingress and egress and details of traffic control for the site, including provision of a flagperson to control vehicle movements to and from the site.
- b. How safe egress for vehicles will be managed where forward egress is not possible,
- c. How pedestrians will be safely managed across the frontage of the site.

Parking Control

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- a. The provision of on-site parking for employee, tradesperson and construction vehicles.
- b. Maintaining the existing no-parking zone for the full frontage of the site prohibiting on-street parking at all times.

NOTE 1: The Traffic Control Plan shall be submitted to and approved by Council, attention Development Engineer, prior to the issue of the Construction Certificate. The Plan shall be prepared by a suitably qualified and experienced traffic consultant and be certified by this person as being in accordance with the requirements of the abovementioned documents and the requirements of this condition.

NOTE 2: The traffic management measures contained in the approved plan shall be implemented in accordance with the plan prior to the commencement of any works on-site including excavation.

63. The property drainage system (including but not limited to gutters, downpipes, pits, joints, flushing facilities and all ancillary plumbing) shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces. Construction are to be prepared by a suitably qualified and experienced civil/hydraulic engineer in accordance with Council's Stormwater Management Manual and the national Plumbing and Drainage Code. These must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

64. DRIVEWAYS AND FOOTPATHS: Approval of this Development Application is for works wholly within the property and does not imply approval of footpath or driveway levels, materials or location within the road reserve regardless of whether this information is shown on the Application.

Footpath and driveway levels at the property boundary/road alignment are to be obtained from Council prior to release of the Construction Certificate. All footpaths and driveways are to be constructed strictly in accordance with Council's specifications "Construction of Gutter Crossings and Footpath Crossings". This is issued with alignment levels after completing the necessary application form at Customer Services and payment of the appropriate fee.

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The grading of such footpaths or driveways outside the property are to comply with Council's standard requirements. The suitability of the grade of such paths or driveways inside the property is the sole responsibility of the applicant, and this may be affected by the alignment levels fixed by Council.

Note 1: The construction of footpaths and driveways outside the property, in materials other than those approved by Council, is not permitted and Council may require immediate removal of unauthorised installations.

Note 2: When completing the request for driveway levels application from Council, the applicant must attach a copy of the relevant Development Application drawing which indicates the position and proposed level (if applicable) of the proposed driveway at the boundary alignment. Failure to submit this information may delay processing.

65. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.
66. For stormwater retention, provision of a 2000 litre rainwater tank for each residence designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced civil/hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The tank is to be located at or above existing natural ground level.

NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.

NOTE 3: The tank must not be located on the front façade of a dwelling.

NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.

NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.

NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.

NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.

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NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.

NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

67. A contribution is to be paid for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE (1) ADDITIONAL DWELLINGS IS CURRENTLY \$33,057.22 The amount of the payment shall be in accordance with the Section 94 charges as at the date of payment. The charges may vary at the time of payment in accordance with Council's Section 94 Contributions Plan to reflect changes in land values, construction costs and the consumer price index.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1.	Preparation of New Residents Kit	\$10.98
2.	New Resident Survey	\$9.87
3.	New child care centre (including land acquisition and construction of facility)	\$252.13
4.	Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5.	New Library bookstock	\$17.95
6.	New Public Art	\$2.93
7.	Acquisition of Open Space - Lindfield	\$7,851.00
8.	Koola Park upgrade and reconfiguration	\$143.09
9.	North Turramurra Sportsfield development	\$986.80
10.	Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11.	Section 94 Officer for period of Plan 2000-2003	\$118.42

To obtain the total contribution figure the following table of occupancy rates is to be used:

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

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CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

68. Prior to the commencement of any work, the Principal Certifying Authority shall be notified in writing of the name and contractor licence number of the owner/builder who intends to carry out the approved works.
69. A construction management plan must be submitted for the approval of Council's Development Engineer before the commencement of demolition, excavation or construction works. The Plan must:
- a. **Describe the anticipated impact of the construction works on:**
 - local traffic routes
 - pedestrian circulation adjacent to the building site;
 - and on-street parking in the local area; and;
 - b. **Describe the means proposed to:**
 - manage construction works to minimise such impacts;
 - provide for the standing of vehicles during construction;
 - provide for the movement of trucks to and from the site, and deliveries to the site; and
 - c. **Show the locations of:**
 - any site sheds and any anticipated use of cranes and concrete pumps;
 - any areas of Council property on which it is proposed to install a construction zone, or to erect structures such as hoardings, scaffolding or shoring, or to excavate.

The Plan must make provision for all materials, plants, etc. to be stored within the development site at all times during construction. Structures or works on Council property such as hoardings, scaffolding shoring or excavation need separate consent from Council. Standing of cranes and concrete pumps on Council property will need consent on each occasion.

Note: A minimum of eight weeks will be required for assessment. Work must not commence until the Construction Management Plan is approved. Failure to comply with this condition may result in fines and proceedings to stop work.

70. Prior to commencing any construction or subdivision work, the following provisions of the Environmental Planning & Assessment Act, 1979 (the 'Act') are to be complied with:
- a. A Construction Certificate is to be obtained in accordance with Section 81A(2)(a) of the Act.
 - b. A Principal Certifying Authority is to be appointed and Council is to be notified of the appointment in accordance with Section 81A(2)(b) of the Act.
 - c. Council is to be notified in writing, at least two (2) days prior to the intention of commencing buildings works, in accordance with Section 81A(2)(c) of the Act.

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- d. Should the development be certified by a Principal Certifying Authority other than Council, a fee for each Part 4A Certificate is to be paid to Council on lodgement of those Certificates with Council.

71. To preserve and enhance the natural environment, a geofabric filter fence shall be installed along contour immediately downslope of construction and disturbed areas prior to any earthworks or construction commencing. Both ends shall be turned uphill by 1.0 metre. Approved geofabric, such as CSR - Humes "Propex" Terram 1000, Polyfelt TS500, Bidim U24 or Terratrack 2415 or equivalent is to be stretched between posts placed at 2.0 to 3.0 metre centres. The base of the fabric must be buried at least 200mm in the ground on the upslope side. Geofabric material shall be replaced at intervals not exceeding 18 months, or as directed by the Principal Certifying Authority.

The geofabric filter fence shall be maintained in an operational condition until the development activities have been completed and the site fully stabilised. Sediment shall be removed from the structure when 40% capacity has been reached.

72. To preserve and enhance the natural environment, earthworks and/or demolition of any existing buildings shall not commence until an Erosion and Sediment Control Plan (ESCP) is prepared, submitted to the Principal Certifying Authority, approved and implemented to the satisfaction of the Principal Certifying Authority. The plan shall comply with the guidelines set out in the NSW Department of Housing Manual "Managing Urban Stormwater: Soils and Construction" Certificate.
73. A Compliance Certificate pursuant to Section 73 Sydney Water Act 1994, as evidence of compliance with the provisions of Division 9 of that Act, to be obtained from Sydney Water prior to the commencement of any work on the site.
74. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s excluding that area of the proposed rear house and garage shall be fenced off for the specified radius from the trunk to prevent any activities, storage or the disposal of materials within the fenced area. The fence/s shall be maintained intact until the completion of all demolition/building work on site:

Tree/Location	Radius From Trunk
T3- <i>Syncarpia glomulifera</i> (Turpentine) 3 metres from the western façade of the rear house.	3.0 metres
T7- <i>Syncarpia glomulifera</i> (Turpentine) 3 metres from the southern façade of the rear house.	3.0 metres
T11- <i>Syncarpia glomulifera</i> (Turpentine) 3 metres from the southeastern corner of the rear house.	3.0 metres
T11A- <i>Brachychiton acerifolius</i> (Flame Tree) 3 metres from the northern corner of the rear garage.	3.0 metres

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T12-*Eucalyptus resinifera* (Red Mahogany) 3.0 metres
On the property's northeastern side boundary near the rear garage.

75. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.
76. Upon completion of the installation of the required tree protection measures you are required to contact Council on telephone 9424 0888 or facsimile 9418 1117 to arrange an inspection of the site, in this regard a minimum of 24 hours notice is required. Following the carrying out of a satisfactory inspection and subject to the payment of all relevant monies and compliance with any other conditions of approval, work may commence.

CONDITIONS TO BE COMPLIED WITH DURING WORKS

77. Any piers located in the vicinity of trees are to be hand dug to protect the root systems of the trees.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

78. The creation of a Restriction-on-Use and a Positive Covenant on the title, with Council being named as a party whose consent is required to vary, release or modify, the terms of which:
 - a. Require the riparian zone, a minimum total width of ten (10) metres (5m on either side of the bank) measured horizontally from the top of bank to be maintained in accordance with the planting requirements stipulated in Department of Infrastructure and Natural Resources General Terms of Approval. Such requirements are to be included in the wording of the respective Covenant.
79. The landscape works shall be completed prior to release of the Certificate of Occupation and maintained in a satisfactory condition at all times.
80. Tree planting to satisfy tree retention/replenishment requirements shall be completed prior to the release of the Occupation Certificate.
81. To ensure compliance with the consent, a final report from a Registered Surveyor shall be submitted to Council confirming floor/ceiling levels and boundary setbacks prior to occupation.
82. At the completion of works and prior to occupation or issue of the Occupation Certificate, a qualified civil/hydraulic engineer shall certify that:
 - a. The dual occupancy structure closest to the watercourse has been constructed in accordance with the "flood extent plan" drawing CO1A, and documentation with reference and job number 03/0516, by Richmond Ross Consulting Engineers, dated 19 and 22 December 2003.

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- b. The finished floor level of rear dwelling has been set at minimum level of RL 56.93, with minimum freeboard of 500mm provided between 1:100 top water level and habitable areas.
- c. The rear portion of the dwelling at rear has been constructed on reinforced concrete piers socketed into underlying rock, and capable of withstanding water and potential impacts of debris associated with conveyance of the 1:100 year event through the site.
- d. The sub-floor area under the slab within the flood zone is free from any structure/impediments to water flow.

Certification shall be submitted and approved by the Principal Certifying Authority (PCA) prior to occupation or issue of the Occupation Certificate.

- 83. Any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer, at the Applicants cost.
- 84. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property. These must be prior to occupation or issue of the Occupation Certificate or issue of a Subdivision Certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" (available from Council on request) and to the satisfaction of Council.

For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA. The relative location of the On-Site Detention facility, in relation to the building footprint, must be shown on a scale sketch, attached as an annexure to the request forms.

- 85. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer prior to occupation or issue of the Occupation Certificate.
- 86. Creation of a Restriction-on-Use on the title of the subject site prior to occupation or issue of the Occupation Certificate. The restriction is to be over the 100 year ARI flood zone identified on the "flood extent plan" drawing CO1A, job number 03/0516, by Richmond Ross Consulting Engineers, dated 22nd December 2003, and must prevent the placement of any structures, walls, fences, fill or other items which may impede the 100 year ARI flood, within that zone. Ku-ring-gai Council is to be named as the authority whose consent is required to release, vary or modify the restriction.

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87. The Section 73 Sydney Water compliance certificate must be obtained and submitted prior to issue of the Final Compliance Certificate or issue of the Subdivision Certificate.
88. Construction of the on-site stormwater detention systems is to be supervised and upon completion a Certificate and Works-as-Executed (WAE) plan is to be submitted to the Principal Certifying Authority for approval, prior to occupation or issue of the Occupation Certificate. Certification is to be provided by a suitably qualified civil/hydraulic engineer and the WAE plan is to be prepared by a registered surveyor. The certifying engineer must also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

The Certificate is to be with respect to compliance with:

- Compatibility of the drainage systems with the approved plans
- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.
- All enclosed floor areas, including habitable and garage floor levels, being safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels
 - surface or pavement levels
 - floor levels including adjacent property floor levels
 - maximum water surface level to be achieved in the storage zone
 - dimensions of basin(s), tank(s), pit(s), etc.
 - location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
 - storage volume(s) provided and supporting calculations
 - size of orifice(s)
89. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced civil/hydraulic engineer, prior to occupation or issue of the Occupation Certificate, that:
- a. The works were carried out and completed in accordance with the approved plans.

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- b. All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.
90. Prior to occupation or issue of the Occupation Certificate, the Applicant shall reconstruct the existing dilapidated concrete driveway crossing and layback between the site and Bent Street. Existing levels and grades must be maintained in the footpath area. No steps are to be installed in the footpath area.

BUILDING CONDITIONS

91. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Mechanical ventilation details complying with Australian Standard 1668-1993 Mechanical Ventilation & Airconditioning.
 - g. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - h. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
92. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Wet area waterproofing details complying with the Building Code of Australia.
 - f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

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93. Any mechanical ventilation installed in a dwelling shall comply with the requirements of Part 3.8.5.0 of the Building Code of Australia Housing Provisions. Documentary evidence of compliance is to be obtained from a suitably qualified person and submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.
94. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

95. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.
96. A fully detailed first floor joist layout (in duplicate) complying with the National Timber Framing Code or accompanied by a structural engineer's Certificate of Adequacy shall be submitted to and approved by the Principal Certifying Authority.
97. For the purpose of safety and convenience a balustrade of 1.0 metre minimum height shall be provided to any landing, verandah, balcony or stairway of a height exceeding 1.0 metre above finished ground level. The design may consist of vertical or horizontal bars but shall not have any opening exceeding 125mm. For floors more than 4.0 metres above the ground, any horizontal elements within the balustrade or other barrier between 150mm and 760mm above the floor must not facilitate climbing.

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98. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

99. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:

- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
- b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority.

100. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.

Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

101. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

- a. Wet area waterproofing details complying with the Building Code of Australia.
- b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.

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- c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. A Compliance Certificate from a suitably qualified person that the dwelling and alterations and additions complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
 - f. Waterproofing of walls/floors below ground level to prevent the entry of water into the building.
 - g. A Registered Surveyor's Report on completion of footings but before external walls are above floor level verifying compliance with this consent.
 - h. A Registered Surveyor's Reports confirming approved floor levels for all floors.
 - i. Registered Surveyor's Report confirming that the 'height' of the building (as defined in the Ku-ring-gai Planning Scheme Ordinance 1971) does not exceed 8.0 metres.
102. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Wet area waterproofing details complying with the Building Code of Australia.
 - b. Mechanical ventilation details complying with Australian Standard 1684 Mechanical Ventilation & Airconditioning.
 - c. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - d. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
 - e. A Compliance Certificate from a suitably qualified person that the smoke alarms, fire separation and sound insulation complies with the relevant deemed to satisfy provisions of the Building Code of Australia.
 - f. A Registered Surveyor's Reports confirming approved floor levels for all floors.
103. The Crepe Myrtle located adjacent to the southern boundary to the rear of the proposed front dwelling is to be retained at least until such time as the proposed landscaping achieves a similar height and density to protect the privacy of the adjoining property.

C Swanepoel
Executive Planner – Roseville Ward

M Miocic
**Director
Environment & Regulatory Services**

Attachments: Location Sketch
Eight-part test report
2 x previous reports considered by Council on 24 February 2004
Confidential report and attachments considered by Council on 24 February 2004

20 PARK CRESCENT, PYMBLE - SUPPLEMENTARY REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report in relation to an independent landscape assessment of the proposal and to determine a Development Application for the construction of a dwelling to create a detached dual occupancy.

BACKGROUND:

Council at its meeting of 16 December 2003 deferred consideration of the application pending a site inspection.

Council at its meeting of 2 March 2004 considered a report in relation to matters raised at the site inspection and the review and assessment of the information and analysis provided by objectors and their consultants. Council deferred consideration of the application to obtain an independent landscape assessment also taking into account the matters raised in the previous Court proceedings.

COMMENTS:

The independent landscape assessment is addressed in this report.

RECOMMENDATION:

That the independent landscape assessment be noted and that the application be approved, subject to conditions.

PURPOSE OF REPORT

To report in relation to an independent landscape assessment of the proposal and to determine a Development Application for the construction of a dwelling to create a detached dual occupancy.

LANDSCAPE REVIEW

The independent landscape assessment was undertaken by Narelle Sonter, Landscape Architect and Horticultural Specialist, with over 25 years experience.

1.0 INTRODUCTION

This Landscape Review has been prepared on the instructions of Mr Michael Miocic, Director, Environment and Regulatory Services, Ku-ring-gai Council.

In undertaking this review I visited the subject site and had reference to the following documents: Amended Landscape plan prepared by Sally Bourne Landscapes, 11-2-04

Architectural plans prepared by Craig Meredith Associates Architects, Dwg Nos DA762 1&2A, DA762 3B, DA762 4-8A.

Record of Hearing No 10292 of 2001, Commissioner K. G. Hoffman, Land and Environment Court of NSW.

Report to Ordinary Council Meeting in relation to 20 Park Crescent , 2-3-04, prepared by G Bolton.

2.0 GENERALLY

The landscape plan provides a landscape solution for the proposed dwelling which is characteristic with the landscape character of the immediate locality. The species incorporated in the plan are an appropriate selection for each of the locations. The horticultural material within the plan describing the mature heights of trees is accurate. The Landscape plan incorporates a number of trees at varying canopy heights and a diversity of shrub species, enhancing the amenity of the locality.

3.0 RESPONSE TO LANDSCAPE ISSUES RAISED IN THE REPORT TO COUNCIL

3.1 Retention of the Cypress along the laneway to Taunton Street

In order for the Cypress adjacent to the laneway to Taunton Street to be retained the paved area adjacent to the kitchen (RL 146.75) would need to be constructed as a suspended slab. Section C-C indicates that this paved area is to be located on fill. This would most likely result in the death of the tree. It is possible to keep the tree if the paved area were to be a suspended slab.

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A suspended slab would negate the need for a retaining wall under the edge of the paved courtyard, minimising any likelihood of impact on the root zone of the existing Photinia hedge, nominated on the landscape plan as being retained.

In order to retain the Cypress there should not be any piers or footings within 2.0 metres from the trunk of the Cypress. Further I believe it would be beneficial if the extent of the paved terrace were to be reduced as far as possible under the drip line of the Cypress to lessen any impact on the tree. In order to retain the Photinia hedge there should not be any piers or footings associated with the construction of the paved terrace within 500mm of the extremity of the foliage (the drip line) of the existing Photinias.

A qualified arborist should detail requirements for protective fencing and other appropriate measures to be implemented prior to the commencement of construction, to facilitate the ongoing success of the Cypress and the Photinia hedge.

3.2 Removal of Vegetation to the South of the Garage

It is acknowledged that several trees in poor condition and a field maple in fair condition are to be removed in that portion of the site South of the proposed garage. The amended landscape plan proposes replacement planting of Blueberry Ash, Buckinghamia and Lilly Pilly. These replacement trees will form a substantial, attractive landscape screen between the proposed driveway and the adjoining residence to the East. The planting of these trees will represent significant improvement over the existing landscape quality in this portion of the site.

3.3 Impact on the Laneway to Taunton Street

I believe that providing the precautions nominated above at 3.1 are undertaken, the Photinia Hedge and the Cypress proposed for retention and the proposed Fiddlewood in the Eastern corner of the site will provide an appropriate landscape buffer between the laneway to Taunton Street and the proposed new residence.

4.0 ADDRESSING THE CONCERNS NOMINATED IN THE LAND AND ENVIRONMENT COURT JUDGEMENT

4.1 Retention of Mature Vegetation (Para 30 & 34)

I believe that the mature vegetation nominated for retention on the landscape plan can be retained (details for retention of Cypress nominated above).

4.2 Screening of internal courtyard (Para 46 & 47)

The landscape plan indicates a Lilly Pilly hedge to be clipped at 3m in height. This species is a fast growing hedging species which is an appropriate selection for this purpose.

4.3 Boundary vegetation to soften the built form (Para 55)

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I believe that the subject proposal (given the adoption of the recommendations in 3.1 above) provides sufficient boundary landscape to soften the built form.

5.0 CONCLUSION

I believe that provided measures are incorporated into the conditions to facilitate the retention of the Cypress and the Photinia Hedge on the Southern boundary of the site, the proposed development incorporates a landscape solution that addresses concerns raised in the Land and Environment Court Judgement and also ensures that the proposed development will make a positive contribution to the landscape character of the locality.

COMMENTS

The recommendations made in Clause 3.1 of the independent landscape review have been included in the recommendation (See Condition No 56).

RECOMMENDATION

That Development Application No 1772/02 for the demolition of the existing inground pool and carport and the construction of an additional dwelling to form a Detached Dual Occupancy development on Lot C, DP 331955, 20 Park Crescent, Pymble be approved for a period of 2 years, subject to the following conditions:

GENERAL CONDITIONS

1. The development to be in accordance with Development Application No 1772/02 and Development Application plans prepared by Craig Meredith Associates , reference number DA762.1-9, dated September 2003 as amended and lodged with Council on 20 December 2002 and 13 October 2003.
2. All building works shall comply with the Building Code of Australia.
3. The submission of the approved plans to Sydney Water, before any work is commenced to ensure that the proposed structure meets that Authority's By-Laws. Failure to submit these plans before commencing work will render the owner liable to a penalty and may result in the demolition of work.
4. The approved building shall not be occupied unless the development has been completed in accordance with all conditions of consent and the approved plans and a Occupation Certificate has been issued.
5. The opening of any footway, roadway, road shoulder or any part of the road reserve shall not be carried out without a Road Opening Permit being obtained from the Council (upon payment of the required fee) beforehand.

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6. The works shall be erected in conformity with the approved plans and specifications and in accordance with the conditions of approval set out herein.
7. For the purpose of ensuring the compliance with the terms of the approval, an approved copy of the plan and this Consent and Construction Certificate shall be kept on site at all times.
8. For the purpose of safety and amenity of the area, no building materials, plant or the like are to be stored on the road or footpath without the written approval being obtained from the Council beforehand. The pathway shall be kept in a clean, tidy and safe condition during building operations. Council reserves the right, without notice, to rectify any such breach and to charge the cost against the applicant/owner/builder, as the case may be.
9. **HOURS OF WORK:** For the purpose of residential amenity, noise generating work carried out in connection with building and construction operation, including deliveries of building materials and equipment, is restricted to the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted. The use of the following items of plant on the site is also restricted to the abovementioned hours: compressors, bulldozers, power operated woodworking machines, excavators and loaders, jackhammers, Ramset guns, concrete mixers and concrete delivery wagons, hoists, winches, welding and riveting plant.

Whilst work on Saturdays may be performed until 5.30pm, such work or any associated activities shall not involve the use of any noise generating processes or equipment.

10. For the purpose of public safety, a sign shall be erected on the site prior to any work commencing which is clearly visible from a public place stating that unauthorised entry to the site is not permitted and showing the name of the builder or another person responsible for the site and a telephone number for contact outside working hours. The sign may only be removed on satisfactory completion of the works.
11. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
12. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
13. Any excavation of rock involving hydraulic or compressed air rock hammers or other excavation equipment shall comply with the requirements of Council's Code for the Control and Regulation of Noise on Building Sites.
14. The applicant is advised that the Construction Certificate plans and specifications must comply with the provisions of the Building Code of Australia.
15. All excavations and backfilling associated with the erection or demolition of a building must be executed safely and in accordance with appropriate professional standards.

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All excavations associated with the erection or demolition of a building must be properly guarded and protected to prevent them from being dangerous to life or property.

16. Toilet facilities are to be provided, within the work site on which work involved in the erection or demolition of a building is being carried out, at the rate of one toilet for every 20 persons or part of 20 persons employed at the site.
17. If the work involved in the erection or demolition of a building:
 - a. is likely to cause pedestrian or vehicular traffic in a public place to be obstructed or rendered inconvenient, or
 - b. building involves the enclosure of a public place, a hoarding or fence must be erected between the work site and the public place.

If necessary, an awning is to be erected, sufficient to prevent any substance from, or in connection with, the work falling into the public place.

The work site must be kept lit between sunset and sunrise if it is likely to be hazardous to persons in the public place.

Any such hoarding, fence or awning is to be removed when the work has been completed.

18. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
19. Access to demolition sites shall be protected as directed by the Principal Certifying Authority by the use of suitable fences or hoardings.
20. Demolition work, including removal of material or debris from the site, on any building in a residential area shall only be carried out during the following hours: Mondays to Fridays inclusive: 7.00am to 5.30pm. Saturdays: 8.00am to 12.00 noon. Sundays and Public Holidays: Not Permitted.
21. A person taking down or demolishing or causing to be taken down or demolished any building or part thereof shall, upon identifying or suspecting that asbestos is present in the building, immediately notify the Workcover Authority. The Authority is the controlling body for the safe removal, handling and disposal of asbestos. The Authority supervises and monitors contractors engaged in asbestos removal.

The requirements and standards imposed by the Authority, its consultants or contractors shall be complied with.
22. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
23. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.

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- a. **A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:**
 - i. cause the windows or other openings in the external walls to be close boarded or otherwise covered;
 - ii. cause screens of canvas, hessian, boards, mats or other suitable material to be fitted in appropriate locations;
 - iii. cause areas, components and debris to be wetted down; in such a manner as to minimise, as far as practicable, the nuisance arising from the escape of dust during such taking down or demolition.
 - b. **Such person shall not chute, throw or let fall or cause to chute, throw or let fall from the floor to floor or into any basement of such building any building materials or any other matter so as to cause dust to escape from the building or cause any such material to fall or cast upon a public way to the annoyance, inconvenience, or danger of persons using such public way.**
24. Materials salvaged from a demolition may be stored on site provided they are non combustible, neatly and safety stockpiled and not likely to become a harbourage for vermin.
 25. Adequate precautions shall be taken to ensure the protection of adjoining premises and persons therein from damage and injury during the process of demolition.
 26. Buildings built prior to the 1970's may contain lead based paint. Lead dust is a hazardous substance. You are advised to follow the attached WorkCover guidelines to prevent personal and environmental contamination.
 27. A sign must be erected in a prominent position on any work site on which work involved in the erection or demolition of a building is being carried out:
 - a. stating that unauthorised entry to the work site is prohibited, and
 - b. showing the name of the person in charge of the work site and a telephone number at which that person may be contacted outside working hours.

Any such sign is to be removed when the work has been completed.

This clause does not apply to:

- a. building work carried out inside an existing building, or
 - b. building work carried out on premises that are to be occupied continuously (both during and outside working hours) while the work is being carried out.
28. All demolition materials of value for re-use either on-site or elsewhere, shall be separated and made available for re-cycling.
 29. For stormwater control all paved areas are to be drained to the main drainage system.

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30. Stormwater runoff from all hard surfaces, or landscaped areas, which are not at natural ground level, shall be piped to the existing stormwater drainage easement on the low side of the development lot.
31. For stormwater control, an On-site Stormwater Detention System is to be provided in accordance with Council's Stormwater Management Manual. Separate detention systems are to be provided for each residence. An overflow is to be incorporated that will direct any excess flow to the downstream drainage system and subsoil drainage is to be provided from the underside of the sediment control sump to the outlet line or other approved location.

The system is to be cleaned regularly and maintained to the satisfaction of Council.

NOTE 1: The on-site stormwater detention system and property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the applicant wishes to vary the prescribed storage and outflow volumes contained in Council's Stormwater Management Manual, a detailed analysis must be provided following the guidelines set out in Council's requirements for on-site detention with full computations accompanying the submission including a flood routing analysis.

NOTE 3: All roof, driveway and other hard-surface runoff water is to be intercepted and directed to the on-site stormwater detention system. If some areas of hard-surface are unable to be directed to the detention system an adjustment to the rate of discharge is to be made to attain the required site discharge.

NOTE 4: If a landscaped surface type detention system is used the storage volume required is to be increased by 20%.

NOTE 5: The standard Council On-site Stormwater Detention Calculation Sheet is to be completed and included on design drawings.

32. All structures are to be sited clear of any drainage easements, drainage lines, watercourses and floodways. In the event of a pipeline being uncovered during construction, all work is to cease and the Principal Certifying Authority is to be contacted immediately for advice.

The footpath entry steps, proposed over the drainage easement, are to be supported on a reinforced concrete foundation. The foundation is to be designed so that it is possible to fully excavate the existing pipe without disturbing the constructed steps.

In this regard details are to be shown as to how this condition is to be satisfied. The details are to be submitted to and approved by the PCA prior to the issue of the construction certificate.

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33. The existing service for the existing house to be relocated if they are affected by the new dwelling. Easements are to be provided where necessary.
34. The Design and construction of works in the accessway as detailed below to the satisfaction of Council's Development Engineer.

In this regard details are to be shown for the design of works and to show how this condition is to be satisfied. The details are to be submitted to and approved by the PCA prior to the issue of the construction certificate.

The works are to be supervised by the designing engineer or surveyor and certified upon completion that the as-constructed works comply with Council's requirement. A registered surveyor is to also submit a works-as-executed drawing of the as-constructed works.

The driveway works are to include:

- a) Kerb along the low side of the driveway for the full length of the existing and proposed driveway.
 - b) Reconstruction of a one (1) meter wide cracked section of the existing driveway, on both sides of the existing box drain that crosses the driveway. Box grate is to be reconstructed and grates replaced.
 - c) Reconstruction of a one (1) meter wide section of driveway adjacent to a construction joint on the driveway.
 - d) Reconstruction of the cracked corner on the concrete section of the existing driveway.
 - e) Reconstruct failed sections of bitumen driveway adjacent to the public road. As a minimum reconstruct at least 9.0sq meters.
 - f) Resheet the entire bitumen section of the entry adjacent to the public road. The bitumen is to be 25 mm thick and be constructed in the appropriate hotmix.
 - g) Sealed driveway to both dwellings.
35. The provision of temporary sediment and erosion control facilities and measures are to be installed, prior to the commencement of any works on the site to minimise and/or eliminate unnecessary erosion and loss of sediment. These facilities are to be maintained in working order during construction works and up to the completion of the maintenance period. All sediment traps are to be cleared on a regular basis and after each major storm, and/or as directed by the Principal Certifying Authority, with all silt being removed from the site, or to an approved location within the site.
 36. The relocation or adjustment of any utility service facilities are to be carried out by the Applicant in accordance with the requirements of the utility authority at no cost to Council.
 37. The public footways and roadways adjacent to the site are to be maintained in a safe condition, at all times, during the course of the works.
 38. A Tree Preservation Order exists within the Ku-ring-gai Council area whereby the removal, lopping or destruction of any tree exceeding 5.0 metres in height or 4.0 metres in canopy

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spread (except where exempt as defined under Council's Tree Preservation Order) without prior written consent of Council is prohibited.

Release of the Construction Certificate gives automatic approval to the removal ONLY of those trees located on the subject property within the footprint of a proposed new building/structure or within 3.0 metres of a proposed new dwelling. Where this application is for a building/structure other than a dwelling then ONLY trees within the area to be occupied by this building/structure may be removed. Other trees SHALL NOT be REMOVED or DAMAGED without an application being made under Council's Tree Preservation Order.

39. The applicant shall ensure that at all times during the construction period no activities, storage or disposal of materials shall take place beneath the canopy of any tree protected under Council's Tree Preservation Order.

CONDITIONS TO BE COMPLIED WITH PRIOR TO THE ISSUE OF A CONSTRUCTION CERTIFICATE

40. The Long Service Levy is to be paid to Council in accordance with the provisions of Section 34 of the Building and Construction Industry Payments Act 1986 prior to the issue of the Construction Certificate. Note: Required if cost of works exceed \$25,000.00.
41. It is a condition of consent that the applicant, builder or developer or person who does the work on this residential building project arrange the Builders Indemnity Insurance and submit the Certificate of Insurance in accordance with the requirements of Part 6 of the *Home Building Act 1989* to the Council or other Principal Certifying Authority for endorsement of the plans accompanying the Construction Certificate. It is the responsibility of the applicant, builder or developer to arrange the Builder's Indemnity Insurance for residential building work over the value of \$12,000 and to satisfy the Council or other Principal Certifying Authority by the presentation of the necessary Certificate of Insurance so as to comply with the applicable requirements of Part 6 of the *Home Building Act 1989*. The requirements for the Builder's Indemnity Insurance does not apply to commercial or industrial building work or for residential work less than \$12,000, nor to work undertaken by persons holding an Owner/Builder's Permit issued by the Department of Fair Trading (unless the owner/builder's property is sold within 7 years of the commencement of the work).
42. The Infrastructure Restorations Fee calculated in accordance with the Council's adopted schedule of Fees and Charges is to be paid to the Council prior to any earthworks or construction commencing. The applicant or builder/developer will be held responsible for and liable for the cost any damage caused to any Council property or for the removal of any waste bin, building materials, sediment, silt, or any other article as a consequence of doing or not doing anything to which this consent relates. "Council Property" includes footway, footpath paving, kerbing, guttering, crossings, street furniture, seats, litter bins, trees, shrubs, lawns mounds, bushland, and similar structures or features on road reserves or any adjacent public place. Council will undertake minor restoration work as a consequence of the work at this site in consideration of the "Infrastructure Restorations Fee" lodged with the Council prior to the release of the Construction Certificate. This undertaking by the Council does not absolve the applicant or Builder/developer of responsibility for ensuring that work or activity

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at this site does not jeopardise the safety or public using adjacent public areas or of making good or maintaining "Council property" (as defined) during the course of this project.

43. In order to maintain an appropriate level of solar performance for the buildings, the western windows of the development are to be provided with appropriate shading devices/shutters to protect against the summer sun. Details being submitted with the Construction Certificate plans.
44. Submission of revised elevational drawings that are consistent with the floor plan and site layout changes indicated within the revised plans lodged with Council in October 2003.
45. The payment of a contribution for the provision, extension or augmentation of community facilities, recreation facilities, open space and administration that will, or are likely to be, required as a consequence of development in the area.

TOTAL CONTRIBUTION FOR THIS DEVELOPMENT OF ONE ADDITIONAL DWELLINGS IS \$12,459.72 if paid by 30 June 2003. Payments after this date shall be in accordance with the schedule of Section 94 charges as at the date of payment. The schedule of charges may vary in accordance with any CPI indexing of Council's Section 94 Contributions Plan. Rates are usually adjusted annually as at 1 July.

This contribution shall be paid to Council prior to the release of the Construction Certificate and the amount payable shall be in accordance with the Council's adopted Section 94 Contributions Plan for Residential Development, effective from 20 December 2000, calculated for additional person as follows:

1. Preparation of New Residents Kit	\$10.98
2. New Resident Survey	\$9.87
3. New child care centre (including land acquisition and construction of facility)	\$252.13
4. Additions/alterations to Acron Rd child care centre for additional 20 places	\$2.41
5. New Library bookstock	\$17.95
6. New Public Art	\$2.93
7. Acquisition of Open Space - Turramurra	\$1996.00
8. Koola Park upgrade and reconfiguration	\$143.09
9. North Turramurra Sportsfield development	\$986.80
10. Section 94 2000-2003 Study and Interim Plan preparation cost	\$49.34
11. Section 94 Officer for period of Plan 2000-2003	\$118.42

To obtain the total contribution figure the following table of occupancy rates is to be used:

OCCUPANCY RATES FOR DIFFERENT DWELLING SIZES

Small dwelling (under 75 sqm)	1.25 persons
Medium dwelling (75 - under 110 sqm)	1.75 persons
Large dwelling (110 – under 150sqm)	2.75 persons
Very Large dwelling (150sqm or more)	3.5 persons
New Lot	3.5 persons

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46. The drainage design associated with the Construction Certificate is to incorporate details that address the following points:-
- a. All trees in close proximity to drainage infrastructure, that are to be retained, are to be drawn to scale.
 - b. Pits, drainage walls and pipelines constructed under the tree canopies of trees to be retained, are to take into account the impact the works will have on the existing trees.
 - c. **Drainage details are to be compatible with the landscaping plans.**
 - d. **The On Site Detention system is to be set at so that the outlet of the orifice plate is set no lower than the level of the AR1 50 year flood in the receiving drainage system. This is so the outlet from the OSD system is free draining and is not effected by backwater for all storm events up to the 50 year ARI event.**
 - e. **Suitable kerbs or other approved "cut off" systems are to be provided in the OSD design to ensure all overland flow from storms up to the 50 year ARI storm event is conveyed to the OSD system.**
 - f. A 100mm high concrete kerb is to be provided along the low side of the existing driveway to cut off stormwater and direct it to the OSD system.
 - g. If an underground storage tank is provided, the inflow pipes are to be located below inspection grates.
 - h. The access grate above the control chamber is to be a grate sized 600mm x 900mm or greater.
 - i. The roof gutter, down pipe and drainage system for the two dwellings is to be sized to catch and convey the 50 year ARI storm event to the OSD system.
47. Prior to the issue of the Construction Certificate, a Stormwater Drainage Plan for the development site must be submitted and approved by the Principal Certifying Authority (PCA). This Condition is imposed to ensure site stormwater is disposed in a controlled and sustainable manner.

The Stormwater Drainage Plan must show the proposed drainage system, and method and point of discharge to a Council-approved system. The plan must be based on the site survey as a minimum. The following requirements apply to all stormwater drainage systems:

Where it is proposed to connect to the existing site drainage system, the applicant must supply to the PCA an inspection report for the entire site drainage system from a suitably qualified engineer. This inspection report must confirm:

- a. The point and method of discharge (by way of sketch or plan) for the existing stormwater drainage system,
- b. Provision of suitable drainage infrastructure within existing system,
- c. The satisfactory condition of the existing system,
- d. The satisfactory capacity for continued usage, and
- e. No deleterious effect on existing, adjacent or downstream properties as a result of the continued use of this existing system.

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If this certification cannot be given, then the applicant is to submit design documentation for a new system for approval with the Construction Certificate application. Plans are to be prepared by a suitably qualified and experienced consulting engineer or surveyor in accordance with the requirements of Council's Stormwater Management Manual.

No stormwater drainage system is to be connected to any Sydney Water sewage system.

Any new drainage works must incorporate a piped connection to an existing drainage system (satisfying the requirements of this Condition) or to an Approved Council discharge point. New drainage systems must be designed having regard to the need to prevent stormwater from entering buildings in accordance with the Building Code of Australia (BCA).

48. The applicant is to provide Plans with the Construction Certificate application from a suitably qualified and experienced engineer or surveyor, detailing the following works :

- a. Kerb along the low side of the driveway for the full length of the existing and proposed driveway.
- b. Reconstruction of a one (1) meter wide cracked section of the existing driveway, on both sides of the existing box drain that crosses the driveway. Box grate is to be reconstructed and grates replaced.
- c. Reconstruction of a one (1) meter wide section of driveway adjacent to a construction joint on the driveway.
- d. Reconstruction of the cracked corner on the concrete section of the existing driveway.
- e. Reconstruct failed sections of bitumen driveway adjacent to the public road. As a minimum reconstruct at least 9.0sq meters.
- f. Re-sheet the entire bitumen section of the entry adjacent to the public road. The bitumen is to be 25 mm thick and be constructed in the appropriate hotmix.
- g. Sealed driveway to both dwellings.

49. For stormwater retention and quality control, provision of a five (5) metre long first-flush absorption trench within the subject property designed to capture and retain the first-flush stormwater runoff from the subject property after which runoff bypasses the trench and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

NOTE 1: The first-flush system may be achieved by the use of a separate low-level outlet from a pit located on the main drainage system.

NOTE 2: Where practicable, runoff from driveway and landscaped areas is to be directed to the retention system in preference to roof runoff.

NOTE 3: The trench shall be 700mm wide x 700mm deep and fitted with half round PVC (230mm radius) dome sections backfilled with crushed or round river gravel to within 150mm of surface level, surrounded with suitable geofabric and finished with topsoil.

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- NOTE 4: The trench is to be at least 5 metres from private property boundaries and 3 metres from the footings of any structure.
- NOTE 5: A suitably designed litter and coarse sediment 450mm square grated arrestor pit is to be provided immediately upstream of the trench.
- NOTE 6: The trench is not to require excavation underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).
- NOTE 7: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied.
- NOTE 8: This requirement does not apply where the Applicant considers installation to be impractical.

OR

For stormwater retention, provision of a 2000 litre rainwater tank within the subject property designed to capture and retain runoff from at least one roof downpipe after which runoff bypasses the tank and reverts to the main drainage system. Design drawings are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) **prior** to issue of the Construction Certificate.

- NOTE 1: The tank is to be located at or above existing natural ground level.
- NOTE 2: If abutting a wall of the dwelling, the tank must be below the eaves line.
- NOTE 3: The tank must not be located on the front façade of a dwelling.
- NOTE 4: If the tank is to be attached to a structure then a structural engineer is to certify the adequacy of the design of the structure to carry the tank.
- NOTE 5: Maximum height of the tank is 1.8 metres above natural ground level where installed along the side boundary setback of a dwelling.
- NOTE 6: The tank is to be a commercially manufactured tank designed for the use of water supply and to be installed in accordance with manufacturers specifications.
- NOTE 7: The tank is to be located above an available landscaped area so that the tank may be readily used for watering purposes.
- NOTE 8: The tank is to be fitted with a standard garden tap or similar which is to be clearly marked as not to be used for drinking purposes.
- NOTE 9: The tank is to be fitted with measures to prevent mosquito breeding.

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NOTE 10: Upon completion, certification from a suitably qualified person is to be submitted to the Principal Certifying Authority with respect to this condition being satisfied

NOTE 11: This requirement does not apply where the Applicant considers installation to be impractical.

50. To prevent surface stormwater from entering the building, the finished habitable ground floor level(s) of the building shall be a minimum of 150mm above adjacent finished ground level(s). The entire outside perimeter of the building must have overland flow escape routes which will protect all finished floor levels from flooding during times of complete subsurface drainage blockage.

51. The property drainage system shall be designed and based upon a 235mm/hour rainfall intensity for a duration of five (5) minutes (1:50 year storm recurrence) for impervious surfaces and in accordance with Council's Stormwater Management Manual. Design drawings and calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

NOTE 1: The property drainage system is not to require excavation or fill underneath the canopy areas of any trees to be retained unless as approved by a qualified arborist's certification that such excavation will not affect the longevity of the subject tree(s).

NOTE 2: If the proposed drainage system involves piping underneath or within the building then the designer is to certify that the design is in accordance with AS3500.3.2:1998 and the BCA.

NOTE 3: All enclosed floor areas, including habitable and garage floor levels, are to be safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

52. Full design drawings of the proposed method of achieving the requirements for on-site stormwater detention and supporting calculations are to be prepared by a suitably qualified and experienced hydraulic engineer and submitted for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

53. Submission, for approval by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate, of a Soil and Erosion Control Plan prepared in accordance with the NSW Department of Housing document "Managing Urban Stormwater – Soils and Construction" (1998) by a suitably qualified and experienced engineer or surveyor. Such controls should include but not be limited to appropriately sized sediment basins, diversion systems, appropriate controls for each stage of works identified and barrier fencing which maximises and protects areas which are not to be disturbed. The plan must also specify inspection and maintenance regimes and responsibilities and rehabilitation measures.

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54. A *CASH BOND/BANK GUARANTEE* of \$2000.00 shall be lodged with Council as a Landscape Establishment Bond prior to the release of the Construction Certificate to ensure that the landscape works are installed and maintained in accordance with the approved landscape plan or other landscape conditions.

Fifty percent (50%) of the this bond will be refunded upon issue of the final Certificate of Compliance, where landscape works as approved have been satisfactorily installed. The balance of the bond will be refunded 3 years after issue of the building certificate, where landscape works has been satisfactorily established and maintained.

It is the responsibility of the applicant to notify Council in relation to the refunding of the bond at the end of the 3 year period. Where a change of ownership occurs during this period it is the responsibility of the applicant to make all arrangements regarding transference of the bond and to notify Council of such.

55. The applicant shall ensure that no underground services (ie water, sewerage, drainage and gas) shall be laid beneath the canopy of any tree protected under Council's Tree Preservation Order, located on the subject allotment and adjoining allotments.

A plan detailing the routes of these services shall be submitted to the Principal Certifying Authority for approval prior to the release of the Construction Certificate.

56. i. The paved area adjacent to the kitchen (RL 146.75) is to be constructed as a suspended slab to retain the cypress located adjacent to the laneway to Taunton Street. The suspended slab is to be designed so that there will not be any piers or footings within 2.0 metres from the trunk of the Cypress. The extent of the paved terrace is to be reduced as far as possible under the drip line of the Cypress to lessen any impact on the tree. Details being submitted prior to the issue of a Construction Certificate.
- ii. In order to retain the Photinia hedge, there is not to be any piers or footings associated with the construction of the paved terrace within 500mm of the extremity of the foliage (the drip line) of the existing photinias. Details to be submitted prior to the issue of a Construction Certificate.
- iii. A qualified arborist is to detail requirements for protective fencing and other appropriate measures to be implemented prior to the issue of a Construction Certificate, to facilitate the ongoing success of the Cypress and the Photinia hedge.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

57. To preserve the existing trees to be retained along the driveway, no work shall commence until a fence is erected along the SW edge of the driveway to prevent any activities, storage or the disposal of materials within the fenced area. The fences shall be maintained intact until the completion of all demolition/building work on site.

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58. The tree protection fence shall be constructed of galvanised pipe at 2.4 metre spacings and connected by securely attached chain mesh fencing to a minimum height of 1.8 metres prior to work commencing.

CONDITIONS TO BE COMPLIED WITH PRIOR TO OCCUPATION

59. **The construction of the works in the accessway handle, including the seven (7) items above, prior to issue of an Occupation Certificate. The works are to be supervised by the designing engineer or surveyor and certified upon completion that the as-constructed works comply with the approved design documentation and relevant Council Specifications. The designing engineer or surveyor is to also submit a works-as-executed drawing of the as-constructed works. A registered surveyor is to certify that works are wholly contained within the relevant allocations.**
60. Construction of the property stormwater drainage works is to be supervised and upon completion certified by a suitably qualified and experienced hydraulic engineer or surveyor, prior to Occupation, that:
- The works were carried out and completed in accordance with the approved plans.
 - All enclosed floor areas, including habitable and garage floor levels, are safeguarded from outside stormwater runoff ingress by suitable differences in finished levels, gradings and provision of stormwater collection devices.

A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier prior to Occupation.

61. Construction of the On-site Stormwater Detention System is to be supervised and upon completion a Certificate and Works-as-Executed drawing issued by a suitably qualified and experienced engineer or surveyor is to be submitted to the Principal Certifying Authority prior to occupation or issue of an Occupation Certificate.

NOTE 1: The Certificate is to be with respect to compliance with:

- The soundness of the structure.
- The adequacy of the outlet control mechanism to achieve the discharge as specified.
- The capacity of the detention storage as specified.
- The size of the orifice or pipe control fitted.
- The maximum depth of storage over the outlet control.
- The adequate provision of a debris screen.
- The inclusion of weepholes in the base of the outlet control pit.
- The provision of an emergency overflow path.

NOTE 2: The certifying engineer and surveyor is to also complete and submit Council's standard On-site Stormwater Detention Certification sheet.

NOTE 3: The Works-as-Executed drawing(s) are to include all relevant levels including:

- invert levels

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- surface or pavement levels
- floor levels including adjacent property floor levels
- maximum water surface level to be achieved in the storage zone
- dimensions of basin(s), tank(s), pit(s), etc.
- location(s) of basin(s), tank(s) and distances from buildings, boundaries, and easements, etc.
- storage volume(s) provided and supporting calculations
- size of orifice(s)

62. The creation of a Positive Covenant and Restriction on the Use of Land under Section 88B of the Conveyancing Act 1919, burdening the property with the requirement to maintain the on-site stormwater detention facilities on the property prior to occupation or the issue of an occupation or subdivision certificate. The terms of the instruments are to be generally in accordance with the Council's "draft terms of Section 88B instrument for protection of on-site detention facilities" and to the satisfaction of Council. For existing Titles, the Positive Covenant and the Restriction on the use of Land is to be created through an application to the Land Titles Office in the form of a request using forms 13PC and 13RPA.
63. In order to maintain Council's database of as-constructed on-site stormwater detention systems, if the Principal Certifying Authority is not Council then a copy of the approved stormwater detention design, the works-as-executed drawings and the Engineer's certification of the as-constructed system is to be provided to Council, attention Development Engineer, prior to occupation, the issue of the Occupation Certificate or the issue of a subdivision certificate.
64. Prior to occupation, the issue of an Occupation Certificate or the issue of a Subdivision Certificate any infrastructure within the road reserve along the frontage of the subject site or within close proximity which has been damaged as a result of construction works on the subject site is to be repaired to the satisfaction of Council's Development Engineer.
65. The designing engineer is to certify the remaining sections of the existing driveway are structurally adequate to convey all design vehicles up to a fully laden concrete truck. If this certification cannot be provided, the applicant is to reconstruct the driveway to current standards.
66. Landscape works shall be carried out in accordance with Landscape Drawing No 93/02 prepared by Sally Bourne Landscapes and dated 28 November 2002 submitted with the Development Application. The landscape works shall be completed prior to the release of the Certificate of Occupation and be maintained in a satisfactory condition at all times.
67. On completion of the landscape works, a Landscape Architect or qualified Landscape Designer shall submit a report certifying correct installation, faithful to the landscape plan to the Principal Certifying Authority with a copy to Council, prior to issue of the Occupation Certificate.

BUILDING CONDITIONS

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68. The following are required details and must be submitted to the Principal Certifying Authority *prior to issue of the Construction Certificate*. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.
- a. Details prepared by a practicing structural engineer for all or any reinforced concrete, structural steel or timber framing.
 - b. Wind bracing details complying with AS 1684-1992 National Timber Framing Code, AS 1170.2-1989 Wind Load Code or AS 4055-1992 Wind Loads for Housing Code.
 - c. Upper floor joist details, engineered or complying with AS 1684-1992 National Timber Framing Code.
 - d. Retaining walls and associated drainage.
 - e. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code.
 - f. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.
69. The building works are to be inspected during construction by the Council, an accredited certifier or other suitably qualified person/s (as applicable) and a Compliance Certificate shall be issued prior to proceeding to the subsequent stages of construction, encompassing not less than the following stages:
- a. All sediment and erosion control and tree protection measures and installations in place on the site prior to the commencement of any earthworks, excavations or other work.
 - b. Any pier holes and/or foundation material.
 - c. Any steel reinforcement prior to placement of concrete. This includes all reinforcement of floors, slabs, trenches, columns, beams and stairs (if components of this structure).
 - d. Any structural components (i.e. timber framework, structural steelwork or the like) before fixing any lining or covering.
 - e. Any stormwater drainage works prior to covering.
 - f. The completed landscape works in accordance with the approved plans.
 - g. The completed structure prior to occupation.

The required inspection fees (which also covers the issue of the Compliance Certificate) are to be paid to the Council before the issue of a Construction Certificate for this development.

If inspections are to be carried out by Council, 24 hours notice is required by Council's Department of Environmental and Regulatory Services, by telephoning Customer Service on 9424 0888 during business hours (8.30am to 4.30pm) or by facsimile on 9418 1117.

Note: Inspections of work which is found to be defective or not ready will attract a reinspection fee. Please cancel bookings which will not be ready for inspection.

70. To ensure compliance with this determination the building shall be set out by a Registered Surveyor and the Survey Report shall be lodged with the Principal Certifying Authority prior to the external wall construction proceeding above floor level.

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71. For the purpose of safe ingress and egress the stairs are to be constructed within the following dimensions:

Risers:	Maximum 190mm	Minimum 115mm
Going (Treads):	Maximum 355mm	Minimum 240mm

Note: Dimensions must also comply with limitations of two (2) Risers and one (1) going equalling a maximum 700mm or minimum 550mm. The Risers and Goings shall be uniform throughout the length of the stairway.

72. For fire safety an automatic fire detection and alarm system shall be installed throughout the dwelling in accordance with the following requirements:
- a. A smoke alarm system complying with Part 3.7.2 of the Building Code of Australia Housing Provisions; or
 - b. Smoke alarms which:
 - i. comply with Australian Standard 3786 or listed in the Scientific Services Laboratory Register of Accredited Products (all accredited products should have scribed on them the appropriate accreditation notation); and
 - ii. are connected to the mains and have a standby power supply; and
 - iii. are installed in suitable locations on or near the ceiling and as prescribed under Part 3.7.2 of the Building Code of Australia Housing Provisions.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority.

73. Termite protection which will provide whole of building protection in accordance with Australian Standard 3660 - *"Protection of Buildings from Subterranean Termites"* is to be provided.

Council has a non chemical policy for termite control but will consider proposals involving physical barriers in combination with approved chemical systems. Handspraying is prohibited.

Where a monolithic slab is used as part of a termite barrier system, the slab shall be constructed in accordance with Australian Standard 2870.1 or as designed by a structural engineer but in either case shall be vibrated to achieve maximum compaction.

To ensure compliance with this condition, a Compliance Certificate or documentary evidence from a suitably qualified person is to be submitted to the Principal Certifying Authority prior to the issue of an Occupation Certificate.

74. The following are required details and must be submitted to the Council on completion of the works. Any matter listed below must have a Certificate attached from a suitably qualified person to the effect that the design or matter complies with the relevant design Standard or Code which the Certificate must identify.

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- a. Wet area waterproofing details complying with the Building Code of Australia.
- b. Glazing details complying with AS 1288-1989 Glass in Buildings and Installation Code
- c. Stormwater disposal details complying with Council's Stormwater Management Manual and/or other conditions of this consent.

G Bolton
Team Leader, St Ives Ward

M Miocic
Director
Environment & Regulatory Services

Attachments: **Copy of Landscape Review Report prepared by "Botanica".**
 Copy of supplementary report to Council dated 25 February 2004
 Copy of original report to Council dated 8 December 2003

WEST PYMBLE POOL BUSINESS STRATEGY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

The purpose of this report is to advise Council of feedback received during the period of public exhibition of the draft West Pymble Pool Business Strategy, associated funding implications and to endorse the business strategy for future actions.

Additionally the existing lease expires in September 2004 and as per the previous resolution Council requires that a tender process be undertaken to market test the lease incorporating items outlined in the business strategy.

BACKGROUND:

In 2002, a facility condition audit report was undertaken and provides the framework for the development of the long term asset maintenance program in recognition of its age. Concurrent with the asset maintenance program, a business strategy has been developed to ensure the facility meets the communities needs both now and in the future in respect of both facilities and services.

COMMENTS:

Once resolved, the business strategy will provide valuable guidance in the direction of the upcoming pool management contract, which expires in September 2004. Following the public exhibition period, option 2 is the preferred option by the majority of submissions received.

RECOMMENDATION:

That Council adopt Option 2, as outlined in the Draft West Pymble Pool Business Strategy. Council support a detailed feasibility to be considered in the 2004/05 Management Plan, a selective tender process be used for the provision of commercial swimming pool management services and that a future report be considered by Council at the conclusion of the tender evaluation process.

PURPOSE OF REPORT

The purpose of this report is to advise Council of feedback received during the period of public exhibition of the draft West Pymble Pool Business Strategy, associated funding implications and to endorse the business strategy for future actions.

Additionally the existing pool management lease expires in September 2004 and as per the previous resolution Council requires that a tender process be undertaken to market test the lease incorporating items outlined in the business strategy.

BACKGROUND

Ku-ring-gai Council provides a significant outdoor public swimming facility located in Bicentennial Park that includes 1 x six lane 50m outdoor pool, a program pool, two small toddler/wading/babies pools and associated amenity block which includes a small kiosk and service desk, toilet and change facilities for both able and disabled people, limited storage and office space. The site also has a swimming club building with shelter facilities.

The West Pymble Pool receives approximately 96,000 visits per annum and provides a base for the Ku-ring-gai Amateur Swimming Club. Whilst the pool is an outdoor facility and closed during the colder winter months, it is relatively well utilised by the community during the warmer months and is highly valued by the community. The pool is often referred to as a community pool that provides a "local" focus and appeal.

Opened in 1969, the facility is 34 years old and is showing signs of aging. Whilst recognising a number of Council and community initiated improvements at the pool, the pool and amenities are of poor standard when compared to a number of newer or redeveloped facilities within the region. Should the facility remain as it is it will become increasingly obsolete for future communities and a greater drain on Council resources. Upgrading the facility to better meet the needs of the community would likely reverse the decline in attendance. The facility has been and is currently managed by a lessee.

Council has initiated a number of other actions in relation to the long term management of Council's pool. A long term asset management plan for the pool has been developed with Council committing to a five year \$1.5 million dollar program, Councils lease for the facility has been renewed and a business plan for the facility was required to be developed that considers both service and facility aspects.

Council has previously resolved that:

- A. That Council following the adoption of the Bicentennial Park Plan of Management approve the granting of a 2 year lease to Mr & Mrs Martin for the management of Council's West Pymble Swimming Pool at Bicentennial Park, subject to the conditions outlined in this report and those of section 47(A) of the Local Government Act 1993.
- B. That Council issue a public notice as prescribed by section 47(A) of the Local Government Act 1993.

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- C. That Council authorise the Mayor and Acting General Manager to sign the lease documentation should no objections be received following the period of public notice.
- D. That Council authorise the affixing of the Common Seal to the lease document should no objections be received indicating objections to the proposed lease.
- E. That a report be brought back to Council if there are any significant objections received to the proposal in accordance with Section 47 (4-10) of the Local Government Act 1993.
- F. That a report be presented to Council by June 2003 outlining the business plan for the pool in terms outlined in this report.

Following the expiration of the current lease in September 2004 it is intended to put the provision of swimming pool management services to tender in accordance with Section 55 of the Local Government Act 1993. As part of that process an expression of interest be undertaken to identify and shortlist appropriate proponents and that following a shortlist of appropriate proponents, a selective tendering process be undertaken to determine the preferred suitably company or bona fide partnership and a future report identifying the preferred company or bona fide partnership be presented to Council during July 2004.

The draft Pool Business Strategy has been undertaken by Council staff with assistance from Suter & Associates Leisure and Tourism Planners. The consultant was appointed to assist with the strategy in March 2003. Council officers have researched past studies and information on the West Pymble pool, including research on other aquatic centres, attended meetings, provided administrative support, liaised with the lessees, amateur swimming club and the Ku-ring-gai Sports Advisory Committee in the development of the draft strategy.

In addition in late June 2003 workshops were held between the Ku-ring-gai Amateur Swimming Club, Council officers and assisted by the consultant. Six participants attended from the swimming club. A further workshop was held with the lessor and regular pool users where 11 participants attended.

The assessment of potential facility options in this Business Strategy is based on the assumption that the West Pymble Pool will remain as an aquatic facility due to the high level of community support for this facility.

Four options for the future management of this facility have been considered. Brief discussion in the document focuses on consideration of a more comprehensive leisure/aquatic facility in a more appropriate location. That is one that is significantly more accessible than Bicentennial Park (eg. along the rail corridor) and would service a geographic area, largely not provided for in terms of aquatic/leisure facilities.

The four development options are outlined in summarised form below;

Option 1:

- Undertake no development, beyond the operational refurbishment already proposed.

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- As there would be no change to the amount and design of existing water space and quality of the facility, opportunities for new programs and services to meet the communities needs and the potential to increase usage of the facility would be vastly hampered.

Option 2:

- Retain West Pymble Pool as an outdoor swimming facility, but undertake significant upgrade to the pools and buildings to better meet the needs of the community.
- The unique outdoor and open characteristics of the site would be retained which is highly valued by the community. Additional water space would be provided through development of a 25 metre outdoor pool, which will enable opportunities for additional lap swimming plus a range of health, fitness and learn to swim programs. An appealing water play area could be established for children, which has the potential to meet a community need given Bicentennial Park already attracts large proportions of families with children to the playground and could be integrated to become an extension of this play environment.
- The enhancement of the amenities and other services such as a kiosk/café would improve the quality of the experience of the users as well as attracting new clientele.

Option 3:

- Establish an indoor 25m pool, retain the existing 50m outdoor pool and upgrade the buildings. This option would require removal of the existing wading and program pools, which would then be incorporated into the development of the 25 metre indoor pool.
- The desire for an indoor pool in this local government area would be catered for and in particular would service the Ku-ring-gai Amateur Swimming Club's needs. The indoor component of the facility whilst providing additional water space would provide a local venue for all year learn to swim, other health and fitness programs as well as lap swimming. Of note regarding this option are the following comments:
 - ◆ Potential high impact on the outdoor and open characteristic of the site.
 - ◆ Unknown broad community demand for an indoor 25 metre pool given the provision of other larger and more diverse facilities located nearby.
 - ◆ A potential high ongoing operational cost to Council, if preference by users remained with other existing indoor facilities and/or lack of additional fitness and leisure services that could be provided to assist with this operational subsidy ie. gymnasium.

Option 4:

- Establish an indoor leisure facility, with an indoor 25m pool and health and fitness facilities.
 - Remove all existing pools and buildings.
 - The 1994 pool study highlighted the West Pymble Pool site was not an appropriate location for a multi purpose leisure centre. Issues identified included access, transport, car parking, size of site and topography.
 - Such a development would be inconsistent with the objectives of the Bicentennial Park Plan of Management.

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- The loss of the outdoor open characteristics of the West Pymble Pool would be of major concern to the community given these reasons are the key factors for usage and value of the facility by many people.

The development of the 50m indoor pool has not been considered due to the regional nature of such a facility and the relatively high level of provision that already exists in the region. In addition, a indoor 50m pool would negatively impose on the open character of the site and Bicentennial Park, and is therefore not recommended.

The business strategy also provides some guidance for Council in respect of the services that are offered at the facility and those Council may wish to consider in the future. The focus of the current lease at the pool is heavily weighted toward the provision of the pool specifically at the expense of recreation programs or other services. The draft strategy acknowledges the ongoing efforts of the existing lessees at the pool and in particular the rapport they have established and maintained with the community.

Whilst the draft strategy does not propose major changes to the style of management lease in the short term, there is a possibility of undertaking detailed planning and feasibility analysis for pool upgrades or development, some changes could be considered in a review of the current lease prior to its expiring in September 2004.

In particular consideration can be given to:

- providing additional health, fitness and community programs, particularly for young children, parents and older people
- Reviewing user fees and in particular considering a family pass, group passes, spectator benefits, reduced fees or trial vouchers for new programs
- Enhancing the kiosk/café area
- Considering the sale and distribution of merchandise
- Introducing child care
- Increased promotions

It should be noted the draft strategy recognises that the facility itself has substantial limitations that make the efficient delivery of some of these services and programs difficult.

On 2 December 2003 Council resolved that ‘the draft pool business options be placed on public exhibition during December 2003 and January 2004 seeking submissions and comments from key stakeholders, pool users and the community.

COMMENTS

The process of consultation undertaken during the exhibition period is outlined under the consultation section of this report.

The community response to the public exhibition of the document was very strong - 181 submission to the strategy and Councils preferred direction were received. Many of the responses received did not indicate a specific option from the four presented but rather made comments such as “keep the outdoor character” or “don’t change the configuration of the children’s pools”. Accordingly responses have been tabulated both in terms of support and/or opposition for a particular option as

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well as in terms of the general thrust of the overall submission. Attachment 3 provides a full summary of all responses and comments received.

Table 1 summarises the responses received by the number indicated as preference

For		Against	
Option 1	21	Option 1	1
Option 2	52	Option 2	1
Option 3	28	Option 3	0
Option 4	0	Option 4	5
1 &/or 2	11	3 or 4	4
1, 2 or 3	2		
2 &/or 3	8		
3 or 4	2		
Combination of 2 & 3	3		
No option suggested	51		
Stated no option was suitable	3		

Table 2 summarises the most common comments received.

Summary of Written Responses	Number received
Keep outdoor setting	52
Keep small pool configuration	44
Keep as is	37
Need an indoor facility/ Need 25m indoor pool	41
Heat 50m pool/investigate option for 12 month opening/Temporary covers	27
Extend 50 metre pool	3

Of particular relevance is the submission from the Ku-ring-gai Amateur Swimming Club (Attachment 4). The club raised a number of points about the content of the draft strategy with reference to issues that they believed may distort the feedback from Council regarding possible removal of the junior and program pools should option 3 be undertaken. Accordingly analysis of both numbers favouring specific options as well as numbers indicating a general preference for future development of the pool have been analysed.

The club advised that their strong preference is for Option 3 (development of an indoor 25 metre pool at the site, retaining the 50 metre outdoor pool and incorporating the junior and program pools into the indoor facility) and have requested that Council investigate both options 3 and 2. The club have recognised that “the facility must retain a substantially outdoors look and feel so the indoor pool facility needs to be designed with imagination and flair. Both indoor and outdoor pools must be heated as, with the additional pool generating more flexibility and use of the facility, a greater

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demand will be maintained all year". Attachment 3 details the full submission from Ku-ring-gai Amateur Swimming Club.

It is clear from feedback received that there is in general support for enhancement of the facility. It is also clear that the essential character of the outdoor setting should be retained regardless of whether a partial indoor facility is created or not. There is also clear support for the retention of the junior and programming pools as well as interest in considering the opening of the pool for a twelve month period and/or using temporary covers.

The draft strategy suggests that of all the options considered, options 2 and 3 provide the most meaningful direction forward for the existing pool facility given its location and particularly given the community feedback. There are advantages and disadvantages to both options.

A commitment to Option 3 would involve substantial capital and recurrent financial commitment well beyond Council's current level of provision and should only be considered following a detailed feasibility and financial assessment which in itself would require substantial cost to have commissioned and undertaken.

Pursuing Option 2 appears to provide Council with a positive opportunity to build on the niche that has been well established at West Pymble Pool for many years, within and adding to the context of Bicentennial Park. It will not however address the expressed desire of the swimming club to have an all year round facility available at the location. Option 2 will allow Council to keep its options open regarding the future development of a dedicated aquatic/leisure facility in a more appropriate location in the longer term, should that become a priority and appropriate funding sources be identified.

Once resolved the strategy will provide valuable guidance in the direction of the upcoming pool management contract, which expires in September 2004, (Attachments 1 and 2). Improvements to the West Pymble Pool and its management should aim to benefit a great number of people and increase the revenue potential for both the Council and new lessees. However, the lessee and Council should be mindful of the need to retain the personal approach to management and the 'Community' nature of the pool as this is highly valued by existing users.

The strategy has indicated that some aspects of the management of the pool could be reviewed and those aspects include marketing, pricing strategies and a more proactive approach to programming. Accordingly proposals and analysis for both the expression of interest and the tender process for the provision of commercial pool management services will specifically address these issues.

CONSULTATION

An advertisement was put in the corporate section of the North Shore Times on 17 December 2003. Posters inviting comments were put up in St Ives Shopping Centre, Gordon Shopping Centre and at the pool, additionally comments slips and a comments box were located at the pool. Schools who use the swimming pool were advised in writing that the document was on public exhibition as were the local residents who had participated in the consultation sessions during the development of the plan. In addition brief information and the entire report was available to view and down load from Council's web site.

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Consistent with Councils resolution an extensive consultation process was undertaken during the public exhibition period over December and January whilst the swimming season is at its peak.

Posters inviting comment were placed in St Ives Shopping centre, Gordon Shopping centre, and at the pool which included a short summary of each option and Councils preferred option. An advertisement was placed in Councils corporate section of the North Shore Times (17 December 2003, Attachment 5). Council's libraries and chambers displayed information and all schools who use the pool were advised in writing that the draft business strategy was on exhibition. Similarly the Ku-ring-gai Amateur Swimming Club and local residents who had participated in the consultation sessions during the development of the plan were directly notified and both summary information and the full report was available to view and download from Councils web site. A feedback form and collection box were located at the pool to encourage ease of participation.

During discussion with the swimming club over the period of public exhibition it became apparent that the summary information could be construed to outline that an indoor pool at the facility may occur at the expense of the junior pools, thus lessening the appeal of that option. Accordingly in the development of this report weighting has been applied to actual comments received, not counting the number of suggestions favouring individual options.

In all 181 responses (by mail, phone or email) were received to the public exhibition of the draft strategy. Attachment 3 provides a full summary of all responses and comments read. An analysis of those responses is provided within the comments section of this report.

The swimming club have also offered their support and desire to remain included in any feasibility studies for future development. This offer is supported by staff.

In recognition of the volume and positive nature of feedback received it is recommended that Council communicate broadly which course of action it chooses including information at the pool on the web, via press release and direct recognition to those that forwarded submissions to Council.

FINANCIAL CONSIDERATIONS

A commitment by Council to progress significant rejuvenation of the pool by either option 2, 3 or 4 will have significant financial implications for Council.

Option one, involving no further development of the facility will whilst not having short term financial implications, leave significant implications for the long term viability of the asset as it continues to decline and becomes a less appealing through still necessary asset.

Costs for the implementation of Option 2, 3 and 4 represent indicative costs (initial estimates only of \$1.5 million, \$4 million and \$7-8 million respectively. Further detailed feasibility and costing will be required to fully and accurately outline any specific proposal.

Council has committed to a five year \$1.5 million dollar program for the pools to ensure compliance with relevant health standards and to address the aging infrastructure of the asset.

The draft Section 94 plan has included a project for redevelopment of the pool consistent with option 2 of the business strategy. It has over the life of the proposed plan identified a need for

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approximately \$1 million dollars in funding for stage 1 enhancements. The plan has identified that developer contributions of approximately \$140,000 of that costs would be attributable to new development and hence subject to levy.

An analysis of the last two years of the proposed five year program indicates some overlap between asset rejuvenation and significant renewal and enhancement of the facility correspondingly it is considered that should Council commit to Option 2 or 3 approximately \$600,000 from that program could be diverted to the shortfall. Additionally as Section 94 funds are received for other programs thus supplementing existing revenue sources allocated to those projects, a portion of those funds can be diverted.

It is likely that whichever option Council may choose to pursue staging of the implementation will be a likely outcome. Further detailed analysis of costs and funding strategies will be required as the projected progress.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Finance and Business Development have been consulted in the development of the report and the draft business strategy.

SUMMARY

The West Pymble Pool receives approximately 96,000 visits per annum and provides a base for the Ku-ring-gai Amateur Swimming Club. Whilst the pool is an outdoor facility and closed during the colder winter months, it is relatively well utilised by the pool users, stakeholders and the residents during the warmer months and is highly valued by the community in general. The pool is often referred to as a community pool that provides a “local” focus, appeal and family atmosphere.

A number of actions have been initiated by Council and the community with regards to improvements and the longer term management of the West Pymble Swimming Pool:

- Pool heating undertaken and facility seating installed in 1990.
- Shade structures built and anti wave laying ropes incorporated in 1994.
- New starting blocks constructed in 2001.
- A long term asset management plan for the pool has been developed.
- Council has committed to a five year \$1.5 million dollar rolling enhancement and improvement program based on the asset management plan which prioritises works to ensure the facility complies with minimum NSW Health Pool Safety guidelines.
- Council has renewed the commercial pool management services lease for the facility (exercised option expires September 2004).
- A draft business strategy for the facility has been developed that considers both services and facility components, and will guide the upcoming management arrangements for the pool management contract prior to expiry.

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During December 2003 and January 2004 in accordance with Councils resolution dated 2 December 2003, 'the draft pool business strategy be placed on public exhibition seeking submissions and comments from key stakeholders, pool users and the community'.

The community response to the public exhibition of the document was very strong - 181 submission to the strategy and Councils preferred direction were received. Many of the responses received did not indicate a specific option from the four presented but rather made comments such as "keep the outdoor character" or "don't change the configuration of the children's pools".

It is clear from feedback received that there is in general support for redevelopment and enhancement of the facility. It is also clear that the essential character of the outdoor setting should be retained regardless of whether a partial indoor facility is created or not. There is also clear support for the retention of the junior and programming pools as well as interest in considering the opening of the pool for a twelve month period or temporary covers.

The draft strategy suggests that of all the 4 options considered, options 2 and 3 provide the most meaningful direction forward for the existing facility given its location within Bicentennial Park and the communities feedback.

If Option 2 is the desired strategy that Council wished to pursue, this will allow Council to keep its alternatives open regarding the future development of a dedicated aquatic/leisure facility in a more appropriate location in the longer term, if appropriate funding sources are identified and allocated and that need is demonstrated.

Whilst the enhancement and improvement works to the facility will not necessarily increase the potential for revenue for Council or the new lessees, this could be realised if a feasibility into pursuing the longer term vision for option 2 and/or the implementation of option 3. However, the lessee and Council should be mindful of the need to retain the personal approach to management and the 'Community' nature of the pool as this is highly valued by existing users.

Consistent with Councils resolution an extensive consultation process was undertaken during the public exhibition period over December and January whilst the swimming season is at its peak.

In recognition of the volume and positive nature of feedback received it is recommended that Council communicate broadly which course of action it chooses including information at the pool on the web, via press release and direct recognition to those that forwarded submissions to Council. It is likely that whichever option Council may choose to pursue staging of the implementation will be a likely outcome. Further detailed analysis of costs and funding strategies will be required as and when the detailed feasibility is commissioned and undertaken.

RECOMMENDATION

- A. That Council adopt Option 2 as outlined in the draft West Pymble Pool Business Strategy as its preferred direction for future management and development of the pool.

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- B. That a detailed feasibility be considered for inclusion in the 2004/05 Management Plan including full financial analysis.
- C. That Council acknowledge the efforts of those who have contributed to the development of the West Pymble Pool Business Strategy as outlined in the report.
- D. That further analysis be undertaken of options and demand for an indoor swimming pool.
- E. That a selective tender process be used for the selection of qualified companies or bona fide partnerships for delivery of pool management services for a three year period commencing September 2004.
- F. That at the conclusion of tender evaluation a further report be considered by Council with regards to the appointment of a suitable tenderer to undertake those works as tendered.

Morven Cameron
Sport & Recreation Planner

Amanda Colbey
A/Manager Parks, Sport &
Recreation

Steven Head
Director Open Space

Attachments:

- 1. Expression of Interest newspaper advertisement**
- 2. Confidential Expression of Interest document (may confer commercial advantage) to be distributed separately prior to OMC 9 March 04**
- 3. Full summary of responses received.**
- 4. Submission from the Ku-ring-gai Amateur Swimming Club.**
- 5. Advertisement North Shore Times.**

WATER MANAGEMENT DEVELOPMENT CONTROL PLAN

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present the Water Management Development Control Plan (DCP47) to Council for adoption following exhibition.
BACKGROUND:	The Draft Water Management DCP has been amended following input from the community and further work by Council officers.
COMMENTS:	The Draft Water Management DCP has been amended following input from the community and further work by Council officers.
RECOMMENDATION:	That Council adopt the Water Management DCP (DCP47) as attached to this report. That Draft DCP47 be reviewed upon commencement of BASIX.

PURPOSE OF REPORT

To present the Water Management Development Control Plan (DCP47) to Council for adoption following exhibition.

BACKGROUND

Council's current Stormwater Management Manual (SMM) was adopted in December 1993. A Draft Water Management Development Control Plan (DCP47), designed to replace the SMM, was exhibited in 1999 but was not adopted.

In September 2002, Council resolved that DCP47 would be redrafted consistent with the principles of Water Sensitive Urban Design (WSUD). It was also determined that the DCP would contain appropriate controls in terms of public health, risk management, environmental quality and the landscape quality of Ku-ring-gai.

COMMENTS

WATER SENSITIVE URBAN DESIGN

WSUD is a site design strategy that adopts a range of strategies to increase the beneficial outcomes and minimise the potential impacts of a development in terms of water management. Rather than relying on large-scale stormwater management schemes and a blanket approach to setting controls, WSUD makes use of individual site characteristics and design elements to control stormwater at or close to the source and to ensure consideration of all parts of the water cycle.

Implementation of WSUD can involve use of a variety of techniques, including non-structural methods and multi-functional landscapes, to achieve goals including high stormwater runoff quality, controlled velocity and volume of runoff and sustainability of the natural and built environments.

WSUD advocates the use of a number of approaches to stormwater management at any given site, which is preferable in terms of risk management so that sufficient backup facilities are provided in the event that one part of the system fails. The more common approach of having a single OSD system does not provide this certainty.

Because WSUD can be customised to site constraints such as natural features and because it can rely heavily on landscaping and landscape elements to achieve stormwater management goals, this strategy can also help to beautify the urban environment, to create more desirable public open spaces and to enhance habitat values.

WATER MANAGEMENT DCP

Draft DCP 47 has been developed in accordance with contemporary understanding of good water management. The document demonstrates Council's responsibility and commitment towards the

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environment and sustainability by creating a clear relationship between the objectives and the controls, all of which are consistent with the principles of WSUD.

Some aspects of Draft DCP 47 are not consistent with Council's adopted Water Management Policy, however it is considered that the Policy may no longer be appropriate for Council purposes. A further report will be submitted to Council if Council adopts the Water Management DCP recommending either changes to or rescission of the Policy.

Following the formal period of exhibition, submissions were received from nine stakeholders, including residents, engineers and other designers and other stakeholders. The response was generally favourable, with strong support for the approach taken. Copies of the submissions have been made available to Councillors.

A summary of the comments relating to specific sections of the DCP are appended to this report in a table. (Note that the section and chapter numbers given in the table and below refer to the Draft DCP that was previously submitted to Council. Chapters and sections have been rearranged since that time in response to comments.) The report also details the actions taken in response to the comments received. The following is a summary of the primary issues raised:

- The structure and wording of the document need refinement to ensure understanding, particularly in Chapters 7 and 8.
- The definitions of the Locations (Chapter 4) need to be clearer.
- Controls not relating to water management and issues that are not controls must be removed from the DCP.
- The relationship between OSD and OSR needs clarification.
- The concept 'extended on-site detention' is not understood.
- The mandatory tank sizes for smaller developments should be reconsidered.
- The stormwater management controls have merit in theory but are both unclear and difficult to implement.
- Pump-out systems must either be allowed for all development or for none.
- The expected water quality outcomes are unclear.

Changes have been made to the Draft DCP to appropriately address all issues raised. Further detail on the changes is provided in the appended table and below.

The following discussion briefly explains the contents of each chapter of the Water Management DCP and identifies changes that are proposed as a result of public comment received.

Chapter 1 – Introduction

The introductory chapter includes statements of purpose and objectives to provide users (including applicants and staff) with a clear understanding of the goals of the document and the overall standards that must be met in developing proposals. These statements form the basis for DCP 47 as organising principles.

The chapter also contains a diagram to explain how the DCP fits together as well as other explanatory notes on the context of the document. The chapter has been set out so that the most

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important information is found on the first page. Some background information has also been included in the introduction.

Chapter 2 – Dictionary of Definitions

Definitions of terms used in the DCP are located at the front of the document for ready reference. This contributes to the overall useability of the document for residents as well as for qualified engineers and staff.

Chapter 3 – Determining Water Management Requirements

The exhibited draft included a separate chapter detailing the way in which the developer is required to undertake site analysis. This chapter emphasised the importance of developing an overall site design strategy that responds to the site and the site context in order to minimise the net impact of development on the environment.

While this information is still considered to be of great importance, it is recognised that it is:

- a) relevant to all aspects of development rather than solely to water management; and
- b) descriptive information that is not well-placed in a development control plan.

For this reason it is considered necessary to ensure that the information about site analysis is provided to all potential developers at the earliest opportunity.

In order to do this, staff are presently preparing a 'DA Guide' that will provide information about the requirements for preparing and submitting a development application, together with information about process. This will contain all information previously exhibited as Chapter 3 from this DCP (including the Arborist's Report and Bush Regenerator's Report).

The new Chapter 3 and Chapter 4 now refer to the DA Guide as the reference point for all site analysis.

Chapter 3 builds on the site analysis required in the DA Guide to acknowledge that each proposal will have unique water management constraints, needs and opportunities depending on the type of development being proposed and the drainage opportunities offered by its location. The applicant is asked to define the proposal in terms of Development Type (1-9) and Location (A-D) to determine how the DCP will be used.

In response to comments received during the period of public exhibition, the descriptions of the locations have been improved to make them more comprehensible.

Chapter 4 – Site Planning and Building Design

Once site analysis has been undertaken, it is necessary to ensure that the information elicited is used properly. Chapter 4 contains controls describing how information from the site analysis is to be used for subdivision planning, locating and designing buildings and designing landscape. It also contains a summary of built-upon area standards and controls.

Chapter 5 – Stormwater Discharge Leaving the Site

This chapter describes the means by which stormwater must be conveyed between the subject property and the public drainage system. The chapter is divided into sections in acknowledgment of the different opportunities and constraints for different drainage locations. It is designed for easy understanding about Council's requirements and specifies the most appropriate range of disposal methods for any given situation.

The contents of this chapter (the most complicated in the DCP) have been workshopped with consulting engineers to ensure clarity and technical soundness. Some minor changes have been made following the period of exhibition in response to submissions received and also to make the information more clear.

Chapter 6 – On-Site Stormwater Management

This chapter specifies the means by which stormwater may be managed on site. This chapter originally followed the previous chapter, however, the order has been altered as the outcome of decisions made in Chapter 5 can have a bearing on the possibilities for on-site stormwater management.

This chapter differs from the existing Stormwater Management Manual (SMM) in that whereas the SMM requires on-site detention (OSD) for most development and sets different requirements only with respect to catchment, Draft DCP 47 is consistent with the principles of WSUD, allowing the applicant to determine the most environmentally and financially beneficial techniques for achieving the required outcomes.

This chapter also specifies mandatory rainwater tank volumes for development in Ku-ring-gai. The volumes specified take into account work undertaken for Council by a consultancy, Hughes Trueman, as well as planning issues including cost and space limitation. Following the period of exhibition and in response to submissions received, the DCP will now require rainwater tanks for alterations and additions above 50m².

Chapter 7 – Development Adjacent to or over Drainage Easements

With the exception of crossings (ie. bridges), works cannot be undertaken next to or over natural waterways. However, in very limited circumstances works may be undertaken next to or over other public drainage systems. This chapter explains the circumstances under which such development is feasible.

Chapter 8 – Water Quality

This chapter contains controls that help to ensure that new development in Ku-ring-gai does not affect water quality either during or after construction. The first part deals with requirements for construction management, including the plan that must be prepared to demonstrate to Council that the applicant has considered all relevant construction issues during the design of the project.

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The second part of the chapter discusses the way in which stormwater quality must be controlled once the development is operational. This part is performance based, requiring a certain standard to be achieved without specifying how that standard must be met. The controls in this section are based on the sections of the *Water Sensitive Planning Guide* which was produced by the WSUD in the Sydney Region Project. The specifications are consistent with those that will be contained in BASIX and with values reported in the Institute of Engineers Australia (2003) "Draft Australian Runoff Quality".

Chapter 9 – Road and Trunk Drainage Design

This chapter contains controls for the design of, and modifications to, the public drainage system. Road and trunk drainage is managed and maintained by Council so it is extremely important that all activities undertaken on it are carried out in accordance with Council's controls.

Chapter 10 – Water Conservation

This chapter sets requirements for water conservation, requiring water fixtures to have a certified rating of at least 3A.

The chapter also provides for on-site wastewater management such as greywater treatment. This will not require on-site wastewater management for development but merely help to ensure that any applications submitted for such systems demonstrate appropriate consideration of health and environmental issues.

Appendices

Technical specifications, calculation sheets, maps and other additional information are contained in the appendices. This detail is separated from the main body of the DCP in order to make the principle part of the document easier to understand for all users.

CONSULTATION

The Water Management DCP has been exhibited and public submissions carefully considered.

FINANCIAL CONSIDERATIONS

Studies undertaken by Hughes Trueman in accordance with the Management Plan have contributed to the content of the DCP. This work has cost Council approximately \$30,000.

Other than consultancy fees, costs to Council have been primarily related to staff time and exhibition of the Draft DCP (for advertising, printing and additional staff time). If adopted, an advertisement will be placed in local papers informing the community of the adoption. This cost will be met from the operating budget of the Department of Planning & Environment.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The development of the Water Management DCP has been a collaborative effort between Council's Planning and Environment, Technical Services, Open Space and Environmental and Regulatory Services Departments.

The process has involved staff with a range of experience and responsibilities in catchment management, drainage, design, development assessment, landscape architecture, strategic planning, environmental management, compliance and geographical information systems. The project has contributed to improved staff working relationships.

SUMMARY

Draft DCP 47 will replace the existing Stormwater Management Manual 1993. Developed to be used in conjunction with DIPNR's Building Sustainability Index (BASIX), the document aims to ensure that all aspects of water management for new development in Ku-ring-gai are appropriate to the site and surrounds. Draft DCP 47 ensures a clear relationship between stated objectives, aims and controls to effectively communicate Council's requirements.

The controls in Draft DCP 47 have been developed in accordance with the most contemporary understanding of good water management.

RECOMMENDATION

- A. That Council adopt the Water Management DCP (DCP47) as attached to this report.
- B. That those persons who provided feedback on Draft DCP47 during the course of its development be thanked for their input and advised of Council's decision.
- C. That Draft DCP47 be reviewed upon commencement of BASIX.

Katherine Lustig
Environmental Planner

Guy Paroissien
**Manager Environmental
Policy**

Leta Webb
**Director Planning &
Environment**

Robin Howard
**Team Leader
Engineering Assessment Team**

Michael Miocic
**Director
Environment & Regulatory Services**

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Steven Head
Director Open Space

Greg Piconi
Director Technical Services

Attachments:

- 1. Summary of submissions.**
- 2. Draft Water Management DCP (circulated separately).**

CHARACTER STATEMENT OF KU-RING-GAI

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	Following Council's resolution dated 9 March 2004 to adopt two statements on heritage and character, that Council consider its options for incorporating the statements into planning and policy documents.
BACKGROUND:	On 9 March 2004 Council adopted the statement and advice on how the statements could be incorporated into planning and policy documents.
COMMENTS:	The two statements are useful documents that describe the special character and heritage significance of Ku-ring- gai and will assist in policy formulation and interpretation.
RECOMMENDATION:	Council note the report and include the statements in future planning and policy documents.

PURPOSE OF REPORT

Following Council's resolution dated 9 March 2004 to adopt two statements on heritage and character, that Council consider its options for incorporating the statements into planning and policy documents.

BACKGROUND

The statement "The Character of Ku-ring-gai" was formulated by Council's Residential Taskforce sub-committee in 2000 as part of its preparation for the Residential Development Strategy to describe the existing character of Ku-ring-gai. The sub-committee felt it was important to describe what is important and unique about Ku-ring-gai so that a strategy could be developed that would allow change while protecting its essential character. The statement notes that Ku-ring-gai has grown as a predominantly residential area with strong emphasis on gardens and landscape along the railway/transport spine with an absence of industrial development and minimal commercial development.

The statement on heritage significance was prepared by consultants in the 1986/87 heritage study and refined over a number of years.

The main aim in assessing heritage significance is to produce a succinct statement of significance, which summarises heritage values. When considering the whole of a local government area, the statements need to be fairly broad and should clearly define the areas significance in relation to the Region and the State.

On 9 March 2004 Council adopted the Statements and that Council consider its options for incorporating the statements into planning and policy documents and seeks advice on how the statements could be incorporated into planning and policy documents.

COMMENTS

The two statements are useful documents that describe the special character and heritage significance of Ku-ring-gai and will assist in policy making and interpretation.

The Heritage Advisory Committee has recommended that the statements be included as a preamble in planning documents such as DCP 38 - The Good Design Manual, DCP 55 – Multi-Unit Housing, LEP the Exempt and Complying Policy (DCP 46), the Ku-ring-gai Planning Scheme Ordinance, planning studies such as the UCA review. They could also be included on Council's web site, Council mission statements, the State of the Environment Report, with development application information, press releases in the new Residents' Kit, with the review of the Tree Preservation Order, with the tree replenishment program and official statements about character and heritage in Ku-ring-gai. They could also be helpful when Council is defending applications in the Land and Environment Court.

CONSULTATION

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The two statements have been prepared after considerable consultation with various consultants and Council committees over a number of years, including Council's Heritage Advisory Committee.

FINANCIAL CONSIDERATIONS

Incorporation of the statements in planning documents would not involve any additional cost to Council. If Council prepared leaflets on the two statements, there would be the cost of production and printing.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's Planning and Environment Department and the Environment and Regulatory Services Department have assisted in preparation of the statements.

SUMMARY

Council adopted two statements prepared with the assistance of the Heritage Advisory Committee on 9 March 2004. Council requests that a report be brought back to Council on 23 March 2004 on how the statements can be incorporated into Council's planning and policy documents. The statements could be included in planning documents, planning studies such as the UCA review and new residents kits, Council's web site, Council mission statements, the State of the Environment Report, with development applications, press releases and official statements about character and heritage in Ku-ring-gai.

RECOMMENDATION

That Council note the report and include the statements in future planning and policy documents.

Paul Dignam
**Heritage Conservation
Planning**

Antony Fabbro
**Manager
Strategic Planning**

Leta Webb
**Director
Planning & Environment**

Attachments: **Definitions of "The Character of Ku-ring-gai" and "A Statement of Heritage Significance"**

DRAFT (HERITAGE CONSERVATION) LOCAL ENVIRONMENTAL PLAN NO 28 - 50 PENTECOST AVENUE, PYMBLE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To finalise Draft (Heritage Conservation) Local Environmental Plan No 28 (DLEP 28).
BACKGROUND:	Identification of the property as a possible heritage item was made during initial assessment of an application to demolish the existing house for a State Environmental Planning Policy No 5 development. Council resolved to prepare a draft LEP to protect the item and to obtain an independent heritage assessment during exhibition of the draft plan. Council subsequently refused the application at its meeting on 24 February 2004. The applicant appealed to the and Environment Court and the matter is due to be heard on 31 March 2004.
COMMENTS:	No submissions were received during public exhibition of the draft plan. New information has been found, which supports the preliminary heritage assessment that 50 Pentecost Avenue, Pymble has local heritage significance and it is recommended that Council should finalise DHLEP 28 and include the property in Schedule 7 of the Planning Scheme Ordinance.
RECOMMENDATION:	That Council adopts Draft (Heritage Conservation) Local Environmental No 28 and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that he makes the Plan.

PURPOSE OF REPORT

To finalise Draft (Heritage Conservation) Local Environmental Plan No 28 (DLEP 28).

BACKGROUND

Identification as a possible heritage item was made when Council's Urban and Heritage Advisor, Mr Sean Johnson suggested the property might have some heritage value during his assessment of an application to demolish the existing house for a SEPP 5 development.

Council's Heritage Conservation Planner, Mr Paul Dignam was asked to prepare a heritage assessment of the property. His preliminary heritage assessment and report was presented to Council at its meeting on 16 December 2003. Council considered the report and resolved to prepare a draft LEP to nominate 50 Pentecost Avenue, Pymble as a heritage item. Council also resolved to obtain an independent heritage assessment during the exhibition period.

Council refused the application for demolition of the house and construction of 4 units under the provisions of SEPP 5 at its meeting on 24 February 2004. The applicant appealed to the Land & Environment Court. The matter is due to be heard on 31 March 2004.

PUBLIC SUBMISSIONS

Draft (Heritage Conservation) Local Environmental Plan No 28 was initially exhibited from Monday 2 February 2004 to Monday 1 March 2004. As the independent heritage report prepared by consultants for Council was not available until Monday 16 February 2004, the public exhibition was extended to Thursday 18 March to allow all additional item for residents to examine the report and make a submission.

The owners of the property made a written submission (**attached**) noting their strong opposition to the draft heritage listing. Their submission noted the conclusions reached in the report prepared for Council by an independent heritage consultant - Graham Brooks and Associates.

The independent heritage assessment prepared by Graham Brooks and Associates concluded that the house does not meet the minimum entry threshold as a local heritage item. It is noted in the report that little additional historic research was undertaken and concluded that if further information were to come to light, this may cause the conclusions to be reassessed.

COMMENTS

The independent heritage assessment prepared by Graham Brooks and Associates is their professional opinion given the evidence available to them. They established that the architect for the house is not August Aley, as was thought in the preliminary report prepared by Council's Heritage Conservation Planner. The opinion that Aley might have been the architect was made after considering the stylistic characteristics of the house and its comparison with other similar

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houses known to be designed by Aley. Graham Brooks contacted a relative of Aley who confirmed that the house was not designed by Aley.

As part of Council's defence of the Land & Environment appeal, lawyers for Council engaged the heritage consultants, Godden Mackay Logan to prepare a statement on the heritage issues. The report was submitted to the Court on Tuesday 16 March. The consultants contacted the Sutton family, the original owners and the Dight family, the second family to occupy the house. The report concludes that:

"It is clear that this property – house and garden – warrants heritage listing in a local environmental plan, and positive action to ensure its conservation".

Godden Mackay Logan's investigations revealed that the house and garden is more intact than originally thought. Photographs of the house and garden shortly after construction were found. It is now confirmed that the noted landscape designer, Jocelyn Brown, designed the garden. The architect is still unknown, but evidence strongly suggests that the well-known architect, Glynn Gilling might have designed the house. This view is supported in the Graham Brooks heritage report, however little research was done to confirm or refute the findings. Although the house is less grand than other houses Gilling designed in Ku-ring-gai, it is similar in style and it is established that the original owner, Mr Harry Sutton had a close association with Gilling. Apart from private commissions, Gilling was the company architect for the British Tobacco Company (now W D & H O Wills). Harry Sutton was a manager at the company and was involved with Gilling over several buildings that the company built. Gilling like Sutton was a keen golfer and it is known that many of his private commissions were made as a result of his associations with golf clubs, particularly the Royal Sydney Golf Club. It is also noted that the report prepared by Godden Mackay Logan largely concurs with the conclusions reached in the initial heritage report prepared by Council's Heritage Conservation Planner.

Identification of the architect who designed the house would assist in determining its level of heritage significance as the relative significance of a building could be measured against the architect's other work. However, it is not necessary to fully determine all aspects of significance before Council makes a decision that a property should be protected by a local heritage listing, it is only necessary to determine whether the property meets one of the standard criteria for local heritage listing. The relevant heritage authority in NSW is the NSW Heritage Council. They have produced the NSW Heritage Manual and it contains a publication titled "Assessing Heritage Significance" (July 2001) which is used by Councils and consultants when assessing heritage significance. The evidence in this case, particularly the contribution of the garden and its contribution to the streetscape supports a local heritage listing and it is recommended that Council adopt 50 Pentecost Avenue, Pymble as a local heritage item and include it in Schedule 7 of the Ku-ring-gai Planning Scheme Ordinance.

CONSULTATION

There has been consultation and assistance from Council's Heritage Advisory Committee, the Ku-ring-gai Historical Society and with several consultants who prepared heritage reports on the site.

FINANCIAL CONSIDERATIONS

The independent heritage assessment cost \$2,850. Additional costs have been incurred as part of the appeal to the Land & Environment Court. The cost is not yet known as the appeal will be heard shortly.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation with Environment and Planning, Environment and Regulatory Services and Council's legal officer has been undertaken.

SUMMARY

Public exhibition of draft LEP 28 ended on 18 March 2004. No written submissions were received during the exhibition period. Further information about the property was recently found which supports its heritage listing at a local level. It is recommended that Council adopt draft LEP 28 and submit it to the Minister for approval and gazettal.

RECOMMENDATION

- A. That Council adopts Draft (Heritage Conservation) Local Environmental Plan No 28 and submit the Draft Plan to the Minister with a report under Section 69 of the Environmental Planning and Assessment Act with a request that he makes the Plan.
- B. That Council notifies the NSW Heritage Council informing them of Council's decision.
- C. That Council notifies all affected residents of its decision.

Paul Dignam
Heritage Conservation Planner

Leta Webb
Director
Planning and Environment

Attachments:

- 1. Heritage report prepared by Graham Brooks.**
- 2. Draft Statement of Evidence prepared by Sheridan Burke (GML)**
- 3. Submission made by the owners opposing draft LEP 28.**

NOTICE OF MOTION

TRAFFIC STUDY OF PROPOSED MEDIUM DENSITY OF COUNCIL DEPOT AND ADJOINING SITES

Notice of Motion from Councillor J Kitson dated 17 March 2004.

I move:

- A. That Council undertake a study of the traffic implications, in conjunction with residents, for the precinct of Carlotta, Pearson, Mount William, Highlands, Park Avenue on the traffic generated from the proposed rezonings associated with the five storey residential development of the Council Depot site and other potential medium density sites in the precinct.
- B. That the study particularly refer to the potential impact on the two exit/entry points through the Werona/Pearson/Park Avenue intersection or the slip road off Mona Vale Road into Pacific Highway during peak traffic times.
- C. That the study refers to the proposed location of potential road access points for any development of the Council Depot site or adjoining medium density sites.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Janine Kitson
Councillor for Gordon Ward

Attachments: Background information

NOTICE OF MOTION

GUIDELINES FOR REGENERATION OF RIPARIAN VEGETATION

Notice of Motion from Councillor A Little dated 17 March 2004.

I move that:

Council develop guidelines and procedures suitable for use by development control staff, landscape professionals, bush care volunteers and the general public for environmentally sensitive regeneration of native riparian vegetation. This is to be considered for inclusion in the next Council Management Plan.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Andrew Little
Councillor for Roseville Ward

Attachments: Background information