



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 8 JUNE 2004 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

A G E N D A

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NOTE: For full details, see Council's website –
www.kmc.nsw.gov.au under the link to Business Papers

APOLOGIES

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 1 June 2004
Minutes numbered 259 to 274

MINUTES FROM THE MAYOR

PETITIONS

- P.1 **Killara Park Playground Bike Track - (One Hundred & Two [102] Signatures)** **1**

File: S02258

“Stand true to your commitment to spend our rates wisely and support our bid for a bike track around the Killara Park Playground (Rosebery & Springdale Road) to provide a safe environment for our kids to ride their bikes.”

REPORTS FROM COMMITTEES

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 **31 Roland Avenue, Wahroonga - Detached Dual Occupancy** **2**

File: DA1166/03

Ward: Comenarra

Applicant: Joan McClelland C/- Glendinning Minto & Associates

Owner: Joan McClelland

To determine Development Application No 1166/03, which seeks consent for a detached dual occupancy at No 31 Roland Avenue, Wahroonga.

Recommendation:

Approval

- GB.2 **St Ives Soccer Club - Licence To Use Warrimoo Oval Clubhouse At St Ives** **32**

File: S02297

For Council to consider granting a 5 year licence to St Ives Soccer Club to use Warrimoo Oval and clubhouse at St Ives.

Recommendation:

That Council approves the granting of a 5 year licence to St Ives Soccer Club to use the clubhouse at Warrimoo Oval, St Ives.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 **Banning Smoking In Public Spaces**

49

File: S03433

Notice of Motion from Councillor E Malicki dated 31/5/04.

I MOVE THAT A REPORT COME TO Council as soon as possible outlining steps that Council can take to ban smoking at sporting venues and in public places.

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

** **

Environmental Planning & Assessment Act 1979 (as amended) Section 79C

1. Matters for consideration - general

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

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

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

PETITION

KILLARA PARK PLAYGROUND BIKE TRACK - (ONE HUNDRED & TWO [102] SIGNATURES)

“Stand true to your commitment to spend our rates wisely and support our bid for a bike track around the Killara Park Playground (Rosebery & Springdale Road) to provide a safe environment for our kids to ride their bikes.”

RECOMMENDATION

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

DEVELOPMENT APPLICATION

SUMMARY SHEET

REPORT TITLE:	31 ROLAND AVENUE WAHROONGA - DETACHED DUAL OCCUPANCY
WARD:	Comenarra
DEVELOPMENT APPLICATION N^o:	1166/03
SUBJECT LAND:	31 Roland Avenue Wahroonga
APPLICANT:	Joan McClelland C/- Glendinning Minto & Associates
OWNER:	Joan McClelland
DESIGNER:	Hans Waldmann and Associates
PRESENT USE:	Residential dwelling house
ZONING:	Residential "C"
HERITAGE:	No
PERMISSIBLE UNDER:	State Environmental Planning Policy No 53
COUNCIL'S POLICIES APPLICABLE:	Ku-ring-gai Planning Scheme Ordinance, Development Control Plan 43 - Carparking, Dual Occupancy Code
COMPLIANCE WITH CODES/POLICIES:	No
GOVERNMENT POLICIES APPLICABLE:	State Environmental Planning Policy No's 53 and 55
COMPLIANCE WITH GOVERNMENT POLICIES:	Yes
DATE LODGED:	12 September 2003
40 DAY PERIOD EXPIRED:	22 October 2003
PROPOSAL:	Detached Dual Occupancy
RECOMMENDATION:	Approval

Item 1

DEVELOPMENT APPLICATION N^o	1166/03
PREMISES:	31 ROLAND AVENUE WAHROONGA
PROPOSAL:	DETACHED DUAL OCCUPANCY
APPLICANT:	JOAN MCCLELLAND C/- GLENDINNING MINTO & ASSOCIATES
OWNER:	JOAN MCCLELLAND
DESIGNER	HANS WALDMANN AND ASSOCIATES

PURPOSE FOR REPORT

To determine development application No. 1166/03, which seeks consent for a detached dual occupancy at No. 31 Roland Avenue Wahroonga.

EXECUTIVE SUMMARY

Issues:	Built-upon area
Submissions:	No submissions have been received in response to this application.
Land & Environment Court Appeal:	This development is not the subject of a deemed refusal appeal to the Land and Environment Court.
Recommendation:	Approval

HISTORY

Property History:

The site contains an existing dwelling house, tennis court, pool and cabana. The existing cabana is currently being used as an unauthorised dwelling. This development application proposes to formalise this situation.

Development Application History:

This development application is the first of three development applications lodged with Council for the subject site:

- (i) Stage 1 represented by the subject DA, proposes the retention of the existing house and the conversion of the existing cabana into a second dwelling upon the lot.
- (ii) Stage 2 represented by DA No. 1544/03, proposes the torrens title subdivision of the site to create two allotments of land.
- (iii) Stage 3 represented by DA 1545/04, proposes the erection of a new dwelling house upon the tennis court. This house will form another dual occupancy development in conjunction with the existing house.

Each of the stages and development applications are reliant on the previous development application being approved by Council. However, Council must assess and determine each of the applications on its own merit.

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Otherwise, there is no prior development application history relevant to the consideration of this development application.

THE SITE AND SURROUNDING AREA

Zoning:	Residential "C"
Visual Character Study Category:	1945 - 1968
Lot Number:	304
DP Number:	560621
Area:	2,393m ²
Side of Street:	Western
Cross Fall:	East to west
Stormwater Drainage:	To the rear
Heritage Affected:	No
Required Setback:	Not Applicable metres
Integrated Development:	No
Bush Fire Prone Land:	Yes
Endangered Species:	No
Urban Bushland:	No
Contaminated Land:	No record of contamination

SITE DESCRIPTION

The Site:

The site comprises Lot 304 in DP 560621 and is known as 31 Roland Avenue, Wahroonga. The site is irregular in shape and has a frontage of 33.8m to Roland Avenue. The site along its northern and southern boundaries has depth of 72.7m and 81.1m, respectively. The site slopes dramatically away from Roland Avenue, with the rear of the site being approximately 13m below the street level.

Existing on the site is an existing dwelling house, tennis court, swimming pool and cabana.

Vehicular access to the site is via a bitumen driveway located south of the property boundary. This driveway is located on a battle-axe handle to No. 31B Roland Avenue. The subject site is afforded a right-of-way over this land. Both the existing house and the cabana have garaging accessed off the right-of-way.

Surrounding Development:

Development within the area comprises residential housing, generally of one and two storeys in height and of varying architectural styles.

THE PROPOSAL

The proposal is to erect a new dwelling house which in conjunction with the existing dwelling would form a detached dual occupancy development. Details of the proposed development are as follows:

Item 1

Dwelling 1:

Dwelling 1 is the existing dwelling house. This house is irregular in shape and is located 7m from the street. The house due to the topography, presents as single storey to the street, however, it is two storeys at the rear. The house, due to the topography, sits below the street level within its own garden setting.

No building works are proposed to the existing house.

To the rear of the existing house is a hard-court tennis court. The court is to be retained and forms part of the land allocation to Dwelling 1.

Dwelling 2:

Dwelling 2 was previously a cabana which has been converted and used illegally as a dual occupancy. The extent of modifications proposed to this building are as follows:

Ground Floor

The ground floor level is to be internally redesigned to accommodate a single garage, entry way, laundry, two bedrooms and a bathroom. A private courtyard to the master bedroom is located to the north of the dwelling. Externally, new windows to the eastern and western facades are proposed as is a sliding doorway from the master bedroom to the rear courtyard.

First Floor

The first floor level is to be modified so as to accommodate living and family areas and the kitchen. The existing balcony to the southern façade is to be retained, with the external stair access being removed. The existing terrace to the northern façade is retained, with a new stairway access being provided down to the rear private open space. At roof level, two new skylights are proposed above the living area.

The existing pool and decking are retained and will form part of the open space to Dwelling 2.

CONSULTATION - COMMUNITY

In accordance with Council's Notifications DCP, owners of surrounding properties were given notice of the application. No submissions were received.

CONSULTATION - WITHIN COUNCIL

Heritage/Urban Design

Council's Heritage/Urban Design Officer has commented on the proposal, as follows:

"There is no heritage or urban design impact. I raise no objection to the proposed dual occupancy."

Item 1

Landscaping

Council's Landscape and Tree Assessment Officer has commented on the proposal, as follows:

"Impact on trees

As the proposed works are small in nature, there is no adverse impact on existing trees.

Trees to be removed

No trees are proposed to be removed as part of the proposal. Some exempt/weed species are required to be removed as part of the conditions of consent including Acer negundo (Box Elder)."

Engineering

Council's Engineering Assessment Officer has commented on the proposal, as follows:

"The applicant has submitted written consent from the downstream property owners to amend the terms of the drainage easement over 31A and 31B Roland Avenue. There are no objections to the proposed development. The stormwater report proposes the reconstruction of a street drainage pit in Roland Avenue. There are no objections to these works. Design drawings will need to be approved by Council under the Roads Act."

CONSULTATION – OUTSIDE COUNCIL

Rural Fire Services

The subject site is located within the bush fire prone vegetation buffer. In accordance with the provisions of section 79BA of the Environmental Planning and Assessment Act 1979, Council has consulted with the Commissioner of the NSW Rural Fire Service, concerning measures to be taken with respect to the protection of persons, property and the environment from danger that may arise from a bush fire. The comments provided by the Rural Fire Service are as follows:

"The NSW Rural Fire Services raises no objections subject to meeting the following condition:

- 1. Construction should comply with AS3959 – 1999 Level 1 'Construction of Buildings in Bushfire Prone Areas.'*

STATUTORY PROVISIONS

State Environmental Planning Policy No 53

COMPLIANCE TABLE		
Development standards	Proposed	Complies
Allotment size (cl.19(1)(a))		

Item 1

• 600m ² attached dual occ.	2,393m ²	YES
Floor space ratio (cl.19(1)(b))		
• 0.5:1 (max)	0.2:1	YES
Car parking (cl.20)		
• Dwelling 1: 2 car spaces	Dwelling 1: 2 car spaces	YES
• Dwelling 2: 1 car space	Dwelling 2: 1 car space	YES

Site Analysis (cl.31):

A site analysis plan, accompanied by a written statement, has been provided. This information is satisfactory having regard to the requirements of clause 31 of Schedule 5 of SEPP 53.

Streetscape (cl.32(a)):

Due to the subdivision pattern, the existing house is the predominant streetscape element within Roland Avenue. This building would remain unaltered and consequently, the existing streetscape appearance would be unaffected by the development. Further, the modifications to the existing cabana do not dramatically affect its appearance, but allow for minor fenestrational changes. These works do not affect the presentation of the cabana to surrounding properties.

Visual & Acoustic Privacy (cl.32(b)):

Privacy issues arising from the existing house would remain unaltered.

The use of the cabana as a dwelling house will result in no privacy impacts upon the surrounding properties. At the ground floor level, the proposed the new windows to the bedrooms and bathroom will not afford any outlook over private open space areas of adjoining properties. At first floor level, no fenestration is proposed to the eastern and western facades. To the north and south, the existing decks are being retained. The use of these decks does not affect the privacy of surrounding residents given existing screen planting and the separation of the decks from surrounding dwellings and pools (i.e. >13m to the pool at 37 Roland Ave and >20m to the dwellings at 37 and 41 Roland Avenue) and to the north (i.e. 16m to the dwelling at No. 29 Roland Avenue).

Internal privacy within the proposed dual occupancy development is satisfactory.

Solar Access and Design for Climate (cl.32(c)):

The development does not affect the external built form of the cabana or the dwelling house. Accordingly, the extent of solar access currently provided to the adjoining properties will remain unaffected.

The proposed dual occupancy receives at least 3⁺ hours solar access to its internal living areas and private open space areas during the winter solstice.

Stormwater (cl.32(d)):

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Currently, stormwater from the existing house is piped separately over a short distance across private land to a Council stormwater line located approximately 3 metres north of the northern boundary of the site. An easement has been created which allows drainage access to the Council stormwater line.

Stormwater from the cabana and tennis court is piped to a pipeline located adjacent to the southern boundary of the site immediately adjoining the dwelling. This pipeline pipes downstream into a substantial watercourse.

All stormwater from the built-upon areas associated with the development will be collected and drained to the existing stormwater drainage system as described above..

Crime Prevention (cl.32(e)):

Both dwellings are provided adequate levels of surveillance of any persons approaching their sites.

Accessibility (cl.32(f)):

Both dwellings have adequate access arrangements.

Waste Management (cl.32(g)):

Suitable space exists on the property for the storage of waste management containers.

Visual Bulk (cl.32(h)):

The visual bulk of each building (house and cabana) remains unaltered.

State Environmental Planning Policy No. 55 – Remediation of Land

The land is currently used for residential purposes. There is no evidence to suggest that the land has been used for any non-residential purposes in relatively recent years. Consequently, the possibility of the land being contaminated is substantially reduced. Therefore, it is extremely unlikely that the land is contaminated such that remediation would be required.

Ku-ring-gai Planning Scheme Ordinance (KPSO)

Aims and Objectives for Residential Zones

The development satisfies the relevant aims and objectives for residential development as outlined by Schedule 9.

COMPLIANCE TABLE		
Development standard	Proposed	Complies
Building Height 8m (max)	Dwelling 1: 6.2m (existing)	YES
	Dwelling 2: 6.1m (existing)	YES

Item 1

Built-upon area 60%^m (max)	46%	YES
Notional built-upon area:	Dwelling 1: 48.9%	YES
	Dwelling 2: 39.8%	YES

Development Control Plan No. 43 – Car Parking

The development complies with the car parking control of four (4) parking spaces.

Council's Dual Occupancy Development Control Code

COMPLIANCE TABLE		
Development control	Proposed	Complies
4.2 Streetscape:		
Roof pitch		
• 3m max roof height-2 storey	Dwelling 1: 1.9m (existing) Dwelling 2: 4m (existing)	YES NO
• Roof pitch 35 ⁰ (max)	Dwelling 1: <35 ⁰ (existing) Dwelling 2: 45 ⁰ (existing)	YES NO
4.3 Visual and acoustic privacy:		
Visual privacy		
• Windows to habitable rooms set back 9m from neighbouring buildings.	Dwelling 2 (new western windows): 15m	YES
4.4 Solar access and design for climate:		
Solar access		
• Dual occupancy receive 3+ hours of solar access between 9am and 3pm	3+ hours received	YES
• Neighbouring properties receive 3+ hours of solar access between 9am and 3pm	3+ hours received	YES
4.7 Accessibility:		
Vehicular access and car parking		
• Garage – 3.1m x 5.4m	Dwelling 2: 3.9m x 6m	YES

Item 1

4.9 Visual Bulk:		
Building setbacks <ul style="list-style-type: none"> Front building line: Setbacks between dual occ - 7m or 5m (50% of building) Side setback: Dwelling 1: Ground floor: 2.8m (min) 1st floor: 4.6m (min) Dwelling 2: Ground floor: 2.8m (min) 1st floor: 3.5m (min) Rear setback: 11.5m (min) 	Dwelling 1: (existing setback unaltered) 31m Dwelling 1: Ground Floor: 7m & 3m (existing) Dwelling 1: 1 st Floor: 7m & 3.8m (existing) Dwelling 2: Ground Floor: 7m & 10.5m (existing) Dwelling 2: 1 st Floor: 7m & 10.5m (existing) Dwelling 2: 7m	YES YES YES NO YES YES NO
Building form <ul style="list-style-type: none"> Unrelieved wall length: 12m (max) Total building length: 24m (max) 	Dwelling 1: 11m (existing) Dwelling 2: 12.5m (existing) Dwelling 1: 21m Dwelling 2: 15.5m	YES NO YES YES
Built-upon area <ul style="list-style-type: none"> Built upon area (max): 40% Notional built-upon area 	46% Dwelling 1: 48.9% Dwelling 2: 39.8%	NO NO YES
Floor space ratio <ul style="list-style-type: none"> FSR (max): 0.5:1 	0.2:1	YES
Height of buildings <ul style="list-style-type: none"> Height for dwelling to the rear 3.6m (7m overall) 	Dwelling 2: 6.1m & 8.68m (overall) NB: existing building	NO

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<ul style="list-style-type: none"> Building envelope: 45° from horizontal at any point 3m above boundary 	Dwelling 1: No change to external built form Dwelling 2: No change to external built form	N/A N/A
Section 5: Landscaping & Open Space		
Landscaping design <ul style="list-style-type: none"> Soft landscaping : 60% Notional soft landscaping 	54% Dwelling 1: 51.1% Dwelling 2: 60.2%	NO NO YES
Cut & fill (landscaping) <ul style="list-style-type: none"> Cut & fill: 900mm & Total 1800mm 	300mm-2m (cut) located to north of dwelling 2 (courtyard) No fill proposed	NO YES
Open space provisions <ul style="list-style-type: none"> Min. area: 100m² or 2 x 75m² areas Min dimension 5m x 5m Grade: 1 in 8 (max) 50% receives 3+ hours solar access 	Dwelling 1: >700m ² Dwelling 2: >500m ² Dwelling 1: 21m Dwelling 2: 12m Dwelling 1: 600m ² < 1 in 8 (tennis court) Dwelling 2: 150m ² < 1 in 8 (swimming pool area) 3+ hours received 3+ hours received	YES YES YES YES YES YES

Roof pitch:

The roof pitch of Dwelling 2 exceeds the control (i.e. 35° pitch). No concern is raised as the structure is currently in existence and no visual bulk or streetscape impacts arise.

Rear setback:

The rear setback control seeks to achieve adequate garden settings and retain a private open space belt between dwellings on adjoining blocks. The structure accommodating Dwelling 2 is currently in existence. In addition, as adequate separation between the built elements and private open space is provided, no concern is raised despite the non-compliance with the control.

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Unrelieved wall length:

Dwelling 2 has an unrelieved wall length of 12.5m. This exceeds the control by 500mm. The extent of the non-compliance is minimal and, given that the structure is present on the site and that no visual bulk impacts arise, no concern is raised.

Built-upon area & soft landscaping:

The development fails to comply with the built-upon and soft landscaping controls. The extent of non-compliance with both of the controls is 6%. On the basis that there is no additional built-upon area proposed by the development and that all structures are in existence, there is no justification to seek compliance with the control. It is advised that drainage of the site can be achieved. Furthermore, as more than adequate open space areas are provided, the development is not an over development of the site.

Height:

Dwelling 2 exceeds the height requirement for the second dwelling on the site. The use of the existing structure to accommodate a new dwelling is an appropriate use of the land. This approach also reduces impacts upon the surrounding properties.

Cut & fill:

The 200mm non-compliance with the control is minor. The need for the excavation is to facilitate a private courtyard to the main bedroom. The non-compliance has no impact upon the relationship of the site to the surrounding properties.

Section 94 Plan

The development attracts a section 94 contribution of \$9789.78, which is required to be paid by **Condition No.36**.

Likely Impacts

All likely impacts of the development have been considered.

Suitability of the Site

The site is considered to be suitable for the proposed development.

Any Submissions

No submissions were received.

Public Interest

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

Any other Relevant Matters Considerations Not Already Addressed

There are no other matters for discussion.

CONCLUSION

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

RECOMMENDATION

Pursuant to Section 80(1) of the Environmental Planning and Assessment Act, 1979

THAT the Council, as the consent authority, grant development consent to DA 1166/03 for a detached dual occupancy development on land at 31 Roland Avenue, Wahroonga, 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 1166/03 lodged with Council on 12 September, 2003 and Development Application plans prepared by Hans Waldmann and Associates, Drawing 739-02-03 dated May, 2003.
2. 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.
3. 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.
4. 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.
5. **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.

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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.

6. 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.
7. A sign shall be erected in a prominent position on the site which states the name and contact details of the Principal Certifying Authority.
8. All excavations shall be properly guarded and protected with hoardings or fencing to prevent them from being dangerous to life and property.
9. To maintain existing ground levels all excavated material shall be removed from the site.
10. 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.
11. The demolition is to be carried out in accordance with the guidelines contained in Australian Standard 2601-1991: The Demolition of Structures.
12. 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.
13. 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.

14. Erosion control measures shall be provided on demolition sites to prevent the siltation of watercourses and drainage systems.
15. Dust control measures shall be taken on all demolition sites so as to avoid a nuisance to adjoining properties and harm to the environment.
 - a. A person taking down or demolishing or causing to be taken down or demolished any building or portion of any building shall:

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- 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.
16. 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.
17. All building works shall comply with the Building Code of Australia.
18. 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.
19. Stormwater runoff from all hard surfaces, or landscaped areas which are not at natural ground level, shall be piped to the interallotment stormwater drainage line benefiting the subject site.
20. To maintain capacity of the Public drainage system, an On-site Stormwater Detention System must be provided in accordance with Council's Stormwater Management Manual. Unless otherwise approved, 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.

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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. This is available from Council upon request.

21. 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 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.
22. 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 and in accordance with the relevant clauses of the current edition of AUS-SPEC.

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.

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23. 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.
24. 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.
25. The landscape works shall be completed prior to issue of final Certificate of Compliance and maintained in a satisfactory condition at all times.
26. The screen planting shall be completed prior to the issue of the final Certificate of Compliance and be maintained in a satisfactory condition at all times.
27. Tree roots between 10mm and 50mm diameter, severed during excavation, shall be cut cleanly by hand and the tree subsequently treated with a root growth hormone and wetting agent, by an experienced Arborist/Horticulturist with a minimum qualification of the Horticulture Certificate or Tree Surgery Certificate.
28. 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.
29. The following noxious and/or undesirable plant species shall be removed from the property prior to completion of the proposed building works. 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
Schefflera sp. (Umbrella Tree)
Acer negundo (Box Elder)
30. On completion of the LANDSCAPE WORKS/TREE PLANTING OR 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.
31. 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 ISSUE OF A CONSTRUCTION
CERTIFICATE

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32. 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.

33. 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).
34. 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.
35. 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.

36. 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 \$9,789.78. 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 - Wahroonga	\$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

37. Full design 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

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must be submitted to and approved by the Principal Certifying Authority (PCA) prior to issue of the Construction Certificate.

38. 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. Design drawings and calculations 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.

39. The applicant shall demonstrate that the subject site benefits from the necessary easements for stormwater drainage over the downstream properties (31a and 31b Roland Avenue). Documentary evidence (in the form of title certificates and instruments) of the amendment or creation of the required easements shall be submitted to the Principal Certifying Authority prior to the issue of a Construction Certificate.
40. Submission of design documentation for the required interallotment drainage system from the subject property to the proposed point of discharge to a recognised public drainage system. The design is to be approved by the Principal Certifying Authority prior to the issue of the Construction certificate. Plans are to be prepared by a suitably qualified and experienced consulting engineer in accordance with the requirements of Council's Stormwater Management Manual, and must include the following details:
- Surrounding survey detail including all trees within seven (7) metres of the proposed drainage system.
 - Longitudinal section showing existing ground levels and proposed invert levels.
 - Means to preserve the root systems of trees within seven (7) metres of the drainage system.
 - New pipes within the downstream easement drainage system are to be sized to have adequate capacity to carry design flowrates, or detention system overflows where detention systems are to be provided, from the subject property.

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41. If it is proposed to carry out infrastructure works in the Public Road, Development Consent under the EP&A Act does NOT give approval to these works on Council property. THE APPLICANT MUST OBTAIN A SEPARATE APPROVAL UNDER SECTION 138 AND 139 OF *THE ROADS ACT 1993* for the works in the Public Road, required by this condition. The Construction Certificate MUST NOT be issued, and these works must not proceed, until Council has issued a formal written consent under the *Roads Act 1993*.

To obtain consent under the *Roads Act 1993* for the infrastructure works on Council property, full engineering drawings (plans, sections and elevations) and specifications for the infrastructure works are to be prepared by a suitably qualified and experienced consulting engineer. These must be submitted and approved by Council as the Roads Authority prior to issue of the Construction Certificate. Construction of the works must proceed in accordance with any conditions attached to the Council "Roads Act" approval.

All works are to be designed in accordance with Council's "Specification for Road and Drainage Works". In addition, the drawings are to detail erosion control requirements and traffic management requirements during the course of works. Traffic management is to be certified on the drawings as being in 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).

To ensure that works on Council property required by this Condition are carried out to Council's requirements, the developer must lodge a bond to the value of \$5,000. The Bond may be in the form of a bank guarantee and must be lodged prior to the issue of a Construction Certificate. The Bond will not be released until Council has inspected the site at all hold points specified in the *Roads Act* Approval, and is satisfied that the works have been carried out to Council's requirements. Council may use part or all of the bond to complete the works to its satisfaction if the works do not meet Council's requirements. After Council's final inspection of these works 10% of the bank guarantee will be retained for a further twelve (12) month period and used by Council to repair any defects or temporary works necessary after the final inspection.

NOTE 1: A minimum of three (3) weeks will be required for assessment. Early submission is highly recommended to avoid any delays in obtaining a Construction Certificate.

NOTE 2: An hourly assessment fee (set out in Councils adopted fees and charges) will be charged and Council will withhold any consent until full payment of the correct fees.

NOTE 3: Plans and specifications must be marked to the attention of Councils Development Engineers. In addition, a copy of this condition must be provided, together with a covering letter stating the full address of the property and the accompanying DA number. Failure to do so may delay the processing of the application.

CONDITIONS TO BE COMPLIED WITH PRIOR TO WORK COMMENCING

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42. 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.
43. External finishes and colours are to be sympathetic to the surrounding environment. Samples of materials and finishes are to be submitted to and approved by Council prior to the commencement of work.
44. The following are required details and must be submitted to the Principal Certifying Authority *prior to the works relating to the detail being carried out*. 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. A Registered Surveyor's set out report.
45. 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.

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46. To preserve the following tree/s, no work shall commence until the area beneath the canopy of the following tree/s is fenced off at 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 in Metres
Eucalyptus saligna (Bluegum)	3.0m
North eastern corner of proposed Dual Occupancy	

47. The tree protection fence shall be constructed of star pickets at 2.4 metre spacings and connected by four strands of 2mm wire at 300mm spacings to a minimum height of 1.5 metres prior to work commencing.
48. 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 PRIOR TO THE ISSUE OF AN OCCUPATION CERTIFICATE

49. Prior to the release of any occupation certificate, a compliance certificate must be obtained from an accredited certifier, certifying that the building works for the building to be occupied comply with the plans and specifications approved by this development consent; and any construction certificate associated with this consent for the buildings to be occupied. If the PCA is not the Council, then this compliance certificate must be submitted to the Council at the same time as the occupation certificate is submitted to the Council in accordance with Clause 151(2) of the E P & A Act regulations.
50. 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 created prior to issue of the Final Compliance 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.

51. 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

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of the as-constructed system is to be provided to Council, attention Development Engineer, prior to issue of the Final Compliance Certificate or issue of a Subdivision Certificate.

52. Prior to issue of the Final Compliance Certificate or 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 must be fully repaired to the satisfaction of Council's Development Engineer and at no cost to Council.
53. 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.
54. Construction of the On-site Stormwater Detention System 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 issue of the Final Compliance 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 system 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)

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55. 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 issue of the Final Compliance Certificate, that:
- a. The works were carried out and completed in accordance with the approved plans.
 - 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.
- A Works-as-Executed drawing of the property stormwater drainage system is also to be furnished by the Certifier Prior to issue of the Final Compliance Certificate.
56. If required, the construction or augmentation of the interallotment drainage system prior to issue of the Occupation Certificate. The designer is to provide certification of the works and works-as-executed drawings. A registered surveyor is to certify that all drainage structures are wholly contained within the drainage easement.
57. Construction of the road, footpath and/or drainage works in the public road in accordance with the Council approved drawings must be undertaken prior to issue of the Occupation Certificate. The works are to be to the satisfaction of Council's Development Engineer and must be supervised by the Applicant's designing engineer. This engineer is to provide certification upon completion that the works were constructed in accordance with the Council approved drawings. The works are also to be subject to inspection by Council as noted on the approved drawings. Any conditions attached to the approved drawings for these works must be met to the satisfaction of Council's Development Engineer.

M Prendergast
Manager
Development Assessment Services

M Miocic
Director
Environment & Regulatory Services

ST IVES SOCCER CLUB - LICENCE TO USE WARRIMOO OVAL CLUBHOUSE AT ST IVES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider granting a 5 year licence to St Ives Soccer Club to use Warrimoo Oval and clubhouse at St Ives.
BACKGROUND:	<p>The Club, which has been using the oval and clubhouse for the past 24 years is keen to continue their utilisation through a formal agreement with Council.</p> <p>The Club has over 600 members with approximately 40 teams. The Club also caters for children with special needs and has a strong connection with local schools.</p>
COMMENTS:	The Club is a community based non-profit organisation, which returns funds from its operation into the ongoing development and promotion of soccer.
RECOMMENDATION:	That Council approves the granting of a 5 year licence to St Ives Soccer Club to use the clubhouse at Warrimoo Oval, St Ives.

PURPOSE OF REPORT

For Council to consider granting a 5 year licence at St Ives Soccer Club to use Warrimoo Oval clubhouse at St Ives.

BACKGROUND

The property is known as part of DP 5-548- Warrimoo Avenue, St Ives.

Warrimoo Oval is Council owned land, classified “Community Land” and categorised “Sports Ground” in accordance with Local Government Act 1993.

The Warrimoo Oval Clubhouse is situated on level land towards the western side of the oval, which is located at 161 Warrimoo Avenue, St Ives. (Refer to Attachment 1).

The Clubhouse was funded by the Club and the Council in the 1970s. The clubhouse is a single storey building with a concrete floor and a tiled roof. The area is 145 m² and accommodation comprises a clubroom, store room, kitchen and open verandah. There is a separate building which comprises dressing sheds and public toilets with an area of 60m².

Any improvements of a structural nature to the clubhouse regardless of the funding source shall become the absolute property of the Council at the expiration of the licence. However this does exclude any training or recreational equipment that is provided by the Club (non fixtures).

Section 47d of the Local Government Act 1993 states:

Occupation of community land otherwise by lease or licence:

1. *The exclusive occupation or exclusive use by any person, of community land otherwise in accordance with:*

- a) *a lease, licence or estate to which sec 47 or 47A applies, or*
- b) *a sublease or other title directly or indirectly derived from the holder of such a lease, licence or estate is prohibited.*

2. *This section does not apply to:*

- a) *The occupation or use of part of the site of a senior citizens club or use of community land by person and in circumstances prescribed by the regulations.*
- b) *The occupation or use of community land by person and by circumstances prescribed by the regulations.*

As a consequence of the requirements of the Act, Council staff commenced licence negotiations with St Ives Soccer Club in December 2002.

Item 2

S02297
2 June 2004**COMMENTS**

St Ives Soccer Club is the primary user of the clubhouse and has enjoyed exclusive use of the clubroom. The club is fully incorporated and has maintained the building in good order both internally and externally.

The Club makes full use of the clubhouse from February-September with training 2-3 nights a week and games on weekends. During the summer months the club is locked except for committee meetings. Cricket is played at the Oval over the summer months.

The club has over 600 members and in excess of 40 teams, including junior, youth, women's and senior teams from under 6 to 35 years and over groups.

Council has the right of access and entry to the clubhouse facility at all reasonable times by advance notification to the Club executives.

As part of the process Council engaged the State Valuation Office (SVO) in January 2003 to assess the current market value of the Clubhouse (refer attachment 2). As the Clubhouse is on community land, the Sportsground Plan of Management governs this land, and authorises leases or licences over land categorised as Sportsgrounds.

Council resolved the Sportsground Plan of Management on the 24th of June 2003. It should be noted that this proposed licence in no way extends their use of the facility or allows for future development. It merely formalises existing usage and provides Council with an effective mechanism to positively work with the Soccer Club should issues with the community arise concerning Soccer's use of the facility. Club officials and staff have reached agreement on the proposed term of the licence.

The table below summaries key terms of the proposed licence.

Club Name:	St Ives Soccer Club
Inc No:	Y0520210
Land Classification:	community land – sportsground
Use:	Sports clubhouse and related activities meetings, training and functions of the club.
Multi use sharing:	Licensee to allow multi use of building when available. If there are no conflicts of use and concurrence is obtained from the licensee, licensor is able to hire out the facility to other users.
Insurance:	Licensee responsibility to provide a certificate of currency for public liability and risk insurance for \$10,000,000 and appropriate level of contents insurance, licensor's responsibility to insure the building.
Club contact:	Licensee to provide annual details of Club Committee names and contact numbers. Licensee to provide licensor with its club constitution and rules and should the constitution change substantially it will be subject to Council approval.
Term:	<ul style="list-style-type: none"> 5 years
Access under licence:	<ul style="list-style-type: none"> 8 month occupation (February – September) Mon – Fri from 5pm-10 pm Sat from 8am – 6 pm Sun from 9am – 6 pm Functions from 8am – 6 pm Club meetings from 7:30pm to 10:30 pm(once a month)
Payment frequency:	<ul style="list-style-type: none"> Yearly in advance
Utilities:	<ul style="list-style-type: none"> Licensee to pay for electricity charges and security costs during licence period.
Costs:	<ul style="list-style-type: none"> Licensee to pay 50% of the legal costs associated with the preparation and finalisation of the proposed licence. Licensor to pay 100% of the valuation costs Licensors responsible for the payment of the water rates

Item 2

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2 June 2004

Full terms of the proposed licence are outlined in the attached Draft Heads of Agreement (refer to **attachment 3**).

CONSULTATION

Council staff have met and discussed the proposed licence with the Club executives regarding terms of the proposed 5 year licence and subsequent recommendations as contained in this report.

The terms of the proposed licence have been negotiated between Council and the Club and agreement reached. A letter of support (refer Attachment 4) of the proposed terms of the licence has been provided by the Club.

Under Section 47A of the Local government Act, Council is required to publicly notify its intention to enter a licence and consider any submissions received regarding the proposal.

FINANCIAL CONSIDERATIONS

Council has to date paid the cost associated with the valuation of the proposed licensed area.

The table below shows anticipated rental for the term of the licence and as included in the Draft Heads of Agreement.

St Ives Soccer Club – proposed rent structure					
Year	Rebate Level	**CPI	*CMV (excl GST)	*CMV (incl GST)	Rent payable by Club
Year 1	90%		\$5,100	\$5,610	\$561.00
Year 2	90%	3.3%	\$5,258	\$5,795	\$579.51
Year 3	85%	3.3%	\$5,442	\$5,986	\$897.96
Year 4	85%	3.3%	\$5,622	\$6,184	\$927.59
Year 5	80%	3.3%	\$5,807	\$6,388	\$1,277.60
Total for 5 Years					\$4,243.66

*CMV = current market value *CMV = \$5,100

**assumes CPI is 3.3% per year (subject to change)

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

In preparation of this report, Open Space has liaised with Finance and Business Development on the proposed licence terms and conditions.

SUMMARY

It is proposed that Council enter into a licence agreement with S Ives Soccer Club for a period of five years subject to the conditions outlined in the Draft Heads of Agreement (refer to **Attachment**

Item 2

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2 June 2004

3) and in accordance with the Local Government Act 1993 to formalise the Clubs existing utilisation of the facility.

The clubhouse facility is on community land, which is governed by the Sportsground Plan of Management. The plan authorises leases or licences over land categorised as sportsground and was resolved by Council on 24 June 2003. The St Ives Soccer Club is an established club with some 600 or more members.

The club has occupied the clubhouse for 24 years and is keen to formalise their continued usage by their agreement with Council to enter into a 5 year licence. Club officials and staff have reached agreement on terms for the proposed licence.

RECOMMENDATION

- A. That Council approve the granting of a 5 year licence to the St Ives Soccer Club for the use of the clubhouse at Warrimoo Oval, St Ives under the terms outlined in this report.
- B. Council issues a public notice as prescribed by section 47A of the Local Government Act 1993.
- C. The licence term is to commence at the expiration date of the period of public notification, which will be in accordance with Section 47-47D of the local Government Act 1993.
- D. That Council authorises the Mayor and General Manager to sign the licence documentation should no substantial objections be received following the period of public notice.
- E. That Council authorise the affixing of the Common Seal to the licence documents, should no submissions be received indicating substantial objections to the proposed licence.
- F. That a report be brought back to Council if there are any substantial objections received to the proposal.

Edward Illy
LAND ADMINISTRATION OFFICER

Amanda Colbey
A/MANAGER SPORT & RECREATION

John McKee
DIRECTOR FINANCE & BUSINESS

Steven Head
DIRECTOR OPEN SPACE

Attachments:

- 1. Site Plan**
- 2. Valuation (14/1/2003)**
- 3. Drafts Heads of Agreement (24/12/2003)**
- 4. Club letter of support (13/1/2004)**

NOTICE OF MOTION

BANNING SMOKING IN PUBLIC SPACES

Notice of Motion from Councillor E Malicki dated 31/5/04.

I MOVE THAT A REPORT COME TO Council as soon as possible outlining steps that Council can take to ban smoking at sporting venues and in public places.

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Clr E Malicki