



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 8 SEPTEMBER 2009 AT 7.00PM
LEVEL 3, COUNCIL CHAMBERS**

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

APOLOGIES

DECLARATIONS OF INTEREST

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

ADDRESS THE COUNCIL

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

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 11 August 2009

Minutes numbered 145 to 164

MINUTES FROM THE MAYOR

PETITIONS

REPORTS FROM COMMITTEES

Minutes of Ku-ring-gai Traffic Committee

File: S02110

Meeting held 20 August 2009

Minutes numbered KTC11 to KTC12

GENERAL BUSINESS

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

GB.1 Election of Mayor for the 2009/2010 Mayoral Term 1

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File: S03662

To elect the Mayor for the period 2009/2010.

Recommendation:

That the Council elect the Mayor for the period 2009/2010 using the ordinary ballot method.

GB.2 Election of Deputy Mayor for the 2009/2010 Term 4

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File: S03662

To elect the Deputy Mayor for the period 2009/2010.

Recommendation:

That Council elect the Deputy Mayor for the period 2009/2010 using the same election method as was used for the election of the Mayor.

GB.3 **Audited General Purpose & Special Purpose Financial Reports for year ended 30 June 2009 & Auditor's Report** 7

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File: FY00259/1

To present to Council the Annual Financial Statements and audit reports from Council's external auditor, Spencer Steer Chartered Accountants for the year ended 30 June 2009, to provide a summary of Council's financial performance and financial position at 30 June 2009 and seek approval to carry over budgets to fund the incomplete works at 30 June 2009.

Recommendation:

That Council receives the audited Financial Statements and the report of Council's external auditor, Spencer Steer Chartered Accountants and that carry overs totalling \$9,070,000 be approved.

GB.4 **General Committee** 28

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File: S06952

To consider the continued operation of the General Committee.

Recommendation:

That the General Committee be dissolved.

GB.5 **Geographical Information System Tender** 33

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File: S06960

To report on the results of the public tender for the replacement of Council's Geographical Information System (GIS) and to seek approval to accept the tender from the preferred tenderer.

Recommendation:

That Council accepts the tender from ESRI Australia for the replacement of Council's Geographical Information System (GIS).

GB.6 Acquisition & Divestment of Land Policy

38

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File: S05399

For Council to adopt the draft Acquisition and Divestment of Land Policy.

Recommendation:

That Council adopts the draft Acquisition and Divestment of Land Policy.

GB.7 5 Suakin Street/986 Pacific Highway, Pymble Network Alliance Request for Short-Term Lease

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File: S07252

To seek Council's approval for a short term lease to Network Alliance over the vacant land at 5 Suakin Street / 986 Pacific Highway, Pymble.

Recommendation:

That Council approves a six (6) month lease to Network Alliance.

EXTRA REPORTS CIRCULATED AT MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Independent Assessment of Council's Development Control Plan (Town Centre)

66

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File: CY00054

Notice of Motion from Councillor E Keays dated 25 August 2009

I move:

"That the General Manager undertakes to bring to Council a list of Town Planners, independent of Ku-ring-gai (who have not worked in Ku-ring-gai), from which Councillors will choose an assessor of the Ku-ring-gai DCP.

The assessment would assure residents, developers/applicants that we have done all we can to deliver the best outcome for Ku-ring-gai."

File: S07257

Notice of Motion from Councillor J Anderson dated 31 August 2009

I move:

- "A. That Council commence negotiations to acquire 12 Woonona Avenue, Wahroonga for open space in the terms discussed.
- B. That Section 94 funds be used for the purchase.
- C. That Council engage the services of an experienced independent agent to immediately commence acquisition negotiations within the determined price range and that costs for the agent be included in the Section 94 budget for the acquisition.
- D. That the General Manager continue investigations with the National Trust, and others, to establish a tax deductible fund for public donations to assist Council to benefit from appropriate philanthropic gestures.
- E. That if negotiations result in a purchase price, the Mayor and General Manager be delegated authority to execute all documentation associated with the purchase of 12 Woonona Avenue, Wahroonga."

BUSINESS WITHOUT NOTICE - SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE - SETTING OF TIME, DATE AND RENDEZVOUS

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ELECTION OF MAYOR FOR THE 2009/2010 MAYORAL TERM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To elect the Mayor for the period 2009/2010.
BACKGROUND:	Section 290 of the Local Government Act provides that Council shall elect a Mayor and the Council is required to hold Mayoral elections in September of each year of its four year term.
COMMENTS:	It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.
RECOMMENDATION:	That the Council elect the Mayor for the period 2009/2010 using the ordinary ballot method.

PURPOSE OF REPORT

To elect the Mayor for the period 2009/2010.

BACKGROUND

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

NOMINATION

Schedule 7 - Election of Mayor by Councillors [Local Government (General) Regulations 2005] states:

2. *(1) A councillor may be nominated without notice for election as mayor or deputy mayor.*
- (2) The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
- (3) The nomination is to be delivered or sent to the returning officer.*
- (4) The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote (ie 5 all for the final two candidates), the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Mayor. at any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

Item 1

S03662
13 August 2009

The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by Councillors raising their hands for the candidate of their choice.

COMMENTS

It is customary in Ku-ring-gai Council for Mayoral elections to use the ordinary ballot method of voting.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 7 of the Local Government (General) Regulations 2005.

Schedule 7 states:

Returning officer

1. *The general manager (or a person appointed by the general manager) is the returning officer.*

RECOMMENDATION

That the Council elect the Mayor for the period 2009/2010 using the ordinary ballot method.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

ELECTION OF DEPUTY MAYOR FOR THE 2009/2010 TERM

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To elect the Deputy Mayor for the period 2009/2010.

BACKGROUND:

Section 231 of the Local Government Act 1993 empowers the Council to elect a Deputy Mayor.

The Deputy Mayor may be elected for the same term as the Mayor or a shorter period.

Traditionally, Ku-ring-gai Council has elected a Deputy Mayor for the same period as the Mayor, ie annually.

COMMENTS:

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

RECOMMENDATION:

That Council elect the Deputy Mayor for the period 2009/2010 using the same election method as was used for the election of the Mayor.

PURPOSE OF REPORT

To elect the Deputy Mayor for the period 2009/2010.

BACKGROUND

Section 231 of the Local Government Act 1993 empowers the Council to elect a Deputy Mayor.

Schedule 7 - Election of Mayor by Councillors [Local Government (General) Regulations 2005] states:

2.
 - (1) *A councillor may be nominated without notice for election as mayor or deputy mayor.*
 - (2) *The nomination is to be made in writing by 2 or more councillors (one of whom may be the nominee). The nomination is not valid unless the nominee has indicated consent to the nomination in writing.*
 - (3) *The nomination is to be delivered or sent to the returning officer.*
 - (4) *The returning officer is to announce the names of the nominees at the council meeting at which the election is to be held.*

Nomination forms and Acceptance forms have been distributed with the Business Papers and will also be available on the night.

If there is more than one nomination, an election is carried out.

METHOD OF ELECTION

The election could be carried out in one of three ways.

The first is an ordinary ballot. In this type of election, each councillor is required to cast one vote for the candidate of his or her choice in the normal ballot method, ie secret. If there are more than two candidates, the candidate who polled the lowest number of votes is eliminated and a further ballot takes place. In the case of a tied vote, the General Manager will conduct a draw of lots to determine the outcome - the one chosen by lot is elected Deputy Mayor. At any stage through the vote, if 2 or more candidates are tied on the lowest number of votes, the one to be excluded is chosen by lot.

The second possible method of voting is a preferential system. In this system each councillor is required to cast a vote listing the candidates in order of preference 1, 2, 3, etc. If no candidate receives an absolute majority of first preferences, then preferences are distributed until one candidate receives a majority.

The third possible method of voting is open voting. This voting method follows the same principles as the ordinary ballot, except that voting is conducted by Councillors raising their hands for the candidate of their choice.

COMMENTS

It is customary that the same method of voting as is used for the election of the Mayor is used to elect the Deputy Mayor.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

Not applicable.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

It is also customary for the General Manager to be the returning officer in accordance with Schedule 7 of the Local Government (General) Regulations 2005.

Schedule 7 states:

Returning officer

1. *The general manager (or a person appointed by the general manager) is the returning officer.*

RECOMMENDATION

That the Council elect the Deputy Mayor for the period 2009/2010 using the same election method as was used for the election of the Mayor.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

AUDITED GENERAL PURPOSE & SPECIAL PURPOSE FINANCIAL REPORTS FOR YEAR ENDED 30 JUNE 2009 & AUDITOR'S REPORT

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To present to Council the Annual Financial Statements and audit reports from Council's external auditor, Spencer Steer Chartered Accountants for the year ended 30 June 2009, to provide a summary of Council's financial performance and financial position at 30 June 2009 and seek approval to carry over budgets to fund the incomplete works at 30 June 2009.

BACKGROUND:

On 25 August 2009 Council resolved to receive and certify the Draft Financial Statements for 2008/2009 and to refer them to the external auditor. Council also resolved to fix 8 September 2009 as the date for the public meeting to present the statements and audit reports in accordance with Section 419(1) and 419(2) of the Local Government Act.

COMMENTS:

This is the final stage of the process of adopting Council's Annual Financial Statements for 2008/2009.

RECOMMENDATION:

That Council receives the audited Financial Statements and the report of Council's external auditor, Spencer Steer Chartered Accountants and that carry overs totalling \$9,070,000 be approved.

PURPOSE OF REPORT

To present to Council the Annual Financial Statements and audit reports from Council's external auditor, Spencer Steer Chartered Accountants for the year ended 30 June 2009, to provide a summary of Council's financial performance and financial position at 30 June 2009 and seek approval to carry over budgets to fund the incomplete works at 30 June 2009.

BACKGROUND

On 25 August 2009 Council resolved to receive and certify the Draft Financial Statements for 2008/2009 and to refer them to the external auditor. The auditor's reports were subsequently received by Council and have been attached to the General Purpose and Special Purpose Financial Reports in accordance with Section 417(1) of the Local Government Act 1993 ("the Act"). Council also resolved to fix 8 September 2009 as the date for the public meeting to present the statements and audit reports. In accordance with Section 418(1) and 418(3) of the Act, this meeting date was advertised and the Statements were made available for inspection by the public at Council's Chambers, libraries and on Council's website.

In accordance with Section 419(1) and 419(2) of the Act:

A Council must present its audited financial reports together with the auditor's reports at a meeting of Council held on the date fixed for the meeting; and

The council's auditor may, and if so required in writing by the council must, attend the meeting at which the financial reports are presented.

Council's external auditors, Spencer Steer Chartered Accountants will be in attendance to present their report on Council's financial statements and to answer questions.

In addition, Section 417(5) of the Act states that:

Council as soon as practicable after receiving the auditor's reports must send a copy of the audited financial reports and the auditor's reports to the Director General and the Australian Bureau of Statistics.

Unspent expenditure votes in the 2008/09 budget ledger can be carried over pursuant to sub-Clause 211 (3) of the Local Government (General) Regulation 2005, i.e. all such approvals and votes lapse at the end of a council's financial year. However, this sub-clause does not apply to approvals and votes relating to:

- (a) work carried out or started, or contracted to be carried for the Council; or
- (b) any service provided, or contracted to be provided for the Council; or
- (c) goods or materials to be provided, or contracted to be provided, for the Council; or
- (d) facilities provided or started, or contracted to be provided for the Council, before the end of year concerned, or to the payment of remuneration to members of the council's staff.

This review includes the identification of unspent operational and capital budgets to be carried forward to 2009/10. **Attachment B** to this report provides a summary of proposed carry forward works.

Item 3

FY00259/1
7 August 2009**COMMENTS**

The audited Financial Statements, together with the audited reports for the year ended 30 June 2009 are hereby presented to Council (**Attachment A - circulated separately**).

Written submissions from the public were invited, but at the time of writing this report none have been received. Submissions received up to 4.30pm on 8 September 2009 will be circulated to Councillors on the night. Section 420 of the Act requires that all submissions in respect of the audited Financial Reports must be in writing and must be lodged with the Council within 7 days after this meeting. Public submissions may be made up to 15 September 2009. Copies of all submissions received must be referred to Council's Auditor.

This is the final stage of the process of adopting the Financial Statements for 2008/2009.

Analysis of Result for Year

Below is a commentary on the general purpose financial report by addressing the "Sustainable Finances Health Check". An assessment of working capital is also provided.

The Income Statement discloses that Council's financial activities for the 2009 year resulted in an **increase** in net assets of \$17.518M (\$21.680M **increase** in net assets in 2008).

Local Government Sustainable Finances Health Check

A colour coding "traffic light" system was developed and endorsed by the Minister of Local Government in April 2002 to rate and present the relative position of councils' financial performance.

Information Note – Revenue Sources**Sources of Total Income from Continuing Operations Before Capital**

Income from Continuing Operations is classified by source as either from:

	Last Year - 2		Last Year - 1		Last Year		Current Year	
	\$	%	\$	%	\$	%	\$	%
Rates and Charges								
○ General Purpose	35,857	49%	36,976	49%	38,945	50%	41,086	50%
○ Specific Purpose (Levies)	3,393	5%	3,623	5%	3,722	5%	3,874	5%
○ Specific Purpose (DWM)	9,002	12%	9,137	12%	9,215	12%	9,988	12%
User Charges and Fees	13,957	19%	14,269	19%	14,530	19%	14,788	18%
Interest & Investment Revenue	1,909	2%	3,357	5%	2,359	3%	2,790	3%

Item 3

FY00259/1
7 August 2009

	Last Year - 2		Last Year - 1		Last Year		Current Year	
	\$	%	\$	%	\$	%	\$	%
Grants (Operating)								
o General Purpose	2,928	4%	2,986	4%	3,069	4%	3,940	5%
o Specific Purpose	4,289	6%	2,183	3%	2,351	3%	2,501	3%
Contributions	510	1%	248	0%	235	0%	152	0%
Net Gains from the disposal of assets	0	0%	0	0%	220	0%	26	0%
Other	1,909	2%	2,152	3%	2,667	4%	2,924	4%
Total Income from Continuing Operations less Capital Grants and contributions	73,754	100%	74,931	100%	77,313	100%	82,069	100%

Commentary:

Trend analysis indicates a continuing reliance on property taxes in the form of rates and no reliance on the sale of assets. Trend analysis for 2008 is very similar to 2009.

Indicator # 1 – Cash/Liquidity Position – after accounting for external reserves

	Current Year
1.1 Unrestricted Current Ratio	2.14:1
1.2 Available Cash Position	
❖ Available Cash Assets	\$15,210,000
❖ Unrestricted Available Cash Assets	\$1,566,000
1.3 Availability of Cash Assets as % of total revenue	
❖ Available Cash Assets	18.53%
❖ Unrestricted Available Cash Assets	1.91%

Acceptable Measures:

Less than 1:1 = Red; 1:1 to 2:1 = Amber; Over 2:1 = Green; successive years over 10:1 = Red
Council's result = GREEN

Commentary:

- 1.1 The purpose of this ratio is to assess the adequacy of working capital and the ability to satisfy obligations in the short term for the unrestricted activities of Council. Council's liquidity is satisfactory. Council can readily pay its debts as they fall due. This result compares with 1.84 in 2008 and 2.16 in 2007.
- 1.2 This indicator is used to interpret indicator 1.1 in \$ amount. Adequate funds available, providing the capacity to respond to opportunities or react to unforeseen commitments that may arise.

Item 3

FY00259/1
7 August 2009

- 1.3 This indicator is used to interpret indicator 1.1 in % amount. This demonstrates that Council funds are available either for unplanned works or commitments or the existence of emergency provisions.

Indicator # 2 – Operating Result
(Using trend analysis)

	Last Year -1 '000	Last Year '000	Current Year '000
Results from Continuing Operations before Capital Grants and Contributions	6,058	4,173	5,285

Acceptable Measures: Deficit = Red; Surplus = Amber; Three (3) successive surplus = Green
Council's result = GREEN

Commentary:

Council continues to generate sufficient revenue to cover its operating expenditure, including depreciation based on out of date valuations. As this analysis assumes that the current building and infrastructure depreciation provisions are adequate to provide for the replacement of existing assets, it should be considered with caution. It should be noted that Council undertook a revaluation of its buildings at 30 June 2008, therefore a true reflection of depreciation expense on buildings is shown in 2008/09 Financial Statements, as asset commissioned on 30 June 2008. An infrastructure (roads, drainage, bridges and footpaths) revaluation will be undertaken in 2009/10, therefore a true reflection of depreciation expense on infrastructure will be shown in 2010/11 Financial Statements, as assets will be commissioned on 30 June 2010.

Indicator # 3 – Building and Infrastructure Renewal Expenditure

	Last Year -1	Last Year	Current Year
Asset Renewal	1:1.32	1:1.59	1:1.67

Acceptable Measures:
1:1 = Green; Less than 1:1 = Red
Council's result = GREEN

Commentary:

The purpose of this ratio is to assess the rate at which these assets are being renewed against the rate at which they are depreciating. Asset renewals represents capital expenditure on the replacement, refurbishment or upgrade to an existing asset/s. As with the indicator above, this result should be considered with caution as infrastructure assets are valued at historical cost which is not a true reflection of their renewal or replacements cost. A strategic approach to asset management has been adopted through the Long Term Financial Model since 2007/8 and beyond. The infrastructure assets revaluation will impact annual depreciation, and therefore this indicator.

Item 3

FY00259/1
7 August 2009

Indicator # 4 – Debt Service Ratio

	Current Year	Next Year	Next Year +1	Next Year +2
Debt Service Ratio	3.08%	2.99%	2.50%	2.00%

Acceptable Measures:

<10% - Green: 10 to 15% = Amber; >15% = Red

Council's result = GREEN

Commentary

This indicator shows the amount of annual revenue necessary to service annual debt obligations (loan repayments). The purpose of this ratio is to assess the impact of loan principal and interest repayment on the discretionary revenue of Council. Council's ability to service its debt is excellent. The Long Term Financial Model assumes no new loan borrowings.

Indicator # 5 – Collection Performance

	Current Year	Next Year	Next Year +1	Next Year +2
5.1 Outstanding Rates, Charges and Fees	2.96%	2.95%	2.90%	2.85%
5.2 Rates, Annual, Interest and Extra charges outstanding	3.04%	3.00%	2.95%	2.90%

Acceptable Measures:

5.1 <4% = Green: 4 to 5% = Amber: >5% = Red

Council's result = GREEN

5.2 <4% = Green: 4 to 5% = Amber; >5% = Red

Council's result = GREEN

Commentary:

5.1 Outstanding Rates, Charges & Fees indicator assesses the impact of uncollected rates and annual charges & fees on liquidity and measures the effectiveness/adequacy of Council in recovering **all** debts legally owed to it.

5.2 Rates, Annual Charges, Interest and Extra Charges outstanding assesses only the impact of Rates, Annual Charges, Interest and Extra Charges on liquidity and is acceptable.

Indicator # 6 – Re-votes of Expenditure

What percentage are your total re-votes of expenditure compared to ordinary and capital expenditure?

	Last Year -2	Last Year -1	Last Year	Current Year
Re-votes of expenditure	3.90%%	2.31%	3.53%	9.71%

Item 3

FY00259/1
7 August 2009Acceptable Measures:

<2% = Green; 2% to 5% = Amber; >5% = Red

Council's result = RED

Commentary:

The existence of re-votes at year-end indicates that funded projects/outcomes were not delivered in accordance with the management plan. Improvement is required in the planning and completion of agreed works. A Project Review Board has been established to address this issue.

Balance Sheet

Council's Balance Sheet is disclosed in accordance with current accounting standards and reporting requirements of the Act and its Regulations. To assess the appropriateness or otherwise of Council's available working capital it is necessary to review the level of restrictions placed against the use of Council's current assets. The notes to the financial statements indicate clearly where restrictions exist, and the effect of the restrictions is summarised as follows:

	\$'000
Total Current Assets	49,349
Less: Total Current Liabilities	20,083
Working Capital as per Accounts	29,266
Add Budgeted and Expected to pay/not Expected to be realised in the next 12 mths	
Borrowings budgeted and expected to pay next 12 months	1,813
Employees Leave Entitlements budgeted and expected to pay next 12 months	3,511
Employees Leave Entitlements not expected to be realised next 12 months	4,580
Security Bonds, Deposits & Retentions expected to pay next 12 months	700
Security Bonds, Deposits & Retentions not expected to be realised next 12 months	2,565
Adjusted Working Capital	42,435
Less: Externally Restricted Assets (Note 6)	(21,657)
Less: Internally Restricted Assets (Note 6 +Note 22)	(19,471)
Available Working Capital	\$1,307

From this analysis it can be seen that at 30 June 2009, Council has a less than adequate level of working capital after the restrictions placed on those assets. Council's 20 year Long Term Financial Plan has a target of \$3.8M in working capital by 2012/2013, after taking into consideration debtors, stores, plus a 5% buffer for unbudgeted costs. The 5% safeguard is necessary to provide a buffer against unforeseen costs or reductions in revenue.

Council's adopted Long Term Financial Plan includes a working capital balance of \$700K in 2008/09 as part of the process of achieving the required balance of \$3.8M in 2012/13. On that basis Council has exceeded budget by \$607K. However an amount of \$729K was received in June 09 for the 2009/10 financial assistance grant. Income received in advance is not brought to account and recognised in the income statement except in the case of grant monies. Therefore the amount of

Item 3

FY00259/1
7 August 2009

\$729K will need to be adjusted in Council's September budget review. The result of this adjustment is that, overall Council's Available Working Capital balance is \$122K less than budgeted for in the Long Term Financial Plan. This shortfall will be addressed in the first quarter budget review for the 2009/10 financial year.

Tree and Landscape bonds

It should be noted that Council has collected \$3.265M of refundable security bonds, deposits and retentions. Council has maintained a cash restriction for refundable bonds and deposits as at 30 June 2009 of \$816K. This represents 24.99% of the total liability of \$3.265M at 30 June 2009. Future years' allocations have been determined in Council's Long Term Financial Plan, with a view to obtaining a 60% target by 2012/2013. An investigation of other councils' practices on this matter reveals varying cash restrictions from Nil to 100% and although Council's external auditor has recommended a minimum of 20%, the Department of Local Government has not provided an opinion on this matter. If Council was to restrict 100% cash for total bonds and deposits liability, working capital would decrease by \$2.449M.

In light of the court decision to pay out tree and landscape bonds on private land, of the \$3.265M an amount of \$1.2M was collected in tree and landscape bonds. Constant monitoring of cash outflow is undertaken for tree and landscape bonds, to ensure Council has available funds to meet refund requests, but it should be noted that a total cash restriction does not exist for this liability.

Projects Carried Forwards 2008/2009

Attachment B lists projects which were originally included in the 2008/2009 budget. Budgets voted for some works have not been fully spent and accordingly are requested to be carried forward into the current financial period. Some projects were committed to be completed but work concluded after year end. Consequently, this money needs to be carried forward to fund invoices for works completed. The total requested carried forward works is \$9,070,000 of which there is matching revenue totalling \$7,705,300 leaving a net total to be funded from general revenue of \$1,364,700.

A number of these projects were always scheduled to be undertaken over more than one year.

The internal restrictions included in the Financial Statements (Note 6) provide for an amount of \$1.364M which represents the General Revenue component of works proposed to be carried over from 2008/2009 to 2009/2010.

It is now proposed to seek approval to carry over budgets to fund the incomplete works at 30 June 2009. **Attachment B** to this report provides a summary and justification of each carried forward project request.

Performance Measurement

The Statement of Performance Measurement (Note 13) provides five ratios used to assess various aspects of Council's financial performance. The Unrestricted Current Ratio, Debt Service Ratio, Rates, Annual Charges, Interest & Extra Charges Outstanding Percentage and Building & Infrastructure Renewals Ratio have been addressed earlier in this report under the "Sustainable Finances Health Check". The remaining ratio, Rates and Annual Charges Coverage, assesses the degree of dependence on rate revenue. It has increased from 54.72% in 2007/08 to 58.27% in 2008/09.

CONSULTATION

Council's external auditors have conducted audit procedures during the year, as an interim to the verification of assets and liabilities at year-end, to assess the reliability of the general ledger to produce financial statements and the preparation of the draft general and special purpose financial reports.

Council officers have consulted with staff from Spencer Steer Chartered Accountants in the preparation of the Financial Statements.

FINANCIAL CONSIDERATIONS

The Statements provide an analysis of Council's financial position as at 30 June 2008. The available working capital at 30 June 2009 is \$1.307M, compared with \$159K at 30 June 2008.

Council's adopted Long Term Financial Plan includes a working capital balance of \$700K in 2008/09 as part of the process of achieving the required balance of \$3.8M in 2012/13. On that basis Council has exceeded budget by \$607K. However an amount of \$729K was received in June 09 for the 2009/10 financial assistance grant. Income received in advance is not brought to account and recognised in the income statement except in the case of grant monies. Therefore the amount of \$729K will need to be adjusted in Council's September budget review. The result of this adjustment is that, overall Council's Available Working Capital balance is \$122K less than budgeted for in the Long Term Financial Plan. This shortfall will be addressed in the first quarter budget review for the 2009/10 financial year.

Council's auditors issued a limitation of scope qualification for all councils with material holdings of Collateralised Debt Obligations (CDOs). The committee of the Local Government auditors Association of NSW made the determination after consultation with the NSW Department of Local Government and independent advisors. Council holds CDO securities totalling \$7M and they are classified as "held to maturity" assets. This qualification was issued because these types of securities do not have market values that are independently quoted and they are not widely traded. Further, independent market valuations are not readily available and in many cases, values are assessed based on estimates from issuers and/or valuation models for which there is limited market evidence available to verify their reasonableness in the current economic environment. It needs to be stressed that this is not an adverse qualification.

Council's external auditor's report, subject to the possibility of further investment write downs, that Council's overall financial position when taking into account the financial indicators outlined in their report, was in their opinion, satisfactory.

The total requested carried forward works is \$9,070,000 of which there is matching revenue totalling \$7,705,300 leaving a net total to be funded from general revenue of \$1,364,700. The carried forwards which are funded from general revenue totalling \$1,346,700 are funded from Council's revenue funded Carried Forward Works Reserve.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

The Annual Financial Statements and audit reports from Council's external auditor, Spencer Steer Chartered Accountants for the year ended 30 June 2009 are presented to Council. Written submissions from the public have been invited, and may be made up to 15 September 2009. Copies of all submissions must be referred to Council's auditor. This is the final stage of the process of adopting Council's Annual Financial Statements for 2008/2009.

A colour coding (traffic light) system was developed and endorsed by the Minister of Local Government in April 2002 to rate and present the relative position of a council's financial performance. For Ku-ring-gai, the industry health check assesses a green light rating for the following:

- 1) Cash/liquidity position
- 2) Operating Result
- 3) Building and Infrastructure Renewal Expenditure
- 4) Debt Service ratio
- 5) Collection Performance

Re-votes of expenditure is in the red zone.

Council's auditors issued a limitation of scope qualification for all councils with material holdings of CDOs. Council holds CDO securities totalling \$7M and they are classified as "held to maturity" assets. This qualification was issued because these types of securities do not have market values that are independently quoted and they are not widely traded. It needs to be stressed that this is not an adverse qualification.

Council's external auditor's report, subject to the possibility of further investment write downs, that Council's overall financial position when taking into account the financial indicators outlined in their report, was in their opinion, satisfactory.

The available working capital at 30 June 2009 is \$1.307M, compared with \$159K at 30 June 2008. Council's 20 year Long Term Financial Plan has a target of \$3.8M in working capital by 2012/2013, after taking into consideration debtors, stores, plus a 5% buffer for unbudgeted costs. The 5% safeguard is necessary to provide a buffer against unforeseen costs or reductions in revenue.

For the year ended 30 June 2009 the total requested carried forward works are \$9,070,000. There is matching revenue for carried forward works in the amount of \$7,705,300, a net total to be funded from general revenue of \$1,364,700.

RECOMMENDATION

- A. That Council receives the audited Financial Statements and the report of Council's external auditor, Spencer Steer Chartered Accountants.
- B. That the schedule of carry over requests which are funded totalling \$9,070,000 be approved, the funds voted for expenditure and the estimates for 2008/09 be adjusted accordingly.

John Clark
Director Corporate

Tino Caltabiano
Manager Finance

Attachments: A. Annual Financial Statements for the year ended 30 June 2009 - circulated under separate cover
B. Proposed Carry Forward Works year ended 30 June 2009 - 2009/140010

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Community					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
International Women's 100054 - Day	Revenue Funded Works Reserve	800	800	0	Funds required for International Women's Day program scheduled to be completed in March 2010.
100294 - I.D. Community Profile	Revenue Funded Works Reserve	7,000	7,000	0	Annual fee to maintain Community Demographic profile and ATLAS on Council's website. Project due for completion June 2010.
Community Languages 100589 - Collection	Revenue Funded Works Reserve	500	500	0	Funds required for purchase of community language materials for library. Project completion date December 2009.
100665 - Backyard Landcare	Unexpended Grants	79,400	79,400	0	Funds required for completion of Greenstyle project. Completion date of project June 2010.
100869 - Intranet	Revenue Funded Works Reserve	7,100	7,100	0	Funds required to complete final upgrades for Kasey. Project completion date June 2010.
State Library Grant 100881 - Technology	Unexpended Grants	11,600	11,600	0	Funds required to complete upgrade of IT connections between library branches. Project completion date June 2010.
State Library Grant 100882 - Building	Unexpended Grants	24,900	24,900	0	Funds required to complete upgrade of branch libraries. Project completion date March 2010.
State Library Grant 100883 - Promotion	Unexpended Grants	23,200	23,200	0	Grant funding to complete branding and marketing project. Completion date for project June 2010.
101187 - Thomas Carlyle Centre	Revenue Funded Works Reserve	13,700	13,700	0	Funds required to complete upgrade of children's playground. Completion date March 2010
101201 - Information Kiosk	Revenue Funded Works Reserve	29,200	29,200	0	Development of information and promotional materials commenced, remaining funds required to complete implementation of new bookings system (September 2010)
Compost Toilet - 101271 - Wildflower Garden	Unexpended Grants	100,000	100,000	0	Contractor engaged, funds required to complete project (October 2009)
Total Projects		297,400	297,400	0	

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Corporate					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
HR Payroll 100511 - Performance Planning	Revenue Funded Works Reserve	16,500	16,500	0	HR system modules have been further investigated and it is anticipated that implementations will commence in 2009/10.
100649 - OH&S Procedures	Contributions To Works	22,300	22,300	0	Funds are required to be spent on OH&S initiatives and are therefore required to be carried forward into 2009/10.
Works & Assets Stage 100710 - 1	Revenue Funded Works Reserve	68,400	68,400	0	Pilot project to commence in 2009/10 requiring funds to be carried forward.
100783 - Trim	Revenue Funded Works Reserve	7,500	7,500	0	Fund required to be carried forward to purchase licences for integration into new DA software.
100862 - Booking System	Revenue Funded Works Reserve	5,500	5,500	0	Project continuing into new year, all budget to be carried forward.
Furniture and other 101196 - assets	Revenue Funded Works Reserve	10,000	10,000	0	Funds required to be carried forward as they will be required for level 3 accommodation changes.
101203 - IT Equipment	Revenue Funded Works Reserve	39,100	39,100	0	Project continuing into new year, all budget to be carried forward.
Business Paper System 101205 - Replacement	Revenue Funded Works Reserve	50,000	50,000	0	System has been purchased and will be implemented in 2009/10, therefore funds need to be carried forward.
101210 - GIS Replacement	Revenue Funded Works Reserve	208,200	208,200	0	Tender currently being reviewed, budget required to be carried forward for the purchase and implementation of the system.
Total Projects		427,500	427,500	0	

Development & Regulation					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
Handheld Infringement 101195 - Device	Revenue Funded Works Reserve	111,800	111,800	0	Please carry over as implementation will be completed in July 09 with final account expected by end July 09
Total Projects		111,800	111,800	0	

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Operations					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
Seven Little Australians 100566 - Park & Walking	Infrastructure & Facilities Reserve	35,300	35,300	0	This project is currently underway and further work is required on the walkway. Carry over of funds required and funding is from a grant.
Echo Point & Moores 100567 - Creek Walking Track	Infrastructure & Facilities Reserve	32,000	32,000	0	This project is currently underway and awaiting hazard reduction burn before installing equipment. Carry over of funds required and funding is from a grant.
Gordon Golf Course - 100662 - Sewer Mining Plan	Golf Course Levy, Unexpended Grants & Grant (Capital)	1,892,600	1,892,600	0	Contract now let to Henry and Hymas. Work still to start.
100705 - Operational Fleet	Revenue Funded Works Reserve	52,800	52,800	0	Carry forward funds to assist with 2009/10 replacements.
100706 - Passenger Fleet	Revenue Funded Works Reserve	7,500	7,500	0	Carry forward funds to assist with 2009/10 replacements.
Swimming Pool Stage 5 100717 - Refurbishment	Infrastructure & Facilities Reserve	48,300	48,300	0	To finish of the floor in the plant room and awaiting repairs to the leaking valves.
Two Creeks Wellington 100785 - Upgrade	Infrastructure & Facilities Reserve & Unexpended Grants	81,000	81,000	0	Waiting on installation of raised walkway and advice on aboriginal heritage.
100789 - Provincial Rd Lindfield	Infrastructure & Facilities Reserve	33,000	33,000	0	Funds required to complete drainage works
Alma St/Graham Ave 100790 - Pymble	Infrastructure & Facilities Reserve	56,500	56,500	0	Funds required to complete drainage works
Sir David Martin 100835 - Reserve Park	Infrastructure & Facilities Reserve & Sec 94 - 2004/09 Sportsground/Park Upgrade	932,400	932,400	0	Contract currently underway and funds required to be carried forward.
St Ives Showground 100850 - Playground	Infrastructure & Facilities Reserve	16,500	16,500	0	To be carried forward to fund over-expenditure on Dukes Green. Project complete.
Wahroonga Traffic & 100887 - Parking Study	Revenue Funded Works Reserve	3,900	3,900	0	Funds required for invoices paid in 09/10.
101070 - Koola Park Upgrade	Sec 94 - 2000/03 Park Upgrade - Koola Park	29,000	29,000	0	S.94 funded. Carry forward any surplus funds

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Operations					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
Golden Jubilee Sports 101071 - Field (Back Oval)	Sec 94 - 2004/09 Sportsground/Park Upgrade	25,600	25,600	0	S.94 funded. Project has commenced in 09/10. Carry forward any surplus funds. Further geotech investigation required.
Roseville Chase Oval 101072 - (Heritage site)	Infrastructure & Facilities Reserve & Sec 94 - 2004/09 Sportsground/Park Upgrade	64,200	64,200	0	Funds required to complete fencing work.
Bert Oldfield Oval / 101073 - Killara Park	Infrastructure & Facilities Reserve	3,300	3,300	0	To repair the car park. Work has been done.
Lofberg Oval 101074 - Stormwater harvesting	Infrastructure & Facilities Reserve & Revenue Funded Works Reserve	240,400	240,400	0	Contract currently underway and funds required to be carried forward.
Loftberg Oval 101076 - Floodlighting Update	Infrastructure & Facilities Reserve	55,600	55,600	0	Contract currently underway and funds required to be carried forward.
Pleasant Ave - 101080 - Playground	Infrastructure & Facilities Reserve	14,100	14,100	0	To be carried forward to fund over-expenditure on Dukes Green. Project complete.
Turramurra Memorial 101081 - Park	Revenue Funded Works Reserve & Sec 94 - 2004/09 LGA Wide Embellishment Work	152,600	152,600	0	Funds required to complete project.
Eldinhope Green 101083 - Playground	Infrastructure & Facilities Reserve	1,400	1,400	0	Funds not required as work has been completed.
Memorial Avenue 101084 - Reserve	Infrastructure & Facilities Reserve	64,700	64,700	0	Work currently underway.
Two Turner Reserve, 101085 - Lindfield	Sec 94 - 2004/09 Southern Area Embellishment Works	132,100	132,100	0	Project delayed due to lack of resources. Project is funded by Section 94.
Roseville Park Tennis 101090 - Courts	Infrastructure & Facilities Reserve	57,700	57,700	0	Awaiting lighting works to be installed.
Lofberg Oval Netball 101094 - Courts	Revenue Funded Works Reserve	23,400	23,400	0	Funding required for work allocated in 2009/10.
Swain Gardens Landscape Master Plan 101098 - Stage 1	Reserve Fund Carried Forward Works	41,800	41,800	0	Wet weather delay. Carry over to allow completion of project.

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Operations					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
101100 - Turramurra Memorial Park Karuah Park Masterplan	Infrastructure & Facilities Reserve	38,500	38,500	0	This budget is to match grant funding. It needs to be carried over to pay for exercise equipment which has been ordered.
101102 - St Ives Showground	Revenue Funded Works Reserve	78,100	78,100	0	This project subject to HAC resolution. This project is grant related. Please carry over funds.
101103 - Bicentennial Park dog off leash area	Infrastructure & Facilities Reserve	47,100	47,100	0	Contract currently underway and funds required to be carried forward.
101104 - Memorial Avenue Reserve	Infrastructure & Facilities Reserve	42,500	42,500	0	Work currently underway. Associated with landscaping.
101117 - Indoor Aquatic Facility	Infrastructure & Facilities Reserve & Sec 94 - 2004/09 West Pymble Pool	137,400	137,400	0	Carry forward any surplus funds to fund design.
101126 - Rosedale Road	Infrastructure & Facilities Reserve	23,900	23,900	0	Project complete.
101129 - Bobbin Head Road	Infrastructure & Facilities Reserve	57,400	57,400	0	Carry forward any surplus funds
101132 - Lady Game Drive Shared Path	Infrastructure & Facilities Reserve & Grants (Capital)	188,100	188,100	0	Carry forward any surplus funds for design and construction in association with 2009/10 project.
101142 - Werona Avenue	Revenue Funded Works Reserve	38,400	38,400	0	Funding for traffic facilities work.
101144 - Grosvenor St & Junction St Road Wahroonga	Revenue Funded Works Reserve	20,000	20,000	0	Project nearing completion.
101145 - Victoria Street Roseville	Revenue Funded Works Reserve	15,000	15,000	0	Funding for traffic facilities work.
101146 - Koola Ave - Ped fencing	Revenue Funded Works Reserve	4,600	4,600	0	Awaiting invoices.
101153 - Wattle Street	Infrastructure & Facilities Reserve	99,500	99,500	0	Awaiting design.
101155 - Middle Harbour Road	Infrastructure & Facilities Reserve	43,600	43,600	0	Project to start in September 2009.
101164 - 1A Brentwood Avenue	Infrastructure & Facilities Reserve	155,100	155,100	0	Project to start in September 2009.

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Operations					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
Environmental Drainage System 101165 - Management	Infrastructure & Facilities Reserve	69,800	69,800	0	Carry forward any surplus funds for contract works.
Removal of graffiti in 101176 - Business Centres	Infrastructure & Facilities Reserve	4,400	4,400	0	Awaiting invoices in 09/10.
Council Chambers 101220 - Building Works	Revenue Funded Works Reserve	128,100	128,100	0	Carry forward any surplus funds for office fit outs.
101221 - SES Relocation	Infrastructure & Facilities Reserve	175,200	175,200	0	Remaining budget to carry over as work has not started.
St Ives Village Green 101265 - Skate & Bike Park	Sec 94 - 2004/09 LGA Wide Embellishment Work	91,400	91,400	0	Mainly S.94 funded. Whole budget needs to be carried forward to supplement additional allocation in the 09/10 budget.
Turramurra Memorial Park and Karuah Park 101266 - fitness circuit	Grant (Capital)	21,000	21,000	0	Grant funding for project.
Total Projects		5,576,800	5,576,800	0	

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Strategy					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
North Turrumurra 100080 - Recreation Area	Sec 94 - 2000/03 Nth Turrumurra Sportfield Development	41,200	41,200	0	Project to fund NTRA as per adopted landscape master plan. Section 94 funded. To be carried forward for future design work as part of special rate.
Stoney Creek 100326 - (Richmond Park)	Environmental Levy	5,900	5,900	0	Funds to be carried forward as an Environmental Levy project to undertaken pre-fire weeding in Richmond Park. Contractors engaged and expect work to be completed next financial year.
100327 - Middle Harbour	Environmental Levy	3,300	3,300	0	Project funds required to do remediation works around Allan Small Oval in 2010.
100329 - Lane Cove	Environmental Levy	11,300	11,300	0	Funds required for stormwater outlet protection within Bicentennial Park catchment linked to works at Lofberg Oval and Quarry Creek in 2009/10.
Bushcare Site 100333 - Improvements	Environmental Levy	5,500	5,500	0	Funds to be carried forward to next financial year to supplement expanding bushcare program.
100335 - Urban Landcare	Environmental Levy	2,700	2,700	0	This project complements the Greenstyle Program as Council's co-contribution to the State Government Grant. Budget of \$8000 and actuals of \$5304 are to be transferred to PJ100665.
100339 - Small Grant Projects	Environmental Levy	5,400	5,400	0	Funds to be carried forward to next financial year due to staging of projects as part of the Environmental Levy program.
Golden Jubilee Fire 100342 - Trail	Environmental Levy	14,400	14,400	0	External grant funds that complement council's expenditure on this project. Carry over of funding necessary to complete works.
Biodiversity (Macroinvertebrate, 100351 - Flora, F	Environmental Levy	5,000	5,000	0	Funds necessary to support current seasonal bird monitoring and macro-invertebrate sampling under current program for 2009/10.
100353 - Community Survey	Environmental Levy	20,000	20,000	0	Funding will be used for a develop spatial based survey reporting and analysis in 2010. This information will be able to inform Council's strategic plan and specifically support for the Environmental levy.

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Strategy					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
100354 - Social Research	Environmental Levy	19,100	19,100	0	Funding needed to support the development of a residents feedback register to replace current data base that has expired. This follows a resolution of Council related to the revision of the Consultation policy.
100355 - Program Evaluation	Environmental Levy	20,000	20,000	0	This project will link to the community survey (PJ 100353) to support a spatial based survey and reporting database.
Weed Inspectorial 100357 - (Weed Condition)	Environmental Levy	24,800	24,800	0	Funding used for the completion of the vegetation mapping on public land to be completed late 2009.
Catchment 100504 - Management	Infrastructure & Facilities Reserve & Revenue Fund Carried Forward Works Reserve	110,500	110,500	0	Funding required to construct the bioretention system as part of the Lofberg Oval stormwater harvesting project to be completed early 2010 (relates to PJ 101245 and 101074).
WSUD Stormwater Qty 100617 - & Quality	Environmental Levy	22,100	22,100	0	Funding to be carried forward for stormwater gross pollution control device at Quarry Creek to match State Government grant funding to be completed 2009.
Development Public 100826 - Domain Stage 1	Sec 94 - 2004/09 Public Domain Improvements	4,500	4,500	0	Carry forward project ongoing December 2009.
Heritage Items and 100827 - UCA Review	Revenue Funded Works Reserve	10,000	10,000	0	Carry forward for principal LEP Heritage study by June 2010.
Heritage Assistance 100828 - Fund	Revenue Funded Works Reserve	5,000	5,000	0	carry forward for outstanding projects by end December 2009.
Energy Performance 100863 - Contract	Infrastructure & Facilities Reserve	115,000	115,000	0	Funds to be carried over to commence a second stage energy reduction program to be identified as part of current consultancy due in October 2009.
Proclaim Contributions 100873 - Add On	Sec 94 - 2004/09 Admin - Sec 94 Officer	16,200	16,200	0	Carry forward to co-incide with consolidated CP by March 2010.
Riparian Improvement 100888 - Stormwater Treatment	Unexpended Grants	71,900	71,900	0	NSW Government grant for Lofberg bioretention system to be completed early 2010.

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Strategy					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
Lofberg Quarry Creek 100892 - Water Quality Imprv	Unexpended Grants	11,400	11,400	0	NSW Government grant to fund gross pollution control trap on Quarry Creek to be installed late 2009.
101186 - Catchment Analysis	Revenue Funded Works Reserve	59,500	59,500	0	Project used to fund existing studies for the feasibility and design of St Ives green waste water recycling and North Turrumurra sewer mining and leachate reuse project and for the procurement of water meters to measure use of harvested stormwater. Consultancies scheduled for completion September 2009 and water meters to be installed September 2009.
Marian Street Theatre 101222 - Feasibility Study	Infrastructure & Facilities Reserve & Unexpended Grants	374,100	374,100	0	DA awaiting approval potentially due September 2009. Some works partially commenced and all building contractors engaged and awaiting issuance of CC to commence works.
31 Bridge Street - 101227 - Renovations	Infrastructure & Facilities Reserve	285,300	285,300	0	Project not yet complete. Awaiting air conditioning, electrical, fitout, carpeting and office furniture. Need to carry forward all unspent funds and commitments.
101233 - Kokoda & Kooloona	Environmental Levy	10,600	10,600	0	Contractors engaged to create asset protection zone and undertake regeneration. Project has been delayed and expect to be completed mid 2010.
Aerial/satellite canopy 101235 - mapping	Infrastructure & Facilities Reserve	45,900	45,900	0	Funding used to complete the vegetation mapping as resolved by Council. Mapping of private properties scheduled for completion in September and public land by year end. Carry over funding required to ensure data compatibility with mapping from NPWS and Catchment Management Authority.
101238 - Paddy Pallin	Environmental Levy & Sec 94 - 2004/09 Southern Area Embellishment Works	35,400	35,400	0	Funds used for completion of walking track through Paddy Pallin reserve. Project completed August 2009.
Little Blue Gum Creek 101239 - to GNW	Environmental Levy & Grants (Capital)	85,000	85,000	0	Grant and levy related project to fund the installation of an accessible walking track starting corner of Grosvenor Street and Lady Game Drive. Project to commence November 2009 and scheduled completion mid 2010. Funds to be carried forward to next financial year as income restricted within Environmental Levy

**Proposed Carried Forward Works
for year ended 30 June 2009**

ATTACHMENT B

Strategy					
Project	Source of Funding	Expense	Income	Net	Comments
		\$	\$	\$	
101242 - Gordon Town Centre	Environmental Levy	117,000	117,000	0	Funds to be carried forward to next financial year as income restricted within Environmental Levy.
101245 - Lofberg Oval	Environmental Levy & Grants (Capital)	440,400	440,400	0	Project will construct a stormwater treatment and harvesting scheme and relates to PJ 101245 and 101074. This follows a resolution by Council in relation to the tender of this project in June 2009.
101254 - Open Space Planning	Revenue Funded Works Reserve	4,000	4,000	0	Funding for principal LEP sites March 2010.
101255 - Dual Occupancy review	Revenue Funded Works Reserve	7,000	7,000	0	Carry forward to finalise position paper end of October 2009.
100825 - Reclassification project	Revenue Funded Works Reserve	10,000	10,000	0	Carry forward to complete project exhibition & public hearing end date December 2009.
From waste water to valuable water - St Ives 101267 - Vegetation Tip	Grants (Capital)	488,600	488,600	0	NSW Government grant for the construction of water treatment and distribution network from green waste tip to showground. Project expected to commence late 2009.
A partnership for sharing alternate water 101268 - supply - Roseville	Grants (Capital)	88,500	88,500	0	NSW Government grant to complement stormwater harvesting from Roseville golf course dam. Expect to be completed late 2009.
Water for Life Council 101269 - Partnership	Unexpended Grants	4,800	4,800	0	Project substantially completed. Remainder of funds to be used for ongoing education for water saving projects as required by grant.
Strategic Asset Management Project 101270 - Plan	Revenue Funded Works Reserve	55,200	55,200	0	Project to be carried forward. \$14k commitment not showing.
Total Projects		2,656,500	2,656,500	0	

GENERAL COMMITTEE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To consider the continued operation of the General Committee.
BACKGROUND:	The General Committee was established on 24 February 2009.
COMMENTS:	As the General Committee has been in operation for some six months it is an opportune time to review whether the Committee has been able to fully meet expectations.
RECOMMENDATION:	That the General Committee be dissolved.

PURPOSE OF REPORT

To consider the continued operation of the General Committee.

BACKGROUND

The General Committee was established by Council on 24 February 2009.

COMMENTS

As the General Committee has been in operation for some six months it is an opportune time to review whether the Committee has been able to fully meet expectations.

Issues

Briefly the Committee was created so as to allow Council to consider matters with a degree of informality and to encourage a free exchange of comments with full participation by all Councillors and staff. The Committee was largely a replacement for the previous Council Forums where there had been some concerns about the Forums appearing to act as de-facto decision making bodies. The less formal structure of the General Committee also readily allowed the making of presentations and the like by staff.

The General Committee established certain procedures so as to facilitate its informality. The Committee, however, because it is comprised only of Councillors, was still required to operate within the relevant provision of the *Local Government Act 1993* (the Act), the *Local Government (General) Regulation 2005* (the Regulation) and Council's *Code of Meeting Practice*.

The Committee effectively substituted for one Council meeting each month. It was granted delegated authority to determine matters, subject to the limitations imposed by Section 377 of the Act.

It has become apparent over the past six months that the limitations of section 377 have placed a real restriction on matters that may be dealt with by the General Committee. In particular matters such as management plan adoption, quarterly budget reviews, acquisition of property and acceptance of tenders are significant items that could not be fully considered and determined by the General Committee under its delegation. This has to some extent frustrated the operation of the Committee and the Council.

In the recent review of Council's operations by the Department of Local Government, the Department's representatives expressed comments about whether the General Committee has been successful in assisting Council in its decision making roles. It could be expected that the Department's report on this review will recommend that Council reconsider whether it should continue with the operation of the General Committee.

Item 4

S06952
25 August 2009

Certainly the loss of one Council meeting per month, coupled with the restrictions imposed on the operation of the General Committee by section 377 of the Act, has presented some concerns about Council's ability to always be able to deal with matters in an efficient and timely manner.

The need for informal discussions

If the General Committee was dissolved Council would then need to revert to its past practice of having two Council meetings in most months. Although Council is required to have only 10 Council meetings per year a frequency of around one per month is unlikely to be adequate for prompt decision making.

There is still a need for Councillors and staff to be able to work through issues in a less formal environment. This can be achieved in two ways.

Firstly, during a Council meeting Council has the ability to go into a Committee of the Whole at any time. Section 373 of the Act allows a Council to resolve itself into a committee to consider any matter before the Council.

In accordance with clause 259 of the Regulation, forming a Committee of the Whole during a Council Meeting overcomes the limitation on the number and duration of speeches referred to in clause 250 of the Regulation. Clause 3.17.3 of Council's *Code of Meeting Practice* removes the requirement to stand when speaking at a Committee of the Whole.

Council already goes into a Committee of the Whole for confidential items, ie for matters referred to in section 10(A)2 of the Act. Council could follow the same process for other matters with the meeting remaining open to the public.

A Committee of the Whole would be an appropriate mechanism also for staff to make presentations and engage in general discussion with Councillors. Staff can indicate in the report in the business paper if a presentation is planned.

Secondly, Council is permitted to have workshops, briefing sessions and the like in an environment that does not have the formality of a Council Meeting.

The Department of Local Government *Meetings Practice Note No. 16* (November 2005) states:

A council can hold a workshop (sometimes called a briefing session) under its general powers as a body corporate. Workshops are informal committees and can provide useful background information to councillors on issues. A workshop may involve councillors, council staff and invited participants.

Workshops should not be used for detailed or advanced discussions where agreement is reached and/or a (de-facto) decision is made. Any detailed discussion or exchange of views on an issue, and any policy decision from the options, should be left to the open forum of a formal council or committee meeting.

The Department recognises the value of workshops or information sessions in developing councillor knowledge and expertise, and in assisting their role as public officials.

Item 4

S06952
25 August 2009

Whilst some concerns may have been expressed in the past about the operation of the Council Forums there is no barrier to Council having workshops/briefing sessions that are closed to the public, providing that the discussion is not so advanced that it becomes a de-facto decision making process. Workshops/briefing sessions are a valuable and essential part of most Council's operations.

Code of Meeting Practice

Part 5 of Council's Code of Meeting Practice deals with establishment and operation of Council Committees. Attachment D sets out the Charter for the General Committee. Clause 1.5 of the Code makes it clear that attachments do not form part of the Code; they are provided to assist understanding. The Charter for the General Committee therefore does not actually form part of the Code. As such there is no need to re-exhibit the Code and invite submissions prior to making any decision to dissolve the General Committee.

Should Council dissolve the General Committee there is no immediate need to address this change in the Code of Meeting Practice. Attachment D simply becomes redundant and can be formally removed when Council next considers a general review of the Code.

CONSULTATION

No specific consultation is required.

FINANCIAL CONSIDERATIONS

There are no specific financial considerations in this matter.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

The General Manager and the Directors have been involved in the preparation of this report and support the recommendation.

SUMMARY

It has become apparent that, because of the delegation limitations imposed by section 377 of the Act, the operation of the General Committee has not been able to fully meet expectations. As such it should be dissolved. Informal consideration of matters can still be achieved through the use of a Committee of the Whole during Council Meetings and informal briefings sessions/workshops as and when required. The scheduled General Committee meetings for the remainder of the year should be replaced by Council meetings.

RECOMMENDATION

- A. That the General Committee be, and is hereby, dissolved.
- B. That the scheduled General Committee Meetings for the remainder of the year be replaced with Council meetings.
- C. That, to undertake informal consideration of matters and receive presentations from staff, Council makes use of a Committee of the Whole during Council meetings as well as briefing sessions/workshops as and when required.

John Clark
Director Corporate

GEOGRAPHICAL INFORMATION SYSTEM TENDER

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report on the results of the public tender for the replacement of Council's Geographical Information System (GIS) and to seek approval to accept the tender from the preferred tenderer.

BACKGROUND:

On 16 December 2008 Council resolved to allocate funds towards the replacement of Council's Geographical Information system (GIS) and to authorise the calling of tenders for the replacement of the system.

In February 2009 Council called for tenders for the replacement of Council's Geographical Information System (GIS).

COMMENTS:

Tenders for the GIS closed on 24 March 2009 with five submissions being received. Of the five tenderers, two offered comparable solutions.

RECOMMENDATION:

That Council accepts the tender from ESRI Australia for the replacement of Council's Geographical Information System (GIS).

PURPOSE OF REPORT

To report on the results of the public tender for the replacement of Council's Geographical Information System (GIS) and to seek approval to accept the tender from the preferred tenderer.

BACKGROUND

Council's existing GIS is outdated with the vendor no longer undertaking any development work for the product and it is likely that ongoing support will eventually cease.

Council is in need of a GIS that can better meet organisational and community requirements.

On 16 December 2008 Council resolved to allocate funds towards the replacement of Council's Geographical Information System (GIS) and to authorise the calling of tenders for the replacement of the system.

A Tender Evaluation Panel, comprising six staff members, prepared a detailed tender document inviting tenders from suppliers with suitable experience and capability, for the provision, implementation, integration and ongoing support of a GIS solution that is currently available in the Australian market place.

In February 2009, Tender T01/2009 called for tenders for the replacement of Council's Geographical Information System (GIS), closing on 24 March 2009. Tenders were received from the following five companies:

1. Digital Mapping Solutions
2. MRF Geosystems
3. Pitney Bowes Business Insight (MapInfo)
4. Omnilink Pty Ltd
5. ESRI Australia

COMMENTS

The tenders have been assessed by a Tender Evaluation Panel comprising six staff members from various departments.

The assessment of tenders was based on the following selection criteria:

- Compliance with the functional requirements
- Compliance with the general and technical requirements
- Demonstrated track record of the tenderer, particularly in relation to current installations at other local government authorities
- Financial viability of the tenderer
- Annual investment in research and development by the tenderer

Item 5

S06960
31 August 2009

- Willingness to work with other software vendors to ensure certification of software in relation to integration aspects

The evaluation process consisted of the following six stages:

1. Compliance assessment
2. Verification of completeness of the response
3. Comparison of proposed solutions
4. Evaluation of product demonstrations
5. Evaluation of reference sites, including at least one site visit
6. Evaluation and recommendation of a preferred tenderer (if any)

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

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

Section 10(A) 2(d) of the Act permits the meeting to be closed to the public for business relating to:
(i) prejudice the commercial position of the person who supplied it, or
(ii) confer a commercial advantage on a competitor of the council, or
(iii) reveal a trade secret,

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

Of the five tenders received, DMS, MRF and Omnilink were found to be non-compliant during the early stages of the assessment with details for the non-compliance contained within the confidential attachment.

Evaluation of ESRI and Pitney Bowes included presentations from the vendors at Council, site visits at other councils, independent financial assessments and pricing evaluation. Again, details of the assessment process and the results are contained in the confidential **attachment**.

The evaluation process resulted in the solution offered by ESRI Australia being chosen by the assessment panel as the preferred option for the provision of a Geographical Information System for the following reasons:

- The submission from ESRI Australia offers a comprehensive GIS solution that will significantly improve Council's GIS capability and allow for future product development over many years.
- ESRI Australia has extensive experience working with Local Governments across Australia with more than half the largest 50 and over 100 councils using the ESRI solution. Globally, ESRI is used by more than 24,000 state and local governments.

Item 5

S06960
31 August 2009

- They offer a more comprehensive desktop solution, enabling more advanced data analysis, 3D modelling and printing capabilities which will greatly assist Council in its provision of services and assessment of future development proposals within the Local Government Area.
- Their intranet/internet solution offers greater functionality which will not only enable Council to greatly improve our Web Viewer but will also enable staff to replicate the extensive range of user defined queries currently only available through our GIS desktop.
- Council has existing staff with experience in using this software which will greatly reduce the need for external training and consultation.

CONSULTATION

Extensive consultation and demonstrations have been held with complying tenderers.

FINANCIAL CONSIDERATIONS

The budget for the GIS tender for 2009/10, including carry-overs is \$208,200. The proposal from the preferred tenderer is \$187,465 for the 2009/10 year. Licencing costs for the product for 2010/11 and 2011/12 are approximately \$6K more than Council currently pays for its GIS licences. The additional funds will be allocated as part of the overall budget for those years and the difference of \$6K is considered minimal compared with the additional benefits gained from the implementation of the ESRI system.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Extensive consultation and demonstrations have been held with staff from Corporate, Strategy, Development & Regulation and Operations departments.

SUMMARY

On 16 December 2009 Council called for tenders for the replacement of Council's Geographical Information system (GIS) and to seek approval to accept the tender from the preferred tenderer.

Five submissions were received and after extensive analysis ESRI Australia was selected as the preferred option to meet Council's requirements for the provision, implementation, integration and ongoing support of a GIS solution. The effect of this tender means that Council can upgrade to state of the art technology ensuring that Council continues to provide the best possible GIS services to the organisation and the community.

Pending approval of the recommended option it is anticipated that a new GIS system would be installed over the next few months with full implementation completed by July 2010.

RECOMMENDATION

- A. That Council accept the tender from ESRI Australia for the replacement of Council's Geographical Information System (GIS).
- B. That the execution of all documents relating to the tender be delegated to the Mayor and General Manager.
- C. That the Common Seal be affixed to any necessary documents.

John Clark
Director Corporate

Attachments: Tender Selection Criteria Results (Confidential)

ACQUISITION & DIVESTMENT OF LAND POLICY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to adopt the draft Acquisition and Divestment of Land Policy.

BACKGROUND:

On 7 July 2009, a report was submitted to Council at which time it resolved to place the draft Acquisition and Divestment of Land Policy on exhibition for a period of 28 days with a further 14 days for public comment, in accordance with the requirements of the *Local Government Act 1993*.

COMMENTS:

The draft Acquisition and Divestment of Land Policy was placed on public exhibition from 17 July to 28 August 2009, inviting submissions from the general public. No comments were received.

RECOMMENDATION:

That Council adopts the draft Acquisition and Divestment of Land Policy.

PURPOSE OF REPORT

For Council to adopt the draft Acquisition and Divestment of Land Policy.

BACKGROUND

In March 2008, a briefing session was conducted with Councillors presenting potential sites for acquisition of future open space and outlining acquisition methods. It was during this presentation and subsequent report in April 2008 that identified the need for a formal process to enable and pursue land acquisition opportunities based on assessment against the *Open Space Acquisition Strategy*, merit and proactively presenting these opportunities to Council.

On 8 July 2008, the draft *Acquisition of Land Policy* was presented to Council's former Policy Forum. The Forum identified some matters of the draft policy which were unclear:

- reference to the *Conveyancing Act 1919* (Cr Hall); and
- amplification that compulsory acquisition is not a preferred method of acquiring land, albeit potentially required in extenuating circumstances (All).

These matters were clarified in the revised draft policy which was submitted to Council on 22 July 2008, at which time Council unanimously resolved:

- That the matter be deferred and the draft Acquisition of Land Policy be brought to Council in conjunction with the Disposal of Land Policy.*
- That the report include an analysis of the requirement or otherwise to publicly advertise the Policy.*

On 11 November 2008, a further report providing an integrated draft *Acquisition and Divestment of Land Policy* was submitted to Council for adoption, at which time Council resolved to defer the matter for further discussion.

On 27 May 2009, the Ku-ring-gai Planning Panel resolved to adopt the draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*. The draft plan identified approximately 40 privately owned properties for land acquisition as RE1 local open space and SP2 infrastructure.

On 7 July 2009, a further report was submitted to Council at which time it resolved;

- That the draft Acquisition & Divestment of Land Policy be exhibited for a period of 28 days with a further 14 days for public comment, in accordance with the requirements of the Local Government Act 1993.*
- That a further report be presented to Council incorporating comments received during the public exhibition process.*
- That Part 7.3 under Methods of Acquisition be amended to read, as follows:*

Item 6

S05399
27 August 2009

- 7.3 Council's preferred position is *not to* acquire land through compulsory acquisition. However, Council has an obligation to provide services to the community and if required Council **MAY** consider utilising its powers under the Local Government Act 1993 in respect of "compulsory acquisition".

The requested amendments to the policy were undertaken and the draft policy was place on public exhibition, which closed on 28 August 2009.

COMMENTS

The draft *Acquisition & Divestment of Land Policy* was placed on public exhibition from 17 July to 28 August 2009, inviting submissions from the general public. Information regarding the public exhibition period and the method for which submissions were to be received by Council were included in Council's corporate advertisement in the North Shore Times on the 17 July 2009.

Throughout the public exhibition period an electronic version of the draft policy was accessible via Council's website and hard copies were available at:

- Customer Service Counter;
- Gordon Library;
- St Ives Library;
- Turramurra Library and;
- Lindfield Library.

At the conclusion of the public exhibition period no submissions had been received.

This draft policy (**Attachment A**) applies to the acquisition and divestment of all land as defined within the policy, and acknowledges Council's charter as the custodian and trustee of public assets required to effectively account for and manage the assets for which it is responsible for (Section 8 of the *Local Government Act 1993*).

This policy sets out the principles, framework, responsibilities and processes for Council and officers to account for, and manage the acquisition and divestment of Council land assets. The purpose of this draft policy is to describe the manner in which Council will undertake the acquisition and divestment of land assets and to provide Council with:

- a documented reference to guide its decision making process;
- a reference that will survive successive Councils;
- an endorsed framework to enable and pursue land acquisition and divestment opportunities of merit and pro-actively present such opportunities to Council; and
- establish delegations necessary to allow implementation functions to be addressed to meet market drivers.

In recent years the number of land acquisitions and disposals has been increasing, albeit off a relatively low base. In the past two years, Council has purchased land for public open space in Water Street, Wahroonga; Duff Street, Turramurra; Dumaresq Street, Gordon; purchased bushland in Rosedale Road; and land for a new depot in Bridge Street, Pymble. Council is also contracted to sell its former depot site in Carlotta Street, Gordon.

Item 6

S05399
27 August 2009

Land acquisitions and disposals are crucial to the strategic provision of open space, community benefits and achievement of long term planning outcomes associated with the development and growth of the town centres. This has now been confirmed through the draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*, which nominates Council as the acquisition authority for RE1 lands and some SP2 lands.

CONSULTATION

A review of other Councils' existing policies of a similar nature has been undertaken in the development of this draft policy.

Councillors have been briefed on the draft *Acquisition and Divestment of Land Policy* on 8 July and 28 October 2008, with reports submitted to Council on 22 July 2008, 11 November 2008 and 7 July 2009.

Council's solicitor has provided input into the development of the revised draft *Acquisition and Divestment of Land Policy*.

The draft policy was placed on public exhibition for public comment from 17 July to 28 August 2009. No enquiries were made and no submissions were received throughout this period.

FINANCIAL CONSIDERATIONS

There are no specific financial considerations relating to the adoption of this policy apart from advertising costs and staff time.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Council's Corporate and Strategy and Environment Departments have provided input into the development of the draft *Acquisition and Divestment of Land Policy*.

SUMMARY

Throughout 2008, a series of briefing sessions and presentations were conducted with Councillors presenting potential sites for acquisition and outlining acquisition methods. As a result a need for a formal process to enable and pursue land acquisition opportunities was identified.

Councillors have been briefed on the draft *Acquisition and Divestment of Land Policy* on 8 July and 28 October 2008, with previous reports submitted on 22 July 2008, 11 November 2008 and 7 July 2009.

On 7 July 2009, Council resolved to place the draft *Acquisition & Divestment of Land Policy* on public exhibition in accordance with the requirements of the *Local Government Act 1993*. The draft policy was placed on public exhibition for public comment from 17 July to 28 August 2009. No enquiries were made and no submissions were received throughout this period.

Item 6

S05399
27 August 2009

The policy sets out the principles, framework, responsibilities and processes for Council and officers to account for, and manage the acquisition and divestment of Council land assets. The policy will provide for impartiality, transparency, accountability and the delivery of best value in the acquisition and divestment of land. Although the current number of land acquisitions and disposals are relatively low they are crucial to the strategic provision of open space, other community benefits and achievement of planning outcomes. This has now been confirmed through the draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*, which nominates Council as the acquisition authority for RE1 lands and certain SP2 lands.

RECOMMENDATION

That Council adopt the draft Acquisition & Divestment of Land Policy.

Deborah Silva
Manager Strategic Assets & Property Management

Andrew Watson
Director Strategy & Environment

Attachments: **Draft Acquisition & Divestment of Land Policy - 2009/093592**

Ku-ring-gai Council

Draft Acquisition and Divestment of Land Policy

Introduction

The acquisition and divestment of Land by Council requires a formal process that is underpinned by probity, due diligence, analysis of risk and other key issues. In acknowledging this, the number of Land acquisitions and/or divestments undertaken by Council in any given year although relatively low, are crucial to the strategic provision of open space, operational and community benefits, and achieving planning outcomes.

1. Purpose

This Policy applies to the acquisition and divestment of all Land as defined in this Policy. To acknowledge Council's charter that it is the custodian and trustee of public assets and is required to effectively account for and manage the assets for which it is responsible (*Section 8 of the Local Government Act 1993*).

To set out the principles, framework, responsibilities and processes for Council and officers to account for, and manage the acquisition and divestment of Council Land assets.

To identify, manage and mitigate the risks associated with the acquisition and divestment of Land.

To ensure impartiality, transparency, accountability and the delivery of best value in the divestment of Land ("fundamental principles").

The purpose of this Policy is to describe the manner in which Ku-ring-gai Council will undertake the acquisition and divestment of Land assets and to provide Council with:

- a documented reference to guide its decision making process;
- a reference that will survive successive Councils;
- an endorsed framework to enable and pursue Land acquisition and divestment opportunities of merit and pro-actively present such opportunities to Council; and
- establish delegations necessary to allow implementation functions to be addressed to meet market drivers.

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

2. Objectives

To define the criteria which must be considered prior to the acquisition and/or divestment of Council owned Land and to define the process and procedures, including public consultation and notification, required to be undertaken prior to the divestment of any Council owned Land. The objectives of this Policy aim to provide Council with a framework which adopts the following principles:

- probity;
- statutory compliance;
- commercial maximisation, flexibility and confidentiality;
- transparency of process; and
- achievement of specific strategic outcomes of Council and the community.

3. Definitions

For the purposes of this Policy:

Acquisition Authority means the responsible agency to acquire affected properties identified in yet to be gazetted Ku-ring-gai Local Environmental Plan (Town Centres) 2008 and as amended from time to time or the Ku-ring-gai Planning Scheme Ordinance.

Act means the *Local Government Act 1993*.

Contract means any form of contract which legally binds the Council [or potentially binds Council] and includes formal contracts and other forms of contractual arrangements including heads of agreement, in principle agreement, options to purchase etc.

Land is as defined in *Section 21* of the *Interpretation Act 1987*.

As a more specific reference for the purpose of this Policy, **Land** is defined as;

1. Land as a physical entity including:
 - (i) any building or structure on or improvement to Land; or
 - (ii) any stratum of land whether below or above ground; or
 - (iii) a strata lot pursuant to relevant strata subdivision legislation.

Open Space Acquisition Strategy means strategy adopted by Council in October 2007.

Owner Initiated Acquisition means the principle considerations defined in *Section 23* of the *Land Acquisition (Just Terms Compensation) Act 1991* to acquire affected properties.

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
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History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

Programed Acquisition means when the acquiring authority requires the affected property and initiates the acquisition process.

Regulation means the *Local Government (General) Regulation 2005* and any replacement Regulation.

4. Legislation

- 4.1 The *Local Government Act, 1993* vests authority in Council to sell or exchange Real Property. In respect of this Policy, “exchange” includes property acquisition and other related activities including Land swaps etc.
- 4.2 In accordance with Section 377 of the Act any decision to dispose of Land must be made by resolution of Council as the power to sell, exchange or surrender Land cannot be delegated.
- 4.3 Section 45 of the Act prevents Council from selling, exchanging or otherwise disposing of community Land other than to become or be added to a Crown Reserve or National Park.
- 4.4 Section 55 of the Act requires tenders to be called in certain circumstances. However, it is not necessary to call tenders for the sale of Land.
- 4.5 In accordance with Council’s Purchasing Policy, Land acquisition activities are excluded from the provisions of the Purchasing Policy.

Council’s property activities will be managed within the legislative parameters of the:

- Local Government Act, 1993;
- Valuation of Land Act, 1916;
- Conveyancing Act, 1919;
- Environmental Planning and Assessment Act, 1979;
- Residential Tenancies Act, 1987;
- Land Acquisition (Just Terms Compensation) Act, 1991;
- Roads Act, 1993;
- Retail Lease Act, 1994;
- Crown Lands Act, 1989;
- Environment Protection and Biodiversity Conservation Act, 2000;
- National Parks and Wildlife Conservation Act, 1975;
- Real Property Act, 1919;
- Regulations under each of the above Acts;
- Relevant Codes, Plans and Policies referred to in Section 13 of this policy; and
- any other legislation applicable to the Policy.

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

5. Fundamental Principles

All decisions and actions in relation to the acquisition and/or divestment of Land will have due regard to the following fundamental principles:

- **Best Value for Money** – Achieving “best value” may include financial, social and environmental benefits.
- **Transparency** – processes must be open to scrutiny and provide full information and record the reasons behind decisions.
- **Accountability** – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- **Impartiality** – address perceived or actual conflicts of interests.

6. Land Acquisition Procedure

6.1 Fundamental Principles

Council will acquire Land for the purpose of carrying out its functions under the Act. Any Land to be acquired by Council is subject to a formal resolution of Council.

6.2 Independent Valuation Benchmark and Special Value. Any Land acquisition is to be benchmarked to an independent valuation of Land.

In some cases there will be justified basis for Council acquiring property at a price above the valuation benchmark in order to guarantee the successful securing of the property to achieve defined goals and objectives of Council or to acquire the property with a view to adding value [or reducing risk] to a larger scheme or development [future or current].

Any special value should be determined and quantified within the initial decision of Council and referenced to the achievement of specific goals and objectives of Council.

6.3 Acquisition Process

While the General Manager and/or their delegate may make preliminary enquiries regarding a possible purchase, no negotiations will commence without there first being a resolution of Council authorising the negotiations. The General Manager shall:

- be responsible for the conduct of all negotiations;
- have regard to an independent valuation obtained from a registered valuer;
- seek such other professional advice as is considered necessary in the circumstances;

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
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History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

- have regard to the Independent Commission Against Corruption publication *Direct Negotiations* so far as is appropriate in the circumstances; and
 - report the outcome of all negotiations to the Council for determination.
- 6.4 Prior to finalisation of an acquisition Council shall determine the classification of the Land as either operational or community.
- 6.5 Council's process of Land acquisition must include the following steps:
- identification of the Land acquisition opportunity by Council and/or the Responsible Officer;
 - in principle decision by the General Manager to commence the pre-acquisition process;
 - preparation of a comprehensive assessment of the Land acquisition including:
 - (I) required due diligence;
 - (II) independent valuation, maximum price [purchase, lease or other];
 - (III) assessment against the principles and objectives of Council's *Open Space Acquisition Strategy 2007*;
 - (IV) identification of funding source and assessment against Council's Long Term Financial Model; and
 - (V) a statement of goals and objectives for the proposed Land to be acquired including a statement of any "Special Value" deemed appropriate by Council.
 - formal consideration by Council of dealing with the matter and if required in accordance with Section 10A of the Act be dealt with in a closed meeting;
 - formal report to Council including the Land acquisition assessment and documented reasons for Council's acquisition of the Land, and if supported delegation to the General Manager to negotiate an outcome subject to the financial and risk parameters as determined by Council;
 - negotiation, and if successful, implementation of all matters necessary for the preparation, signing and sealing of contract documentation required; and
 - once completed the General Manager to advise Council of the outcome [successful or otherwise].

The process is designed to ensure fairness and equity.

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

7. Methods of Acquisition

Wherever possible Council's preferred method of acquisition is to acquire Land through mutual agreement with the owner of the Land. The key principles in the acquisition of Land are:

- 7.1 opportunistically by responding when the desired Land is offered to the market; and
- 7.2 pro-actively by initiating negotiations for the desired Land.
- 7.3 Council's preferred position is not to acquire Land through compulsory acquisition. However, Council has an obligation to provide services to the community and if required Council may consider utilising its powers under the *Local Government Act 1993* in respect of "compulsory acquisition".

At the time of adopting this policy there are currently no proposals to compulsory acquire private property. Compulsory acquisition for a public purpose can only be initiated with a resolution of Council.

- 7.4 However, Council is the nominated acquisition authority for land reserved for public purposes as RE1 and SP2 within its draft Ku-ring-gai Local Environmental Plan (Town Centres) 2008 and these acquisitions will be dealt with in accordance with *Land Acquisition (Just Terms Compensation) Act, 1991* for the acquisition of Land and the payment of compensation.

8. Compensation

Compensation will apply to affected property owners under the following provisions;

- 8.1 owner initiated acquisitions
- 8.2 programmed acquisitions

In determining the amount of compensation to which a person is entitled, Part 3 Division 4 of the *Land Acquisition (Just Terms Compensation) Act, 1991* requires that regard must be given to the following matters only:

- (a) the market value of the land on the date of its acquisition;
- (b) any special value of the land to the person on the date of its acquisition;
- (c) any loss attributable to severance;
- (d) any loss attributable to disturbance;
- (e) solatium (i.e. that is compensation for non-financial disadvantage arising the need to relocate as a result of the acquisition); and

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
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Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

(f) any increase or decrease in the value of any other land of the person at the date of acquisition which adjoins or is severed from the acquired land by reason of the carrying out of, or the proposal to carry out, the public purpose for which the land was acquired.

8.3 Property owners claiming *hardship* in accordance with Section 24 of the *Land Acquisition (Just Terms Compensation) Act, 1991* provisions should note that:

8.3.1 Council is not required to acquire land unless it is of the opinion that the owner will suffer hardship (within the meaning of the *Land Acquisition (Just Terms Compensation) Act, 1991*. An owner of land must demonstrate they suffer hardship if:

(a) the owner is unable to sell the land, or is unable to sell the land at its market value, because of the designation of the land for acquisition for a public purpose, and

(b) it has become necessary for the owner to sell all or any part of the land without delay:

(i) for pressing personal, domestic or social reasons, or

(ii) in order to avoid the loss of (or a substantial reduction in) the owner's income.

8.3.2 However, if the owner of the land is a corporation the corporation does not suffer hardship unless it has become necessary for the corporation to sell all or any part of the land without delay for pressing personal, domestic or social reasons of an individual who holds at least 20 per cent of the shares in the corporation, or in order to avoid the loss of (or a substantial reduction in) the income of such an individual.

9. Land Divestment Procedures

9.1 Fundamental Principles

All decisions and actions in relation to the divestment of Land will have due regard to the following fundamental principles:

- **Best Value for Money** – Achieving “best value” may include financial, social and environmental benefits.
- **Transparency** – processes must be open to scrutiny and provide full information and record the reasons behind decisions.
- **Accountability** – demonstrate the best use of public resources and the highest level of performance through appropriate record keeping and audit trails.
- **Impartiality** – address perceived or actual conflicts of interests, ensuring fairness and equity.

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

9.2 Land Deemed to be Surplus

“**Land**” includes all real property whether vacant or improved. Land may not be sold by Council unless it is classified as “operational land” under Section 25 of the *Local Government Act, 1993*.

In order to establish whether or not Land is deemed to be surplus, a process of consultation is required to be completed across relevant divisions of Council prior to reclassification in accordance with the *Local Government Act, 1993*.

9.3 Delegated Authority

Section 377 (1) (h) of the *Local Government Act 1993* requires a specific resolution of Council to dispose of Land. The decision cannot be delegated.

The report to Council is to include reference to the manner of divestment (often contained within a confidential report) in regards to the terms of the sale and the agreed price, or range for negotiations. The sale can not proceed outside of such parameters (without a further resolution).

The resolution should also provide for the General Manager to be provided with delegated authority to negotiate any outstanding, usually minor conditions, and to be authorised to execute any documents in relation to the matter deemed appropriate by Council’s legal advisors.

A copy of the report and resolution is to be provided to Council’s legal advisors upon instruction, as authority to act and to ensure compliance with the resolution.

No formal actions may be commenced in the divestment of Land until a report has been considered by Council and an appropriate resolution adopted.

Informal pre-sale discussions/negotiations must always be qualified “subject to resolution of Council” if there is no current resolution of Council to dispose of the Land.

9.4 Valuation Processes

At least one formal market valuation undertaken by a valuer registered to value such property is required to be commissioned prior to all property divestments.

Two valuations may be required when the value of the property is likely to exceed \$1,000,000.00 and/or the process of divestment is not competitive (as defined below).

Doc distribution	Internal/external	Doc status	Draft	File No S05399	
Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

An internal review of the valuation(s) is to be carried out and reported, with specific attention to the valuation rationale, method of valuation, calculations and sales evidence used. After such review, the valuation is to be considered in the setting of an asking price for sale, reserve price for auction or benchmark for negotiations, tender or expression of interest.

When two valuations have been provided, averaging is the preferred method for considering the price, when any difference in the valuation is 10% or less. Differences in valuations of more than 10% require an assessment of the reasons why they are different, and more detailed justification of the price.

An update valuation, or valuation advice is required after 12 months of the date of the original valuation if the Land is not sold, or at any time there is considered to be a material movement in the value.

The valuation instructions must clearly state the following:

- the purpose of the valuation being “divestment”;
- the basis of valuation being “market value highest and best use”, unless an alternative basis is considered more appropriate in the circumstances;
- that the valuation is to be marked confidential; and
- that the valuation includes market commentary, details of sales evidence and adjustments, valuation rationale and methodology, a valuation range (for negotiations) and comments on marketability, most appropriate method of divestment and opportunities to add value.

In addition, the valuer must make a statement that there is no actual or perceived conflict of interest in undertaking the valuation.

10. Methods of Divestment

An open competitive process of divestment is required choosing one of the following methods:

- **Expression of interest** – usually used for unusual properties capable of a variety of development, difficult to determine a market value.
- **Tender** – least common and used predominantly in high value, limited market situations.
- **Auction** – the most open and public method, favoured by government, but reliant on high levels of competition. Often achieves a quick sale. Can fail in poor market.
- **Private Treaty** – most common, where an asking price is set and negotiated with individuals, usually through a real estate agent (who can be an

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Document owner	Director Strategy	Contact officer/s	Manager Strategic Assets & Property Management		
Approval date		Approved by			
Effective date		Review period	3 years	Review date	
History of approved versions					
Version	Effective date	Summary of changes			
Draft 3					

independent third party to the negotiation process) and can arise after an unsuccessful Auction.

Council may approve a non-competitive process of divestment such as direct negotiations, subject to clearly documented reasons and the employment of risk mitigation measures.

Risk mitigation measures for direct negotiations may include:

- obtaining two valuations where the Land may be valued at more than \$1,000,000.00;
- pre-establishing a range for negotiation, having regard to the two valuations;
- managing conflicts of interest with declarations of no personal or financial associations;
- establishing a Negotiation Protocol, describing the manner in which meetings, negotiations, decisions and progress reporting is to be managed and documented; and
- limitation on marketing budget and exclusive agency periods.

10.1 Contract for the Sale of Land

Contracts for the sale of Land will usually contain standard conditions of sale. Any unusual or special conditions of sale require the delegated approval of Council or the General Manager as set out in 9.3 above.

Council's solicitor is responsible to ensure Contracts for the sale of Land satisfy statutory disclosure and warranty obligations (*Conveyancing (Sale of Land) Regulation 2005*).

10.2 Divestment below Market Value

In rare circumstances Land may be disposed of to achieve strategic outcomes. In such situations, "best value" may comprise financial, environmental or social elements, with the price falling below the "market value" range.

The report seeking resolution of Council should clearly state the reasons for such sale and quantify the amount below market value attributable to each element. The obligation to obtain a market valuation exists in accordance with the above, in order to provide a measure of the non-financial elements of the sale.

10.3 Sale to Adjoining Owners

In circumstances where Land is not able to be sold in isolation on the open market (such as small parcels, undersized lots, former road widening, closed laneways, boundary adjustments etc) and the only potential purchasers are

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Draft 3					

adjoining owners; the Land must be offered in equal proportions to each adjoining owner on identical sale terms and conditions.

Where an adjoining owner does not wish to purchase their proportion of the Land, the rejected Land will be equally offered to the remaining adjoining owner.

The recommended method of determining the sale price is the “before and after” method as related to the purchaser’s Land. For small portions of Land, the “piecemeal” (\$ rate per square metre) method may be more appropriate.

An essential condition of sale is that the purchaser is required to consolidate the subject Land with their existing holding at no cost to Council.

The costs associated with the sale process will be borne by the prospective purchaser.

10.4 Sale of Roads – *Roads Act, 1993*

No road can be sold until it is formally closed in accordance with the provisions of the *Roads Act, 1993*.

For purchaser initiated closures and sales, the costs associated with the road closure will be borne up front by the prospective purchaser.

When Council initiates the road closure (in order to realise the value of surplus Land), the costs will be borne by Council as development costs.

The agreed purchase price and estimated costs will be reported to Council seeking resolution agreeing to make application to close the road and dispose of the Land upon closure in accordance with the terms of sale.

In accordance with Section 43 of the *Roads Act, 1993*, funds from the sale of roads are required to be set aside for acquiring Land for public roads or for carrying out work on public roads.

11. Confidentiality

In the majority of divestments of Land, the information contained in reports to Council to sell Land may confer an advantage upon a person with whom Council is, or proposes, to be conducting business. On balance, it would be contrary to the public interest for Council to deal with such matter in an open session because release of the information could prejudice Council’s ability to obtain the maximum return on the property.

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Draft 3					

Therefore, it is acknowledged that reports to Council on the divestment of Land will be generally deemed confidential under *Section 10A(2)(c)* of the *Local Government Act, 1993*. This confidentiality may be lifted by Council resolution upon settlement, if considered to be in the public interest.

12. Departure from change this Policy

Any provision of this policy may be varied to meet the needs of a particular matter, by resolution of Council. The reasons for change will be clearly articulated within the report submitted for consideration by Council in adopting such resolution and will only apply to such matter.

13. Associated documents

Codes, plans and policies

Ku-ring-gai Council Sustainability Vision Report – Ku-ring-gai to Global (2008-2033).

Ku-ring-gai Council Open Space Acquisition Strategy – Adopted October 2007.

Ku-ring-gai Council Management Plan 2009-2012 – Adopted June 2009.

Ku-ring-gai Council s.94 Contributions Plan 2000-2003 – Residential Development.

Ku-ring-gai Council Section 94 Contributions Plan 2004-2009 (Amendment Two) - Residential Development.

Council's Town Centre Development Control Plan [DCP] – Adopted May 2007, and as amended.

Ku-ring-gai Town Centres Development Contributions Plan 2008.

Ku-ring-gai draft Local Environment Plan [Town Centres] 2008 – Adopted May 2009.

External references

Independent Commission Against Corruption [ICAC], Direct Negotiations, May 2006

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Draft 3					

5 SUAKIN STREET/986 PACIFIC HIGHWAY, PYMBLE NETWORK ALLIANCE REQUEST FOR SHORT-TERM LEASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council's approval for a short term lease to Network Alliance over the vacant land at 5 Suakin Street / 986 Pacific Highway, Pymble.

BACKGROUND:

Network Alliance is responsible to carry out a significant program of water main renewals and water pressure regulation including the refurbishment of Sydney Water aqueducts and bridges.

COMMENTS:

Network Alliance has provided a compound management plan (CMP) which details the proposed site use and the operational and environmental controls.

RECOMMENDATION:

That Council approves a six (6) month lease to Network Alliance.

PURPOSE OF REPORT

To seek Council's approval for a short term lease to Network Alliance over the vacant land at 5 Suakin Street / 986 Pacific Highway, Pymble.

BACKGROUND

Network Alliance is responsible to carry out a significant program of water main renewals and water pressure regulation, together with a range of special projects including refurbishment of Sydney Water aqueducts and bridges. The Alliance comprises of Sydney Water, Bovis Lend Lease, CLM Infrastructure, Veolia and Water Network Services.

The project works include a large scale water main upgrade in Inverallan Avenue West Pymble, and as such Network Alliance requires an area for the parking of vehicles and the storage of sheds, containers and skips associated with these works. No construction activities will be undertaken on the land and no hazardous materials are to be utilised on the site.

In order to facilitate the works, Network Alliance is requesting a short term lease over Council's Suakin Street depot site at 5 Suakin Street and 986 Pacific Highway, Pymble.

COMMENTS

The site is currently vacant land with a total area of 13,050sqm. The area subject to the proposed short term lease is identified in **Attachment A**. Lease conditions are detailed in the confidential attachment (**Attachment C** - confidential).

The site is currently zoned Special Uses 5(a) and as the intended use is consistent with the zoning and as the works are temporary, a Development Application is not required.

Network Alliance requires the site from mid September 2009 for a period of six [6] months. The timing for the construction of Council's new depot is not likely to be carried out during this lease period and will therefore not conflict with any proposed construction.

The site is for Council's new depot and at this stage a new design has been prepared and a development application is likely to be lodged in October 2009. Given the time for the assessment of the DA and the preparation of construction certificate drawings and tender documents, it is unlikely that the site will be required for construction before March 2010. Hence the six (6) month period proposed will not impact on the construction of the new depot.

Network Alliance has provided a compound management plan (CMP) which details the proposed site use and the operational and environmental controls (**Attachment B**).

The areas of significant vegetation will be fenced off to ensure these are not impacted by the activities of Network Alliance.

CONSULTATION

The new depot site is classified as operational land and as such no public notification of the proposed lease is required. Council's solicitor's Matthews Folbigg Pty Ltd will prepare the lease documentation.

FINANCIAL CONSIDERATIONS

Details of the lease arrangements are covered in the confidential attachment. The information is considered to be confidential as it is regarded as commercial in confidence information.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Consultation has taken place between staff from Operations and Strategy departments on this matter.

SUMMARY

Network Alliance is responsible to carry out a significant program of water main renewals and water pressure regulation, together with a range of special projects including refurbishment of Sydney Water aqueducts and bridges. The project works include a large scale water main upgrade in Inverallan Avenue West Pymble, and an area for parking of vehicles and the storage of sheds, containers and skips associated with these works is required. No construction activities will be undertaken on the land and no hazardous materials to be utilised on the site.

In order to facilitate the works, they are requesting a short term lease over Council's Suakin Street depot site at 5 Suakin Street and 986 Pacific Highway, Pymble. The proposed lease period is not expected to exceed six (6) months. However, in the event of unforeseen delays an additional month to month option is to be provided for in the lease provided that it does not impact on the construction of the new depot.

It is recommended that Council approves a six (6) month lease to Network Alliance over the Suakin Street depot site. The lease is to include monthly options and an order to vacate if Council requires the site for the construction of the new depot.

RECOMMENDATION

- A. That Council approves a six (6) month lease (with a monthly holdover clause) over part of 5 Suakin/986 Pacific Highway, Pymble to Network Alliance.
- B. That Council authorises the Mayor and General Manager to execute all documentation associated with the lease.
- C. That Council authorises the affixing of the Common Seal of Council to the lease documentation.
- D. That the lease includes details of the location of significant vegetation that needs to be protected in accordance with the flora and fauna study prepared for the site.

Deborah Silva
Manager Strategic Assets & Services

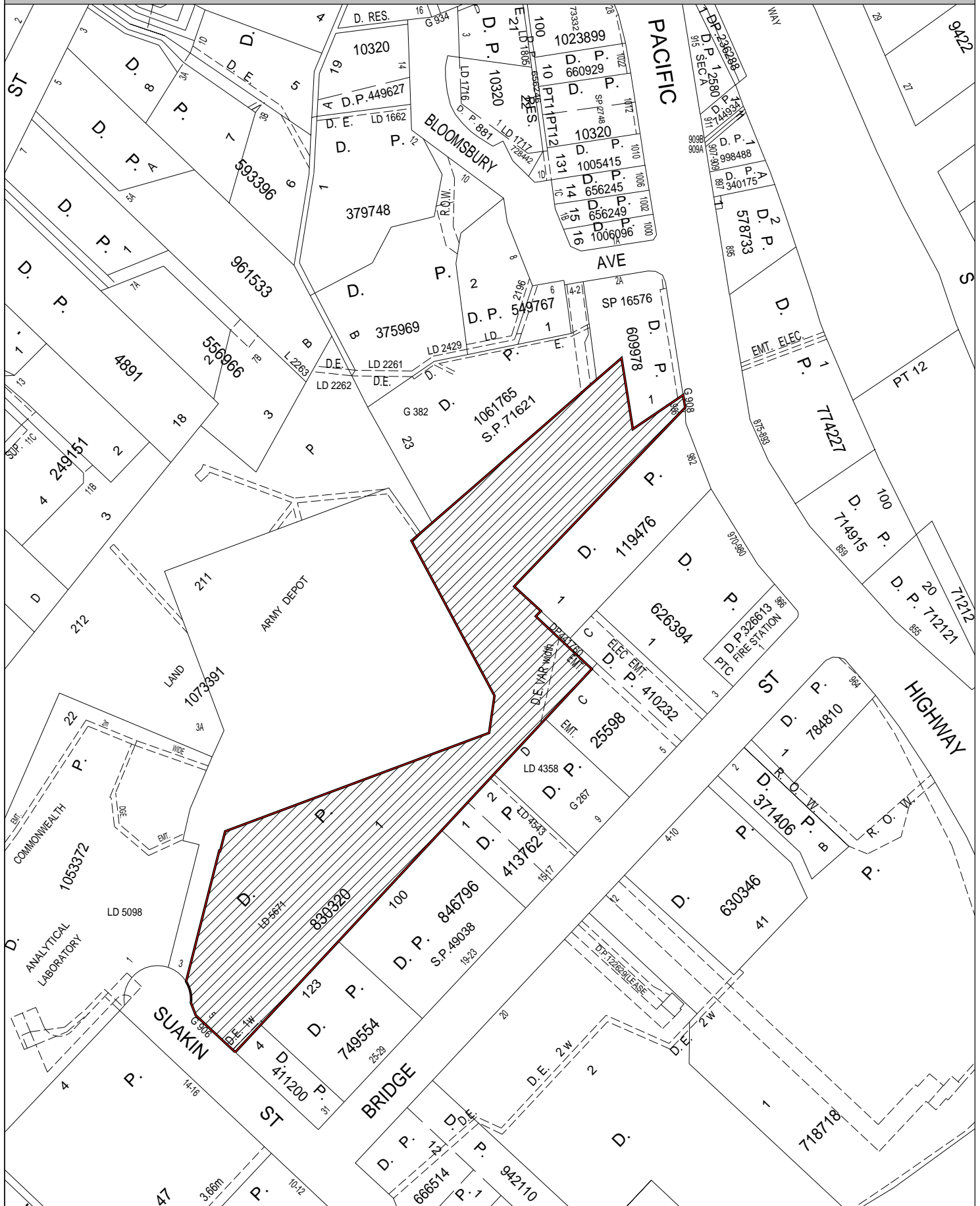
Greg Piconi
Director Operations

Attachments:

- A. Site Plan - 2008/049000**
- B. Compound Management Plan - 2009/140275**
- C. Heads of Agreement – Confidential - under separate cover**

LOCATION SKETCH

986 Pacific Highway, PYMBLE



SCALE: 1:1000

DATE: 08-04-2008



SUBJECT LAND



1.1 Background

To facilitate water trunk main upgrade works in the Ku-ring-gai municipality, a minor site compound for equipment and material storage is required. Specifically, the site will support major trunk main renewal works in Inverallan Avenue, West Pymble, part of the Critical Watermain Renewals Program. A Ku-ring-gai Council empty lot at 5 Suakin Street, Pymble was identified as suitable for this purpose. The site has previously been used as a compound site by another utilities contractor. This document details the environmental management measures to be implemented on the site.

1.2 Description of Compound

The proposed compound is located within an existing vacant lot at 5 Suakin Street, Pymble. The compound area is a securely fenced area. The compound site is generally flat and is covered with bitumen, except a small area of grass along the access way. The site has been used previously as a compound site by another utilities contractor.

The site is located within the Gordon Commercial area and is surrounded by the Pymble Army Depot and a Government Laboratory. The nearest house is located approximately 130m north of the compound site.

Networks Alliance has obtained approval from Ku-ring-gai Council for the use of the vacant lot as a temporary compound location for the storage of a materials and equipment during the trunkmain renewal works.



Figure 1: Location of the Suakin Street Compound. (Indicated by red star)



Figure 2: View of stabilised access to compound

1.3 Compound Site Activities

Activities to be carried out at the site include:

- Site pre-condition survey
- Consultation with residents / stakeholders
- Installation of ERSED controls around stockpile areas
- Spoil management of material excavated from trunk main renewal site identified as not contaminated
- Stockpiling of road base and compaction sand
- Storage of cold mix in a sealed skip
- Secure storage of plant on site and hand-tools in site container
- Access to the site by trucks for delivery of material
- Daily access to the site by trucks for loading of required materials for use at nearby worksites.

Items that will be stored on site are listed below:

- 20t excavator
- 20 t truck
- 6t truck
- Backhoe
- Bobcat
- Site container (for hand tools, hand held compactor, circular saw, fittings and connections, spill kit)
- Pipes, fittings and valves
- DBG road base (max 40t)
- Cold mix (stored in a sealed covered skip 2-3t)
- High grade compaction sand (max 64t)
- Excavated spoil (max 64t)

Not all the plant and equipment listed above will necessarily be on site at any one time and storage will be limited to the area shown in the attached Site Layout Plan (Figure 3). All spoil stockpiles will be maintained at a height of less than 2 metres. The compound would be used for 6 months (timing dependant on letting of contacts) beginning September 2009.

1.4 Work Hours

All work, including deliveries, will be within standard work hours

- Monday to Friday 7am to 6pm
- Saturday 8am to 1pm
- No works to be carried out on Sundays or public holidays

The compound will only be used outside of standard working hours during connection works which will take approximately 4 nights.

For works outside standard work hours, the Networks Alliance Project Manager will be notified to ensure Council and potentially affected stakeholders are informed. Signage will be erected on the front of the site providing contact details for the activities. These details will direct any community enquiries/complaints to the NetWorks Alliance which will be dealt with in accordance with the Project Complaints Procedure. The Communications Team will keep a register of all complaints received.

1.5 Traffic Management

Site access is from Suakin Street. Suakin Street is well situated for work traffic movements associated with the compound site as the arterial road Ryde Road is located in close proximity to the site. The road is generally used by traffic accessing the Army Depot and the Government Laboratory. There would be no restrictions on turning or access from the site with the exception that all vehicles must leave the site in a forward direction. The existing asphalt driveway would be used to access the site. Ticketed traffic controllers will be used to control deliveries if required.

1.6 Flora and Fauna Management

Endangered Ecological Communities (EECs) may be listed under the NSW Threatened Species Conservation Act 1995 (TSC Act) and/or the Commonwealth Environmental Protection and Biodiversity Conservation Act 1999 (EPBC). A desk-top study using the Atlas of NSW Wildlife database (NSW NPWS) identified EECs surrounding the proposed compound site.

Blue Gum High Forest EEC was identified as surrounding the compound site. Blue Gum High Forest is a moist, tall open forest community, with dominant canopy trees of Sydney Blue Gum *Eucalyptus saligna* and Blackbutt *E. pilularis*. Forest Oak *Allocasuarina torulosa* and Sydney Red Gum *Angophora costata* also occur. Species adapted to moist habitat such as Lillypilly *Acmena smithii*, Sandpaper Fig *Ficus coronata*, Soft Bracken *Calochleana dubia* and Maiden Hair *Adiantum aethiopicum* may also occur.

The compound site has been previously cleared. There will be no further vegetation removal required for occupation of this site. A secure compound fence will ensure a sufficient physical barrier between the compound and any EEC surrounding the site. Trees within the compound site, including Blue Gum, will be fenced temporarily to ensure no accidental damage to trees within the proposed compound site. There will be no storage of materials in the drip lines of trees. There will be no impact to EEC due to occupation of this site therefore no further assessment is required.

1.7 Incident Management

Incident Management is detailed in the *Program Community, Environment, Health and Safety (CEHS) Management Plan*. This includes a comprehensive emergency contact list. With regard to onsite environmental incidents, pollution to waterways and impact to EEC's have been identified as the most likely risks.

To address these risks, fuels, oils and chemicals will be stored within a bunded, secured and covered area. A spill kit will be located in the container for emergencies and any spill will be contained and removed using absorbent material and disposed appropriately off site. Sediment and erosion controls will be installed appropriately prior to storage of any materials in the compound location. All personnel utilising the site will be inducted into the waterway hazards (including stormwater) and risks associated with pollution to waterways.

Bunting or tape will be erected around the trees within the site to ensure a physical barrier between material storage and the EEC. No trees will be removed or pruned at this site. There will be no material storage under the drip lines of trees. All personnel will be inducted into the hazards and risks associated with impact to EEC's.

A NetWorks Alliance Superintendent and a Contractor Supervisor will supervise all compound activities ensuring all processes and procedures are followed during site occupation.

1.8 Environmental Management Measures

Environmental management on the compound site will be carried out in accordance with Networks Alliance Program procedures and documentation. This includes the *Program Community, Environment, Health and Safety (CEHS) Management Plan*.

Onsite environmental management checks and inspections carried out on a Program wide basis apply to the compounds sites. Construction crews undertake daily checks using the *Daily Hazard ID and SWMS Review Checklist*. Weekly inspections are conducted by the NWA Superintendent using a more comprehensive *CEHS Checklist*. NWA Environmental Team inspects compounds on a frequent random basis during the compounds operation.

Standard Conditions of Site Occupation:

- Neighbours to be consulted prior to site occupation in accordance with Sydney Water and NetWorks Alliance notification procedures.
- No work (including deliveries) to be undertaken outside the compound working hours of 7am – 6pm Mon to Fri and 8am – 1pm Sat, unless otherwise approved.
- All vehicles to leave site in a forward direction.
- No storage of dangerous goods or contaminants on site. Inert fill only.
- Any cold mix stored on site will be contained in sealed skip (covered) to prevent any leaks or runoff from the material. The mix will be loaded directly out of skip by excavator to a truck and not placed on the ground.
- Stockpiles will be protected with silt fencing that will be inspected weekly and after rainfall. Maintenance of controls will be undertaken as required.
- Compound security is the responsibility of the NetWorks Alliance. NetWorks Alliance lock on access gate is to be “Daisy Chained” with other locks.
- CEHS Checklist is to be completed weekly by the Networks Alliance Area Supervisor (including photos).
- At completion of compound occupation, the site will be restored to its condition prior to occupation by NetWorks Alliance.
- No trees or vegetation will be removed from site
- Post-occupation condition survey to be carried out.
- Appropriate sediment and erosion controls will be installed prior to compound occupation down gradient of disturbed areas, around spoil storage areas and around stormwater culverts.
- All sedimentation and erosion control measures will be designed, installed and maintained using procedures outlined in *Managing Urban Stormwater – Soils & Construction* (Landcom, 2004) and *Managing Urban Stormwater – Soils and Construction – Volume 2A Service Installations* (DECC, 2008) and will be inspected daily and after rainfall.

Other Environmental Management Conditions:

- No trees or vegetation will be removed from site. Temporary fencing, bunting or tape will be used to cordon off the vegetation and ensure no accidental damage to trees within the proposed compound site.
- Stockpiles (road base and sand) will not exceed a total of 64t on site at any time.
- The stockpiles will be monitored for dust and dampened down or covered as required. (Note the dust potential from roadbase and sand is considered minimal however the proximity to the Army Depot, Government Laboratory and neighbouring residential property requires diligent dust management)
- Where excavated spoil is not pre-classified as VENM prior to storage at the compound, the spoil stockpiles will be placed on a protective separation barrier to prevent potential contamination. Spoil stockpiles will

then be placed on the hardstand area and covered by a tarpaulin to reduce potential rainfall infiltration and reduce dust impacts. This system will ensure a physical separation of the excavated spoil and existing ground, thereby mitigating any potential spoil contamination issues.

- Spoil will be disposed of in accordance with the NSW DECC Waste Guidelines.
- Spoil will be tested in accordance with Table 2 (substances 1-13) and Table 3 of the NSW Protection of the Environment (Waste) Regulation 2005 – General Exemption under Part 6, Clause 51 and 51A. Further details of this testing can be obtained from the NWA Environment Team.
- Once the compound is no longer required all materials will be removed, including any remaining road base and sand, silt fencing etc to ensure that the site is returned to its pre work condition.
- Material/equipment storage will not be undertaken within the drip-zone of trees.
- A spoil register will be maintained that includes information on the source of the material, approx quantity, location of stockpile, any testing results, date removed from site and disposal/reuse location.
- All personnel are to undergo an induction regarding the sensitive flora in the area including vegetation exclusion zones.
- Storage of all fuels / oils / chemicals is to be within a bunded area of a fully enclosed and sealable container such as a lockable shipping container.

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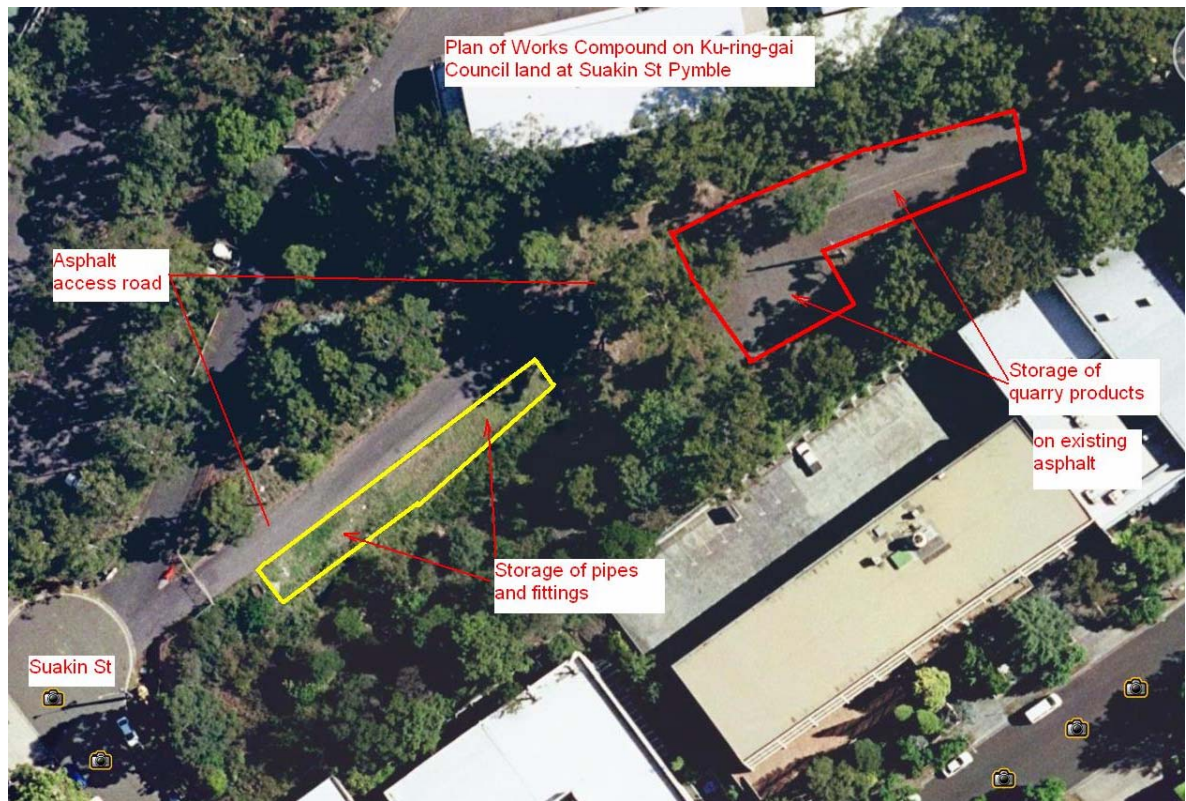


Figure 3: Suakin Street Compound Layout

12 WOONONA AVENUE, WAHROONGA - POTENTIAL PROPERTY PURCHASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To respond to a Notice of Motion of 28 July 2009, regarding investigation into the potential acquisition of 12 Woonona Avenue, Wahroonga.

BACKGROUND:

At the General Committee Meeting of 28 July 2009, a Notice of Motion was put forward by the Deputy Mayor, Councillor Jennifer Anderson moving:

"That a further valuation of 12 Woonona Avenue, Wahroonga be obtained which specifically includes consideration of Council's purpose for the acquisition, being the creation of a new park and/or community garden which will also serve the public interest by protecting the heritage value of the adjoining State heritage-listed property, "The Briars", 14 Woonona Avenue, Wahroonga and restoring the appearance of curtilage to the streetscape."

COMMENTS:

The resolution of Council of 28 July 2009 was specific in regards to the methodology to determine the value of the subject property, and in particular there was an additional requirement to select a valuer as nominated by either the National Trust and/or the NSW Heritage Council.

RECOMMENDATION:

That no further action be undertaken towards purchasing the land at 12 Woonona Avenue, Wahroonga being the former curtilage of 'The Briars'.

PURPOSE OF REPORT

To respond to a Notion of Motion of 28 July 2009, regarding investigation into the potential acquisition of 12 Woonona Avenue, Wahroonga.

BACKGROUND

At the Ordinary Meeting of Council held on 16 December 2008, a Notice of Motion was put forward by the Deputy Mayor, Councillor Jennifer Anderson concerning the possible acquisition of 12 Woonona Avenue Wahroonga (being the former curtilage of 'The Briars', a historic house) for the purposes of open space, at which time Council resolved that:

- a. *The General Manager undertakes discussions with the owner of 12 Woonona Avenue to seek his position on a sale and report back to Council as soon as possible.*
- b. *The General Manager investigate land use options for this site under the guidelines of Section 94, not limited only to a park but also options for a community garden and/or similar concepts.*
- c. *The General Manager report back to Council on all possible funding options for the purchase of the site.*
- d. *The General Manager report back to Council with concepts on various mechanisms for a community funding process.*
- e. *The General Manager to arrange a site inspection for all interested Councillors."*

On 28 April 2009, a report was submitted to Council's General Committee (**Attachment A**) in response to the above resolution. At which time Council unanimously resolved:

- A. *That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue Wahroonga being the curtilage of 'The Briars'.*
- B. *That a report be brought back to Council detailing the outcome of analysis of community garden sites.*

At the Ordinary Meeting of Council held on 12 May 2009, a further Notice of Motion was put forward by the Deputy Mayor, Councillor Jennifer Anderson, at which Council resolved:

- a. *That the General Manager obtains an independent valuation from a registered valuer for 12 Woonona Avenue, Wahroonga.*
- b. *That the General Manager prepares a further report on funding sources that may be utilised to assist Council in acquisition of the property, including sources not yet explored, such as, but not limited to, Heritage Council grants*

Item 8

S07257
3 September 2009

- c. *That the General Manager shall consider and assess potential leasing opportunities during any period of time necessary to fully fund works to create a park/community garden on the site and throughout design, demolition and construction phases.*
- d. *That the General Manager seek comments from Council's Heritage Advisor to be included in the further report to Council.*

At which time Council staff had obtained an independent market valuation (**Confidential Attachment B**) which was provided to Councillors under Confidential Memorandum of 18 June 2009.

At the General Committee Meeting of Council held on 30 June 2009, Council resolved that:

"That the General Manager formally write to the owner of 12 Woonona Avenue, Wahroonga seeking a purchase price on the site and details of response received be brought to the first Ordinary Meeting of Council."

On 1 July 2009, a written request to the owner of the subject property was submitted. Council staff subsequently received a letter of offer from the owner detailing the confidential purchase price (**Confidential Attachment C**).

On 7 July 2009, a further report was submitted to the Ordinary Meeting of Council (**Attachment D**) in response to the resolution. At which time Council resolved:

"That the report be received and noted."

At the General Committee Meeting of 28 July 2009, a further Notice of Motion was put forward by the Deputy Mayor, Councillor Jennifer Anderson, at which time Council resolved:

- A. *That a further valuation of 12 Woonona Avenue, Wahroonga be obtained which specifically includes consideration of Council's purpose for the acquisition, being the creation of a new park and/or community garden which will also serve the public interest by protecting the heritage value of the adjoining State heritage-listed property, "The Briars", 14 Woonona Avenue, Wahroonga and restoring the appearance of curtilage to the streetscape.*
- B. *That the Valuer be asked to consider previous townhouse sales at 16 Woonona Avenue, Wahroonga and sale prices for three bedroom units of similar quality in the vicinity and assess as to comparable quality to those of the approved DA and to those cited in the first valuation obtained by Council.*
- C. *That the Valuer be chosen following consultation with the State Heritage Office and the National Trust in order to engage a Valuer with expertise in heritage considerations.*
- D. *That a report be brought back to Council once the valuation is finalised.*
- E. *That the owner of 12 Woonona Avenue, Wahroonga be advised of Council's resolution.*

COMMENTS

On 3 August 2009, Council staff wrote to the owner of the subject property advising of Council's interest to acquire the site.

The resolution of Council of 28 July 2009, was specific in regards to the methodology to determine the value of the subject property, and in particular there was an additional requirement to select a valuer as nominated by either the National Trust and/or the NSW Heritage Council along with the assessment of property specific comparable sales evidence.

In regards to valuer selection Council staff consulted with both agencies, and Mr Malcolm Garder [the Valuer] was the only valuer put forward. The Valuer was instructed as per the resolution of Council, and submitted a fee proposal to determine the value of the subject property in which to protect the former curtilage to the adjoining State heritage-listed property, "The Briars", at 14 Woonona Avenue, Wahrenonga and restore the heritage streetscape.

However, upon formal instructions the Valuer subsequently advised that the request to determine the land value in accordance with Council's resolution for public interest was beyond the professional scope of a valuer. Further discussions ensued along with an alternate valuation approach submitted by the Valuer (refer **Attachment E**).

However, the alternative valuation approach posed a conflict as it placed the value on the adjoining heritage property "The Briars" rather than the subject property. Following discussions with the (heritage) valuer revised instructions were submitted to engage his services (**Attachment F**) and on 3 September 2009 a copy of the valuation report was received (**Confidential Attachment G**).

At the time when the (heritage) valuer initially indicated his inability to undertake the valuation, Council staff sought the professional services of an alternative valuer, and as such a third valuer was engaged to determine the market value. On 4 September 2009, a copy of the feasibility study and market commentary was received (**Confidential Attachment H**).

NOTE: the complete and confidential valuation report will be provide to Council prior to Tuesday's meeting.

All three [3] reports provided a market value determination for acquisition purposes. The two [2] most recent valuation reports have provided a range of values for negotiation purposes. The approach taken by the (heritage) valuer has resulted in a higher market value determination as it addressed the value of the property to the owner/developer, and acknowledges that an owner developer attributes a special value to the property due to the considerable expenses incurred above the purchase price in obtaining the development approval. These considerations and costs are discussed in the Valuer's report under the heading *Value to Owner*, which states that;

"Often a property has a higher value to the existing owner than to another person. I believe the owner of the subject property would claim he has considerable special value as he is developing the property himself to make a profit."

When comparing the determined values contained in all three [3] reports there is a 50% increase/variance between the valuations. When comparing the determined values contained in two [2] most recent reports the variance equates to approximately 25% between the determined

Item 8

S07257
3 September 2009

values. In particular it is the (heritage) valuer's report that has resulted in the highest market value determination. The (heritage) valuer has provided the following comments in regards to the determined value contained within his report as follows:

"As noted I am not aware of the previous valuation figure but would expect the valuation figure to be lower than my figure for a number of reasons:

- *The report was dated May 2009 and since that date the old improvements have been demolished and excavations undertaken.*
- *The market lacked confidence in May and has considerably improved since. Some buyers think they may have missed the bottom of the market.*
- *I have relied on the sales of small sites, quality town houses and units."*

Equally important to note within the (heritage) valuers report, are comments regarding the potential amount to acquire the property when taking into consideration the *value to owner* and the fact that this amount is not market value. I also draw your attention to the heritage commentary contained within the report and in particular:

"that there is no heritage value applicable to a vacant parcel of land adjoining a heritage property in another's ownership."

The report goes on to further state:

"that the value added will be to the heritage property, 'The Briars', which would be enhanced by the return of its previous curtilage at the front."

Additionally, the report provides commentary that the value to the community would be similarly variable. Especially in the event that current and/or future owners of the heritage property continue to screen the property for privacy, which would see any heritage value lost to the community. It is also suggested that any intensive use of the subject property i.e. as a park, will encourage screening.

In particular I bring your attention to Point 11 of the report, which states that;

*"The subject property is in the course of development and the value to the owner is increasing daily. It is unlikely that the property could be purchased without Council paying part of the projected profit of the developer. Can Council enter into open ended negotiations when the resultant purchase price may reach [REDACTED]? (refer to page 12 of valuation report for the amount – **Confidential Attachment G**).*

The key purpose for the acquisition of the subject property is to predominantly restore the heritage streetscape that was lost since the 1968 subdivision by converting the 929.5m² site into a park and/or incorporate a community garden concept. A review of land use options has been undertaken and the subject property has been assessed against Council's *Open Space Acquisition Strategy 2007* [OSAS] to determine the suitability in terms of size, terrain, shape, neighbouring land uses and other qualities which support the utilisation of development contributions for acquisition as local open space.

The subject property only met 14/22 of the OSAS assessment criteria (**Attachment I**) which indicates that it is not an ideal location for new open space. The OSAS was developed as the framework to assist Council to base its decisions when considering the acquisition of land for the

Item 8

S07257
3 September 2009

provision of new open space and to support the utilisation of s.94 Reserves. It is imperative that proposed acquisitions meet all essential criteria for the provision of high-quality, good-sized open space with a clear geographic nexus to the key contributing sites in each catchment.

Whilst there has been development in the vicinity of the subject property, the majority of recent development in Wahroonga has occurred south of the Pacific Highway making that area a higher priority area for acquisition of parkland, and thus establishing a higher geographic nexus claim for the use of development contributions rather than the area of the subject property.

As previously advised, the subject property is located within a Priority 3-4 catchment area as defined in the OSAS, placing it in a medium priority area, this means there are other catchment areas which are of a higher priority. Council has already investigated, reviewed and nominated preferred sites for acquisition within Priority 1-2 catchment areas within St Ives, Turramurra, Lindfield, Roseville and Gordon, most of these sites have been identified through the draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*, which places the onus on Council to acquire these sites and compensate affected property owners under the Land Acquisition (*Just Terms Compensation*) Act 1991. The financial commitment of these acquisitions, even though funded through s.94 Reserves is a very real issue for Council.

Furthermore, Council is yet to identify preferred property locations within Priority 1-2 catchment areas of Killara, Pymble and Wahroonga. Therefore, it is imperative that Council investigates, reviews and nominates Priority 1-2 catchment preferred sites within these suburbs prior to purchasing properties for new open space within the Priority 3-4 catchment areas. This is especially important as future s.94 contributions collected will not be as generously apportioned towards the provision of open space as other priorities, facilities and infrastructure requirements will preside.

CONSULTATION

Council staff have obtained three independent market valuation reports to determine the value of the subject property.

The first valuation report from BEM Property Consultants Pty Ltd, sought to establish the market value based on the highest and best use of the subject property, and took into consideration that an approved development application for a three bedroom townhouse development and basement parking was attached to the land.

The second valuation report from Mr Malcolm Garder, took into consideration the specific requirements detailed in Council's resolution of 28 July 2009.

The third valuation report from HillPDA, also took into consideration the specific requirements detailed in Council's resolution of 28 July 2009. HillPDA were engaged to undertake a valuation after Mr Garder initially advised that the scope of Council's resolution was beyond a valuer's expertise.

Council staff have had both verbal and written contact with the property owner on several occasions regarding the potential purchase.

FINANCIAL CONSIDERATIONS

The first independent valuation was provided from BEM Property Consultants Pty Ltd (refer to **Confidential Attachment B**).

The second independent valuation was provided from Malcolm Garder (refer to **Confidential Attachment G**).

The third independent valuation was provided from HillPDA (refer to **Confidential Attachment H**).

The property owner has provided a letter to Council detailing the purchase price, along with providing partial valuation information and indicative construction costs (refer to **Confidential Attachment J**). It should be also noted that since providing this letter, the landowner has borne additional costs in developing the land which he may seek to recover.

As previously advised, within Council's 2009/2010 budget there are no general funds allocated towards the acquisition of open space. Only the removal of approved capital project/s from the current program would release funding for this acquisition. Further, if the property is purchased this financial year a loan from internal reserves would be required as there are no funds available in this year's budget. It should be noted that one of the principles of Council's financial plan that ensure Council's financial sustainability is that we maintain a minimum level of internal discretionary cash reserves (excluding liability cash reserves) of 10%. The purchase of this property from general reserve would potentially compromise this principle.

Requirements for Development Contributions Expenditure

The majority of previous open space acquisitions have been predominantly funded through development contributions. However, previous reports also advised that the acquisition of the subject property funded through s.94 Reserves is considered to be a poor utilisation of development contributions levied for the provision of open space in Wahroonga given the lack of clear geographic nexus. Acquisition of the subject property utilising development contributions should only be undertaken if the area meets the requirements of causal, geographic and temporal nexus with new development, which is further discussed below.

In this respect, the site meets limited demand compared to other higher priority areas of recent development activity. The subject property is located in Woonona Avenue (South) between the Pacific Highway to the south, the railway to the north, the F3 to the west and Wahroonga town centre to the east. The area of Wahroonga, south of the Pacific Highway, has a higher nexus claim than the area of the subject property for reasons outlined below:

Causal Nexus

Contributions can only be levied and expended where there is increased demand from new development.

While there is new development in the immediate vicinity of the site, the majority of the completed Wahroonga developments are concentrated south of the Pacific Highway (Munderah Street, Pacific Highway and Ada Avenue) and to the north of the railway line in more scattered locations.

Item 8

S07257
3 September 2009**Geographic Nexus**

Any open space purchased from these contributions must meet the need generated by new development. Local open space should be within a 300-400 metre walking distance and not cross major perceptual barriers such as major roads and railway lines. Given the perceived barrier of the Pacific Highway, the subject site poorly services the concentration of the recent development south of the Pacific Highway.

Temporal Nexus

New open space must be provided within a reasonable time of the development. In this context, the immediate priority for Council must be providing additional open space south of the Pacific Highway.

Council's current Contribution Plan and *Open Space Acquisition Strategy 2007* further detail the requirement above.

On-going Strategic Financial Management of Development Contributions

Both Ku-ring-gai Section 94 Contributions Plan 2000-2003 – Residential Development and Ku-ring-gai Section 94 Contributions Plan 2004-2009 – Residential Development estimate open space acquisition and embellishment costs allocated to Wahroonga is based on a per capita ratio of providing 4.37m² per additional person. The total additional local open space required for Wahroonga, under the current Contributions Plan is 2,740m² for 627 additional persons.

Due to recent acquisitions of land utilising contributions reserves, a review of the current levels of available funds was undertaken. As of the March 2009 quarter, and taking into account the recent open space acquisitions, there is still in the vicinity of \$37million for the purchase and embellishment of open space over the whole Local Government Area.

As previously discussed, due to the proposed and anticipated RE1 re-zoning of land within the Town Centres, Council will be required to purchase affected properties. These issues are yet to be finalised and may be well in excess of the amount available given the additional compensation requirements afforded to affected property owners. While acquisition should take place in a rolling program over many years, the proposed re-zoning represents a potential cash flow risk to Council from owner initiated requests for acquisition and compensation under the Land Acquisition (*Just Terms Compensation*) Act 1991.

Currently, approximately 80% of s.94 contributions collected is apportioned towards new open space. However, it is unlikely that future contribution plans will be as generous given the requirements to provide for other key facilities and infrastructure i.e. new roads.

Furthermore, purchasing open space which does not meet most, if not all, of the criteria within the *Open Space Acquisition Strategy 2007* and which is likely to exceed current market value, would be fiscally unwise given Council's current acquisition commitments.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from Strategy & Environment, Development & Regulation and Corporate Departments have contributed to the development of this report.

SUMMARY

Council staff have investigated and reported on the potential acquisition of 12 Woonona Avenue Wahroonga on several occasions.

The key purpose of the proposed acquisition is to predominantly restore the heritage streetscape that was lost through the 1968 subdivision, by converting the 929.5m² site into a park and/or incorporate a community garden concept. A review of land use options has been undertaken and the subject property has been assessed against Council's OSAS to determine the suitability in terms of size, terrain, shape, neighbouring land uses and other qualities which supports the utilisation of development contributions for acquisition as local open space.

The OSAS was developed as a framework to assist the Council when making decisions to acquire land utilising s.94 Reserves for the provision of new open space. The subject property only met 14/22 of the OSAS assessment criteria which indicates it is not an ideal location for new open space. It is vital that proposed acquisitions meet most, if not all essential criteria for the provision of high-quality, good-sized open space with a clear geographic nexus to the key contributing sites in each catchment.

Furthermore, the subject property is located within a Priority 3-4 catchment area (medium priority) as defined in the OSAS this means there are other areas of higher priority. While there has been development within the vicinity, the majority of recent development in Wahroonga has occurred south of the Pacific Highway making that area a higher priority area for provision of new parkland, and as such a higher geographic nexus claim for the use of development contributions than the area of the subject property.

The report of 28 April 2009, advised that although the property could be funded through s.94 Reserves it was not considered to be the best use of development contributions levied for the provision of open space in Wahroonga given the lack of clear geographical nexus, the competing demands on the limited funds and the existent risk of limited future contributions.

The abovementioned report also recommended that if Council wished to pursue the acquisition of the subject property then a further independent market valuation should be obtained to ascertain any potential variance in market value, and to ensure that expending public monies accords with the independent valuations. These valuations have been obtained.

In response to a Council resolution of 28 July 2009, two further valuations have been obtained. The market values identified in the latest valuation reports have realised a variance of between 20%-50% from the original valuation.

Taking into account the most recent valuation reports Council could consider submitting an offer to purchase the property within the higher valuation range. However, based on the information provided to Council this will not meet the property owner's price expectations, and any decision of the Council to submit an offer beyond the highest determined amount is not supported by staff.

As discussed above, the subject property is located within a Priority 3-4 catchment area placing it in a medium priority area. Council has already investigated, reviewed and nominated preferred sites for acquisition within Priority 1-2 (high priority) catchment areas within St Ives, Turramurra, Lindfield, Roseville and Gordon, most of these sites have been identified through the draft *Ku-ring-gai Local Environmental Plan (Town Centres) 2008*, which places the onus on Council to

Item 8

S07257
3 September 2009

acquire these sites and compensate affected property owners under the Land Acquisition (*Just Terms Compensation*) Act 1991. The financial commitment of these acquisitions, even though funded through s.94 Reserves is a very real issue for Council.

However, Council is yet to identify preferred property locations within Priority 1-2 catchment areas of Killara, Pymble and Wahroonga. Therefore, it is imperative that Council also investigates, reviews and nominates Priority 1-2 catchment preferred sites within these suburbs prior to purchasing alternative properties within lower priority areas. This is especially important as future s.94 contributions collected will not be as generously apportioned towards the provision of open space as other priorities, facilities and infrastructure requirements will preside.

An assessment of other Priority 1-2 sites in the catchment areas of Killara, Pymble and Wahroonga is required to ensure that the utilisation of s.94 Reserves are reinforced by the principles outlined in the adopted OSAS prior to procuring purchases within Priority 3-4 catchment areas.

As previously reported it is not considered fiscally logical to purchase the subject property for new open space without undertaking a full assessment of the other Priority 1-2 catchment areas.

RECOMMENDATION

That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue, Wahroonga being the former curtilage of 'The Briars'.

Deborah Silva
**Manager Strategic Assets & Property
Management**

Andrew Watson
Director Strategy & Environment

Attachments:

- A. Previous Report to Council (General Committee of 28/4/2009) - 2009/062415**
- B. BEM valuation - Confidential**
- C. Owner's letter of offer - Confidential**
- D. Previous Report to Council of 7/7/09 - 2009/102666**
- E. Malcolm Garder Pty Ltd email response - 2009/133965**
- F. Email from Manager Strategic Assets & Services - 2009/126056**
- G. Garder valuation - Confidential**
- H. HillPDA valuation - Confidential**
- I. Assessment of property - 2009/057434**
- J. Letter from owner - Confidential**

PROPOSED OPEN SPACE ACQUISITION - WAHROONGA

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To respond to a Notice of Motion from Councillor Anderson Minute 473 at the Ordinary Meeting of Council on 16 December 2008.

BACKGROUND:

At the Ordinary Meeting of Council held on 16 December 2008, Council resolved in part that: *The General Manager undertakes discussions with the owner of 12 Woonona Avenue to seek his position on a sale and report back to Council as soon as possible.*

COMMENTS:

The property directly adjoins the State Listed Heritage residence 'The Briars'. The resolution of Council is seeking to acquire the subject property and converting the site into a park and to in part return the heritage streetscape which was lost to the public since 1968.

RECOMMENDATION:

That no further action be undertaken towards purchasing the land at 12 Woonona Avenue Wahroonga being the curtilage of 'The Briars'.

Item 5

S07257
20 April 2009

PURPOSE OF REPORT

To respond to a Notice of Motion from Councillor Anderson Minute 473 at the Ordinary Meeting of Council on 16 December 2008.

BACKGROUND

A Notice of Motion was put by the Deputy Mayor, Councillor Jennifer Anderson concerning the possible acquisition of 12 Woonona Avenue Wahroonga (being the curtilage of 'The Briars', an historic house) for the purposes of open space as follows:

At the Ordinary Meeting of Council held on 16 December 2008, Council resolved that;

- a. *The General Manager undertakes discussions with the owner of 12 Woonona Avenue to seek his position on a sale and report back to Council as soon as possible.*
- b. *The General Manager investigate land use options for this site under the guidelines of Section 94, not limited only to a park but also options for a community garden and/or similar concepts.*
- c. *The General Manager report back to Council on all possible funding options for the purchase of the site.*
- d. *The General Manager report back to Council with concepts on various mechanisms for a community funding process.*
- e. *The General Manager to arrange a site inspection for all interested Councillors."*

COMMENTS

The subject property is approximately 929.5m² with residential improvements onsite. The property is zoned residential 2(d3) and has development approval for the demolition of the existing residence and construction of a three (3) unit townhouse development, basement parking, landscaping and strata subdivision. The Certificate of Title confirms that the property is encumbered by a restrictive covenant that was placed on the use of the land in 1968, when the land was subdivided from the front curtilage of the adjoining historic house known as 'The Briars'. This type of restrictive covenant was not uncommon during that period, as they were used as a form of planning control prior to the enactment of the *Environmental Planning & Assessment Act 1979*.

The property directly adjoins the State Listed Heritage residence 'The Briars' (**Attachment 1 – Location Map**). The resolution of Council is seeking to acquire the subject property in order to return the heritage streetscape that was lost to the public since 1968, by converting the 929.5m² site into a park.

Following Council's resolution, Council staff commenced discussions with the owner of 12 Woonona Avenue Wahroonga, to ascertain the level of interest to sell the property prior to

Item 5

S07257
20 April 2009

development. The owner has verbally advised that offers will be considered. However, the owner has no intentions of delaying development activities onsite. The owner has provided a confidential purchase price range which will be provided to Councillors at the Council meeting.

Land Use Options

A requirement of the Notice of Motion was to consider land use options not limited only to a park but also options for a community garden and/or similar concepts. These options are discussed in further detail below:

Acquisition for Local Open Space

The property is located within the Open Space catchment for Wahroonga West which is priority 3-4 area for acquisition of open space. This catchment is currently serviced by Archdale Park which is approximately 1,625m².

If acquired, demolition of the house constructed on the site is required to provide a small pocket park. The background information (**Attachment 2**) proposes that the acquisition of the subject property would return public vistas of the adjoining State listed 'The Briars' and its return to open space would reconnect the land with the setting and context of the heritage item. However, a site inspection of the subject property revealed little if any of the heritage streetscape is likely to be re-instated. This is due to the fact that the rear boundary of the subject property which adjoins 'The Briars' is delineated with high fencing and significant trees detract and limit any expansive view of the heritage listed property.

Assessment of Site Suitability for Local Open SpaceOpen Space Assessment - Open Space Acquisition Strategy (OSAS)

All proposed acquisitions of the land for open space purposes are reviewed against the criteria in the *Open Space Acquisition Strategy (OSAS)* which was adopted by Council on 30 November 2007. This document is the overarching strategy which proactively identifies the future open space and justifies the acquisitions by utilising development contributions. The OSAS supports the findings of Council's *Open Space Strategy 2005*, which identified that the Ku-ring-gai Local Government Area (LGA) has a relatively low distribution of local and district open space and particularly notes the shortfalls given the potential increased demand in provision of open space for new populations.

The Strategy's objectives assist Council to:

- develop strategies that Council can use now and the future in which to guide decision making in relation to acquisition of open space;
- acquire open space as efficiently as possible in term of investment versus open space area, location and quality of space acquired;
- assess the existing open space system and identify implications of increased population;
- assess priorities based on new population and development trends identified in Council planning;
- develop a decision making rationale that will ensure that acquisition of open space will meet the needs of the new population without further exacerbating deficiencies in the open space system;

Item 5

S07257
20 April 2009

- identify priorities including 'hot spots' for acquisition;
- ensure provision of quality open space which would be not solely based on quantity;
- examine the potential of other open space improvements such as enhancement of any existing open space as a mechanism to improve open space provision and quality;
- make recommendations regarding embellishment of open space in terms of facilities and recreation opportunities; and
- be able to respond appropriately to opportunities to acquire specific properties for open space.

The open space acquisition process entails two tiers of assessment. The first concerns the location of the property and whether or not they are an identified priority location. The second assessment would be to their particular attributes of the property such as their suitability for acquisition in terms of size, terrain shape, neighbouring land uses and other qualities.

The subject property has been considered against the OSAS's acquisition principles and priorities and the results are detailed below.

Assessment of suitability of location as local open space – 12 Woonona Avenue Wahroonga

A preliminary analysis of the property has been undertaken in relation to the *Open Space Acquisition Strategy (OSAS)* the work is presented in **Attachment 3**. In summary the following points are noted:

- the property is located in an area of Wahroonga isolated by the Pacific Highway, F3 Freeway and the rail line in the open space catchment identified as Wahroonga (West) (**Attachment 4**);
- this area is currently serviced by Archdale Park which is approximately 1,625 m². Archdale Park and Archdale Walk are located between Neringah Ave and Coonanbarra Rd providing a pedestrian access way between streets and are approximately 550 metres walking distance (via Pacific Highway) for new residents in Bundarra Avenue.;
- part of the area to the east of Woonona Avenue is serviced by Wahroonga Park which is the closest large park. Wahroonga Park is accessed via the rail bridge on Coonanbarra Road and is approximately 600 metres walking distance;
- the property is located within a priority 3-4 area as defined in the OSAS; placing it in a medium priority area;
- the closest 2(d3) zones are on Bundarra Avenue South, Woonona Avenue and Neringah Avenue South, with new residential development currently under construction on Bundarra Avenue;
- the proposed dwelling numbers for the area are 219 which equates to demand for around $(219 \times 1.8 \times 4.37) = 1,700\text{m}^2$ for the catchment under the 2004-2009 Contributions Plan;
- the property is approximately 929.5m² in size which is significantly less than the required area for future demand and there is no opportunity to expand on this site in the future;
- total 5 year open space requirement under the 2004-2009 Plan for Wahroonga as a whole is about 2,740m². The subject property only represents 34% of this total; and
- the catchment of this park would support around 50% of the future new residents in Wahroonga.

Item 5

S07257
20 April 2009

Staff assessment found that the property met 14 criteria out of a total of 22 essential criteria which indicates that it is a possible location, though not ideal, largely due to the small size of the property. The size of the subject property is a significant constraint as it does not adjoin existing open space, and there is no opportunity for linear expansion to augment the park given that the adjoining properties consist of established townhouse/villa development and land which will provide the access handle for the 2(d3) development in Bundarra Avenue South currently being constructed.

Furthermore, a site inspection of the subject property revealed little if any of the heritage streetscape is likely to be re-instated if the property were to become a park. This is due to the fact that the rear boundary of the subject property adjoins the 'Briars' and the park development would be required to provide screening in the form of fencing and hedging to give privacy to the 'Briars' residents as well as a facility such as a playground. This would limit any view of the heritage listed property that would be gained by demolition of the existing house. The subject property's location adjoining heritage item is a limitation from this point of view as there may be pressure to minimise the works in the new park to protect heritage character while rendering the park non-usable for passive recreation.

For the reasons given above the subject property is not considered an ideal strategic purchase as local open space. Overall it is recommended that an assessment of other sites in the immediate area should be undertaken before a final decision is made. Examples identified on a site visit include:

- Purchasing of land adjoining Archdale Park would be an option for consideration as this could potentially provide a park of about 3,000sqm.
- Another option may be to look at acquiring land in Bundarra Avenue within very close proximity to new residents.

The subject property when compared to other higher priority areas is not considered an ideal strategic purchase as local open space.

Prior to the adoption of Council's *Open Space Acquisition Strategy (OSAS)* in October 2007, Council had no framework available to guide and support the decision making process when considering acquisition of land, either through the development approval process or private treaty sales. This has seen Council acquire several parcels of poorly utilised land for the purposes of open space in the past. Examples of these are:

- Land adjoining Mahratta;
- Secret Park; and
- 78 Coonanbarra Road Wahroonga.

A Strategic analysis and assessment of options is particularly important given the current period of uncertainty over the future capacity to continue to levy contributions from development for the provision of additional open space, it is particularly imperative that proposed acquisitions meet all essential criteria for the provision of high-quality, good-sized open space with a clear geographic nexus to the key contributing sites in each catchment. These principles outlined in the adopted Open Space Acquisition Strategy to guide the acquisition of open space should not be departed from.

Acquisition for a Community Garden

Item 5

S07257
20 April 2009

A community garden is an area of shared land in which members of a community participate in the cultivation of food and other plants. They are seen to have many advantages including:

- the promotion of a healthy lifestyle;
- social benefits from the interaction of participants;
- environmental benefits due to the decrease in food transport miles and the reduction of waste material; and
- the motivation and development of skills which residents can apply in their own lives.

The establishment of a community garden within the local government area would also help realise a number of the visions, principles and objectives of Council's *Sustainability Vision Report 2008-2033: Ku-ring-gai to Global* (July 2008) and draft *Community Strategic Plan 2030*.

Community gardens require good conditions for growing fruit and vegetables and suitable sites should be near public transport, easily accessible, under-utilised and close to potential users.

Assessment of Site Suitability for a Community Garden

Approximately a third of the site would need to be allocated for a garden, leaving the remaining area for local open space. The garden and remaining area would need to be designed to compliment the heritage values of the adjacent 'The Briars'. However, this proposal should be assessed in the context of other potential community garden sites and further investigation is required to determine the level of interest amongst surrounding residents in participating in a garden at this location.

Staff from the Community Department have advised that on initial investigation the subject property ranks 25/45 of the location criteria assessment for a community garden which equates to a 55% weighting, indicating that there are a number of limitations associated with site as a community garden. These include;

- property not owned by Council and no budget allocation to purchase the site;
- currently there is a house on the site where the garden would be placed;
- limited parking available;
- not within the proposed high growth population areas; and
- more than 600 metres from the train station.

Therefore, when compared to other locations under consideration the subject property is not recommended as an optimal community garden site. The results are detailed below;

Item 5

S07257
20 April 2009

Assessment of Community Garden Site	Available space 300m ² - 500m ²	Central location to potential users	Full sun, well drained	Close to public transport	Potential impact on surrounding land users and uses	Parking availability and vehicular access	Council owned land	Low level of utilisation of land	Public amenities	Total
12 Woonona Avenue, Wahroonga	4	3	4	3	3	3	1	2	2	25/45

5 – excellent

4 – good

3 – average

2 – poor

1 – non-compliant

Council's Community Department is currently investigating the possibility of establishing a community garden within Ku-ring-gai and is reviewing potential and suitable Council owned sites throughout the area. The above assessment criteria is currently being utilised to assess other potential sites across the local government area and a report will be submitted to Council sometime in the near future detailing their recommendations.

CONSULTATION

Council staff commenced discussions with the owner of 12 Woonona Avenue Wahroonga, to ascertain the level of interest to sell the property prior to development. The owner has verbally advised that offers will be considered. However, the owner has no intentions to delay development activities onsite nor has he indicated a purchase price for the subject property.

No other external consultation has taken place.

FINANCIAL CONSIDERATIONS

The Notice of Motion specifically requested investigation into possible funding sources and specifically sought advice on concepts/mechanisms to obtain community funding to assist with the acquisition costs. These options are considered sequentially below.

Requirements for Development Contributions Expenditure

Both *Ku-ring-gai Section 94 Contributions Plan 2000-2003 – Residential Development* and *Ku-ring-gai Section 94 Contributions Plan 2004-2009 – Residential Development* provides for the acquisition of land for new park. However, only the *Ku-ring-gai Section 94 Contributions Plan 2004-2009 – Residential Development 2004-2009* plan provides for acquisition and embellishment of new open space.

Previous open space acquisitions have been predominantly funded through development contributions. Acquisition of the subject property utilising development contributions can only be undertaken if the area meets the requirements of causal, geographic and temporal nexus with new

Item 5

S07257
20 April 2009

development which is further discussed below. In this respect, the site meets limited demand compared to other higher priority, areas of recent development activity. It should be noted that development contributions have not been and are not currently collected for the purpose of a community garden.

The subject property is located in Woonona Avenue (South) between the Pacific Highway to the south, the railway to the north, the F3 to the west and Wahroonga town centre to the east. Key criteria for the levying and expenditure of development contributions are:

Causal Nexus

Contributions can only be levied and expended where there is increased demand from new development.

While there is new development in the immediate vicinity of the site, the majority of the completed Wahroonga developments, are concentrated south of the Pacific Highway (Munderah Street, Pacific Highway and Ada Avenue) and to the north of the railway line in more scattered locations.

Geographic Nexus

Any open space purchased from these contributions must meet the need generated by new development. Local open space should be within a 300-400 metre walking distance and not cross major perceptual barriers such as major roads and railway lines. Given the perceived barrier of the Pacific Highway, the subject site poorly services the concentration of the recent development south of the Pacific Highway.

Temporal Nexus

New open space must be provided within a reasonable time of the development. In this context, the immediate priority for Council must be providing additional open space south of the Pacific Highway.

Council's current *Ku-ring-gai Section 94 Plan 2004-2009* and Open Space Acquisition Strategy further detail the requirement above.

On-going Strategic Financial Management of Development Contributions

Both *Ku-ring-gai Section 94 Contributions Plan 2000-2003 – Residential Development* and *Ku-ring-gai Section 94 Contributions Plan 2004-2009 – Residential Development* estimate open space acquisition and embellishment costs allocated to Wahroonga is based on a per capita ratio of providing 4.37m² per additional person. The total additional local open space required for Wahroonga, under the current Contributions Plan is 2,740m² for 627 additional persons.

Due to recent acquisitions of land utilising contributions reserves, a review of the current levels of available funds was undertaken. As of the March 2009 quarter, and taking into account the recent open space acquisitions, there is still in the vicinity of \$37million for the purchase and embellishment of open space over the whole Local Government Area.

However, due to the proposed and anticipated RE1 re-zoning of land within the Town Centres, Council will be required to purchase affected properties. This issue is yet to be finalised by the

Item 5

S07257
20 April 2009

Planning Panel, and may be well in excess of the amount available given the additional compensation requirements afforded to affected property owners. While acquisition should take place in a rolling program over many years, the proposed re-zoning represents a potential cash flow risk to Council from *owner initiated* requests for acquisition and compensation under the *Land Acquisition (Just Terms Compensation) Act 1991*.

Furthermore, there is currently a climate of great uncertainty with respect to Council's capacity to levy future contributions for open space due to proposed limitations by the NSW State Government on the total quantum of contributions. Accordingly, purchasing open space which does not meet all the criteria in the open space acquisition strategy would be fiscally unwise in the immediate term, as further acquisitions which better address nexus requirements may not be possible.

Total available funding specifically for Wahroonga is as follows:

2000 - 2003 Plan	\$1,440,171
2004 - 2009 Plan	\$5,448,140
TOTAL:	\$6,888,311

If the subject property could meet most, if not all, of the essential criteria of the OSAS, then a stronger argument could be submitted in regards to nexus claims (though not as a community garden). However, as already established, the area of Wahroonga, south of the Pacific Highway, has a higher geographic nexus claim than the area of the subject property.

Cost of Conversion to a Local Park

If the site could be acquired to create a new park by utilising development contributions, the onsite built improvements and site topography would require demolition, site clearance and substantial embellishment in terms of landscaping, plantings, and park furniture and recreation equipment. Also, there would be need to provide reasonable access to the property. With regard to demolition, site clearance and embellishment costs, it should be noted that the *Ku-ring-gai Section 94 Contributions Plan 2000-2003* does not provide for the embellishment of new open space, as distinct from acquisition. The *Ku-ring-gai Section 94 Contributions Plan 2004-2009* initially nominated park embellishment costs at approximately \$88/m² only increasing to \$140/m² as recently as October 2007. On a sliding scale, approximately \$80,000 would be available for embellishment of the property if acquired for local open space. This is exceedingly low by any consideration but especially assuming the cost of demolition and site clearance must be included as part of the process of establishing a park. While the recent amendment to the *Ku-ring-gai Section 94 Contributions Plan 2004-2009* provides for \$140/m², which would equate to \$130,130, it is important to note that few consents featuring that rate have been issued, much less implemented, and that virtually all the existing account balance was levied at the lower rate or with no provision for embellishment.

Drawing down higher establishment costs could compromise Council's ability to provide the quantum of open space anticipated by the *Ku-ring-gai Section 94 Contributions Plan 2004-2009* and significantly increase the financial risk inherent in the zoning of property for open space acquisition and for road infrastructure acquisition if internal borrowing is permitted. Therefore, it would be necessary to seek other funding options, such as renting the property, at least during the

Item 5

S07257
20 April 2009

community consultation, planning and approval phases but possibly longer, to contribute towards the total embellishment cost.

Cost of creating a Community Garden

There is no provision for a Community Garden in any of Council's s.94 Contributions Plan and as such no funding available for this specific purpose from s.94 reserves. Utilising the subject property for a community garden would require Council to purchase and develop the site from general revenue.

Furthermore, no specific budget allocation has been created for the development and/or running of a community garden. Community Development staff have estimated the cost of establishing a community garden with a site size of 300m² varies between \$47,500 - \$72,000. It is possible to stage the work on the community garden over a number of years and only undertake critical tasks in the establishment phase. The type of costs associated with establishing a community garden include site preparation, soil testing, tools, plants/seeds, fencing, storage areas, mulch, loam/compost, raised garden beds etc.

Community Development are currently investigating existing Council owned land opportunities to provide a community garden without incurring additional land acquisition costs. Many of the sites being investigated are significantly better located as potential community gardens than the subject land.

Alternative Funding Sources

The resolution sought advice on concepts/mechanisms to obtain community funding to assist with the acquisition costs. In view of the serious financial implications of expending contributions on less than ideal sites, alternate funding options were explored. These are discussed below.

General Revenue

Council's long term financial plan does not include purchases for Open Space from general revenue. The purchase of this property would require a reallocation of funds from expenditure currently planned for new and existing infrastructure. A four year capital works and projects plan is included in the 2009 – 2012 Draft Management Plan and projects would need to be identified for deferral to fund this project.

Further, if the property is purchased this financial year a loan from internal reserves would be required as there are no funds available in this year's budget. However, it should be noted that one of the principles of Council's financial plan that ensure Council's financial sustainability is that we maintain a minimum level of internal discretionary cash reserves (excluding liability cash reserves) of 10%. The purchase of this property from general reserve would potentially compromise this principle.

Community Pledges

On the 6 April 2009, the owners of the adjoining property 'The Briars' submitted a conditional pledge of \$200,000 towards the acquisition of the subject property (**Attachment 5**) However, it is unclear at this stage whether this pledge is a gift or a donation.

Item 5

S07257
20 April 2009

In the event that the pledge is a donation and in order for donors to gain a tax deduction for their donation, Council would need to register as a deductible gift recipient (DGR). Initial investigations indicate that this type of project would not qualify for DGR status as this does not fall within their standard classification rules.

Community Funding

Potential future funding sources need to be explored in greater detail to assess the level of community interest in participating in a garden project. Consultation with other Councils operating community gardens have indicated that the majority of projects have been funded through general revenue. The Environmental Trust of NSW and Council's Environmental Levy Small Grants Program are potential sources of funding to install items such as shelter, storage, garden furniture, rainwater tanks etc.

There may be potential to obtain assistance through private sponsorship and participant contributions. However, these opportunities will be further explored and identified in the report being prepared by Community Development unit.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from the Departments of Strategy, Community and Corporate have all contributed to the development of this report.

SUMMARY

In response to a Council Notice of Motion of 16 December 2008, investigations into the potential acquisition of 12 Woonona Avenue Wahroonga, subject to the identification of financial options beyond development contributions have been undertaken.

The key purpose of the acquisition of the subject property is to predominantly restore the heritage streetscape that was lost since 1968 subdivision by converting the 929.5m² site into a park and/or incorporate a community garden concept. A review of land use options has been undertaken and the subject property has been assessed against Council's *Open Space Acquisition Strategy* to determine the suitability in terms of size, terrain, shape, neighbouring land uses and other qualities which supports the utilisation of development contributions for acquisition as local open space. The subject property is located within a priority 3-4 area as defined in the OSAS, placing it in a medium priority area, which means there are other areas which are of a higher priority. While there has been development in the vicinity, the majority of recent development in Wahroonga has occurred south of the Pacific Highway making that area a higher priority area for acquisition of parkland and as such a higher geographic nexus claim for the use of development contributions than the area of the subject property.

The subject property only met 14/22 of the OSAS assessment criteria which indicates that although the location is suitable an assessment of the area is required prior to making a final decision. Given the current period of uncertainty over the future capacity to continue to levy contributions from development for the provision of additional open space it is particularly imperative that proposed acquisitions meet all essential criteria for the provision of high-quality, good-sized open space with a clear geographic nexus to the key contributing sites in each catchment.

Item 5

S07257
20 April 2009

In summary, and as discussed above, this acquisition is not considered to be the best use of development contributions levied for the provision of open space in Wahroonga given the need for clear geographic nexus, the competing demands on the limited funds available in the short-term and the existent risk of limited future contributions. An assessment of other sites in the area is required to ensure that the utilisation of s.93 Reserves are reinforced by the principles outlined in the adopted Open Space Acquisition Strategy prior to making a final decision.

Council is affected by the current fiscal uncertainty both globally, which flows through to reduce income from investments, and locally due to the likelihood of imminent restrictions on capacity to levy future development contributions and even though there is a singular community pledge of \$200,000, there are limited alternative forms of funding currently available. Additionally, the Long Term Financial Plan is fully accounted for and if funds were to be diverted for a purpose that is not currently identified, then another item currently adopted within the Long Term Financial Plan would need to be deleted.

As such, despite the opportunity available it is not considered fiscally logical to purchase this property at this time without undertaking a full assessment of the catchment area.

RECOMMENDATION

- A. That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue Wahroonga being the curtilage of 'The Briars'.
- B. That a report be brought back to Council detailing the outcome of analysis of community garden sites.

Deborah Silva
Manager Strategic Assets & Services

Andrew Watson
Director Strategy

Danny Houseas
Manager Community Development

Janice Bevan
Director Community

- Attachments:**
- 1. Location Map - 2009/057499.
 - 2. Background Information - 2008/046322.
 - 3. Acquisition Report - 2009/057434.
 - 4. Map - 2009/057432.
 - 5. Letter - 2009/042886.

12 WOONONA AVENUE, WAHROONGA - POTENTIAL PROPERTY PURCHASE

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To respond to a Notice of Motion of the 12 May 2009 and a further resolution of Council's General Committee of 30 June 2009, in relation to 12 Woonona Avenue, Wahroonga.

BACKGROUND:

At the General Committee Meeting held on 30 June 2009, Council resolved that:

"That the General Manager formally write to the owner of 12 Woonona Avenue, Wahroonga seeking a purchase price on the site and details of response received be brought to the first Ordinary Meeting of Council."

COMMENTS:

Council staff have written to the property owner and subsequently received a letter of offer from the owner detailing the confidential purchase price.

RECOMMENDATION:

That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue, Wahroonga, being the curtilage of 'The Briars'.

PURPOSE OF REPORT

To respond to a Notice of Motion of the 12 May 2009 and a further resolution of Council's General Committee of 30 June 2009, in relation to 12 Woonona Avenue, Wahroonga.

BACKGROUND

At the Ordinary Meeting of Council held on 16 December 2008, Council resolved in relation to the possible acquisition of 12 Woonona Avenue, Wahroonga (being the former curtilage of 'The Briars', a State listed heritage property) for the purposes of open space:

- "a. The General Manager undertakes discussions with the owner of 12 Woonona Avenue to seek his position on a sale and report back to Council as soon as possible.*
- b. The General Manager investigate land use options for this site under the guidelines of Section 94, not limited only to a park but also options for a community garden and/or similar concepts.*
- c. The General Manager report back to Council on all possible funding options for the purchase of the site.*
- d. The General Manager report back to Council with concepts on various mechanisms for a community funding process.*
- e. The General Manager to arrange a site inspection for all interested Councillors."*

On 28 April 2009, a report was submitted to Council's General Committee (**Attachment A**) in response to the above resolution. At which time Council unanimously resolved:

- A. That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue, Wahroonga being the curtilage of 'The Briars'.*
- B. That a report be brought back to Council detailing the outcome of analysis of community garden sites.*

At the Ordinary Meeting of Council held on 12 May 2009, a further Notice of Motion was put by the Deputy Mayor, Councillor Jennifer Anderson moving that:

- "a. That the General Manager obtains an independent valuation from a registered valuer for 12 Woonona Avenue, Wahroonga.*
- b. That the General Manager prepares a further report on funding sources that may be utilised to assist Council in acquisition of the property, including sources not yet explored, such as, but not limited to, Heritage Council grants.*

Item 16

S07257
6 July 2009

- c. *That the General Manager shall consider and assess potential leasing opportunities during any period of time necessary to fully fund works to create a park/community garden on the site and throughout design, demolition and construction phases.*
- d. *That the General Manager seek comments from Council's Heritage Advisor to be included in the further report to Council."*

Since that time Council staff have obtained an independent market valuation (**Confidential Attachment B**) which was provided to Councillors under Confidential Memorandum on 18 June 2009, along with sourcing information on the availability of grant opportunities as a potential funding source, and examined funding sources within Council's existing financial capacity.

At the General Committee Meeting held on 30 June 2009, Council resolved that:

"That the General Manager formally write to the owner of 12 Woonona Avenue, Wahroonga seeking a purchase price on the site and details of response received be brought to the first Ordinary Meeting of Council."

On 1 July 2009, a written request to the owner of the subject property was submitted. Council staff have subsequently received a letter of offer from the owner detailing the confidential purchase price.

COMMENTS

In regards to Council's resolution of 12 May 2009, Council staff have undertaken and/or significantly commenced to address the items A – D of the resolution follows:

- A. That the General Manager obtains an independent valuation from a registered valuer for 12 Woonona Avenue, Wahroonga.**

A copy of the independent valuation report was provided to Councillors on 18 June 2009 (**Confidential Attachment B**).

- B. That the General Manager prepares a further report on funding sources that may be utilised to assist Council in acquisition of the property, including sources not yet explored, such as, but not limited to, Heritage Council grants.**

Council's Heritage Advisor has contacted the NSW Department of Planning Heritage Branch about possible sources of funding. The Heritage Branch advised that Council could apply for funding under the Works Projects 2011 – 2013 (**Attachment C**) which allocates funds for the conservation, maintenance and adaptive reuse of heritage items listed on the State Heritage Register and state significant heritage items. Under this grant projects are to be a minimum value of \$25,000 with maximum funding of \$75,000 per project. Applications will be open in September/October 2010, and funding is based on a dollar for dollar basis and is a competitive grant scheme. Funding from this source could not be guaranteed and would depend upon the number and merit of applications made under the program.

Item 16

S07257
6 July 2009

The NSW Department of Planning Heritage Branch does not have a separate program to purchase lands, and especially land that is not heritage listed as funding is predominantly awarded for the protection and conservation of specifically listed heritage items. It should be noted, that of the \$3.4 million of NSW Department of Planning Heritage Branch funding provided for the period 2009- 2011, none was made available for purchase of property, or moveable items.

Council's Finance staff examined funding sources within Council's existing financial capacity, and as previously advised in the report of 28 April 2009, (Attachment A). Council's long term financial plan does not include purchases for open space from general revenue. The purchase of this property would require a reallocation of funds from expenditure currently planned for new and existing infrastructure. A four year capital works and projects plan is included in the 2009 – 2012 Management Plan and specific Council projects would need to be identified for deferral or abandoned to fund this project.

Further, if the property is purchased this financial year a loan from internal reserves would be required as there are no funds available in this year's budget. However, it should be noted that one of the principles of Council's financial plan ensures Council's financial sustainability is maintained with a minimum level of internal discretionary cash reserves (excluding liability cash reserves) of 10%. The purchase of this property from general reserve would compromise this principle.

C. That the General Manager shall consider and assess potential leasing opportunities during any period of time necessary to fully fund works to create a park/community garden on the site and throughout design, demolition and construction phases.

The residence at the subject property has recently been demolished, so there are no funding opportunities in regards to a lease for a residential tenancy.

The Community Department staff have assessed a number of potential sites, which included the subject property for the establishment of a community garden, and according to the established criteria this site did not rank as highly as other Council owned sites which do not incur an acquisition cost.

It was previously thought that funding for the costs associated with the construction and ongoing maintenance of a community garden may be obtained through private sponsorship and participant contributions and this was to be reported to Council by the Community Department. However, to date no sources of funding have been identified.

Ku-ring-gai Council has not previously levied for community gardens though it does levy for the embellishment of new open space. Following further research into the matter it is proposed, subject to Council endorsement, to permit funds collected towards the embellishment costs of new open space to be directed towards the establishment of a community garden if it can be established that this is what the community (especially the residents of nearby unit development) so desires. If demonstrated, the demand arising from the unit residents would crystallise the nexus as these are the developments which have made, or will make, that contribution. This would be at the expense of other projects currently in Council's contributions plans.

It should be noted, however, that this site does not meet a number of key criteria for the successful establishment of a community garden. For example, the requirement to construct a shed on site would detract from the heritage vista which Council is attempting to reinstate.

Item 16

S07257
6 July 2009

D. That the General Manager seek comments from Council's Heritage Advisor to be included in the further report to Council.

The site at 12 Woonona Avenue, Wahroonga is not itself a listed item and thus funding from State and Federal Government sources is limited. Heritage funding from all Government agencies is highly competitive and limited to listed heritage items. Heritage funding is usually reserved for themed programs most commonly based on assisting heritage items of State significance and buildings that are dilapidated and threatened by neglect. Funding in recent years has been focused on items in regional and rural areas.

In the past funding has been sourced from the State Government for the purchase of land adjoining State heritage items where curtilage has been affected by subdivision and subsequent development. An example of this type of assistance was for the purchase of land around Experimental Farm Cottage at Parramatta to restore part of its curtilage and re-establish a visual connection between the house and the Parramatta River. However, it is difficult to form a comparison with the property that adjoins the Briers as Experimental Farm Cottage is considered to be of National heritage significance and is an established house museum.

In regards to Council's resolution of 30 June 2009, Council staff have written to the property owner and subsequently received a letter of offer from the owner detailing the confidential purchase price (**Confidential Attachment D**).

CONSULTATION

Council staff have obtained an independent market valuation from BEM Property Consultants Pty Ltd to determine the market value of the subject property. The determination took into consideration that the property benefits from an approved development application.

Council's Heritage Advisor consulted with Cameron White, principal heritage officer listings team and Miriam Stacey, principal grants officer at the NSW Department of Planning Heritage Branch regarding potential heritage grants. The matter was raised internally by the Heritage Branch staff with the Executive Director, Petula Samios. Verbal advice was received that a possible source of funding for purchase of the site may be available in the 2011 – 2013 Works Projects. However, it is highly unlikely that funds would be allocated for the acquisition of land which adjoins a heritage item.

Council staff have had both verbal and written contact with the property owner on several occasions regarding the potential purchase.

FINANCIAL CONSIDERATIONS

An independent valuation has been provided from BEM Property Consultants Pty Ltd (**Confidential Attachment B**).

The property owner has provided a written letter of offer detailing the purchase price for Council to consider the acquisition of the subject property (**Confidential Attachment D**).

Item 16

S07257
6 July 2009

Although there is a singular community pledge of \$200,000, there are limited alternative forms of funding currently available.

Within Council's 2009/2010 budget there are no general funds allocated towards the acquisition of open space. Only the removal of approved capital project/s from the current program would release funding for this acquisition.

The earlier report of 28 April 2009, advised that the use of S94 Reserves was not considered to be the best use of development contributions levied for the provision of open space in Wahroonga given the lack of a clear nexus.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Staff from Strategy and Environment, Development and Regulation, Community and Corporate Departments have all contributed to the development of this report. In addition, the Corporate Lawyer and Internal Ombudsman have been consulted.

SUMMARY

In response to a Council resolution of 12 May 2009 and 30 June 2009, Council staff have investigated and reported on the potential acquisition of 12 Woonona Avenue Wahroonga. The report of 28 April 2009, advised that although the property could be funded through S94 Reserves it was not considered to be the best use of development contributions levied for the provision of open space in Wahroonga given the lack of a clear nexus. The subject property only achieved 14/22 of the *Open Space Acquisition Strategy 2007* assessment criteria which indicates that although the location may be suitable a full assessment of the area evaluated against the *Open Space Acquisition Strategy 2007* would be required prior to making any final decision.

Council's Long Term Financial Plan is fully accounted for and if funds were to be diverted for a purpose that is not currently identified, then another item currently adopted within the plan would need to be removed. In addition, Council's Heritage Advisor has consulted with NSW Department of Planning Heritage Branch regarding potential heritage grants. Verbal advice was received that a possible source of funding for the site may be available in the 2011 – 2013 Works Projects. However, it is highly unlikely that funds would be allocated for the acquisition of land as the NSW Department of Planning Heritage Branch does not have a separate program to purchase lands, and in particular land that is not heritage listed as funding is predominantly awarded for the protection and conservation works of specifically listed heritage items.

Like many organisations and individuals Council is also affected by the current fiscal uncertainty both globally, which flows through to reduce income from investments, and although there is a singular community pledge of \$200,000, there are limited alternative forms of funding currently available. Further, Council should be mindful that the philanthropic pledge from the adjoining property owner may be perceived by the broader community as unduly influencing Council's decision, given the benefit to amenity that may be enjoyed by the adjoining property owner should the approved development not proceed.

Item 16

S07257
6 July 2009

Council could consider submitting an offer to purchase the property within the determined valuation range, however, this will not meet the subject property owner's expectations. Should Council consider pursuing the acquisition of the subject property then it is strongly recommended that a further independent market valuation is obtained to ascertain any potential variance in market value and to ensure that expending public monies accords with the independent valuations.

RECOMMENDATION

That no further action be undertaken towards purchasing for open space purposes the land at 12 Woonona Avenue, Wahrenonga being the curtilage of 'The Briars'.

Deborah Silva
Manager Strategic Assets & Services

Andrew Watson
Director Strategy & Environment

Attachments:

- A. Report to Council 28 April 2009 - 2009/062415**
- B. Market Valuation - Confidential**
- C. NSW Heritage Branch – website funding excerpt - 2009/098795**
- D. Correspondence from property owner - Confidential**

Kim Thomas

From:
To:
Cc:
Sent: 12/08/2009 at 6:41 PM
Received: 12/08/2009 at 6:41 PM
Subject: Re: 12 Woonona Avenue Wahroonga - valuation

Dear Deborah

Thanks for your email. Unfortunately I do not think I can help you.

There is no scientific method to provide the public benefit of a park; it is beyond the scope of a valuer.

Where a heritage building has lost its original cartilage and been been isolated from its street frontage a heritage valuer can provide:

- an estimated cost of the purchase of the land for the park, (market value).
- an estimated cost of the compulsory purchase of the land for a park, (market value plus acquisition costs).
- an estimate of the added value or betterment ascribed to the adjoining properties because of the purchase of the park (the added value to The Briars and adjoining lots).
- an estimate of the added value to The Briars if the land was added to the site.
- an estimate of the value of The Briars with a town house development in front.
- an estimate of the value of The Briars with a park in front

and could support heritage grant applications to facility a purchase.

Otherwise it is political decision on how much to spend to improve the streetscape, provide a park or increase the heritage standing of the suburb? Where should Section 94 funds be spent?

Regards

----- Original Message -----

From: Deborah Silva
To:
Sent: Tuesday, August 11, 2009 6:54 PM
Subject: 12 Woonona Avenue Wahroonga - valuation

Dear

I refer to our telephone conversation this morning advising that Council wishes to engage your services to under the valuation of 12 Woonona Avenue Wahroonga. I now attach a copy of Council's previous valuation of the subject property.

I also refer you to my instructions dated 3 August 2009 regarding the determination of the market value of the subject land taking into consideration the following;

- the creation of a new park and/or community garden
- to serve the public interest by protecting the heritage value of the adjoining State heritage-listed property, "The Briars", at 14 Woonona Avenue, Wahroonga
- to restore the appearance of cartilage to the streetscape.

I also advised that reference to consider previous townhouse sales at 16 Woonona Avenue, Wahroonga and sale prices for three bedroom units of similar quality in the vicinity and assess as to comparable quality to those of the approved DA, and to those cited in the first valuation obtained by Council.

Accordingly, I provide you with the sales information of the properties at 16 Woonona Avenue Wahroonga, albeit that they occurred between 2002 - 2004, and therefore consideration and commentary of the market forces at the time should be included in your report.

1/16 Woonona \$880,000 12/4/2002
2/16 Woonona \$900,000 13/2/2004
3/16 Woonona \$895,000 24/1/2002

4/16 Woonona \$1,200,000 21/7/2003

Please advise of the timeline to provide Council with a draft report and any other information that you require.

many thanks

Deborah

DEBORAH SILVA | Manager Strategic Assets & Services - Ku-ring-gai Council | T: 02 9424 0858 |
F: 02 9424 0880 | M: 0417 674 284

Ku-ring-gai to Global: sustainability for a better tomorrow

-----Original Message-----

From: mfpdevice@kmc.nsw.gov.au [mailto:mfpdevice@kmc.nsw.gov.au]
Sent: Wednesday, 12 August 2009 8:08 AM
To: Deborah Silva
Subject: Scanned Document from C2 Fisher ML

Your scanned document is attached to this email.

=====
CONFIDENTIAL COMMUNICATION

The information in this email is confidential. It is intended solely for the person to whom it is addressed.

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Unless you receive a hard copy of the information contained in this email signed by an authorised officer, any opinion expressed in this email is that of the author only and does not represent the official view of Ku-ring-gai Council.

=====

E-mail Message

From: [Deborah Silva \[EX:/O=KMC/OU=FIRST ADMINISTRATIVE GROUP/CN=RECIPIENTS/CN=DSILVA\]](mailto:Deborah.Silva@kmc.nsw.gov.au)
To:
Cc:
Sent: 11/08/2009 at 6:54 PM
Received: 11/08/2009 at 6:54 PM
Subject: 12 Woonona Avenue Wahroonga - valuation

Dear

I refer to our telephone conversation this morning advising that Council wishes to engage your services to under the valuation of 12 Woonona Avenue Wahroonga. I now attach a copy of Council's previous valuation of the subject property.

I also refer you to my instructions dated 3 August 2009 regarding the determination of the market value of the subject land taking into consideration the following;

- the creation of a new park and/or community garden
- to serve the public interest by protecting the heritage value of the adjoining State heritage-listed property, "The Briars", at 14 Woonona Avenue, Wahroonga
- to restore the appearance of curtilage to the streetscape.

I also advised that reference to consider previous townhouse sales at 16 Woonona Avenue, Wahroonga and sale prices for three bedroom units of similar quality in the vicinity and assess as to comparable quality to those of the approved DA, and to those cited in the first valuation obtained by Council.

Accordingly, I provide you with the sales information of the properties at 16 Woonona Avenue Wahroonga, albeit that they occurred between 2002 - 2004, and therefore consideration and commentary of the market forces at the time should be included in your report.

1/16 Woonona	\$880,000	12/4/2002
2/16 Woonona	\$900,000	13/2/2004
3/16 Woonona	\$895,000	24/1/2002
4/16 Woonona	\$1,200,000	21/7/2003

Please advise of the timeline to provide Council with a draft report and any other information that you require.

many thanks

Deborah

DEBORAH SILVA | Manager Strategic Assets & Services - Ku-ring-gai Council | T: 02 9424 0858 | F: 02 9424 0880 | M: 0417 674 284

Ku-ring-gai to Global: sustainability for a better tomorrow

-----Original Message-----

From: mfpdevice@kmc.nsw.gov.au [mailto:mfpdevice@kmc.nsw.gov.au]
Sent: Wednesday, 12 August 2009 8:08 AM
To: Deborah Silva
Subject: Scanned Document from C2 Fisher ML

Your scanned document is attached to this email.

POTENTIAL PARK ASSESSMENTS - WAHROONGAH (SHEET 1 of 1)												
Options												
Property address and size												
Open Space Provision and Demand												
potential park area (m²)												
Total maximum future demand - new residents (m²)												
Is the site located within a Priority 1 or 2 area?												
Is the site located centrally within its catchment?												
Recreation Provision												
Is the potential area greater than 3000m²												
Does the park provide for a significant proportion of the future demand												
Does land provide for maximum passive recreation opportunity												
Natural Systems												
Does the location have potential to protect or enhance natural areas without compromising recreational uses												
Cultural heritage												
Does the site have cultural or social significance												
Are there NO potential conflicts between heritage and recreation												
Visual and landscape quality												
Is the area of particularly high visual or landscape quality												
Accessibility												
Does the site have at least 2 street frontages												
Is it in a prominent location and highly visible												
Connectivity												
Does the site provide potential to create new linkages between residential blocks												
Carrying Capacity												
Does the site extend an existing reserve												
Does the site have potential to alleviate use pressure on existing parks												
Economic viability and Efficiency												
Does the walking catchment assessment indicate that the site maximises the number of people within a 400 metre radius												
Are there no encumbrances on the site												
Is the existing zone appropriate for the future use as a park												
Are back fences to adjoining properties minimised?												
Does the park meet S94 criteria for nexus												
Management and Maintenance												
Is the slope, drainage and shape of the site suitable for long term maintenance												
Is the land not likely to be affected by unacceptable risks such as traffic hazard, contamination or traffic noise												
Is the location consistent with "Safety by Design" principles in terms of passive surveillance												
Comment												
Overall this location may be suitable as it is one of the only sites likely to be available in the area as most properties are developed for strata apartments or zoned for high density. Small size is a constraint. Location adjoining heritage item is both a limitation and an asset. Recommend assessment of other sites in the area												
Preferred ▼ Possible ◇ Not recommended ×												
Score												

HERITAGE SEMINAR

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To seek Council's approval for any Councillor wishing to attend a Heritage Seminar.

BACKGROUND:

The Seminar - 'Does Heritage Still Matter?' is to be held on Thursday, 17 September 2009 at The Mint in Sydney.

COMMENTS:

The Program is **attached**.

RECOMMENDATION:

The Council determine if it wishes to send any Councillors to the Heritage Seminar - 'Does Heritage Still Matter?' on 17 September 2009.

PURPOSE OF REPORT

To see Council's approval for any Councillor wishing to attend a Heritage Seminar.

BACKGROUND

The Seminar - 'Does Heritage Still Matter?' is to be held on Thursday, 17 September 2009 at The Mint in Sydney.

COMMENTS

The Heritage Act has been reviewed and changes are expected. At this Seminar, the future of heritage in New South Wales will be discussed.

The Program is **attached**.

CONSULTATION

Not applicable.

FINANCIAL CONSIDERATIONS

The cost of attending the Seminar is \$660.00.

There are sufficient funds available in the Conference budget for Councillors.

CONSULTATION WITH OTHER COUNCIL DEPARTMENTS

Not applicable.

SUMMARY

Not applicable.

RECOMMENDATION

The Council determine if it wishes to send any Councillors to the Heritage Seminar - 'Does Heritage Still Matter?' on 17 September 2009.

Geoff O'Rourke
Senior Governance Officer

John McKee
General Manager

Attachments: **Program - 2009/145282**

DOES HERITAGE STILL MATTER? REVIEWING POLICY AND PRACTICE

THURSDAY 17 SEPTEMBER 2009

THE MINT, SYDNEY 9.00 AM – 4.30 PM

NEERG
SEMINARS

PROGRAM*

TIME	PRESENTATION /ACTIVITY	SPEAKER
0900	WELCOME	
0905	OPENING ADDRESS How the State Government views Heritage	The Hon Kristina Keneally MP NSW Minister for Planning and Minister for Redfern Waterloo
	Reviewing recent changes to the Heritage Act	Helen Macfarlane Special Counsel / Heritage Law Expert Minter Ellison Lawyers
	QUESTION TIME	
1030	MORNING TEA	
	Defining Heritage in legal terms	Mary-Lynne Taylor Consultant, Bartier Perry Adjunct Professor of Planning Law University of Sydney
	How we recognise Heritage – sorting the wheat from the chaff	Jennifer Hill Architectural Theorist / Director Architectural Projects
	QUESTION TIME	
1250	LUNCH	
	Does the Productivity Commission Report signify a shift in government thinking about Heritage?	Paul Rappoport Heritage Architect & Planner Rappoport Heritage Consultants
	Local Government Area Heritage studies – where are they now?	Lucinda Varley Conservation Planner North Sydney Council
	QUESTION TIME	
1450	AFTERNOON TEA	
	Heritage and sustainability	Gary O'Reilly Registered Architect / Director Architectural Projects
	Managing change: Heritage in practice	Graham Brooks Director GBA Heritage
	QUESTION TIME	
1630	CLOSE	

* Program details may change.

CONTINUING PROFESSIONAL DEVELOPMENT CREDITS

Seminar attendees are expected to embrace the spirit of CPD by assessing for themselves whether the activities they undertake are demonstrably applicable to their career/professional development in accordance with the CPD policy of the ARB, RAIA, PIA, or other relevant professional organisation. Architects who are in attendance for the entirety of the two courses which comprise this seminar are entitled to claim 2 informal CPD credits per course. (Maximum: 4 informal CPD credits). To claim 6 formal CPD points, architects must complete the take home assignment provided on the day and send their responses to NEERG Seminars. PIA members may claim 1 informal CPD credit for each hour of the seminar they attend. Those wishing to claim 2 formal CPD credits per hour of attendance should complete the take home assignment provided on the day and send their responses to NEERG Seminars.

CONTINUING EDUCATION FOR THE MANAGEMENT OF THE BUILT ENVIRONMENT

NOTICE OF MOTION

INDEPENDENT ASSESSMENT OF COUNCIL'S DEVELOPMENT CONTROL PLAN (TOWN CENTRE)

Notice of Motion from Councillor E Keays dated 25 August 2009

I move:

"That the General Manager undertakes to bring to Council a list of Town Planners, independent of Ku-ring-gai (who have not worked in Ku-ring-gai), from which Councillors will choose an assessor of the Ku-ring-gai DCP.

The assessment would assure residents, developers/applicants that we have done all we can to deliver the best outcome for Ku-ring-gai."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Elise Keays
Councillor for Gordon Ward

NOTICE OF MOTION

COMMENCE NEGOTIATIONS TO ACQUIRE 12 WOONONA AVENUE, WAHROONGA

Notice of Motion from Councillor J Anderson dated 31 August 2009

I move:

- "A. That Council commence negotiations to acquire 12 Woonona Avenue, Wahroonga for open space in the terms discussed.
- B. That Section 94 funds be used for the purchase.
- C. That Council engage the services of an experienced independent agent to immediately commence acquisition negotiations within the determined price range and that costs for the agent be included in the Section 94 budget for the acquisition.
- D. That the General Manager continue investigations with the National Trust, and others, to establish a tax deductible fund for public donations to assist Council to benefit from appropriate philanthropic gestures.
- E. That if negotiations result in a purchase price, the Mayor and General Manager be delegated authority to execute all documentation associated with the purchase of 12 Woonona Avenue, Wahroonga."

RECOMMENDATION

That the above Notice of Motion as printed be adopted.

Jennifer Anderson
Councillor for Roseville Ward