

2.4 Regional Context

Swain Gardens has regional significance, again stemming from its cultural significance as described in 2.2 above.

Anecdotal evidence suggests that the Gardens are widely recognised for their horticultural and landscape quality.

The Gardens are located on the Shot Machine Creek bushwalking track, a popular recreational walking trail leading to Middle Harbour. As such, the Gardens reportedly receive frequent visits from bushwalkers.

The Recreational Needs Study (1989) identifies "visiting of parks and gardens" and use of open space in "an unorganised, informal manner" as popular forms of recreational activity within the Ku-ring-gai Local Government Area. Swain Gardens provide an important regional resource in this context.

2.5 Identification of issues and values

The values of Swains Gardens and the issues which have bearing on these were identified via the following procedures:

- consultations with relevant Council officers including:
 - the Manager, Open Space Planning,
 - the Horticulturalist responsible for maintenance of the Reserve.
- Canvassing local residents;
- Inspections of the Reserve;
- Review of Swain Gardens Plan of Management, 1992.

The values of Swain Gardens identified by this process were as follows:

- Cultural Values - the significance of the Reserve as an intact example of a large domestic garden;
- Recreational Values - the provision of a particular recreational opportunity for unstructured recreation in a domestic garden setting;
- Visual / Landscape Values - unique visual and landscape qualities associated with the existence of a domestic garden, designed along formal lines and including exotic plant species, within a bushland setting;

Preservation of these values involves a series of management issues, as illustrated in the following table:

Values	Issues
Cultural	Design Integrity Maintenance Development (of the Reserve) Funding
Recreational	Maintenance Development Access Safety Facilities
Visual / Landscape Quality	Use Development on adjoining properties Effects on adjoining bushland Funding Leases and licences

2.6 Management structure

Swain Gardens are under the ownership and management of Ku-ring-gai Shire Council. Assisting with day to day and short to medium term planning is the Swain Gardens Advisory Committee, a Committee comprising one Councillor, appointed by Council, and nine community representatives, which provides advice to Council via the Parks and Reserves Committee.

The role of the Swain Gardens Committee, as described in the draft Charter is "to provide advice to Council on strategic matters of a policy, planning or management nature, in relation to Swain Gardens within the Municipality."

2.7 Leases / licences currently in operation and permitted

One lease is currently held over part of the site, that being a private lease for residential purposes of the premises at 77 Stanhope Road, Killara.

In addition to the above lease, Council may by resolution enter into contracts and lease/licence agreements with relevant authorities/organisations/individuals/companies in relation to the provision of services or utilities in accordance with the objectives of this Plan.

In accordance with the requirements of the *NSW Local Government Act 1993*, this Plan also permits Council to grant easements for authorities/organisations/individuals in favour of private lands identified in the Plan, providing that the Council is satisfied that there is no reasonable alternative and that appropriate benefits are obtained for the community land.

2.8 Role

Swain Gardens play an important role in the local and regional open space network of Ku-ring-gai by providing a unique recreational opportunity, while contributing significantly to the visual quality of the area. Additionally, they constitute a significant item of cultural heritage which reflects the strong domestic gardening traditions of the area.

The primary use of Swains Gardens as a place for informal recreation should continue, and should be reinforced, with particular attention being given to retention of the characteristics which contribute to their heritage value.

2.9 Vision

The vision for Swain Gardens Reserve, based on the results of consultations and review of relevant documents is:

To preserve and develop Swain Gardens as a recreational space of heritage significance whilst minimising any negative impacts on adjoining land uses and catchments.

SECTION 3 MANAGEMENT OBJECTIVES

3 MANAGEMENT OBJECTIVES

3.1 Introduction

In response to the issues and values identified in Par. 2.5 above, a series of objectives have been developed for management of the Reserve. Each issue identified is listed below in alphabetical order and discussed. Objectives for management arising out of each issue are stated at the end of each discussion section.

3.2 Access

Issue

Council has a legal responsibility to provide easy access to public and recreational facilities for all persons. This responsibility is contained in the following legislation:

- NSW Anti Discrimination Act (1977)
- Federal Disability Discrimination Act (1992)

The Anti Discrimination Act 1977 provides that recreation facilities should be provided without breaching the anti discrimination laws. In particular, toilets in parks should provide for both sexes and for those with disabilities, and general facilities should be available equally to all without discrimination as to sex, race or age.

The Disability Discrimination Act (1992) makes it law for public places, such as public open space, to be accessible to persons with disabilities. In response, Council's Access Policy provides the following relevant objectives and strategies:

Objective 3 - Provide Access to Public and Recreational Facilities

- 3.4 *Ensure all existing Council recreational facilities (e.g. parks, walking tracks, etc.) are systematically audited so that access meets the intent of the Local Approvals Policy of AS1428 - 1988 whichever is better.*

Each of these requirements applies to Swain Gardens and Council has an obligation to ensure as far as practicable that access to the Reserve and to the facilities therein is maintained as required by the legislation and to the appropriate standards.

In practice, however, it may be difficult to attain the standards of access required by the relevant Standards, as the Reserve is located in particularly steep terrain. The objective should be to evaluate the Reserve and its performance against the principles contained in the Standards and investigate the possibilities of improving access in line with these principles.

Objective

Maximise pedestrian access to and circulation within Swain Gardens.

3.3 Design Integrity

Issue

The retention of the cultural heritage values of Swain Gardens is dependant on recognition and conservation of the principles of design underlying the development of the Gardens by Mr Anthony Swain.

Being a collection of living organisms with finite life spans, any garden should develop and evolve over time. In the case of Swain Gardens, where the original character of the gardens has been identified and listed as an item of heritage to be preserved, there is a need to manage the evolution of the gardens so as to continue the intentions of the original designer.

Moreover, in light of the fact that Swain Gardens have changed status from privately owned domestic gardens to publicly owned and accessible open space, there is an equally important need to retain the origin of the reserve as a private garden. To this end, features which tend to draw attention to the now municipal ownership of the Gardens should be avoided.

Objective

Ensure that Swain Gardens are maintained and developed in a manner which retains and preserves their original character as privately owned "romantic" gardens in a bushland setting.

3.4 Development (of Swain Gardens)

Issue

This issue relates to improvements that may be planned within the Gardens. These may range from horticultural changes such as new planting schemes, through landscape changes such as redesign of sections of the gardens or provision of garden furniture or structures, to provision of additional facilities such as amenities buildings.

As stated in 3.3 above, any development occurring within the Reserve must be completed in a manner which respects the stated heritage values of the Gardens and which is in keeping with the original design intent.

The previous Plan of Management (NSW Public Works Department, 1992) recommended a series of developments ranging from planting programmes to major redesign of some areas. A programme should be implemented to review and prioritise these recommendations and to ensure that those still relevant are actioned.

Objective

To carry out development of Swain Gardens as required in order to improve access and amenities within the Reserve while retaining its identified heritage values and design integrity.

3.5 Development (on neighbourhood properties)

Issue

Development which may occur external to Swain Gardens, particularly on land adjacent to the Reserve, may have effects on its visual and/or landscape quality, and on its integrity as a "romantic" garden in a bushland setting.

Objective

Ensure that development on properties nearby to Swain Gardens is assessed for its possible impacts on the visual and landscape quality of the Reserve.

3.6 Effects on adjoining bushland

Issue

Swain Gardens are located in a creek valley which forms a tributary of Gordon Creek, which in turn drains into Middle Harbour. On the upstream (western) boundary, the reserve abuts Wombin Reserve, while on the downstream (eastern) boundary, the reserve abuts Swain Reserve. Both these reserves are Council Managed Open Space Bushland as described in the draft Bushland Plan of Management (Ku-ring-gai Council, February 1996).

Downstream of Swain Reserve, the creek line continues through urban bushland till it reaches Middle Harbour, so that Swain Gardens is directly within the catchment area of significant areas of urban bushland.

Being land which adjoins bushland zoned or reserved for public open space purposes, development within Swain Gardens is subject to the requirements of the following planning instruments:

- Ku-ring-gai Planning Scheme Ordinance as amended
- State Environmental Planning Policy No.19, Bushland in Urban Areas (Sepp 19).
- Ku-ring-gai Urban Bushland SEPP 19 Plan of Management
- Draft Development Control Code for Properties Adjoining Bushland, Ku-ring-gai Municipal Council

Under the Ku-ring-gai Planning Scheme Ordinance as Amended to 2 April 1993 Swain Gardens is zoned 6(a) Open Space Recreation Existing. *"Works for the purpose of landscaping, gardening or bushfire hazard reduction"* are permissible without consent, but the following works relevant to Swains Gardens require Development Consent: *"buildings for the purpose of landscaping, gardening or bushfire hazard reduction;.....drainage;.....recreation areas.....utility installations other than*

generating works or gas holders."

Under SEPP 19, development on the Reserve must not be carried out or approved without consideration of:

- Cl.9 (2) "(c) *the need to retain any bushland on the land;*
- (d) *the effect of the proposed development on bushland zoned or reserved for public open space purposes and, in particular, on the erosion of soils, the siltation of streams and waterways and the spread of weeds and exotic plants within the bushland; and*
- (e) *any other matters which, in the opinion of the approving or consent authority, are relevant to the protection and preservation of bushland zoned or reserved for public open space purposes."*

Council's planning policies and codes provide guidelines to developers on minimising the impact of development on urban bushland.

Apart from the statutory obligations placed on Council by the above planning instruments to consider the effect on adjoining bushland before approving development on the Reserve, there is an additional obligation to consider the effect on adjoining bushland of any activities within the Reserve, arising from its identified heritage value as a garden in a bushland setting. Such activities which should be considered in terms of their effect on adjoining bushland may include detail design of sectors of the Reserve, selection and location of plant species, pest control and fertilising.

Objectives

Ensure that any development or activity within Swain Gardens, whether or not it requires Development Approval, is considered for its possible effect on bushland on adjoining public reserves and within the vicinity.

Minimise adverse impacts on the catchment from the watercourse transversing the Swain Gardens.

3.7 Facilities

Issue

The range of facilities available within Swain Gardens should satisfy the requirements of users of the Reserve while not compromising its integrity as a former domestic garden in a bushland setting. Existing facilities within the Reserve include public toilets, seating, a small pavilion, a small number of garbage bins and a water bubbler. Any decision to provide facilities additional to these must take into account the effect of those additional facilities on the design integrity of the Reserve. Provision of barbecues and picnic tables, for instance, would not be appropriate for the central formal part of the Gardens, as this sort of facility would detract from the essential