



**ORDINARY MEETING OF COUNCIL
TO BE HELD ON TUESDAY, 27 NOVEMBER 2018 AT 7:00 PM
LEVEL 3, COUNCIL CHAMBER**

AGENDA

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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

NOTE:

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of following confidential report(s) and attachments:

C.1 Council's Recycling Contract Variation - Container Deposit Scheme Refund

Attachment 1: Recycling Market Review & Impacts on Recyclable's Processing Control
- Final - 7 May 2018

Attachment 2: Container Deposit Scheme Refund Sharing - DRAFT - 7 November 2018

Section 10A(2)(d) of the Act permits the meeting to be closed to the public for business relating to commercial information of a confidential nature that would, if disclosed:

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

ADDRESS THE COUNCIL

NOTE:

Persons who address the Council should be aware that their address will be recorded on the official audio recording of this meeting.

DOCUMENTS CIRCULATED TO COUNCILLORS

CONFIRMATION OF MINUTES

Minutes of Ordinary Meeting of Council

8

File: S02131

Meeting held 13 November 2018

Minutes numbered 342 to 353

MINUTES FROM THE MAYOR

PETITIONS

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 **2018 - 2019 Budget Review - 1st Quarter ended September 2018** **20**

File: S09112/7

To inform of the results of the first quarter budget review of 2018/19 and proposed adjustments to the annual budget based on the actual financial performance and trend for the period 1 July 2018 to 30 September 2018.

Recommendation:

That the September 2018 Quarterly Budget Review and the recommended changes are received and noted.

GB.2 **Analysis of Land and Environment Court Costs - 1st Quarter 2018 to 2019** **31**

File: FY00623

To report legal costs in relation to development control matters in the Land and Environment Court for the quarter ended 30 September 2018.

Recommendation:

That the analysis of Land and Environment Court costs for the quarter ended 30 September 2018 be received and noted.

GB.3 **Investment Report as at 31 October 2018** **37**

File: FY00623

To present Council's investment portfolio performance for October 2018.

Recommendation:

That the summary of investments performance for October 2018 be received and noted; and that the Certificate of the Responsible Accounting Officer be noted and report adopted.

GB.4 **Lovers Jump Creek Flood Risk Management Study and Plan Data Review Report, Version A Public Exhibition - Submission Review** **45**

File: S09972

To review the submissions received during the *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A* public exhibition and endorse the updated report.

Recommendation:

That Council adopts the *Lovers Jump Creek Flood Study Review Report (2018)* with the amendments and corrections detailed in this report.

GB.5 **Killara Golf Club (Deferred Area 15) Planning Proposal and Associated DCP Amendment - Consideration of Submissions** **52**

File: S11324

For Council to consider submissions received in response to the exhibition of the Planning Proposal and associated amendment to the *Ku-ring-gai Development Control Plan*, for rezoning of land at Killara Golf Club, also known as Deferred Area 15 under the *Ku-ring-gai Local Environmental Plan 2015*.

Recommendation:

That Council adopts the Planning Proposal to amend the *Ku-ring-gai Local Environmental Plan 2015* to rezone land at Killara Golf Club, [part] 556 Pacific Highway, Killara, identified as Lot 2 in DP535219, and the associated amendment to the DCP.

GB.6 **Results of consultation on continuation of the Environmental Levy** **77**

File: S11574-1

To report on the outcomes of community consultation on a Special Rate Variation for the permanent continuation of the Environmental Levy at the current rate (5%) and to seek endorsement for Council to notify IPART of its decision to apply for this Special Rate Variation.

Recommendation:

- A. That Council notifies IPART of its decision to apply for a Special Rate Variation under section 508(2) of the *Local Government Act 1993* for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019, by the due date of 30 November 2018.
- B. That Council submits a Special Rate Variation application to IPART under section 508(2) of the *Local Government Act 1993* for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July, by the due date of 11 February 2019.

GB.7 **Creation of Easement in favour of Council over private land at Gordon for drainage purposes** **106**

File: CY00066/10

For Council to consider and approve of the creation of an easement over land at 28-30 Dumaresq Street Gordon to formalise Council's drainage system on the property.

Recommendation:

That Council approves of the creation of an easement for drainage purposes as set out in this report.

GB.8 **Notification of Receipt of an Offer to Enter into a Voluntary Planning Agreement - Coles Lindfield** **110**

File: S11840

To advise Council of the receipt of a letter of offer to enter into a Voluntary Planning Agreement to be associated with a Development Application for the Coles site located at 376-384 Pacific Highway Lindfield - inclusive of Balfour Lane, Lindfield

Recommendation:

That the formal offer to enter into a Planning Agreement be noted and that authority be delegated to staff to pursue the negotiation of the document to a draft exhibition stage. A further report to Council will be presented at this stage.

EXTRA REPORTS CIRCULATED TO MEETING

MOTIONS OF WHICH DUE NOTICE HAS BEEN GIVEN

NM.1 Webcasting of Council Meetings

123

File: S02499/12

Notice of Motion from Councillor Ngai dated 19 November 2018

While Ku-ring-gai Council's ordinary meetings of council are open to the public, some Ku-ring-gai residents have been unable to physically attend on Tuesday at 7pm for various reasons (mobility issues, putting kids to bed, clashes with work, etc.).

Most neighbouring councils have already taken advantage of improvements in technology and falling costs of delivery to provide their residents with a webcast of their council meetings, and some residents have asked whether Ku-ring-gai Council can provide a similar service.

Council	Webcasting Available	Comments
Hornsby	Yes	Single wide angle camera, can view at multiple speeds
Hunter's Hill	No	
Lane Cove	Yes	Two concurrent wide angle cameras, blurry
Mosman	Yes	One wide angle camera, can download video file
North Sydney	Sometimes	Three concurrent wide angle cameras, blurry
Northern Beaches	Yes	Multiple wide angle cameras, user can pick which camera they wish to view, includes agenda items on a screen, can view at multiple speeds
Ryde	Yes	Sharp video quality, quickly focuses on each speaker, most interesting to watch
Willoughby	Yes	Three concurrent wide angle cameras, blurry, can download video file

The webcasting of council meetings was also included in Paragraph 5.18 of the draft Model Code of Meeting Practice. On 27th February 2018, I asked a Question without Notice regarding when Ku-ring-gai planned to implement webcasting, and the Director Corporate's response demonstrated that there were some legitimate privacy and legal reasons why Ku-ring-gai has held off webcasting for the time being.

"The Director Corporate advised at the moment the Council does not have any plans as to when or how it would implement webcasting, as you mentioned the draft code is only a draft so we don't know whether it will be implemented with the requirement to have webcasting or not. If and when the code is adopted we would then have to consider then whether to implement it. If the code was not adopted with webcasting in it, it will always be up to Council to decide whether to do it anyway and that might be something that the Council thinks is a good thing to do. In the interim some of our staff are actually investigating how it might operate and how it operates at other Councils because there are implications such as privacy for the people in the room. Potentially litigious issues as well because people have their own record of proceedings of the Council meeting. So there's a whole range of issues that would need to be taken into account including the technology itself as to how it would be done. There are people looking at that and I guess you'll expect to see something back from the staff to the Council in the future about it."

However, on 16th November 2018 it was confirmed by the Minister for Local Government that all NSW local council meetings will be webcast (see attachment A1). This means that Ku-ring-gai has 12 months from the proclamation of the Model Code of Meeting Practice (TBD) to provide for webcasts while managing their associated risks (see attachment A2).

As part of managing the associated risks, it must also be noted that the final version of the Model Code (Paragraph 5.19) allows councils to choose either livestream, or recordings that are uploaded at a later time. In addition, councils are allowed to choose either audio recordings only, or an audio-visual recording, though most neighbouring councils have opted for the video experience.

One benefit of not being an early adopter is that Ku-ring-gai has the benefit of learning from neighbouring councils. If there are concerns regarding privacy, legal, cost, or technology then our peers may already have solved these.

I move:

- A. That Council staff consult with neighbouring councils to identify webcasting options, best practice, and learnings.
- B. That Council staff report back to the Councillors by 30 June 2019 or earlier with webcasting options, costs, associated risk management, and a recommended way forward.

BUSINESS WITHOUT NOTICE – SUBJECT TO CLAUSE 241 OF GENERAL REGULATIONS

QUESTIONS WITHOUT NOTICE

INSPECTIONS COMMITTEE – SETTING OF TIME, DATE AND RENDEZVOUS

CONFIDENTIAL BUSINESS TO BE DEALT WITH IN CLOSED MEETING

C.1 **Council's Recycling Contract Variation - Container Deposit Scheme Refund**

File: S11334

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

Section 10A(2)(d) of the Act permits the meeting to be closed to the public for business relating to commercial information of a confidential nature that would, if disclosed:

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

Report by Director Operations.

John McKee
GENERAL MANAGER

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MINUTES OF ORDINARY MEETING OF COUNCIL HELD ON TUESDAY, 13 NOVEMBER 2018

Present: The Mayor, Councillor J Anderson (Chairperson)
Councillors J Pettett & C Clarke (Comenarra Ward)
Councillors C Szatow & P Kelly (Gordon Ward)
Councillors S Ngai (Roseville Ward)
Councillors C Kay & M Smith (St Ives Ward)
Councillors D Greenfield & C Spencer (Wahroonga Ward)

Staff Present: General Manager (John McKee)
Director Corporate (David Marshall)
Director Development & Regulation (Michael Miocic)
Director Operations (George Bounassif)
Director Strategy & Environment (Andrew Watson)
Director Community (Janice Bevan)
Corporate Lawyer (Jamie Taylor)
Manager Corporate Communications (Virginia Leafe)
Manager Urban & Heritage Planning (Antony Fabbro)
Manager Records & Governance (Amber Moloney)
Minutes Secretary (Nala Redford)

The Meeting commenced at 7:00 PM

The Mayor offered the Prayer

AFFIRMATION OF OFFICE

In accordance with section 233A of the *Local Government Act 1993*, all Councillors must take an oath of office or make an affirmation of office at or before the first meeting of the Council after the Councillor is elected.

Councillor Kay made the following affirmation of office:

I, Christine Kay, solemnly and sincerely declare and affirm that I will undertake the duties of the office of Councillor in the best interests of the people of the Ku-ring-gai Local Government area and Ku-ring-gai Council, and that I will faithfully and impartially carry out the functions, powers, authorities and the discretions vested in me under the *Local Government Act 1993* or any other Act to the best of my ability and judgement.

DECLARATIONS OF INTEREST

The Mayor adverted to the necessity for Councillors and staff to declare a Pecuniary Interest/Conflict of Interest in any item on the Business Paper.

Councillor Szatow declared a less than significant non-pecuniary conflict of interest in respect to item *GB.5 - Killara Golf Club (Deferred Area 15) - Planning Proposal and associated DCP amendment - Consideration of Submissions*. Councillor Szatow's husband plays tennis on the courts. Councillor Szatow remained in the Chamber during the debate.

Councillor Clarke declared a less than significant non-pecuniary conflict of interest in respect to item *GB.1 - 2018 Ku-ring-gai Community Grants Program*. Councillor Clarke was a member of the Turramurra Scout group and was a troupe leader. Councillor Clarke remained in the Chamber during the debate.

Councillor Clarke declared a less than significant non-pecuniary conflict of interest in respect to item *GB.7 - Environmental Levy Grants - Round 20*. Councillor Clarke's father is on the Wild Things board. Councillor Clarke remained in the Chamber during the debate.

Councillor Ngai declared a less than significant non-pecuniary conflict of interest in respect to item *GB.1 - 2018 Ku-ring-gai Community Grants Program*. Councillor Ngai was a director at the Evangelical Free Church of Australia 4 years ago. Councillor Ngai remained in the Chamber during the debate.

Councillor Kay declared a less than significant non-pecuniary conflict of interest in respect to item *GB.1 - 2018 Ku-ring-gai Community Grants Program*. Councillor Kay has general memberships for *Girl Guides Australia, NSW and ACT, West Pymble Girl Guides District* and *Rotary Club of St Ives INC*. Councillor Kay remained in the Chamber during the debate.

Councillor Kay declared a significant non-pecuniary conflict of interest in respect to item *GB.7 - Environmental Levy Grants - Round 20*. Councillor Kay is currently a committee member for Wild Things NSW. Councillor Kay withdrew from the Chamber taking no part in the debate.

Councillor Anderson declared a significant non-pecuniary conflict of interest in respect to item *GB.1 - 2018 Ku-ring-gai Community Grants Program*. Councillor Anderson is a member of the Ku-ring-gai Meals on Wheels board representing Ku-ring-gai Council. Councillor Anderson withdrew from the Chamber taking no part in the debate.

342

CONFIRMATION OF REPORTS TO BE CONSIDERED IN CLOSED MEETING

File: S02499/12

Resolved:

(Moved: Councillors Greenfield/Clarke)

That in accordance with the provisions of Section 10 of the Local Government Act 1993, all officers' reports be released to the press and public, with the exception of confidential attachments to the following General Business reports:

GB.8 Flood Risk Management Committee Minutes September 2018

Attachment A1: Nominee 1 Flood Risk Management Committee 2018

Attachment A2: Nominee 2 Flood Risk Management Committee 2018

Attachment A3: Nominee 3 Flood Risk Management Committee 2018

The above attachments are confidential because they relate to personnel matters concerning particular individuals (other than Councillors). In accordance with Section 10A(2)(a).

CARRIED UNANIMOUSLY**ADDRESS THE COUNCIL**

The following member of the public addressed Council on an item not on the agenda:

Yoel Hyman

Sporting Facilities in Ku-ring-gai

DOCUMENTS CIRCULATED TO COUNCILLORS

The Mayor adverted to the documents circulated in the Councillors' papers and advised that the following matters would be dealt with at the appropriate time during the meeting:

Late Items:**MM.1 - Remembrance Day 2018**

Report by Mayor Jennifer Anderson dated 12 November 2018.

Memorandums:**QN.2 OMC 14 August 2018 – Letter Regarding Dangerous Safety Issue for the Fitness and Aquatic Centre**

Memorandum from Director Operations in response to Councillor Clarke's Question without Notice on 14 August 2018.

CONFIRMATION OF MINUTES

343 Minutes of Ordinary Meeting of Council

File: S02131

Meeting held 30 October 2018

Minutes numbered 324 to 341

Resolved:

(Moved: Councillors Szatow/Clarke)

That Minutes numbered 324 to 341 circulated to Councillors were taken as read and confirmed as an accurate record of the proceedings of the Meeting.

CARRIED UNANIMOUSLY

MINUTES FROM THE MAYOR

344 Remembrance Day 2018

File: S02565

Vide: MM.1

This week, the Ku-ring-gai community came together to commemorate Remembrance Day and the 100th anniversary of the First World War Armistice.

I was privileged to attend several of these ceremonies. The service at Roseville Memorial Club held particular significance for the Council this year.

There, the Roseville RSL Sub-Branch and The Old Lions (the old boy's union of North Sydney Technical High School), presented me with the replica medals of Major Blair Anderson Wark (1894-1941).

Blair Wark was awarded the Victoria Cross in 1918 and his original medals are held at the Australian War Memorial in Canberra.

Following the war Blair Wark returned to Australia and eventually settled in Lindfield, leading a distinguished civilian life as a quantity surveyor and principal of Thompson & Wark, Quantity Surveyors. He held several honorary public positions, including director of the Royal North Shore Hospital, life governor of the New South Wales Benevolent Society and a Councillor of the National Roads & Motorists' Association of NSW.

In 1940 Wark returned to active duty in the Second World War as a major. He was promoted to temporary lieutenant colonel and assumed command of the 1st Battalion. He died suddenly at the age of 46 in 1941 while at Puckapunyal Camp in Victoria.

Ku-ring-gai Council, with the assistance of the Roseville RSL, will be honouring Blair Wark by creating a memorial wall in his name at the new Crimson Hill community centre in Lindfield, to be officially opened next year. These replica medals will be proudly displayed as part of the memorial wall.

Part of the ceremony last Friday was devoted to an address by Year 12 student Zoe Ingram from Roseville College. I and others attending were both impressed and moved by Zoe's passionate speech. It is my pleasure to ask Zoe to address the Council and public gallery with that same speech.

Resolved:

That this Mayoral Minute be received and noted and that we stand for a minute's silence at the conclusion of Zoe's address.

CARRIED UNANIMOUSLY

Zoe Ingram addressed the Council.

GENERAL BUSINESS

345

Killara Golf Club (Deferred Area 15) - Planning Proposal and associated DCP amendment - Consideration of Submissions

File: S11324

Vide: GB.5

For Council to consider submissions received in response to the exhibition of the Planning Proposal and associated amendment to the *Ku-ring-gai Development Control Plan*, for rezoning of land at Killara Golf Club, also known as Deferred Area 15 under the *Ku-ring-gai Local Environmental Plan 2015*.

Resolved:

(Moved: Councillors Szatow/Kelly)

That the item be deferred for a site inspection.

*For the Resolution: The Mayor, Councillor Anderson,
Councillors Ngai, Pettett, Greenfield,
Smith, Kelly, Szatow and Kay*

Against the Resolution: Councillors Clarke and Spencer

Councillor Anderson withdrew during discussion on item GB.1

Councillor Pettett took the chair.

346

2018 Ku-ring-gai Community Grants Program

File: FY00430/9

Vide: GB.1

To advise Council of applications received for the 2018 Ku-ring-gai Community Grants program, and to recommend funding allocations to community groups.

Resolved:

(Moved: Councillors Szatow/Greenfield)

- A. That the following community and cultural groups receive the following recommended amounts from Council in 2018:

CATEGORY 1: SMALL EQUIPMENT

	Name of Organisation	Amount Sought	Amount Recommended
1	Hornsby Ku-Ring-Gai Community College	\$2,000	\$2,000
2	Probus Club of Barra Brui Inc	\$2,000	\$2,000
3	Girl Guides Australia, NSW and ACT, West Pymble Girl Guides District	\$2,000	\$2,000
4	Fighting Chance Australia Limited	\$2,000	\$2,000
5	KYDS Youth Development Service Incorporated	\$2,000	\$2,000
6	St Matthew's Anglican Church	\$2,000	\$2,000
7	St Swithun's Anglican Church Pymble	\$2,000	\$2,000
8	1st Pymble Scout Group – The Scouts Association of Australia, NSW Branch	\$2,000	\$2,000
9	Killara Public School P&C Association	\$2,000	Nil
10	St Ives Softball Club	\$2,000	\$2,000
11	2nd Turramurra Scout Group	\$1,992	\$1,992
12	St Lucy's School	\$1,600	\$1,600
13	Ku-Ring-Gai Meals on Wheels Service	\$2,769	\$2,000
14	Kuringai Youth Orchestra	\$350	\$350
15	Killara Bowling Club Limited	\$1,832	\$1,832
16	Pymble Turramurra Preschool	\$1,500	\$1,500
17	KU Fox Valley Preschool	\$532	\$532
18	Ku-Ring-Gai Male Choir	\$2,000	\$2,000
19	Ku-ring-gai Amateur Swimming Club	\$2,000	\$2,000

CATEGORY 2: COMMUNITY DEVELOPMENT

	Name of Organisation	Amount Sought	Amount Recommended
1	Evangelical Free Church of Australia	\$2,000	\$1,500
2	Killara Kids Inc	\$5,000	Nil
3	Parkinson's NSW	\$2,000	\$2,000
4	Ku-ring-gai Division of St John Ambulance NSW	\$2,459	\$2,459
5	Sunnyfield	\$5,000	Nil
6	The Shepherd Centre	\$5,000	\$3,000
7	West Pymble Bicentennial Club	\$5,000	\$3,000
8	Language Festival Association	\$1,000	\$1,000
9	Rotary Club of St Ives INC	\$5,000	\$3,500
10	Hornsby Ku-Ring-Gai Community College Inc	\$5,000	Nil
11	KU Fox Valley Preschool	\$2,400	\$2,400
12	Fighting Chance Australia Limited	\$5,000	\$4,000
13	Warrawee Public School P&C	\$5,000	Nil
14	St Swithun's Anglican Church Pymble	\$5,000	\$2,000
15	Studio ARTES	\$5,000	\$4,000
16	Warrawee Public School P&C	\$5,000	Nil
17	St James Church Turramurra for Warrawee Anglican Church	\$1,000	\$1,000
18	Lions Club of St Ives	\$5,000	\$4,000
19	NSW SLASA INC	\$5,000	\$2,992
20	NSW SLASA INC	\$5,000	Nil

CATEGORY 3: ARTS & CULTURAL

	Name of Organisation	Amount Sought	Amount Recommended
1	Sydney Slavic Bard Club Inc.	\$1,500	\$1,500
2	St Swithun's Anglican Church Pymble	\$5,000	\$1,500
3	Hornsby Ku-Ring-Gai Community College	\$5,000	\$3,000
4	Chabad House of the North Shore Limited	\$5,000	\$4,000
5	Multicultural Integration Community Support Inc.	\$5,000	\$3,000
6	Kuringai Youth Orchestra	\$3,000	\$2,500

7	Marian Street Theatre for Young People Inc.	\$5,000	Nil
8	HammondCare	\$5,000	\$4,000
9	The Cathedral Singers Inc.	\$4,000	\$3,500
10	Pymble Turramurra Preschool	\$2,000	Nil
11	KU Fox Valley Preschool	\$2,100	\$2,100

CARRIED UNANIMOUSLY

Councillor Anderson returned and resumed the chair.

347

Council Meeting Dates

File: CY00438/6

Vide: GB.2

To set future Council Meeting dates for 2019.

Resolved:

(Moved: Councillors Szatow/Greenfield)

That Council adopt the following Meeting dates:

February	12 February 2019	Ordinary Meeting of Council
	26 February 2019	Ordinary Meeting of Council
March	12 March 2019	Ordinary Meeting of Council
	26 March 2019	Ordinary Meeting of Council
April	9 April 2019	Ordinary Meeting of Council
May	14 May 2019	Ordinary Meeting of Council
	28 May 2019	Ordinary Meeting of Council
June	11 June 2019	Ordinary Meeting of Council
	25 June 2019	Ordinary Meeting of Council
July	23 July 2019	Ordinary Meeting of Council
August	13 August 2019	Ordinary Meeting of Council
	27 August 2019	Ordinary Meeting of Council
September	10 September 2019	Ordinary Meeting of Council
	24 September 2019	Ordinary Meeting of Council

October	15 October 2019	Ordinary Meeting of Council
	29 October 2019	Ordinary Meeting of Council
November	12 November 2019	Ordinary Meeting of Council
	26 November 2019	Ordinary Meeting of Council
December	3 December 2019	Ordinary Meeting of Council
February	11 February 2020	Ordinary Meeting of Council
	25 February 2020	Ordinary Meeting of Council

CARRIED UNANIMOUSLY

348

Minutes of Audit Committee Meeting held on 6 September 2018

File: CY00458/6

Vide: GB.3

To provide Council with a copy of the Minutes of the Audit and Risk Committee meeting held on 6 September 2018 and to seek approval for the new Committee title.

Resolved:

(Moved: Councillors Szatow/Kelly)

- A. Council receives and notes the Minutes of the Audit & Risk Committee meeting held on 6 September 2018.
- B. Council approves the revised title of *Audit, Risk & Improvement Committee*.

CARRIED UNANIMOUSLY

349 **131 - 135 Mona Vale Road ST Ives - Fire & Rescue NSW Report to Council**

File: CY00070/10

Vide: GB.4

To report to Council the findings of an inspection by Fire & Rescue New South Wales of a SEPP Seniors Living development at 131 -135 Mona Vale Road, St Ives which revealed fire protection measures were not accessible or adequate for Fire and Rescue's use. To seek Council's endorsement to serve appropriate orders.

Resolved:

(Moved: Councillors Szatow/Smith)

- A. That Council, pursuant to Section 9.34(1)(b) of the Environmental Planning and Assessment Act 1979 resolves, to give an Order listed in Schedule 5 Part 2(1) of the Act on the owners of the premises at 131 -135 Mona Vale Road, St Ives, to ensure the safety of the occupants of the building and integrity of the structure and, in this regard, grant delegated authority to the Director of Development and Regulation, after having first served notices, to serve orders on the owners of the premises.
- B. That notice of the determination in A above be provided to the Commissioner of New South Wales Fire Brigades pursuant to Section 9.32(6) of the Act.

CARRIED UNANIMOUSLY

350 **Consideration of submissions - Planning Proposal 169-177 Mona Vale Road, St Ives**

File: S11745

Vide: GB.6

For Council to consider the submissions received in response to the exhibition of the Planning Proposal to amend the KLEP (Local Centres) 2012 to allow '*Recreation Facilities (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.

Resolved:

(Moved: Councillors Szatow/Greenfield)

- A. That Council adopts the Planning Proposal to allow '*Recreation Facility (indoor)*' as an additional permitted use at 169-177 Mona Vale Road, St Ives.
- B. That Council as the local plan-making authority exercise the functions under Section 3.36(2) of the *Environmental Planning and Assessment Act 1979* and proceed to make the Plan under delegated authority.
- C. Those who made submissions be notified of Council's decision.

CARRIED UNANIMOUSLY

Councillor Kay departed during discussion on GB.7

351 **Environmental Levy Grants - Round 20**

File: S04553/14

Vide: GB.7

To seek Council's endorsement to fund round twenty (20) of the Environmental Levy Grants.

Resolved:

(Moved: Councillors Szatow/Clarke)

That Council supports the recommendation of the Environmental Levy grants assessment panel to fund fourteen (14) projects under round twenty (20) of the Environmental Levy Grants, totalling \$47,637.

CARRIED UNANIMOUSLY

Councillor Kay returned

352 **Flood Risk Management Committee Minutes September 2018**

File: S10746

Vide: GB.8

For Council to consider and note the minutes of the Flood Risk Management Committee meeting held on 18 September 2018.

Resolved:

(Moved: Councillors Szatow/Kay)

- A. That Council receives and notes the minutes of the Flood Risk Management Committee meeting held on 18 September 2018.
- B. That Council accepts the Flood Risk Management Committee nominations for adoption.
- C. That Council adopts the updated Flood Risk Management Committee's Terms of Reference.

CARRIED UNANIMOUSLY

353 **Monthly Project Status Report - October 2018**

File: FY00621

Vide: GB.9

To provide Council with the Project Status Report for October 2018.

Resolved:

(Moved: Councillors Szatow/Ngai)

- A. That Council receive and note the Project Status Report for October 2018.
- B. That the Project Status Report be placed on Council's website.

CARRIED UNANIMOUSLY

INSPECTIONS COMMITTEE – SETTING OF TIME, DATE AND RENDEZVOUS

Inspection as per the resolution regarding *GB.5 - Killara Golf Club (Deferred Area 15) - Planning Proposal and associated DCP amendment - Consideration of Submissions* is set for Thursday, 15 November, 2018 at 5:00 pm at Killara Golf Club at 556 Pacific Highway Killara.

The Meeting closed at 7:31 PM

The Minutes of the Ordinary Meeting of Council held on 13 November 2018 (Pages 1 - 19) were confirmed as a full and accurate record of proceedings on 27 November 2018.

General Manager

Mayor / Chairperson

2018 - 2019 BUDGET REVIEW - 1ST QUARTER ENDED SEPTEMBER 2018

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To inform of the results of the first quarter budget review of 2018/19 and proposed adjustments to the annual budget based on the actual financial performance and trend for the period 1 July 2018 to 30 September 2018.

BACKGROUND:

Section 203(1) of the Local Government Regulation 2005 requires that at the end of each quarter, a Budget Review Statement be prepared and submitted to Council that provides the latest estimate of Income and Expenditure for the current (2018/19) financial year.

COMMENTS:

Budget adjustments proposed in this review will decrease the forecast operating surplus (including capital items) by \$312k compared to revised budget. When excluding capital income, the net operating result will decrease by \$614k. This is primarily due to a reduction of the Financial Assistance Grant (FAG) income budget (received in advance in 2017/18) partly offset by increased user fees, other grants and contribution and interest income.

The forecast working capital balance at 30 June 2019 is projected to remain at \$5m, in line with Long Term Financial Plan target.

RECOMMENDATION:

That the September 2018 Quarterly Budget Review and the recommended changes are received and noted.

PURPOSE OF REPORT

To inform of the results of the first quarter budget review of 2018/19 and proposed adjustments to the annual budget based on the actual financial performance and trend for the period 1 July 2018 to 30 September 2018.

BACKGROUND

In accordance with Part 9, Division 3, Clause 203 of the Local Government (General) Regulation 2005 ("The Regulation"):

- (1) Not later than 2 months after the end of each quarter (except the June quarter), the responsible accounting officer of a council must prepare and submit to the council a budget review statement that shows, by reference to the estimate of income and expenditure set out in the statement of the council's revenue policy included in the operational plan for the relevant year, a revised estimate of the income and expenditure for that year.*
- (2) A budget review statement must include or be accompanied by:
 - a) a report as to whether or not the responsible accounting officer believes that the statement indicates that the financial position of the council is satisfactory, having regard to the original estimate of income and expenditure, and*
 - b) if that position is unsatisfactory, recommendations for remedial action.**
- (3) A budget review statement must also include any information required by the Code to be included in such a statement.*

The Office of Local Government has developed a set of minimum requirements that assists councils in meeting their obligations as set out in legislation.

At the Council meeting held on 26 June 2018, Council adopted the Revised Delivery Program 2018-2021 & Operational Plan 2018-2019, which incorporated the Annual Budget for 2018-2019.

COMMENTS

This review analyses Council's financial performance for the first quarter of 2018/19 and forecasts an end of financial year position by recommending budget adjustments to operating and capital budget.

Budget adjustments proposed in this review will decrease the forecast operating surplus (including capital items) by \$312k compared to revised budget. When excluding capital income, the net operating result will decrease by \$614k.

The change to the operating result is primarily due to decreased forecast for FAG grant received in advance in 2017/18 (\$1.87m) partly offset by a net increase in other grants and contributions (\$785k) and increased interest income (\$700k). A budget increase is also proposed for restoration fees (\$300k) and compliance levy fees (\$300k) due to higher activity which is fully offset by increased expenditure for restoration and compliance work (\$600k).

Item GB.1

S09112/7
1 November 2018

Other proposed adjustments are for family day care CCB fees (\$108k) offset by increased CCB income and decreased operating project costs (\$292k) mainly due to deferral of projects.

In capital income the main increase is reflected in grants and contributions received (\$444k) partly offset by decreased income related to deferred projects.

Major variations in the capital budget are due to:

- Deferral of projects funded from the internal Infrastructure & Facilities Reserve (\$1.3m);
- Deferral of St Ives Cultural and Environmental Education Centre project funded from the environmental levy reserve (\$955k) and section 94A (\$801k);
- Deferral of other projects funded from Section 94 to future years (\$24.8m); mainly the Lindfield Village Green project, the St Ives Village Green Masterplan project, St Ives Village Green projects & William Cowan Oval Implementation of Masterplan and Putarri Reserve Upgrade;
- Deferral of projects partly funded from Asset Sales (\$418k).
- Projects brought forward funded from Section 94 mainly Lindfield Community Hub (\$1.9m)

Other budget adjustments to capital projects are detailed further in the report and listed in Attachment A2.

The forecast working capital balance at 30 June 2019 is projected to remain at \$5m, in line with the Long Term Financial Plan target.

Item GB.1

S09112/7
1 November 2018

Quarterly Budget Review Statements (QBRS)

The Quarterly Budget Review Statements (QBRS) as prescribed by the OLG guidelines are composed of the following budget review reports:

- Income and Expenses Budget Review Statement (Table 1)
- Capital Budget (Expenditure and Funding) Budget Review Statement (Table 2)
- Proposed Operating Budget Adjustments by Resource Group (Table 3)
- Proposed Capital Budget Adjustments by Resource Group (Table 4)
- Income and Expenses Statement by Theme (Table 5)
- Cash and Investments position (Table 6)
- Contracts and Consultancy Expenses (Table 7)
- Capital and Operational Projects Summary (Table 8)
- Statement by the Responsible Accounting Officer

These statements are shown below.

Table 1

Ku-Ring-Gai Council
Quarterly Budget Review Statement
Income & Expenses Budget Review Statement (Excluding Capital Income)

Period: 01/07/2018 - 30/09/2018

(\$'000)	ORIGINAL Budget 2018/19	Approved Carried Forwards	Council Resolution By Separate Report*	December Review	March Review	Revised Budget 2018/19	Recommended Changes For Council Resolution	PROJECTED Year End Result 2018/19 s9	ACTUAL YTD 2018/19
Income									
Rates	34,529					34,529		34,529	34,504
Infrastructure Levy	23,994					23,994		23,994	23,993
Infrastructure Levy - SRV	2,893					2,893		2,893	2,875
Environmental Levy	2,821					2,821		2,821	2,799
Pension Rebates	-1,243					-1,243		-1,243	-1,185
DWM & Stormwater Annual Charges	21,648					21,648		21,648	21,824
User Fees	20,331					20,331	593	20,924	5,837
Other Revenue	11,544					11,544	120	11,664	3,089
Interest & Investments Revenue	4,182					4,182	700	4,882	1,430
Operating Grants, Contributions & Other Revenue	6,656					6,656	-1,393	5,263	1,395
Total Income from Continuing Operations	127,355					127,355	20	127,375	96,561
Expenses									
Employee Costs	41,499					41,499	99	41,598	9,552
Materials & Contracts	38,490					38,490	326	38,816	9,571
Statutory Levies	2,590					2,590		2,590	518
Interest Expense	647					647		647	180
Other Expenses	14,639					14,639	501	15,140	4,562
Depreciation	17,268					17,268		17,268	4,260
Operating Projects Expense	5,602	2,117	40			7,759	-292	7,467	1,531
Total Expenses from Continuing Operations	120,735	2,117	40			122,892	634	123,526	30,174
Net Operating Result	6,619	-2,117	-40			4,462	-614	3,848	66,387

* This refers to separate reports to OMC:

1. Marian Street Theatre for Young People - Donation for the period 1/1/19 to 31/12/19 (\$40k)

Item GB.1

S09112/7
1 November 2018

Table 2

Quarterly Budget Review Statement
Capital Budget (Expenditure and Funding)
Period: 01/07/2018 - 30/09/2018

(\$'000)	ORIGINAL Budget 2018/19	Approved Carried Forwards	Council Resolution by Separate Report *	December Review	March Review	Revised Budget 2018/19	Recommended Changes For Council Resolution	PROJECTED Year End Result 2018/19 Q1	ACTUAL YTD 2018/19
Capital Funding									
Operating Result Before Capital Items	6,620	-2,117	-40			4,462	-614	3,848	66,387
Capital Income									
Capital Grants & Contributions	912					912	302	1,214	322
Development Contribution (\$7.11)	18,282					18,282		18,282	6,626
Gain (Loss) on Asset Disposal and Fair Value adjustment of Assets	1,165					1,165		1,165	49
Net Operating Result from continuing operations	26,979	-2,117	-40			24,822	-312	24,510	73,384
Add: Depreciation and Other Non Cash items	17,268					17,268		17,268	4,260
Add: Book Value of Assets Sold	400					400		400	228
Cash Available to Fund Projects	44,647	-2,117	-40			42,490	-312	42,178	77,872
Reserves Funding									
Net Funds From Reserves									
Internally Restricted - Projects	-341	6,879				6,538	-32	6,506	-2,414
Internally Restricted - Liabilities	-619					-619		-619	12
Externally Restricted - Development Contributions	15,911	9,674				25,585	-24,126	1,459	-6,548
Unexpended Loans-LIRS		102				102		102	
Infrastructure Levy	-49					-49		-49	-797
Environmental Levy	1,349	1,317				2,666	-1,226	1,440	-716
Domestic Waste	-1,605	228				-1,377	33	-1,344	-3,374
Grants Reserves	0	386				386		386	-444
Net Reserves Funding	14,647	18,586				33,233	-25,352	7,882	-14,281
New Borrowings & other adjustments	1,585	1,465				3,050		3,050	
TOTAL CAPITAL FUNDING	60,879	17,934	-40			78,773	-25,664	53,110	63,591
Capital Expenditure									
New Assets									
Planning, Community & Other		183				183	36	219	136
Roads & Transport	442	2,760				3,202	149	3,351	279
Streetscape & Public Domain	2,229	1,113				3,342	1,444	4,786	249
Parks & Recreation	4,343	2,080				6,423	-2,490	3,933	692
Stormwater Drainage	138	465				603	-96	507	4
Council Buildings		134				134		134	36
Trees & Natural Environment	2,593	493				3,086	-1,704	1,382	129
Total - New Assets	9,745	7,228				16,973	-2,661	14,312	1,525
Asset Replacement & Upgrade									
Planning, Community & Other	4,387	673				5,060	-625	4,435	866
Roads & Transport	10,010	314				10,324	-38	10,286	1,463
Streetscape & Public Domain	19,460	1,172				20,632	-12,659	7,973	126
Parks & Recreation	10,549	3,823				14,372	-9,974	4,398	453
Stormwater Drainage	1,115	69				1,184	118	1,302	24
Council Buildings	3,402	4,486				7,888	78	7,966	733
Trees & Natural Environment	564	169				733	-128	605	51
Total Asset Replacement & Upgrade	49,486	10,706				60,192	-23,228	36,964	3,716
Loan Repayments	1,549					1,549		1,549	37
TOTAL CAPITAL EXPENDITURE	60,779	17,934				78,713	-25,889	52,824	5,278
Net Working Capital Change	100		-40			60	226	285	58,314

* This refers to separate reports to OMC:

Operating result before capital items: 1. Marian Street Theatre for Young People - Donation for the period 1/1/19 to 31/12/19 (\$40k)

Proposed Budget Adjustments

The table below lists the proposed budget adjustments, including comments for the September Quarterly Budget Review.

Item GB.1

S09112/7
1 November 2018

Table 3

Major Operating Budget Variations (after Proposed Carried Forward Expenditure by Resource Group)

Period: 01/07/2018 - 30/09/2018

Income	Increase/Decrease	\$000	Comments
User Fees	☑	593	Mainly due to increased compliance levy (\$300k), restoration fees and work zone fees (\$347k) fully offset by increased costs; increased building control fees (\$54k), Outdoor Eating Area Fees (\$25k) and Tower Crane Permits (\$24k). The increased revenue is partly offset by decreased Vacation Care fees (\$99k) offset by increased CCB grant income and Infrastructure inspection fees (\$58k) which are gradually being phased out.
Other Revenue	☑	120	Mainly due to increased credit card surcharge (\$61k) offset by increased bank fees; development compliance income (\$40k) and fire safety fines (\$10k).
Interest & Investments Revenue	☑	700	Mainly due to increased investment returns from larger investment portfolio. This has been partly restricted to S7.11 Income and Infrastructure and Facilities reserve.
Operating Grants, Contributions & Other Revenue	☒	-1,393	Decrease mainly due to 2018/19 FAG received in advance in June 2018 (\$1.87m) partly offset by increase in CCB (\$248k) and other grants (\$235k).
Net Increase in Income	☑	20	
Expenditure	Increase/Decrease	\$000	Comments
Employee Costs	☒	99	Increase due to permanent part time position (\$72k) fully offset from material and contracts and increased casual salaries for increased work zone activity (\$27k) fully offset by increased work zone income.
Materials & Contracts	☒	326	Mainly due to increased roads and footpath restoration costs (\$353k) fully offset by increased road restoration fees (\$300) and (\$53k) bus weight tax subsidy; increased childcare agency salaries (\$40k) offset by increased income and increased development assessment legal costs (\$53k). IHAP contractor costs have also been reduced to fund increased employee costs (\$72k).
Other Expenses	☒	501	Mainly due to increased compliance related costs (\$300k) offset by income, increased Family Day Care CCB Fees (\$108k) fully offset by CCB income, increased credit card merchant fee (\$68k), reclassification to Materials & Contracts (\$38k) and other costs (\$40k). Increased costs have been partly offset by reduced insurance costs (\$54k).
Operating Projects Expense	☑	-292	Increase mainly due to projects funded from grants (\$244k) offset by reclassification to capital (\$180k) and deferred projects (\$356k)
Net Increase in Expense	☒	634	
Total Operating Budget adjustments		-614	

Table 4

Operating and Capital Budget Variations by Resource Group

Period: 01/07/2018 - 30/09/2018

	Favourable/Unfavourable	\$000	Comments (True Variance after Carried Forward Income)
Operating Result Before Capital Items	☒	-614	
Capital Grants & Contributions	☑	302	Increase due to contributions received from sports clubs (\$258k) and grants received (\$252k) partly offset by deferred projects (\$208k).
Capital Income & Operating Variance	☒	-312	
Funding Movements	Transfer To / From	\$000	Comments (True Variance after Carried Forward Expenditure)
Internally Restricted - Projects	To	-32	Mainly due to projects deferred to future years (\$1.79m), funding from general revenue carried forward replaced with environmental levy (\$208k) and interest income restricted to I&F (90k) partly offset by projects brought forward (\$184k) and adjustment for FAG received in advance (\$1.87m)
Development Contribution (S7.11)	To	-24,126	Mainly due to deferral of projects (\$25.5m) and interest income restricted to reserve (\$480k) partly offset by projects brought forward (\$1.9m)
Environmental Levy	To	-1,226	Mainly due to projects deferred (\$1.434m) partly offset by project funding from general funds carried forward replaced by environmental levy funding (\$208k)
Domestic Waste	From	33	Increase due to acquisition of DWM vehicle.
Total From Reserves	To	-25,352	
Capital Expenditure	☑	-25,889	Variance due to deferred projects (\$28.7m) partly offset by projects brought forward (\$2.1m), new projects (\$293k) fully funded from contributions and grants and reclassified projects.
Net Working Capital Change	☑	226	

Item GB.1

S09112/7
1 November 2018

Attachment A2 summarises all proposed budget adjustments for Projects.

The table below splits the current budget by six themes identified within Council’s Delivery Program 2018 – 2021. These themes are used as a platform for planning our activities to address the community’s stated needs and aspirations.

Table 5

Quarterly Budget Review Statement
Income & Expenses By Theme
Period: 01/07/2018 - 30/09/2018

(\$'000)	ORIGINAL Budget 2018/19	Approved Carried Forwards	Council Resolution By Separate Report*	December Review	March Review	Revised Budget 2018/19	Recommended Changes For Council Resolution	PROJECTED Year End Result 2018/19 Q1	ACTUAL YTD 2018/19
Operating Income									
Access, Traffic & Transport	3,676					3,676	27	3,703	1,068
Community, People & Culture	12,735					12,735	173	12,908	3,190
Natural Environment	21,447					21,447	243	21,690	20,974
Leadership & Governance	73,989					73,989	-1,089	72,900	66,687
Local Economy & Employment									2
Places, Spaces & Infrastructure	15,508					15,508	666	16,174	4,638
Total Operating Income	127,354					127,354	20	127,374	96,561
Operating Expenditure									
Access, Traffic & Transport	1,644	3				1,647	28	1,675	408
Community, People & Culture	23,980	174	40			24,194	946	25,140	6,014
Natural Environment	25,814	843				26,658	-172	26,486	5,813
Leadership & Governance	21,225	747				21,972	609	22,581	6,476
Local Economy & Employment	176	57				233		233	38
Places, Spaces & Infrastructure	47,895	293				48,188	-777	47,411	11,425
Total Operating Expenses	120,735	2,117	40			122,893	634	123,527	30,174
Operating Result	6,619	-2,117	-40			4,461	-614	3,847	66,387

Cash and Investments position

Restricted funds are invested in accordance with Council’s Investment Policy. Total investments portfolio as per the September Investment Report is \$194.98m.

Table 6

Quarterly Budget Review Statement
Cash and Investments Balances
Period: 01/07/2018 - 30/09/2018

\$'000	Opening Balance at 01/07/2018	Approved Original Budget 2018/19 Expenditure	Original Budget 2018/19 Income	Approved Carried Forwards	Council Resolution By Separate Report	December Review	March Review	Revised Budget 2018/19	Recommended Changes For Council Resolution	PROJECTED Year End Result 2018/19 Q1	ACTUAL YTD
Externally Restricted											
Infrastructure Levy		-2,828	2,876					49		49	797
Unexpended Loan - LIRS	102			-102							102
Environmental Levy	2,732	-4,154	2,805	-1,317				66	1,226	1,292	3,448
Development Contribution	125,135	-37,074	21,163	-9,674				99,550	24,126	123,676	131,683
Unexpended Grants	373	2,143	502	-386				2,633		2,633	817
Domestic Waste	11,400		1,605	-228				12,776	-33	12,743	14,774
Total - Externally Restricted	139,742	-41,912	28,951	-11,706				115,074	25,319	140,393	151,621
Intern. Projects Reserves	25,932	-13,616	13,957	-6,879				19,394	32	19,426	32,787
Intern. Liabilities Reserves	8,314		619					8,933		8,933	3,861
Total Restricted	173,988	-55,528	43,526	-18,585				143,401	25,351	168,752	188,269
Unrestricted Funds	3,406		100		-40			3,466	226	3,692	6,443
Total Cash & Investments	177,394	-55,528	43,626	-18,585	-40			146,867	25,577	172,444	194,713
Add: Unpresented Cash Items											265
Total Cash & Investments as per September Investment Report											194,978

Item GB.1

S09112/7
1 November 2018

A detailed **Restricted Assets Report** as at September 2018 (Actual) is shown in **Attachment A1**.

Contracts and Consultancy Expenses

Table 7

**Quarterly Budget Review Statement
Contracts Listing**

Period: 01/07/2018 - 30/9/2018

Contractor	Contract Detail & Purpose	Contract Value \$000	Commencement Date	Duration of Contract (Months)	Budgeted (Y/N)
UNDERCOVER LANDSCAPES PTY LTD	Bio Filter Construction	70	Jun-18	6	Y
THE TRUSTEE FOR THE SCAFFIDI HUGH-JONES	Comms and Stakeholder Engagement strategy	149	Jun-18	12	Y
NSW LOCAL GOVERNMENT JARDINES LIABILITY	Insurance - Cncl & Off Liability - 30/06/2018 - 30/06/2019	66	Jul-18	12	Y
CBRE PTY LIMITED	Phase 1 services, being the Marketing Agent Services and Commercial Advisory Services for the Expression of Interest on Lindfield Village Hub	115	Jul-18	3	Y
THE IRRAWONG TRUST	Maintenance of Water Sensitive Urban Design assets for 1 year	55	Jul-18	12	Y
POWER PM PTY. LTD.	Consultant Agreement - Major Projects - Interim Development Manager Services	67	Jul-18	3	Y
THE IRRAWONG TRUST	Management and construction of scour protection works at the Warrimoo Oval carpark for the purpose of protecting adjacent Endangered Ecological Community downstream.	50	Sep-18	3	Y
CCG ARCHITECTS PTY LTD	818 Pacific Highway Gordon - Council Chambers Condition Audit Report	71	Sep-18	3	Y
ERBAS & ASSOCIATES PTY. LTD.	818 Pacific Highway Gordon - Council Chambers HVAC Upgrades	59	Sep-18	3	Y
POWER PM PTY. LTD.	Consultant Agreement - Major Projects - Interim Development Manager Services	116	Sep-18	6	Y
TOX FREE AUSTRALIA PTY LTD	Chemical Collection 27 & 28 October 2018 Staging	68	Sep-18	1	Y

Consultancy and Legal Expenses

Expense	Cost YTD \$000	Budgeted (Y/N)
Consultants - General	743	Y
Consultants - Recruitment	0	Y
Consultants - Legal	508	Y
Consultants - Investments	5	Y
Total	1,256	

Capital & Operational Projects Summary

Actual expenditure for capital and operational projects for the period ending 30 September 2018 is \$6.77m against the YTD budget of \$5.74m, resulting in an unfavourable variance of \$1.03m. This variance is mainly due to timing differences between the actual expenditure incurred against the budget forecast of some projects for the quarter.

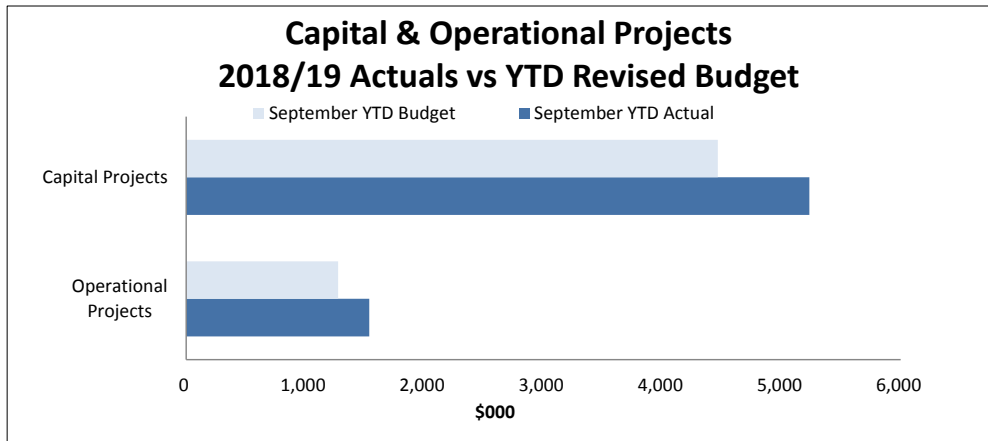
The table and chart below shows the YTD actual project expenditure against YTD budget for the quarter ended September 2018.

Item GB.1

S09112/7
1 November 2018

Table 8

Capital & Operational Projects \$000	September YTD Actual	September YTD Budget	September YTD Variance	Revised Budget Before Q1	Recommended Changes For Council Resolution	PROJECTED Year End Result 2018/19 Q1
Operational Projects	1,538	1,276	262	7,759	-292	7,467
Capital Projects	5,232	4,464	768	77,165	-25,889	51,275
Total Project	6,770	5,740	1,030	84,924	-26,181	58,742



The proposed budget changes to operational and capital projects represent a decrease of \$26.2m. The most significant variations and projects proposed for adjustment are listed below:

- Deferral of projects funded from the internal Infrastructure & Facilities Reserve (\$1.3m);
- Deferral of St Ives Cultural and Environmental Education Centre project funded from environmental levy reserve (\$955k) and section 94A (\$801k);
- Deferral of other projects funded from Section 94 to future years (\$24.8m); mainly the Lindfield Village Green project, the St Ives Village Green Masterplan project, St Ives Village Green projects & William Cowan Oval Implementation of Masterplan and Putarri Reserve Upgrade;
- Deferral of projects partly funded from Asset Sales (\$418k).
- Projects brought forward funded from Section 94 mainly Lindfield Community Hub (1.9m)

All Proposed Budget adjustments for each Project and explanation for the changes are detailed in *Attachment A2 – Summary of Capital and Operational Project Budget Adjustments*

Statement by Responsible Accounting Officer

It is my opinion the Quarterly Budget Review Statement for Ku-ring-gai Council for the quarter ended 30 September 2018 indicates that Council’s projected financial position at 30 June 2019 will be satisfactory, having regard to the projected estimates of income and expenditure and the original budgeted income and expenditure.

One of Council’s key performance indicators in the Long Term Financial Plan (LTFFP) is to provide for a minimum available working capital balance of \$5m. As a result of the September Review the forecast of available working capital at 30 June 2019 will remain at \$5m, in line with the Long Term Financial Plan target.

INTEGRATED PLANNING AND REPORTING

Theme 6: Leadership and Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1 Council rigorously manages its financial resources and assets to maximise delivery of services.	L2.1.1 Council maintains and improves its long term financial position and performance	L2.1.1.3 Ensure Council maintains its financial position by meeting overall budget performance.

GOVERNANCE MATTERS

Section 203(1) of the Local Government Regulation 2005 requires that at the end of each quarter, a Budget Review Statement be prepared and submitted to Council that provides the latest estimate of Income and Expenditure for the current financial year.

RISK MANAGEMENT

Income and expenditure is managed through the quarterly budget review process. Although some income and expenditure cannot be directly controlled, it can be monitored and action taken to mitigate potential financial or budgetary risk. Further, Council staff utilise monthly management reporting for managing operational and project income and expenditure, and any budget variations are reported to the Director. The executive team are also provided with monthly financial reports that allow Directors to make informed decisions and plan ahead to ensure budget targets are met.

FINANCIAL CONSIDERATIONS

Budget adjustments proposed in this review will decrease the forecast operating surplus (including capital items) by \$312k compared to revised budget. When excluding capital income, the net operating result will decrease by \$614k.

The forecast working capital balance at 30 June 2019 is projected to remain in line with the Long Term Financial Plan target as shown below.

Table 9

Working Capital Forecast to 30 June 2019 (\$000)	
Working Capital at 1 July 2018	4,770
Add: Working Capital change as per Original Budget 2018/19	100
Less: Council Resolution By Separate Report	-40
Add: September 2018 Review Adjustment to Budget	226
Working Capital Forecast to 30 June 2019 (\$000)	5,056
Working Capital Target as per Original LTFP - 30 June 2019	5,050

SOCIAL CONSIDERATIONS

Not applicable.

ENVIRONMENTAL CONSIDERATIONS

Not applicable.

Item GB.1

S09112/7
1 November 2018

COMMUNITY CONSULTATION

Not applicable.

INTERNAL CONSULTATION

Finance met with each Director and managers as part of the Quarterly Business Review to ensure departmental budget target reflects current forecasts.

SUMMARY

Budget adjustments proposed in this review will decrease the forecast operating surplus (including capital items) by \$312k compared to revised budget. When excluding capital income, the net operating result will decrease by \$614k. This is primarily due to a reduction of FAG grant income budget (received in advance in 2017/18) partly offset by increased user fees, other grants and contribution and interest income.

The forecast working capital balance as at 30 June 2019 will remain at \$5m, in line with the long term financial plan target.

RECOMMENDATION:

That the September 2018 Quarterly Budget Review and the recommended changes are received and noted.

Angela Apostol
Manager Finance

David Marshall
Director Corporate

Attachments:	A1	Attachment A1 - Restricted Assets Report - September 2018	2018/345206
	 A2	Attachment A2 – Summary of Capital and Operational Projects Budget Adjustments – September 2018	2018/345659

ANALYSIS OF LAND AND ENVIRONMENT COURT COSTS - 1ST QUARTER 2018 TO 2019

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To report legal costs in relation to development control matters in the Land and Environment Court for the quarter ended 30 September 2018.

BACKGROUND:

A person may commence proceedings in the Land and Environment Court in relation to a development application which has either been refused by Council or is deemed to have been refused. An appeal may also be commenced in relation to conditions of development consent and the issue of building certificates and orders

COMMENTS:

For the three months ended 30 September 2018, Council's legal and associated payments in relation to the Land and Environment Court were \$372,972. This compares with the annual budget of \$1,026,500.

RECOMMENDATION:

That the analysis of Land and Environment Court costs for the quarter ended 30 September 2018 be received and noted.

PURPOSE OF REPORT

To report legal costs in relation to development control matters in the Land and Environment Court for the quarter ended 30 September 2018.

BACKGROUND

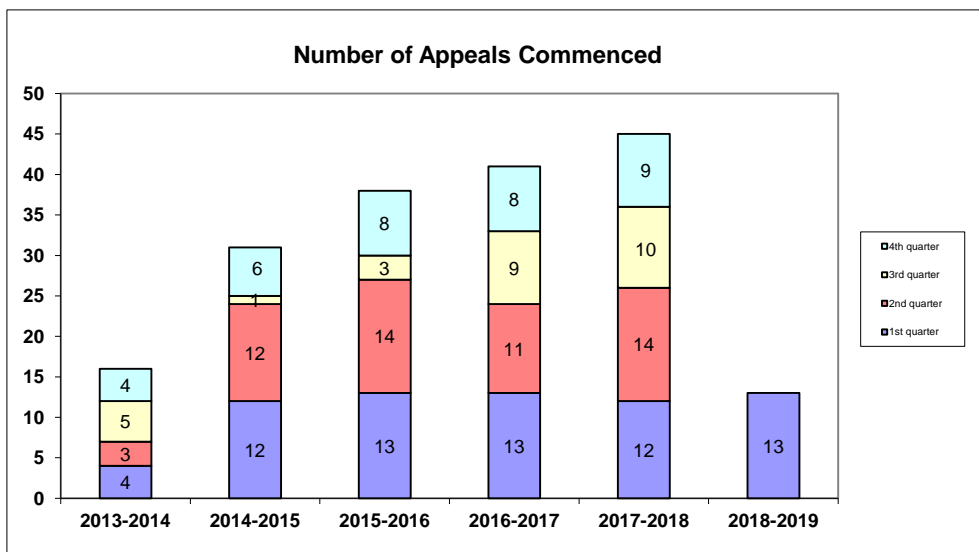
A person may commence proceedings in the Land and Environment Court in relation to a development application which has either been refused by Council or is deemed to have been refused (a development application is deemed to have been refused if it has not been determined within a period of 40 days or such longer period that may be calculated in accordance with the Act). An appeal may also be commenced in relation to conditions of development consent and the issue of building certificates and orders. Council is a respondent to such proceedings.

COMMENTS

APPEALS LODGED

In quarter ended 30 September 2018 there were 13 new appeals lodged with the Land and Environment Court. The number of appeals received in prior years is as follows:

Financial year	Number of appeals received (whole year)
2014/2015	31
2015/2016	38
2016/2017	38
2017/2018	36
2018/2019 (as at 30 September 2018)	13



Item GB.2

FY00623
12 October 2018

The appeals commenced during the three months to 30 September 2018 concerned the following subject matters:

- seniors living
- subdivision
- mixed use
- child care centre
- additions and alterations
- modification of existing consent
- application for declaratory relief (Class 4)

COSTS

For the quarter ended 30 September 2018, Council made payments of \$372,972 on appeals and associated expenses in relation to Land & Environment Court matters. This compares with the annual budget of \$1,026,500

In addition to expenditure on appeals, a further amount of \$3,055 was spent in obtaining expert advice regarding development assessment matters.

Land & Environment Court Costs 2015/2016 - 2018/2019					
<i>Financial Year</i>	<i>Total Costs</i>	<i>1st quarter September</i>	<i>2nd quarter December</i>	<i>3rd quarter March</i>	<i>4th quarter June</i>
2015/2016* (38 appeals lodged)	\$1,256,887	\$264,263	\$290,099	\$303,122	\$399,403
2016/2017* (41 appeals lodged)	\$1,054,747	\$202,574	\$196,949	\$285,681	\$369,543
<i>Financial Year</i>	<i>Total Costs</i>	<i>1st quarter September</i>	<i>2nd quarter December</i>	<i>3rd quarter March</i>	<i>4th quarter June</i>
2017/2018* (45 appeals lodged)	\$1,267,706	\$221,520	\$461,976	\$201,332	\$382,878
2018/2019 (13 appeals lodged)	\$372,972	\$372,972			

* Costs reported to Council in previous reports

The costs incurred in the three months to 30 September 2018 represent 36% of the annual budget of \$1,026,500. As noted above, the number of appeals lodged has been high. The commencement of appeals does not lie within the control of Council, however there a number of factors that appear to have influenced the volume of appeals:

- Amendments to the *Environmental Planning and Assessment Act* made in 2013 reduced the timeframe for lodgement of an appeal from twelve months to six months. This continues to have the effect of applicants for more substantial and complex development proposals lodging appeals for no other reason than as a mechanism to preserve early appeal rights. The number of development applications received by Council in recent periods has itself been high.

Item GB.2

FY00623
12 October 2018

- In addition the prospect of changing economic market conditions in late 2017 appears to have led to urgency on the part of developers of multi-housing developments in particular, with a number of appeals commenced immediately on the basis of deemed refusal. As a result, Court listings are currently heavily booked and long delays for several months for the holding of both mediation conferences and hearings are occurring.
- Uncertainty as to the effects of the introduction of panels for the determination of development applications appears to have contributed also.

Current delays in the Court will result in limited progress of many of the current appeals this financial year.

Notwithstanding these factors, Council’s overall success rate in appeals has remained high.

In relation to costs recovered, the amount of \$25,500 had been recovered as at the end of the quarter to 30 September 2018 compared to an annual budget for costs recovered of \$102,300.

SUMMARY BY WARD

A summary of the above Land & Environment Court costs by Ward for the three months to 30 September 2018 is shown in the following table:

Land & Environment Court Costs by Ward 2018/2019		
Commenara	\$16,110	5%
Gordon	\$125,137	33%
Roseville	\$37,334	10%
St Ives	\$95,707	26%
Wahroonga	\$98,684	26%
Total Costs	\$372,972	100%

OUTCOMES

At an early stage of each appeal, Council as respondent, is required to file with the Court a Statement of Facts and Contentions outlining the grounds which Council asserts as warranting refusal of a development, or alternatively, that may be addressed by way of conditions of consent.

In cases where issues raised by Council are capable of resolution by the provision by the applicant of additional information or amendment of the proposal, it is the Court’s expectation that this should occur. The Court’s current practice of listing appeals for a preliminary mediation conference before a Commissioner of the Court pursuant to section 34 of the *Land & Environment Court Act*, strongly encourages this.

In this context, any of three outcomes can be regarded as favourable, namely:

1. If the appeal is in relation to a deemed refusal of an application which, upon assessment, is appropriate for approval: that the development is determined by Council, allowing the appeal to be discontinued by the applicant and avoiding as much as is practicable the incurring of unnecessary legal costs;
2. If the issues raised by Council are capable of resolution by the applicant providing further information, or amending the proposal: that this occurs, so that development consent should be granted, either by Council or the Court;

Item GB.2

FY00623
12 October 2018

3. If the issues raised by Council are either not capable of resolution or the applicant declines to take the steps that are necessary to resolve them: that the appeal is either discontinued by the applicant, or dismissed (refused) by the Court.

Two matters were concluded during the quarter. A favourable outcome was achieved in both matters.

- One matter resolved by agreement, in accordance with an amended proposal;
- One matter discontinued by the applicant.

INTEGRATED PLANNING AND REPORTING

Leadership & Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1 Council rigorously manages its financial resources and assets to maximise delivery of services.	Achieve financial sustainability targets identified in the Long Term Financial Plan.	Undertake quarterly reporting to Council on the financial performance of the organisation.

GOVERNANCE MATTERS

Under Section 428 of the Local Government Act 1993, Council is required to report legal costs, and the outcome of each case in its Annual Report.

RISK MANAGEMENT

Quarterly reporting of legal costs to Council together with information about the number, character and outcomes of proceedings enable ongoing oversight of this area of Council's activity.

FINANCIAL CONSIDERATIONS

Land & Environment Court legal costs form part of Council's recurrent operating budget.

SOCIAL CONSIDERATIONS

None undertaken or required.

ENVIRONMENTAL CONSIDERATIONS

None undertaken or required.

COMMUNITY CONSULTATION

None undertaken or required.

INTERNAL CONSULTATION

This report has been developed with input from Council's Corporate Lawyer, Director Corporate and Director Development & Regulation.

Item GB.2

FY00623
12 October 2018

SUMMARY

For the quarter ended 30 September 2018, Council made payments of \$372,972 on Land & Environment Court appeals. This compares with the annual budget of \$ 1,026,500.

RECOMMENDATION:

That the analysis of Land and Environment Court costs for the quarter ended 30 September 2018 be received and noted.

Tony Ly
Financial Accounting Officer

Jamie Taylor
Corporate Lawyer

David Marshall
Director Corporate

Michael Miocic
Director Development & Regulation

Attachments: A1  Individual Case Summary September 2018 - Land and Environment Court Costs

2018/332058

INVESTMENT REPORT AS AT 31 OCTOBER 2018

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To present Council's investment portfolio performance for October 2018.
BACKGROUND:	Council's investments are reported monthly to Council in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council's Investment Policy.
COMMENTS:	The net return on investments for the financial year to October 2018 was \$1,901,000 against a budget of \$1,369,000 giving a YTD favourable variance of \$532,000.
RECOMMENDATION:	That the summary of investments performance for October 2018 be received and noted; and that the Certificate of the Responsible Accounting Officer be noted and report adopted.

PURPOSE OF REPORT

To present Council’s investment portfolio performance for October 2018.

BACKGROUND

Council’s investments are reported monthly to Council in accordance with the Local Government Act 1993, the Local Government (General) Regulation 2005 and Council’s Investment Policy.

COMMENTS

Investment Portfolio Performance Snapshot

The table below provides the investments portfolio performance against targets identified in Council’s Investment Policy as well as other key performance indicators based on industry benchmarks.

Performance Indicator & Policy Targets	Indicator	Details
Portfolio Performance vs. Benchmarks	✓	Council's investment performance exceeded Industry benchmarks
Monthly Investment Income vs. Revised Budget	✓	Council's income from investments exceeded monthly budget
Investment Policy Compliance:		
Legislative Requirements	✓	Fully compliant
Portfolio Credit Rating Limit	✓	Fully compliant
Institutional Exposure Limits	✓	Fully compliant
Term to Maturity Limits	✓	Fully compliant

Cumulative Investment Returns against Budget

The net return on investments for the financial year to October 2018 was \$1,901,000 against a budget of \$1,369,000 giving a YTD favourable variance of \$532,000. The yearly forecast for interest income has been reviewed and a budget adjustment is included in the September Quarterly Budget review to Council.

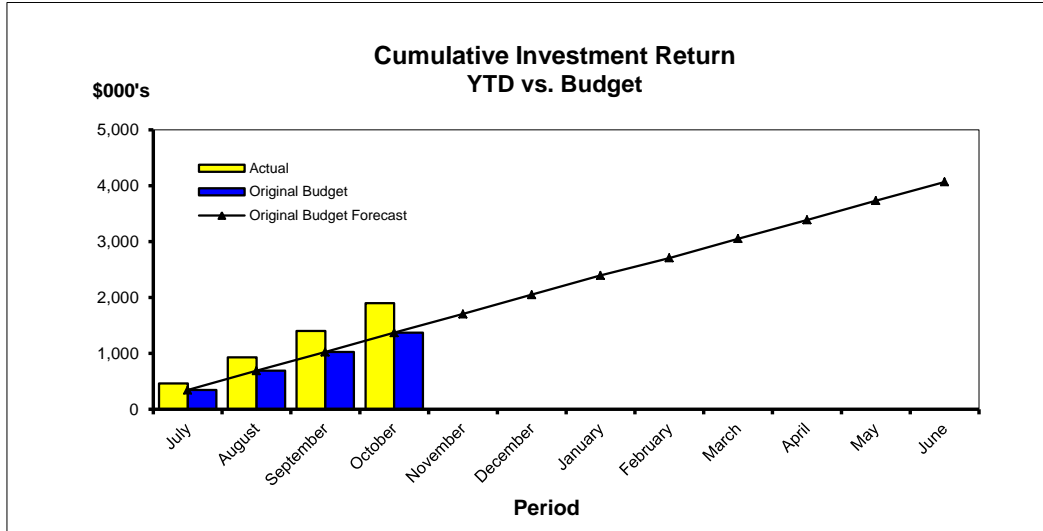
The total return on investments for the month of October is provided below.

\$000's	Oct-18	Year To Date
Investment Return	501	1,901
Budget	345	1,369
Variance	156	532

Item GB.3

FY00623
17 October 2018

A comparison of the cumulative investment returns against year to date budget is shown in the Chart below.



Cash Flow and Investment Movements

Council’s total cash and investment portfolio at the end of October 2018 was \$192,787,000 compared to \$194,978,000 at the end of September 2018, a net cash outflow of \$2,191,000. The outflow was mainly due creditor payments.

Two investments have matured and five new investments were made during the month.

Investment Name	Investment Rating (S&P)	New/Re-Investments \$' 000	Investments Matured/Sold \$' 000	Interest Rate %
AMP Bank 9 Month Term Deposit	A	0	3,000	2.65
ING Bank 1 Year Term Deposit	A	0	4,000	2.60
P&N Bank 3 Year Term Deposit	BBB	3,000	0	3.10
P&N Bank 4 Year Term Deposit	BBB	2,000	0	3.25
P&N Bank 5 Year Term Deposit	BBB	2,000	0	3.45
National Australia Bank 2 Year Term Deposit	AA-	1,000	0	2.80
National Australia Bank 3 Year Term Deposit	AA-	5,000	0	2.92
TOTAL		13,000	7,000	

Investment Performance against Industry Benchmark

Overall during the month of October the investment performance was well above the industry benchmark. The benchmark is specific to the type of investment and the details are provided below. AusBond Bank Bill Index is used for all Council’s investments.

Item GB.3

FY00623
17 October 2018

Table 1 - Investments Performance against Industry Benchmarks

Investment Type	Annualised October 2018 YTD Return %	Annualised Industry Benchmark %	Variance %
At Call/Cash/Term Deposits/FRNs (Benchmark is AusBond Bank Bill Index)	3.02	2.05	0.97

Table 2 below provides a summary of all investments by type and performance during the month. Attachment A1 provides definitions in relation to different types of investments.

Table 2 - Investments Portfolio Summary during October 2018

Investment Name	Investment Rating	Invested at 31-October-18 \$000's	Month Return (%)	Annualised YTD Return (%)	Total Invested (%)	Market Value at 31-October-2018 \$000's	Maturity
At Call/Cash Account							
Westpac At-Call	AA-	681	0.00	0.00	0.35	681	At Call
Westpac Bank Deposit Max-I Investment	AA-	8,188	0.04	0.51	4.25	8,188	At Call
AMP Bank EASYS AVER Account	A	167	0.15	1.81	0.09	167	At Call
AMP 31Day Notice Account	A	2,500	0.19	2.32	1.30	2,500	At Call
Sub Total		11,536				11,536	
Term Deposits							
National Australia Bank 6 Month Term Deposit	AA-	2,000	0.22	2.62	1.04	2,000	Nov-18
AMP Bank 9 Month Term Deposit	A	4,000	0.22	2.65	2.07	4,000	Nov-18
ING Bank 5 Year Term Deposit	A	2,000	0.42	5.10	1.04	2,000	Dec-18
Westpac 1 Year term Deposit	AA-	3,000	0.21	2.55	1.56	3,000	Dec-18
National Australia Bank 6 Month Term Deposit	AA-	3,000	0.23	2.80	1.56	3,000	Dec-18
Police Credit Union 2 Year Term Deposit	UNRATED	1,000	0.25	3.10	0.52	1,000	Jan-19
Westpac 1 Year Term Deposit	AA-	3,000	0.22	2.66	1.56	3,000	Jan-19
RABO Bank 5 Year Term Deposit	A+	2,000	0.41	5.00	1.04	2,000	Feb-19
ME Bank 9 Month Term Deposit	BBB	3,000	0.23	2.77	1.56	3,000	Feb-19
Rural Bank 5 Year Term Deposit	BBB+	3,000	0.43	5.23	1.56	3,000	Feb-19
Commonwealth Bank 1 Year Term Deposit	AA-	2,000	0.21	2.61	1.04	2,000	Feb-19
Suncorp Bank 9 Month Term Deposit	A+	4,000	0.23	2.80	2.07	4,000	Mar-19
AMP 1 Year Term Deposit	A	3,000	0.23	2.75	1.56	3,000	Mar-19
P&N Bank 4 Year Term Deposit	BBB	2,000	0.30	3.68	1.04	2,000	Jun-19
ME Bank 5 Year Term Deposit	BBB	3,000	0.38	4.68	1.56	3,000	Jun-19
Police Credit Union 5 Year Term Deposit	UNRATED	1,000	0.39	4.75	0.52	1,000	Jun-19
RaboBank 5 Year Term Deposit	A+	1,000	0.37	4.50	0.52	1,000	Jun-19
Bank of China 1 Year Term Deposit	A	1,000	0.24	2.91	0.52	1,000	Aug-19
RaboDirect 5 Year Term Deposit	A+	2,000	0.35	4.30	1.04	2,000	Aug-19
Bank of China 1 Year Term Deposit	A	2,000	0.24	2.86	1.04	2,000	Aug-19
ME Bank 5 Year Term Deposit	BBB	3,000	0.35	4.30	1.56	3,000	Sep-19
Commonwealth Bank 2 Year Term Deposit	AA-	5,000	0.23	2.82	2.59	5,000	Sep-19
Commonwealth Bank 2 Year Term Deposit	AA-	4,000	0.23	2.82	2.07	4,000	Sep-19
ING Bank 2 Year Term Deposit	A	3,000	0.23	2.83	1.56	3,000	Dec-19
Bank of Queensland 3 Year Term Deposit	BBB+	1,000	0.27	3.25	0.52	1,000	Jan-20
ING Direct 2 Year Term Deposit	A	4,000	0.24	2.86	2.07	4,000	Feb-20
Bank of Queensland 3 Year Term Deposit	BBB+	4,000	0.26	3.20	2.07	4,000	Mar-20
National Australia Bank 2 Year Term Deposit	AA-	3,000	0.23	2.85	1.56	3,000	Jul-20
National Australia Bank 2 Year Term Deposit	AA-	3,000	0.23	2.82	1.56	3,000	Aug-20
ING Bank 2 Year Term Deposit	A	3,000	0.23	2.85	1.56	3,000	Aug-20
Bank of Us 2 Year Term Deposit	UNRATED	2,000	0.24	2.95	1.04	2,000	Sep-20
ING Bank 2 Year Term Deposit	A	3,000	0.24	2.93	1.56	3,000	Sep-20
National Australia Bank 2 Year Term Deposit	AA-	1,000	0.23	2.80	0.52	1,000	Oct-20
RaboBank 3.5 Year Term Deposit	A+	3,000	0.24	2.87	1.56	3,000	Dec-20
Bank of Queensland 4 Year Term Deposit	BBB+	4,000	0.30	3.60	2.07	4,000	Mar-21
National Australia Bank 3 Year Term Deposit	AA-	2,000	0.24	2.95	1.04	2,000	Aug-21
Australia Military Bank 3 Year Term Deposit	UNRATED	3,000	0.25	3.05	1.56	3,000	Sep-21
P&N Bank 3 Year Term Deposit	BBB	3,000	0.25	3.10	1.56	3,000	Oct-21
ING Bank 4 Year Term Deposit	A	2,000	0.27	3.25	1.04	2,000	Oct-21
National Australia Bank 3 Year Term Deposit	AA-	5,000	0.24	2.92	2.59	5,000	Oct-21
Bank of Queensland 5 Year Term Deposit	BBB+	4,000	0.31	3.80	2.07	4,000	Jan-22
Westpac 4 Year Term Deposit	AA-	2,000	0.27	3.29	1.04	2,000	Jan-22
Westpac 5 Year Fixed & Floating Term Deposit	AA-	5,000	0.25	3.00	2.59	5,000	Mar-22
RaboBank 5 Year Term Deposit	A+	4,000	0.27	3.26	2.07	4,000	Jan-22
RaboBank 4 Year Term Deposit	A+	2,000	0.26	3.17	1.04	2,000	Aug-22
Westpac 5 Year Fixed & Floating Term Deposit	AA-	5,000	0.25	3.05	2.59	5,000	Sep-22
Westpac 5 Year Term Deposit	AA-	3,000	0.28	3.47	1.56	3,000	Sep-22
RaboBank 5 Year Term Deposit	A+	4,000	0.28	3.43	2.07	4,000	Sep-22
P&N Bank 4 Year Term Deposit	BBB	2,000	0.27	3.25	1.04	2,000	Oct-22
ING Bank 5 Year Term Deposit	A	2,000	0.29	3.49	1.04	2,000	Oct-22
Westpac 5 Year Fixed & Floating Term Deposit	AA-	2,000	0.24	2.90	1.04	2,000	Dec-22
Westpac 5 Year Term Deposit	AA-	2,000	0.28	3.45	1.04	2,000	Jan-23
RaboBank 5 Year Term Deposit	A+	4,000	0.29	3.48	2.07	4,000	Jul-23
RaboBank 5 Year Term Deposit	A+	2,000	0.28	3.38	1.04	2,000	Aug-23
P&N Bank 5 Year Term Deposit	BBB	2,000	0.28	3.45	1.04	2,000	Oct-23
Sub Total		153,000				153,000	

Item GB.3

FY00623
17 October 2018

Investment Name	Investment Rating	Invested at 31-October-2018 \$000's	Month Return (%)	Annualised YTD Return (%)	Total Invested (%)	Market Value at 31-October-2018 \$000's	Maturity
Fixed & Floating Rate Notes (FRNs)							
AMP Bank 3.5 Year FRN	A+	1,500	0.25	3.14	0.78	1,510	Jun-19
Bank of Queensland FRN	BBB+	3,001	0.25	3.14	1.56	3,015	Jun-19
Macquarie Bank 5 Year FRN	A	2,250	0.25	3.10	1.17	2,277	Mar-20
Newcastle Permanent Building Society 5 Year FRN	BBB+	2,000	0.28	3.43	1.04	2,013	Apr-20
Westpac 5 Year Senior FRN	AA-	2,000	0.24	2.91	1.04	2,012	Jul-20
Bendigo Bank Senior FRN 5 Year	BBB+	4,000	0.25	3.08	2.07	4,046	Aug-20
Westpac 5 Year Senior FRN	AA-	2,000	0.25	3.09	1.04	2,020	Oct-20
Commonwealth Bank 5 Year FRN 1	AA-	2,000	0.26	3.19	1.04	2,025	Jan-21
Commonwealth Bank 5 Year FRN 2	AA-	2,000	0.26	3.19	1.04	2,024	Jan-21
RaboBank 5 Year FRN	A+	2,500	0.29	3.51	1.30	2,559	Mar-21
Credit Union Australia 3 Year FRN	UNRATED	1,000	0.27	3.24	0.52	1,004	Sep-21
National Australia Bank 5 Year FRN	AA-	4,000	0.24	2.90	2.07	4,012	Sep-23
Sub Total		28,251				28,518	
Total Portfolio		192,787		3.01*	100.00		

Matured/Traded Investments - Weighted YTD Average Return (%)

3.09

Weighted Average Overall Return Year To date (%)

3.02

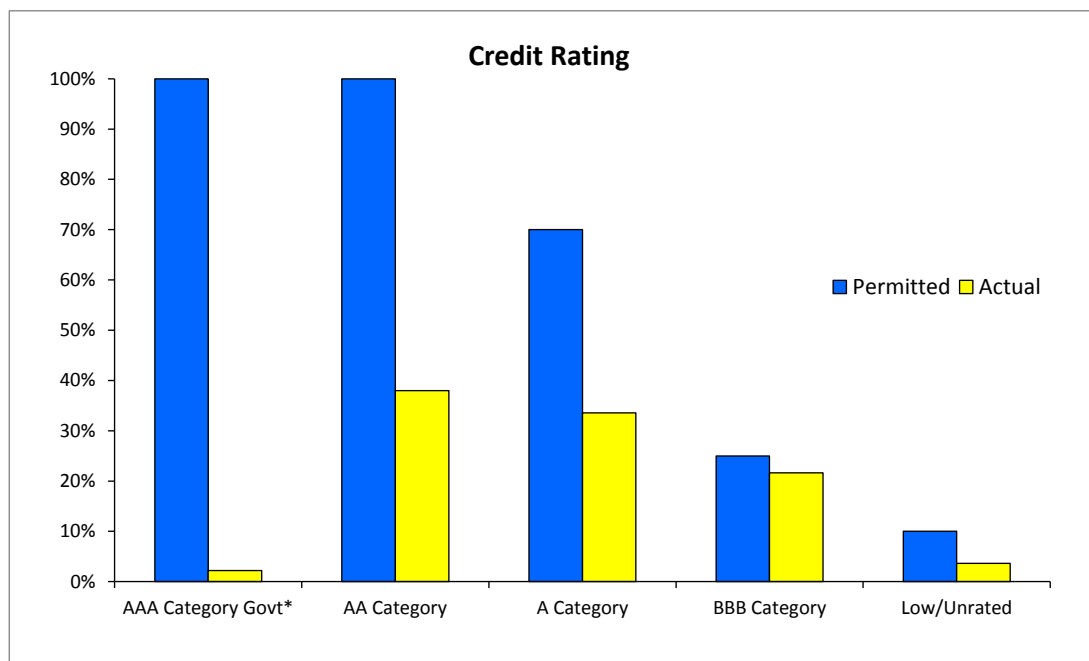
* Weighted average returns

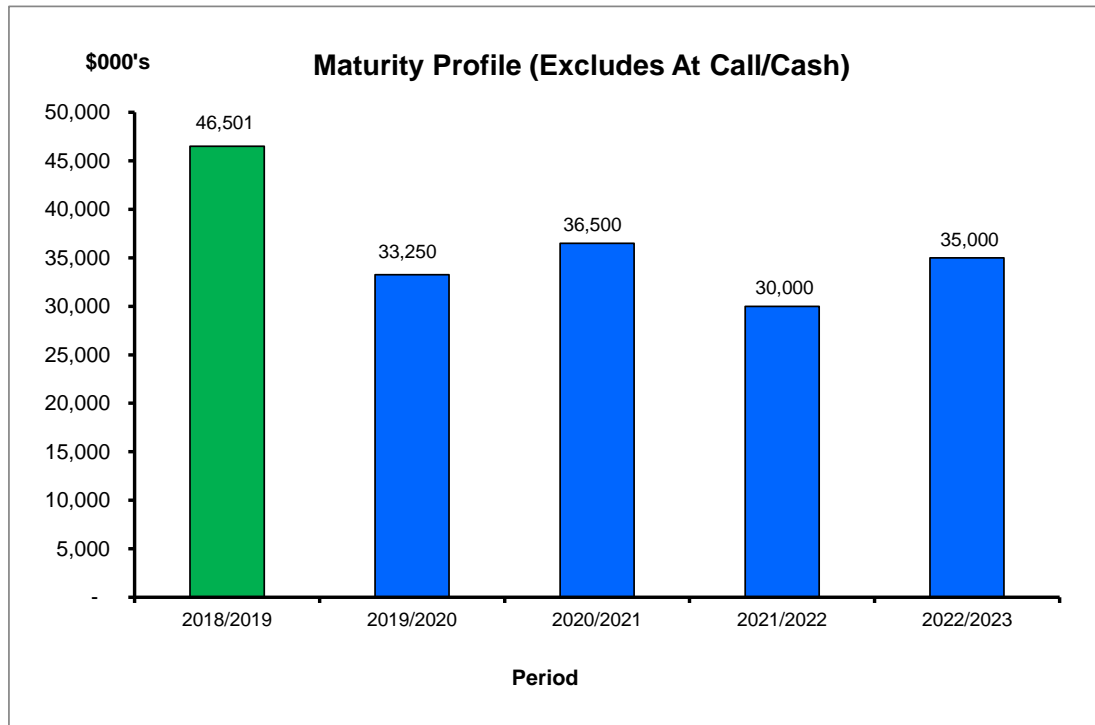
Investment by Credit rating and Maturity Profile

The allocation of Council's investments by credit rating and the maturity profile are shown below:

Rating Group	Permitted	Actual	Permitted Less Actual
AAA Category Govt*	100%	2%	98%
AA Category	100%	38%	62%
A Category	70%	34%	36%
BBB Category	25%	22%	3%
Low/Unrated	10%	4%	6%

* Government guaranteed ADI deposits (first \$250,000 investment that Council holds with any bank, credit union, and building society)





INTEGRATED PLANNING AND REPORTING

Leadership & Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1 Council rigorously manages its financial resources and assets to maximise delivery of services	Council maintains and improves its long term financial position and performance	Continue to analyse opportunities to expand the revenue base of Council

GOVERNANCE MATTERS

Council’s investments are made in accordance with the Local Government Act (1993), the Local Government (General) Regulation 2005 and Council’s Investment Policy.

Section 212 of the Local Government (General) Regulation 2005 states:

- (1) *The responsible accounting officer of a council:*
 - (a) *must provide the council with a written report (setting out details of all money that the council has invested under section 625 of the Act) to be presented:*
 - (i) *if only one ordinary meeting of the council is held in a month, at that meeting, or*
 - (ii) *if more than one such meeting is held in a month, at whichever of those meetings the council by resolution determines, and*
 - (b) *must include in the report a certificate as to whether or not the investment has been made in accordance with the Act, the regulations and the council’s investment policies.*
- (2) *The report must be made up to the last day of the month immediately preceding the meeting.*

RISK MANAGEMENT

Council manages the risk associated with investments by diversifying the types of investment, credit quality, counterparty exposure and term to maturity profile.

Council invests its funds in accordance with The Ministerial Investment Order.

All investments are made with consideration of advice from Council's appointed investment advisor, CPG Research & Advisory.

FINANCIAL CONSIDERATIONS

The budget for interest on investments for the financial year 2018/2019 is \$4,066,800. Of this amount approximately \$2,880,500 is restricted for the benefit of future expenditure relating to development contributions, \$485,500 transferred to the internally restricted Infrastructure & Facility Reserve, and the remainder of \$700,800 is available for operations.

The yearly forecast for interest income has been reviewed and a budget adjustment is included in the September Quarterly Budget review to Council.

SOCIAL CONSIDERATIONS

Not applicable.

ENVIRONMENTAL CONSIDERATIONS

Not applicable.

COMMUNITY CONSULTATION

None undertaken or required.

INTERNAL CONSULTATION

None undertaken or required.

Certification - Responsible Accounting Officer

I hereby certify that the investments listed in the attached report have been made in accordance with Section 625 of the Local Government Act 1993, clause 212 of the Local Government General Regulation 2005 and Council's Investment Policy.

SUMMARY

As at 31 October 2018:

- Council's total cash and investment portfolio is \$192,787,000.
- The net return on investments for the financial year to October 2018 was \$1,901,000 against a budget of \$1,369,000, giving a YTD favourable variance of \$532,000.

RECOMMENDATION:

- A. That the summary of investments and performance for October 2018 be received and noted.
- B. That the Certificate of the Responsible Accounting Officer be noted and the report adopted.

Tony Ly
Financial Accounting Officer

Angela Apostol
Manager Finance

David Marshall
Director Corporate

Attachments: A1  Investments definitions specific to Council's investment portfolio 2016/124274

LOVERS JUMP CREEK FLOOD RISK MANAGEMENT STUDY AND PLAN DATA REVIEW REPORT, VERSION A PUBLIC EXHIBITION - SUBMISSION REVIEW

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To review the submissions received during the <i>Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A</i> public exhibition and endorse the updated report.
BACKGROUND:	The <i>Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A</i> updates the flood study mapping for the Lovers Jump Creek catchment and was undertaken as part of a data review for the <i>Lovers Jump Creek Flood Risk Management Study and Plan</i> , which is currently being completed. The review report needs to be adopted to supersede the 2016 Lovers Jump Creek Flood Study.
COMMENTS:	<p>Consultants, Jacobs, were commissioned to undertake the <i>Lovers Jump Creek Floodplain Risk Management Study and Plan</i> in August 2017.</p> <p>During the data review stage of the <i>Lovers Jump Creek Floodplain Risk Management Study and Plan</i>, Council staff were notified of the need for a revised Lovers Jump Creek Flood Study due to some inaccuracies in the flood modelling outputs which affected the flood mapping. This revision has been undertaken and the revised <i>Flood Study Review Report, Version A</i> publically exhibited.</p> <p>The draft <i>Flood Study Review Report</i> was placed on public exhibition from 29 March 2018 to 30 April 2018. A total of nine (9) submissions were received, with details and responses outlined in this report. Following a review of the submissions site visits to two properties were undertaken by the consultant to confirm specific details.</p>
RECOMMENDATION:	That Council adopts the <i>Lovers Jump Creek Flood Study Review Report (2018)</i> with the amendments and corrections detailed in this report.

PURPOSE OF REPORT

To review the submissions received during the *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A* public exhibition and endorse the updated report.

BACKGROUND

The *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A (Attachment A1)* updates the flood study mapping for the Lovers Jump Creek catchment and was undertaken as part of a data review for the *Lovers Jump Creek Floodplain Risk Management Study and Plan* which is currently being completed. The *Flood Study Review Report, Version A* needs to be publicly exhibited and adopted to supersede the Lovers Jump Creek Flood Study (2016).

COMMENTS

Consultants, Jacobs, were commissioned to undertake the *Lovers Jump Creek Floodplain Risk Management Study and Plan* in August 2017.

During the data review stage of the *Lovers Jump Creek Floodplain Risk Management Study and Plan*, Council staff were notified of the need for a revised Lovers Jump Creek Flood Study due to some inaccuracies in the flood modelling outputs which affected the flood mapping. This revision has been undertaken and the revised *Flood Study Review Report, Version A* has been publically exhibited.

INTEGRATED PLANNING AND REPORTING

Community, People and Culture

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
An aware community able to prepare and respond to the risk to life and property from emergency events.	Plans are developed in partnership with emergency service agencies and key stakeholders and implemented.	Complete floodplain risk management study in consultation with Flood Risk Management Committee and investigate priority actions.

GOVERNANCE MATTERS

The Flood Risk Management Committee (FRMC), with community, industry and government representation will act as an advisory committee to Council for the development of all flood studies and flood risk management studies and plans.

RISK MANAGEMENT

Flooding in various parts of Australia have highlighted the importance of floodplain risk management and have raised public awareness of the need for all councils to provide landowners with the best possible information on the risk of flooding to their property.

FINANCIAL CONSIDERATIONS

Council was not charged an additional cost for the preparation of the *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A* (which will supersede the 2016 Lovers Jump Creek Flood Study).

SOCIAL CONSIDERATIONS

Undertaking flood mapping and associated activities in any area can have a number of implications for property owners and members of the community. The results of flood studies and flood risk management studies and plans can impact on property values, insurance premiums, planning controls and options for future development.

ENVIRONMENTAL CONSIDERATIONS

The NSW Floodplain Development Manual (2005) clearly identifies the need for flood risk management to take into account the principles of ecologically sustainable development and to consider ways of "maintaining and enhancing riverine and floodplain ecology in the development of floodplain risk management plans" (section 1.1.2).

COMMUNITY CONSULTATION

The *Flood Study Review Report, Version A* was placed on public exhibition from 29 March 2018 to 30 April 2018, with copies available at Turramurra Library, Customer Service and Council's website. Letters sent to 1,618 owners and residents of properties within the Probable Maximum Flood Area.

A total of nine (9) submissions were received as a result of the public exhibition process, with the main issues summarised in Table 1, below. Where possible, name, property and address information have been removed to maintain individual privacy. Full details of the submissions and Council's responses are provided in **Attachment A2**.

Submission number	Issue (s)	Response
1	Concerned about uncontrolled stormwater flows from neighbouring properties.	The flood study is concerned mainly with larger flood flows which may pose a risk to life and property. Local runoff originating from adjacent properties themselves is not as significant as street and drainage system overflows, therefore it is not specifically considered in the flood modelling. Council's Compliance Unit can be contacted for any uncontrolled stormwater issues between properties.
2	The vacant land at the end of Anne place should be left vacant. Council has classified this land as operational land. Concerned that development of this land will have a significant impact on the runoff into Lovers Jump Creek.	The lot immediately at the end of Anne Place is owned by the NSW government and is currently being sold by the NSW Department of Planning and Environment. Council has consulted the community regarding the re-classification of land to the south of the lot adjacent to Eric Street however the re-classification of the site has been deferred. Flood and stormwater controls will need to be considered for any development application on these lots.
3	Exotic weed invasion of the "Westbrook oval recreation area".	"Westbrook oval recreation area" appears to refer to Golden Jubilee playing fields. These playing fields are located on a former landfill site and many of the surrounding weed issues are due

Submission number	Issue (s)	Response
		<p>to the associated fill and capping layers.</p> <p>Council actively manages this weed infestation which includes a program where volunteers from the house with no steps contribute to the bush regeneration works.</p>
4	<p>Descriptions of flooding in the study are too general and lead to properties incorrectly identified by insurance companies as flood prone.</p>	<p>Table 3 and Table 9-1 in the report have been updated to more accurately describe flooding referred to in this submission.</p> <p>Specific details for property level flood risk are included in the report mapping and can be utilised by residents in negotiating insurance premiums.</p> <p>Council's flood risk management webpage will continue to be updated with information to help residents navigate insurance issues.</p>
5	<p>Disagree with the inclusion of Nulla Nulla Street as "flood prone" (flood water is not rising from Lovers Jump Creek and has always been conveyed by the pipe easements).</p>	<p>Part of the north side of Nulla Nulla Street is identified as impacted by the overland flow flood planning area related to the drainage easements in this area, not flood water rising from Lovers Jump Creek.</p> <p>The smallest event which identified flooding on Nulla Nulla Street is the 5% AEP event (1 in 20 year ARI). The largest storm event which has occurred in the catchment in recent times is approximately a 1 in 5 year ARI event, in 2010.</p> <p>Hence, Council confirms mapping for this area is accurate.</p>
6	<p>The technical report is long, complicated and difficult for someone without planning or engineering expertise to understand.</p> <p>'Clear and concise' summaries and additional information was not provided.</p> <p>There is an impression that Council has not properly engaged with potentially affected homeowners.</p> <p>Disagree with mapping details on their property and question the accuracy of the topographic data used to</p>	<p>The Executive Summary of the <i>Flood Study Review Report</i> attempts to provide readers with a summary of the report's content. Information relating to Council's reasons for Council undertaking the flood studies and Council's intended uses of the report is also provided on www.kmc.nsw.gov.au/floodrisk. In addition, background information on the development of the Lovers Jump Creek Flood Risk Management Study and Plan was provided to affected residents in November 2017.</p> <p>Exhibition of the <i>Flood Study Review Report</i> follows on from the extensive community consultation undertaken as part of the Lovers Jump Creek Flood Study (in 2015 and 2016). Phone and email support was provided by Council's Water and Catchments Program Leader to any resident with queries in relation to the <i>Flood Study Review Report</i>.</p> <p>In relation to model topography, this is based on the</p>

Submission number	Issue (s)	Response
	<p>undertake the study.</p> <p>Request for a site inspection to review mapping.</p>	<p>most recent aerial laser scanning survey available which has a vertical accuracy of 0.15m, and ground survey of the creek channel (accuracy of +/-50mm). This level of model resolution is considered to provide a reliable estimate of flood behaviour in the large majority of the catchment.</p> <p>Inspection of this property was undertaken by the consultant. In the case of this particular property the site observations and further close review of modelling data provides justification for amendment of the flood planning area mapping at the front of the property, but not at the rear of the property. Hence, the flood planning area map has been adjusted to reflect this.</p>
7	<p>Mapping of Carrington Rd east of Wahroonga Avenue appears to have been missed.</p>	<p>Flooding is contained within the road gutters for the 1% AEP (1 in 100 ARI) event and mostly within the road gutters for Probable Maximum Flood.</p> <p>The topography in this area has been reviewed by the consultant and any overflows from the road are expected to be shallow (less than the adopted 100mm threshold depth for "flooding") and would not be considered "flooding". Hence, the mapping is deemed accurate.</p>
8	<p>Need to maintain the laneway at the end of Cudgee Street to allow emergency use for Cudgee Street and Tennyson Avenue residents during significant flooding.</p>	<p>This issue, in addition to other issues relating to emergency planning and management will be addressed during the preparation of the <i>Lovers Jump Creek Floodplain Risk Management Study and Plan</i>.</p>
9	<p>Does not agree with identification of the property being impacted by the Probable Maximum Flood - information to support this claim was submitted.</p> <p>Requests for the consultant to meet on site to verify topographic details which may not be accurately represented in the flood model.</p>	<p>The information provided by the resident has been reviewed in conjunction with the modelling, topographic and drainage data. However, following a site inspection by the consultant no obvious changes to the mapping were identified due to local topographic or built features.</p> <p>During discussions with the consultant the resident's main concern appeared to be in relation to the property being identified as flood prone even though encroachment only covers the back fringe of the property, along the boundary, well away from the dwelling.</p> <p>The resident's suggestion was that properties with similar property fringe flooding not be notified as flood affected.</p>

Submission number	Issue (s)	Response
		<p>The merits of this approach were discussed further with Council and the FRMC at the meeting held on 18 September 2018. At this meeting the FRMC indicated that the preferred approach is for mapping to remain as displayed in the <i>Lovers Jump Creek Flood Study Review (2018)</i> and that residents should take the design flood levels and provide their own survey/building information to determine the flood affectation at the dwelling.</p> <p>The associated methods for refining the flood planning area tagging of properties are also being reviewed as part of the Lovers Jump Creek Floodplain Risk Management Study and Plan.</p> <p>Issues relating to flood affectation are also being considered through Council’s flood certificate reporting and Local Environment Plan updates.</p>

Table 1: Summary of submissions received and Council’s response

Following a review of the submissions, site visits to two properties were undertaken by the consultant to confirm specific details. The site specific investigations were undertaken in relation to specific requests made during this public exhibition.

Any further issues in relation to site specific details of the mapping can be resolved by the owner undertaking a site specific flood study if required for development applications or insurance company information.

Issues associated with the tagging of properties are also being reviewed as part of the *Lovers Jump Creek Floodplain Risk Management Study and Plan* and considered through Council’s flood certificate reporting and Local Environment Plan updates. Consequently, issues raised relating to the tagging of certain properties have not been finalised through this *Flood Study Review Report, Version A*. However, they will be considered further in the flood risk management study and plan process and the community will have further opportunity to comment in relation to this matter in the future.

Following a review of the submissions and site inspections of properties raising specific issues only minor edits to the flood mapping were identified and have been incorporated into the *Lovers Jump Creek Flood Study Review Report (2018)* (**Attachment A3**) for adoption by Council.

INTERNAL CONSULTATION

Council staff have been nominated to attend the Flood Risk Management Committee meetings and relevant staff from the Operations, Development and Regulation and Strategy and Environment departments have been consulted on the *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A*.

SUMMARY

Consultants, Jacobs, were commissioned to undertake the *Lovers Jump Creek Floodplain Risk Management Study and Plan* in August 2017 that is currently being completed.

During the data review stage of the *Lovers Jump Creek Floodplain Risk Management Study and Plan*, Council staff were notified of the need for a revised Lovers Jump Creek Flood Study due to some inaccuracies in the flood modelling outputs which affected the flood mapping. This revision has been undertaken and the revised *Flood Study Review Report, Version A (Attachment A1)* was publically exhibited from 29 March 2018 to 30 April 2018.

A total of nine (9) submissions were received, with details and responses outlined in this report. Full details of the submissions and Council’s responses are provided in **Attachment A2**.

Following a review of the submissions and site inspections of properties raising specific issues only minor edits to the flood mapping were identified and have been incorporated into the *Lovers Jump Creek Flood Study Review Report (2018) (Attachment A3)* for adoption by Council.

RECOMMENDATION:

- A. That Council adopts the *Lovers Jump Creek Flood Study Review Report (2018)* with the amendments and corrections detailed in this report.
- B. That a copy of the *Lovers Jump Creek Flood Study Review Report (2018)* be placed on Council’s website.
- C. That Council acknowledges the formal submissions made on the *Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A* and responds to the authors with the outcomes.

Sophia Findlay
Water and Catchments Program Leader

Marnie Kikken
Manager Environment & Sustainability

Andrew Watson
Director Strategy & Environment

Attachments:	<p>A1 Lovers Jump Creek Floodplain Risk Management Study and Plan, Flood Study Review Report, Version A</p> <p>A2 Lovers Jump Creek Flood Study Review Report, Version A - Detailed Submission Table</p> <p>A3 Lovers Jump Creek Flood Study Review Report (2018)</p>	<p>2018/063688</p> <p>2018/341666</p> <p>2018/344517</p>
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KILLARA GOLF CLUB (DEFERRED AREA 15) PLANNING PROPOSAL AND ASSOCIATED DCP AMENDMENT - CONSIDERATION OF SUBMISSIONS

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	For Council to consider submissions received in response to the exhibition of the Planning Proposal and associated amendment to the <i>Ku-ring-gai Development Control Plan</i> , for rezoning of land at Killara Golf Club, also known as Deferred Area 15 under the <i>Ku-ring-gai Local Environmental Plan 2015</i> .
BACKGROUND:	<p>The Planning Proposal was submitted to Council on 13 December 2016. Following submission of revised documentation, the assessment of the Planning Proposal formally commenced on 24 February 2017.</p> <p>On 27 June 2017 Council resolved to forward the Planning Proposal to the Department of Planning and Environment for a Gateway Determination.</p> <p>The Gateway Determination was issued on 5 December 2017 enabling the exhibition of the Planning Proposal.</p> <p>The Planning Proposal and the associated Development Control Plan amendment were placed on public exhibition from 3 May to 31 May 2018.</p> <p>On 13 November 2017 Council resolved to defer the matter to enable a site visit by Councillors. The site visit was held on 15 November 2018.</p>
COMMENTS:	<p>In response to the Public Exhibition, a total of 62 submissions were received from the community (34 in support and 28 in objection). Comment was also received from 4 State Agencies.</p> <p>All community submissions and State Agency responses have been assessed for Council's consideration. Issues raised in correspondence and phone calls received outside the exhibition dates have also been considered in this Report.</p>
RECOMMENDATION:	That Council adopts the Planning Proposal to amend the <i>Ku-ring-gai Local Environmental Plan 2015</i> to rezone land at Killara Golf Club, (part) 556 Pacific Highway, Killara, identified as Lot 2 in DP535219, and the associated amendment to the DCP.

PURPOSE OF REPORT

For Council to consider submissions received in response to the exhibition of the Planning Proposal and associated amendment to the *Ku-ring-gai Development Control Plan*, for rezoning of land at Killara Golf Club, also known as Deferred Area 15 under the *Ku-ring-gai Local Environmental Plan 2015*.

BACKGROUND

At the Ordinary Meeting of Council on 27 June 2017, Council considered a Planning Proposal on land known as Deferred Area 15 under the *Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015)*. This Report and Resolution may be viewed at **Attachment A1**.

In considering the report, Council resolved as follows:

- A. *That the Planning Proposal be amended in accordance with the recommendations in this Council Report and Table of Amendments at Attachment A1.*
- B. *That the Planning Proposal be forwarded to the Department of Planning and Environment for a Gateway Determination in accordance with section 56 of the Environmental Planning and Assessment Act 1979.*
- C. *That delegation be given to the General Manager and Director of Strategy and Environment to verify all amendments are in accordance with the recommendations of this Council Report and Table of Amendments at Attachment A1 prior to forwarding to the Department of Planning and Environment.*
- D. *That should a Gateway Determination be issued for public exhibition of the Planning Proposal, site specific amendments to Council's Comprehensive Development Control Plan be prepared in accordance with Council's fees and charges, the details in this Council Report and the Table of Amendments at Attachment A1 and be placed on public exhibition concurrently with the Planning Proposal.*
- E. *That a Report be brought back to Council, as per any Gateway requirements, following the exhibition of the Planning Proposal and site specific draft Development Control Plan.*
- F. *That Council proceeds to make the Plan under delegated authority under Section 23 of the Environmental Planning and Assessment Act 1979.*
- G. *That the applicant be notified of Council's Resolution.*

Planning Proposal

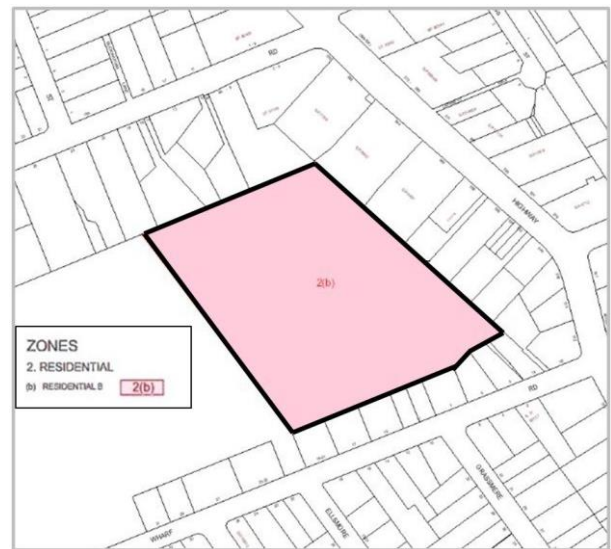
The site, subject of this Planning Proposal, is owned by Killara Golf Club. It forms the north-eastern part of the Golf Club land located closest to the Pacific Highway which provides access to the site for the current use as a golf club.

The Planning Proposal seeks to:

- rezone the subject site from low density Residential 2(b) under the *Ku-ring-gai Planning Scheme Ordinance* (KPSO) to a split zoning of R2 (Low Density Residential) and R4 (High Density Residential) under the *KLEP 2015*;
- amend the associated development standards to the R2 (Low Density Residential) and R4 (High Density Residential) land to be consistent with the *KLEP 2015* and with regard to the interface with low density residential development at 8A, 14, 16, 22 Buckingham Road; and
- to amend the heritage mapping and *Schedule 5 - Environmental Heritage* to delineate and extend the Heritage Curtilage Area and the Heritage View Curtilage around the Clubhouse Heritage Item.



Killara Golf Club – Aerial Photograph



KPSO – Existing - Residential 2(b) Zone

As reported in the 27 June 2017 Council Report, the application of a 17.5m height was not supported for the entire area proposed for R4 (High Density Residential) zoning. Reduced heights were required to the interface area adjacent to the R2 (Low Density Residential) zone at 8A, 14, 16, 22 Buckingham Road, and to the area forming the curtilage to the heritage listed Killara Golf Clubhouse.

Development Control Plan

The initial assessment of the Planning Proposal considered, amongst other things, alignment with the Ku-ring-gai area character of built form within landscaped settings including canopy trees, and integration with surrounding properties including landscape and ecological matters, amenity and views, and implications for the onsite heritage Clubhouse building. Investigation into the planning merit of views across this site determined that they were not a planning consideration due to the land being in private ownership without district views of iconic features, and therefore could not be used as a mechanism for refusal or substantial amendment to this Planning Proposal. As such, to ensure good outcomes and amenity would be achieved on this and neighbouring sites, site specific objectives and controls were proposed as amendment to the *Ku-ring-gai Development Control Plan* (DCP) in association with the Planning Proposal.

Gateway Determination

Prior to submission to the Department of Planning and Environment, the applicant made significant amendments to the Planning Proposal in accordance with Council's Resolution A (above). A complete Table of Amendments was attached to the Council Report of 26 June 2017. The key changes included the following:

- reduction of heights from 5 storey to 3 storey within the interface area directly adjacent to single dwellings at 8A, 14, 16, 22 Buckingham Road and reflection of this in all studies attached to the proposal;
- accurate plotted surveys of the site and proposed zoning, height and heritage boundaries within the site;
- adjustment and extension of the heritage curtilage area to include large established trees; and
- additional analysis of access to public transport, employment, services, facilities, employment.

The amended Planning Proposal was submitted to the Department of Planning and Environment on 29 September 2017 requesting a Gateway Determination. Council also requested the plan-making delegation in accordance with Resolution F (above).

The Department of Planning and Environment issued a Gateway Determination on 5 December 2017. The Department also issued authorisation for Council to exercise delegation to make this plan. The Gateway Determination is included at **Attachment A2**.

The Gateway Determination required a number of amendments to the Planning Proposal prior to community consultation, as follows:

1. *Prior to undertaking community consultation, Council is required to:*
 - (a) *provide an assessment of the planning proposal under the Revised Draft North District Plan; and*
 - (b) *include a statement in the planning proposal indicating the potential to deliver 179 dwellings.*

Council amended the Planning Proposal as required by the Gateway Determination, and submitted the amended proposal to the Department of Planning and Environment for information purposes.

In accordance with Council's Resolution D (above), an amendment to the DCP was prepared to include site specific objectives and controls reflecting the intentions of the Planning Proposal and to ensure that future development on the site would be delivered to a high standard in keeping with the Ku-ring-gai character and integration with the surrounding context.

Public Exhibition

The Planning Proposal was placed on exhibition from 3 May 2018 – 31 May 2018 in accordance with the conditions of the Gateway Determination.

Item GB.5

S11324

The exhibition material included the amended Planning Proposal (**Attachment A7**) and its attached studies as follows:

- Attachment A: Checklist of Consistency with Section 117 Directions and SEPPs
- Attachment B: Site Survey - YSCO Geomatics
- Attachment C: Urban Design Study - PMDL
- Attachment D: Traffic and Parking Assessment Report - Varga Traffic Planning Pty Ltd
- Attachment E: Statement of Heritage Impact - Graham Brooks and Associates
Conservation Management Plan - Graham Brooks and Associates
- Attachment F: Flora and Fauna Assessment - Footprint Green Pty Ltd
- Attachment G: Preliminary Arboricultural Assessment - Urban Forestry Australia
- Attachment H: Detailed Site Investigation Contamination Report - SESL Australia
Extension of Detailed Site Investigation Study Area - SESL Australia
- Attachment I: Consultation Outcomes Report - Elton Consulting

These Planning Proposal attachments may be viewed at **Attachments A8 to A16**.

The amendment to the DCP was also placed on public exhibition concurrently with the Planning Proposal. This may be viewed at **Attachment 6** to this Report.

A Planning Proposal is not a development application and does not consider the specific detailed matters for consideration under Section 4.15 (formerly S79C) of *Environmental Planning and Assessment Act 1979*. A Planning Proposal relates only to a Local Environmental Plan amendment and the proposed amendments need to be acceptable as an outcome on the site regardless of the subsequent approval or refusal of any future development application.

Councillor Briefing and Site Visit

On 13 November 2018, a briefing was provided to Councillors on the key issues raised in submissions from the State Agencies and from members of the community, and the proposed amendments to the Planning Proposal and Development Control Plan to address those issues.

At the 13 November 2018 Council meeting, it was resolved to defer the matter to enable a site visit on Thursday 15 November 2018.

The site visit was held at the Killara Golf Club on Thursday, 15 November 2018 in attendance were the Mayor Anderson and Councillors Smith, Ngai, Szatow, Kay and Council staff. No representatives of the Killara Golf Club or any residents were invited or attended the site visit.

The key issues raised in submissions and the amendments made to the Planning Proposal and Development Control Plan in response to those concerns were discussed on site.

Within Area A1 of the proposed location for a residential flat building, a discussion point was raised in relation to the potential for excavation and setting down of buildings to reduce building height impacts to the neighbouring residential areas. Accordingly an additional provision has been included in part 14C.4 Built Form Controls of the DCP to take this into account.

COMMENTS

Overview

Assessment of this Planning Proposal commenced on 24 February 2017. The initial assessment, as reported to Council on 27 June 2017, resulted in significant amendment prior to its proceeding to Gateway and Public Exhibition.

The assessment of the Planning Proposal, as reported in the 27 June 2017 Council Report and in this Report, has considered all neighbouring properties, their existing development and any as yet sites under development, undeveloped sites, assessed interface impacts and strategic and site specific planning considerations of the proposal.

Following the 3 May - 31 May 2018 exhibition of the Planning Proposal, a range of community submissions were received both in support and against the proposal. These have been reviewed and assessed by Council's planning, traffic, heritage and environment staff including further site visits.

Many objecting submissions appear to be unaware that the State Government has created the Planning Proposal process to enable landowners to apply for amendments to the zoning, standards and uses on their land, and that the owners of the land at the Killara Golf Club have exercised their right in the submission of this Planning Proposal under the Deferred area No 15..

Local Councils are obliged to make assessment of any submitted planning proposal and to assess the proposal on planning grounds with regards to the strategic merit of the proposed amendments to a Local Environmental Plan, and with regard to the provisions of the Department of Planning and Environment's "*A Guide to Preparing Planning Proposals*" and Section 3.33 of the *Environmental Planning and Assessment Act 1979*.

The final draft Planning Proposal put forward in this report is based on seeking the most appropriate balance to meet the needs of the Killara Golf Club and future redevelopment. The amendments proposed are the result of additional analysis of urban design, traffic, environmental and urban planning issues in response to the community submissions.

A number of the issues raised by residents would not be categorised as strategic planning issues and as such their weight in influencing amendment to this proposal is limited. However, in regard of the concerns raised, site specific DCP objectives and controls have been developed alongside this Planning Proposal to address these concerns.

This Council Report addresses issues raised in:

- A. clarification from the applicant;
- B. responses from State Agencies; and
- C. submissions from the community.

A. CLARIFICATIONS FROM THE APPLICANT

During the assessment of the Planning Proposal, Council's internal consultation raised the issue of the continued use of the Clubhouse whilst new residential development progressed on the site.

Item GB.5

S11324

Upon question, the applicant advised Council officers of their intention to retain the Clubhouse use on the site until such a time as they are able to build new facilities elsewhere on the golf course and this could involve the delivery of some residential components around the Clubhouse. Whilst the Clubhouse can continue to operate under existing use rights, as delineated by the *Environmental Planning and Assessment Act*, the provision of an additional permitted use under the KLEP 2015 would give certainty to the continued function of the Clubhouse at this location by enabling it on land zoned for residential purposes where such uses are not permitted.

In addition, the removal of the existing commercial car park area associated with the Clubhouse, would present an issue during any development application of the land for R4 (High Density Residential) development. Therefore, some mechanism is also required to enable commercial parking provision on the adjacent land within the basement area of any new residential apartment development that is built on the existing carpark site.

Proposed amendments

To accommodate the continued Clubhouse use and its commercial parking, it is recommended that the Planning Proposal be amended to include the following:

- Amendment to the *Ku-ring-gai local Environment Plan 2015 – Schedule 1* of the Written Instrument to include an additional permitted use. The wording of the modification may be stated as below:

Schedule 1 – Additional Permitted Uses

Use of certain land at the Killara Golf Club, 556 Pacific Highway, Killara.

(1) This clause applies to land at the northern part of the Killara Golf Club, 556 Pacific Highway, Killara, being Lot 2 in DP535219.

(2) Development for the following purposes is permitted with development consent:

(a) Killara Golf Clubhouse (as existing).

(b) Car Park associated with the Killara Golf Clubhouse.

B. RESPONSES FROM STATE AGENCIES

The Gateway Determination required consultation with the following public authorities under Section 3.34(2)(d) of the *Environmental Planning & Assessment Act 1979*:

- Office of Environment and Heritage - Heritage;
- Office of Environment and Heritage - Environment;
- Sydney Water;
- Roads and Maritime Services.

A copy of the Planning Proposal was sent to the agencies with the standard 21 days to provide comment. With the exception of Sydney Water, all the Agencies requested amendment to the Planning Proposal. All matters raised by the agencies have been resolved and accommodated in the draft Planning Proposal and in the draft Development Control Plan.

A full discussion and copies of the State Agency letters are included at **Attachment A3** to this Report. Following is a synopsis of the issues raised in the State Agency responses and the amendments proposed to address their comment.

1. Office of Environment and Heritage - Heritage (OEH)

The Heritage Division advised that Council give consideration to the “adverse impact the proposed rezoning may have on the historical and social values of the locally listed item and its historical use”. In assessing the Planning Proposal, Council officers undertook a detailed onsite assessment of the impacts of future development on the Clubhouse, including the building, its curtilage and significant views and vistas. Standards were subsequently included in the Planning Proposal to reduce visual impact and protect the cultural significance of the building, including the expansion of the curtilage to protect important views along the Number 1 fairway to its west.

Council also requested a *Conservation Management Plan* for the site. This provides clear guidance on the conservation of the identified heritage values of the Killara Golf Course Clubhouse. In particular, the conservation policies include a chapter on the *Principles for Re-use*. These principles acknowledge the social significance of the site and elaborate on policies for how these values can be retained and enhanced, both for the building in its current use and form and in the event of future adaptive reuse for residential purposes.

The Heritage Division also acknowledge that there are 2 local heritage items adjoining the subject site to the west and north, and 3 local items in the vicinity of the site. They conclude that the rezoning of the subject site is unlikely to have a major adverse impact on ‘Dormie House’ at 558 Pacific Highway, and on 22 Buckingham Road; and other local items in the vicinity of the subject site are unlikely to be physically impacted with any impacts being adequately addressed through DCP controls.

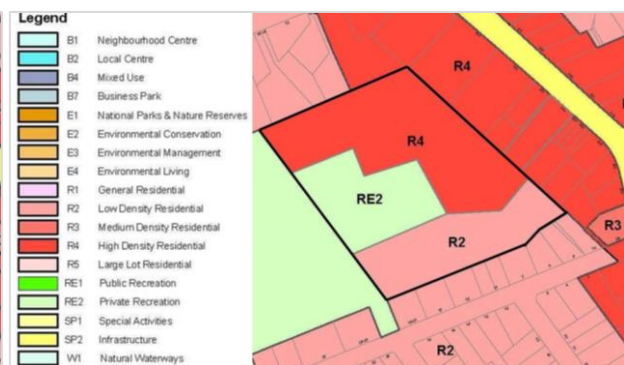
Proposed amendments

Whilst the exhibited provisions are considered adequate, it is recommended that the following changes be made to address the Heritage Division comment and to preserve the integrity of the heritage Clubhouse into the future:

- Amendment to the proposed *KLEP 2015 Zoning Map* to rezone the land in front of the Clubhouse from R2 (Low Density Residential) to RE2 (Private Recreation) as indicated in the below diagram. This will provide certainty of the future retention of the existing form of open space, trees and vegetation located to the west of the Clubhouse, thus preserving the building’s curtilage, landscaped setting and outlook/views/vistas which are integral to its heritage listing.



Exhibited Proposed - Zoning Map



Post-exhibition Proposed Amendment - Zoning Map

- Amendment of the *Development Control Plan* diagrams to reflect the open space that will result from the proposed change to the zoning. All amendments to the exhibited *Development Control Plan* are tabulated at **Attachment 5**.



Post-exhibition Proposed Amendments to DCP diagrams

Heritage Item curtilage and views and vistas

Open Space in front of Heritage Item

2. Office of Environment and Heritage - Environment (OEH)

OEH notes that due to differences in mapping methodology, Council’s proposed Terrestrial Biodiversity Map for the site does not include some areas mapped in the applicant’s *Flora and Fauna Assessment* (attached to the Planning Proposal). OEH requests the additional areas be included in Council’s mapping, additional controls be provided to protect the remnant Blue Gum High Forest from future buildings and site work impacts; and requirement for a Vegetation Management Plan be included in the DCP.

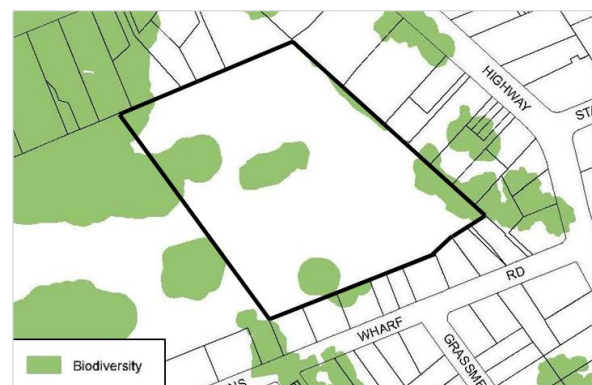
Proposed amendments:

In response to OEH concerns, the following amendments are proposed:

- Amendment to the *KLEP 2015 Terrestrial Biodiversity Map* and to the *DCP Greenweb Map* to reflect the extent of threatened flora species and the Blue Gum High Forest critically endangered ecological community, as shown in the Planning Proposal’s *Flora and Fauna Assessment* (Footprint Green 2017).



Exhibited Proposed - Biodiversity Map



Post-exhibition Proposed Amendment - Biodiversity Map

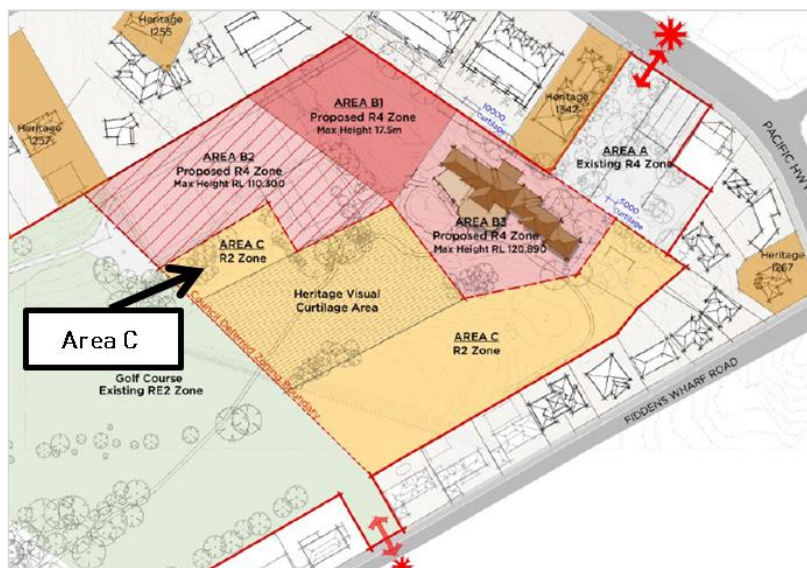


Exhibited Proposed - DCP Greenweb Map



Post-exhibition Proposed Amendment - DCP Greenweb Map

- Amendment to the *KLEP 2015 Zoning Map* to rezone the smaller Area C to the north of the site (see below diagram) from R2 (Low Density Residential) to RE2 (Private Recreation) to protect the Critically Endangered Ecological Community Blue Gum High Forest which will be most affected by clearing for future development.



Exhibited Planning Proposal - diagram showing Area C (page 4)

- Amendment of the DCP diagrams to include Landscaped Area buffers to protect the Critically Endangered Ecological Community Blue Gum High Forest remnants near the south-western bowling green and tennis court from future medium to high density development to the north; and, amendment to the DCP objectives and controls to address protection of existing on site Blue Gum High Forest remnants.

Details of proposed amendments to the *Development Control Plan* may be viewed at **Attachment 5**.

3. Sydney Water

Sydney Water had no objection to the Planning Proposal and will provide detailed requirements at the Section 73 development application stage when detailed development plans and numerics are referred to them.

4. Roads and Maritime Services (RMS)

The Section 56 consultation with RMS commenced in January 2018 and has been protracted with final resolution being received on 31 October 2018.

In mid-March 2018, RMS provided a response to the Planning Proposal which stated that it was not able to provide an informed comment based on the information provided, and requested additional information to address certain transport aspects. The response did, however, state lack of support for both the vehicular access to Pacific Highway and for the pedestrian link from Pacific Highway, passing through 564 Pacific Highway into the Killara Golf Club.

In early September 2018, additional traffic information was prepared by the applicant and referred back to RMS for its consideration. In mid-September 2018, during its assessment of this information, RMS requested the traffic modelling files used by the applicant to undertake the submitted intersection modelling of Pacific Highway with the site access, and Pacific Highway with Fiddens Wharf Road.

In anticipation of the RMS response, further information was provided to RMS by Council. This information sought feedback on the potential transport impacts of the continued operation of the golf Clubhouse use alongside the proposed new apartment buildings (as opposed to a relocated golf Clubhouse elsewhere on the site).

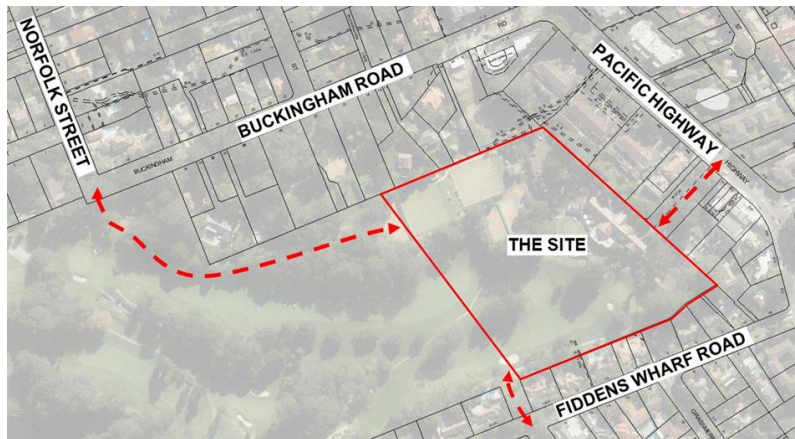
On 22 October 2018, RMS provided its response to the Planning Proposal. RMS disputed some of the traffic modelling provided by the applicant and advised that in accordance with access management principles of *SEPP (Infrastructure) 2007*, vehicular access to future residential development should be obtained from the local road network where practical, and namely from Fiddens Wharf Road. RMS advised that this be implemented through the development of a site specific DCP. RMS also requested that a traffic impact assessment, taking into consideration access and modelling, be submitted as part of any future development application(s) for residential development of the site.

The Planning Proposal relied on the existing access to Pacific Highway for the medium and high density component, and a potential future access to Fiddens Wharf Road for only the low density component adjacent to that road. Due to the heritage, ecological and topographical constraints in providing access to the entire site from Fiddens Wharf Road, clarification/feedback was sought from RMS by Council officers.

On 31 October 2018, RMS confirmed its position that it would not support an access point from Pacific Highway for traffic efficiency and road safety reasons, and advised that all vehicular access for new residential development was to be obtained from Fiddens Wharf Road.

Council staff visited the site on 1 November 2018 to ascertain the feasibility of a single access from Fiddens Wharf Road to serve the entire site including the high density residential buildings. At the site meeting, the Killara Golf Club advised that the Golf Club land had a substantial frontage with a secondary vehicle access to the western end of Buckingham Road. This entry provided access to an existing internal road linking Buckingham Road to an informal carpark adjacent to the site, subject of this Planning Proposal.

This roadway could potentially allow the provision of an access point and internal road along the existing route at the northern part of the site to provide vehicular access to the medium and high density areas. This arrangement would address the RMS requirement that access to the site be obtained from the local road network.



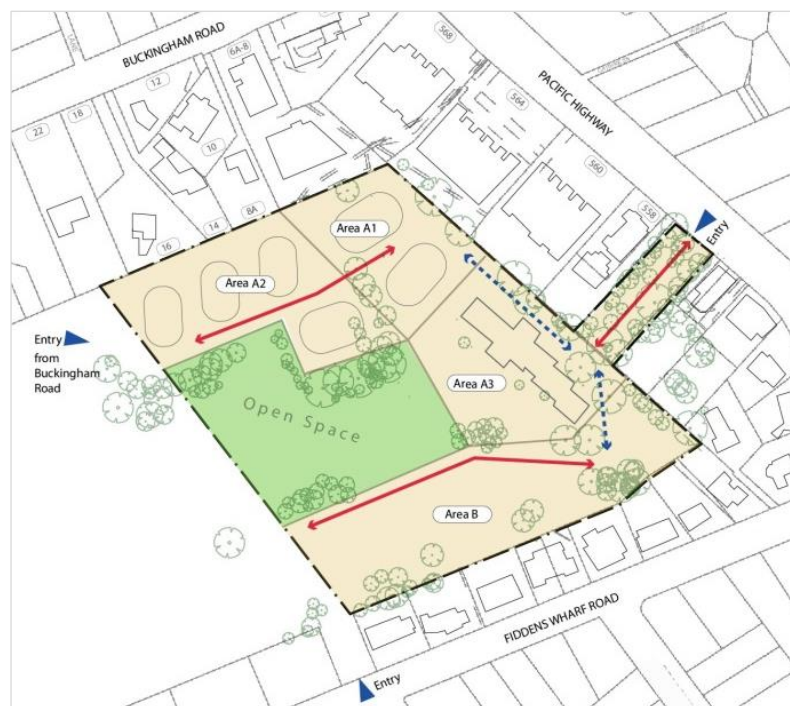
Existing access from Pacific Highway and proposed access from local roads Buckingham Road & Fiddens Wharf Road

Proposed amendments

As a result of the RMS consultation, the following is proposed:

- Amendment to the DCP diagrams, objectives and controls to include the following:
 - indication of the additional access point from Buckingham Road to the site on all diagrams;
 - removal of internal vehicular access from Pacific Highway to Area A1 across Area A3, replacing that section of road with only pedestrian access across Area A3;
 - removal of the pedestrian through site link from Pacific Highway through 564 Pacific Highway into the site.

Details of proposed amendments to the DCP may be viewed at **Attachment A5**.



Post-exhibition Proposed Amendments to DCP diagrams - Pedestrian and Vehicular Access

C. SUBMISSIONS FROM THE COMMUNITY

A full detailed assessment of all the submissions is presented in the Submission Summary Table at **Attachment A4**.

A total of 62 submissions were received from the community, 34 in support and 28 in opposition to the Planning Proposal. A copy of all submissions was separately provided to Councillors. Below is an outline of key issues raised in the submissions.

Submissions supporting the proposal

Submissions were received from Killara Golf Club members (16); Fiddens Wharf Road residents (2); and the remaining submissions were from other members of the community with unspecified addresses.

The submissions made the following comment on the Planning Proposal:

- it would assist in the preservation of Killara Golf Club into the future;
- it will make provision for new housing and align with State Government requirements;
- it was not a development application;
- it was the subject of sufficient community consultation.

All comments in support have been noted.

Submissions objecting to the proposal

Submissions were received from residents of 564 Pacific Highway (17); 562 Pacific Highway (1); Buckingham Road (3) including a submission from a planning consultant acting on behalf of residents at 8A, 14, 16 Buckingham Road; and the remaining submissions were from other members of the community with unspecified addresses.

A full and detailed assessment of all the submissions is presented in the Submission Summary Table at **Attachment A4**.

Consideration of submissions has resulted in some amendments to the exhibited Development Control Plan. These amendments are tabulated at **Attachment A5**.

Many of the submissions raised similar issues as outlined below.

View Loss, Amenity, Zoning and Building Height

Submissions argue for the refusal of the proposal or the reduction of the site's development potential to maintain the amenity, views and outlook currently afforded to their properties.

Discussion

Since the proposed high density zoning is located to the south and west of the adjacent neighbouring properties, there will be negligible amenity impact on solar access, overshadowing, loss of light. The State Government SEPP 65 restricts Local Councils from applying controls on visual privacy and require the SEPP application of those standards; however, the proposed

Item GB.5

S11324

controls in the Development Control Plan has requirements around the provision of boundary Landscaped Areas to ensure adequate deep soil planting, including trees, between properties as this is integral to the Ku-ring-gai character of built form within landscaped settings including canopy trees.

Loss of views as a result of applying the R4 (High Density Residential) zoning to the site is the key reason for most submissions objecting to the Planning Proposal. Residents have purchased neighbouring properties with assumptions for the continuing operation of the Killara Golf Club and views across that land.

It is acknowledged that the proposal will result in new buildings to the west of the units at 560-568 Pacific Highway and to the south of units and dwellings at 6-22 Buckingham Road, and that these new buildings will change the view aspects across the Killara Golf Club lands should the site be developed to the proposed standards; however, it is also acknowledged that the Killara Golf Club is private land and under the planning proposal process the owners have a right to apply for changes to the status of their land.

As reported to Council on 27 June 2017 and further elaborated in the Submission Summary Table at **Attachment A4**, the views across the privately owned Killara Golf Club land are not a planning consideration as the views are not to the public domain, nor iconic, nor district views. They do not include significant horizon or water views, and do not have vistas to iconic elements in the landscape or built environment. The existing views are landscape views across private property with no established proprietary rights given to neighbouring properties. For this reason, whilst the concerns of the residents are acknowledged, the issue of views does not present sufficient planning grounds for the modification of the exhibited Planning Proposal.

Submissions have compared this Planning Proposal with a Land and Environment Court case (*Tenacity Consulting v Warringah*) which refused a development application due to the combination of the loss of view to a neighbouring property and due to the compromised amenity afforded to that property through the proposed setbacks.

The views considered in the *Tenacity* case cannot be compared with Killara Golf Club. Those views were of the public domain and included water views to iconic headland features. In addition, the limited setbacks and separation to neighbouring properties also provided grounds for the Court's refusal. The views across Killara Golf Club are pleasant but not significant in planning terms; moreover they are views of private property which neighbouring residents have enjoyed to date. The *Tenacity* case is discussed in detail on pages 18-21 of the Submission Summary Table at **Attachment A4**.

In addition, as discussed in the Council Reports of 27/6/17 (**Attachment A1**) due planning consideration has already been given to interface impacts resulting from this proposal. The original Planning Proposal submitted to Council proposed 5 storey buildings of 17.5m height across all the proposed R4 (High Density Residential) area including the land directly adjacent to the Buckingham Road properties and to the curtilage of the heritage Clubhouse. Assessment by Council officers resulted in an amendment to the Planning Proposal with a reduction in the proposed height directly adjacent to 8A, 14, 16 and 22 Buckingham Road properties based on interface impacts. In addition, a wider setback of 9m was applied rather than the standard 6m that is stipulated under State Government guidelines, and view corridors applied to ensure the building bulk to these Buckingham Road properties would not present as one continuous monolithic wall.

Item GB.5

S11324

The same principles of “interface” cannot be applied to the properties on Pacific Highway, as requested in submissions from residents at 564 Pacific Highway. This is due to those properties carrying an R4 (High Density Residential) zoning, and having existing built form that equates to 3 to 4 storey development. Detailed discussion on this may be viewed at pages 6-10 of the Submission Summary Table at **Attachment A4**.



564 Pacific Highway - View from Pacific Highway (3 Levels) – from Golf Club and from pedestrian walkway (4 levels)

Given that it would be very difficult to refuse or modify this Planning Proposal based on view loss, the Planning Proposal has attached to it an associated DCP amendment for this site. This was instigated by Council officers to ensure good outcomes on the site and to ameliorate impacts of future development at this location and to integrate new development into the Ku-ring-gai area character.

In conclusion

- The issue of view loss resulting from the proposed zoning and height standards is not a planning consideration on this site and is therefore unable to influence the outcomes of the proposal. However, the proposed DCP amendment has included several elements demonstrating consideration of the adjacent properties, including building separation, setbacks, view corridors, landscaped area buffers, small footprint built form, and central road location. All of these measures will ensure amenity consideration in any future development proposal. All these elements ensure the reduction of building mass (see diagram below) and the integration of future development into the local and area context.



Post-exhibition Proposed Amendments to DCP diagrams – Built Form

Lack of consideration of certain properties

Residents from the Pacific Highway properties and the Buckingham Road properties submitted that adequate consideration was not given to their properties.

Discussion

Thorough research and site analyses has been carried out as part of the assessment of this Planning Proposal. The assessment of the Planning Proposal, as reported in the 27 June 2017 Council Report and in this Report, has considered all neighbouring properties, their existing development and any as yet undeveloped sites, assessed interface impacts and strategic and site specific planning considerations of the proposal

Multiple site visits were conducted during April 2017, June 2017, October 2018 and November 2018 to assess the site and adjacent properties, including properties at 2 to 36 Buckingham Road, 558 to 568 Pacific Highway, and 1 to 31 Fiddens Wharf Road. Investigation by Council’s planning, urban design, traffic, heritage and environmental staff has given due consideration to all issues regarding this proposal including those raised in submissions. Where the concerns amounted to planning consideration, amendments have been proposed. With regards to other amenity issues, due consideration has been given in the preparation of the *Development Control Plan*.

As discussed in the Council Report of 27 June 2017 the original Planning Proposal proposed 5 storey buildings of 17.5m height across all the R4 (High Density Residential) area. The assessment by Council officers resulted in an amendment to the Planning Proposal with a reduction in the proposed height directly adjacent to the low density single dwellings at 8A, 14, 16 and 22 Buckingham Road based on interface impacts.

In conclusion

- Due consideration has been given to all properties directly adjacent to the proposal site and in the vicinity of the proposal site. Amendments to the DCP, including view corridors to reduce building bulk to all boundaries, have been included to address issues raised in the submissions and to ensure amenity and aspects of character are preserved on this and adjacent sites.

Traffic and infrastructure, vehicular and pedestrian access

Submissions comment on the lack of infrastructure (services, transport, open space) in the local area and inadequate transport and services to support an increase in population, with traffic on local roads resulting in congestion and safety issues. Some criticism was also directed at the Planning Proposal's *Parking and Traffic Assessment Report* with concerns raised regarding the likely increased traffic to the vehicular exit from the Killara Golf Club site onto Pacific Highway with its limited visibility of oncoming traffic. Concern was expressed on the increased pedestrian traffic resulting from the change to residential use on the pedestrian through site link which passes through the 564 Pacific Highway property.

Discussion

The site subject of this Planning Proposal is not zoned RE2 (Private Recreation) and as such is not set aside for future open space use. The proposed amendment to the exhibited Planning Proposal seeks to zone a part of the land as RE2 (Private Recreation) in response to heritage and biodiversity issues raised by OEH. This will result in that land remaining as private open space into the future.

While some services and amenities are available in close proximity, key services and facilities such as supermarkets, pharmacies, medical centres and the majority of schools are located in and around the Lindfield local centre, between 1.0km and 1.8km from the site. While not a significant distance, some of these key services and facilities would be within 15-20 minutes' walk of the site. In addition a large K-12 school is due to open in 2019 on the former UTS site at Lindfield which would provide its own bus services.

As of 15 October 2018, the *transportnsw.info* website shows that between 7-8am on weekdays, 8 trains depart from Killara station to the City, which is equivalent to an average of 1 service every 7.5 minutes. Between 11am-12pm on weekdays (off-peak period), there are also 8 trains departing from Killara station to the City. These are good levels of service, and the site's proximity to Killara railway station will encourage train trips for journeys to work.

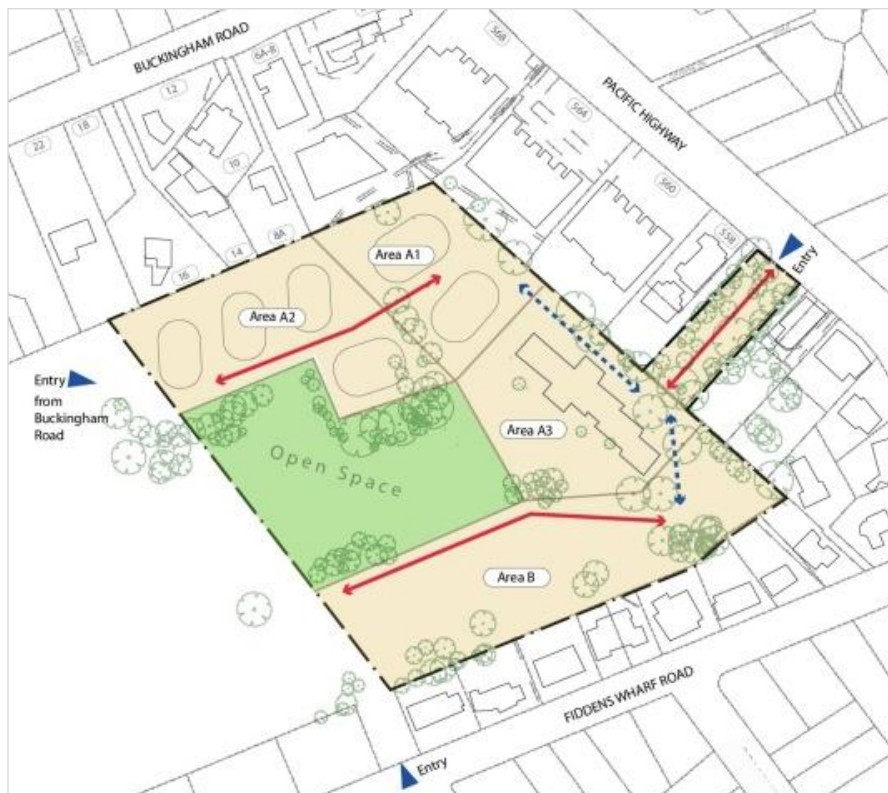
Whilst Killara is not a local centre like Gordon and Lindfield, the location of a train station places the area within the corridor suitable for access to employment and services as determined by the State Government in the *North District Plan* and the *Metropolis of Three Cities* which are set to guide ongoing development of all areas.

Concerns presented in the submissions have been resolved for the most part through the amendments required by RMS as explained in the body of this Report and at **Attachment A3**. In particular, the access for all new residential development will be required to obtain access from the side streets (Buckingham Road and Fiddens Wharf Road) and not from the Pacific Highway in accordance with RMS policy which requires the consideration of access from local roads where practical.

The pedestrian through site link was established as a right of way through 564 Pacific Highway to facilitate access to the Killara Golf Club for its members. Its original intention will no longer apply with the proposed rezoning and change in use of the Golf Club land to residential use. The right of way is also a private agreement between the two private landowners. Therefore, its continued provision or closure can only be a negotiation between the two land owners to resolve its use, safety, lighting, timing, and other conditions of use. In addition, the RMS also did not support the use of this link as they consider it encourages crossing of the Pacific Highway away from traffic lights.

In conclusion

- In meeting the requirements of RMS, many of the concerns have been addressed. Amendment to the exhibited DCP (illustrated in the below diagram) will indicate the required access off the side streets and the removal of the pedestrian through-site link at 564 Pacific Highway.



Post-exhibition Proposed Amendments to DCP diagrams - Pedestrian and Vehicular Access

Impacts on heritage Items

Submission from 22 Buckingham Road objects to the proposal, refers to other heritage listed properties, stating that they have not been given due consideration. It also implies an inequity of assessment in that the views from the Clubhouse have been accommodated whereas views from these residential properties have not been accommodated.

Item GB.5

S11324

Discussion

The impacts to these properties, including views, has been assessed by the Heritage Division of OEH as explained in the body of this report and at **Attachment A3**. A detailed response is also provided in the Submission Summary Table at **Attachment A4**.

As previously discussed, the Planning Proposal has already incorporated a reduction of height to the Buckingham Road boundary; this, with the fall in topography to the golf course, means the proposed 3-story height will be further diminished from these adjacent properties. In addition, there is no evidence in the original design of 22 Buckingham Road to show that it was specifically designed for views to the golf course. The loss of local area views from some parts of the house and from its tennis court are not considered to substantially impact upon the cultural significance of the house as its original design intent was not driven by these views or the site's proximity to Killara Golf Course. In contrast to this, the Killara Golf Clubhouse was designed specifically to take in views of the golf course especially from the dining room and the roof terrace.

In conclusion

- Due consideration has been given to all properties surrounding the Planning Proposal site including all adjacent heritage items. The proposed DCP Landscaped Area adjacent to neighbouring property boundaries enables the provision of trees and landscape which not only support the Ku-ring-gai character, but also enable screening between neighbouring properties to preserve privacy to both properties.

Request for inclusion into Planning Proposal:

A detailed submission was made by a planning consultant on behalf of residents at 8A, 14, 16 Buckingham Road requesting inclusion of their land into the Planning Proposal.

Discussion

T

The inclusion of 8A, 14 and 16 Buckingham Road into this Planning Proposal is not an action that Council can dictate. This is a matter of agreement between the private landowners and relies on a decision by the Killara Golf Club. To include these properties would require a new Planning Proposal application as the addition of the properties would result in a significant departure from the current proposal and require re-exhibition and consultation. The consultant's submission indicates that some discussion has occurred with the Killara Golf Club, however the Club has not requested an amendment to this Planning Proposal.

In conclusion

- In the absence of interest from the Killara Golf Club to recommence its Planning Proposal, any rezoning of 8A, 14 and 16 Buckingham Road would need to apply for consideration through a separate planning proposal. Details of the planning proposal process and application process are provided on Council's website.

Clarification on zoning and theoretical maximum dwelling numbers:

A question was raised regarding the number of dwellings that would be possible in a future development of this site based on the draft Planning Proposal, and the discrepancy between figures in the Planning Proposal and in the Roads & Maritime Services (RMS) response.

Discussion

In their 16 March 2018 comment, RMS requested analysis of traffic impacts based on a yield of

- 25 lots in the R2 (Low Density Residential) zoned area; and
- up to 340 units in the R4 (High Density Residential) area based on a maximum FSR 1.3:1.

The Planning Proposal states a total maximum potential of 179 (165 apartments+14 houses) based on calculations in its Urban Design Study.

As illustrated in the Planning Proposal’s Urban Design Study (PMDL) pg 17, the total area for R2 (Low Density Residential) would theoretically allow no more than 14 lots for single dwellings based on a minimum 840sqm lot size requirement. This takes into consideration the new internal road/verges, and excludes all the heritage curtilage area attached to the Clubhouse.

The numerical difference on the R2 (Low Density Residential) between RMS and the Planning Proposal appears to be a result of RMS including the heritage curtilage area in their calculations, and therefore this figure is incorrect. Further, with the proposed rezoning of part of the land to RE2 (Private Recreation) the number of lots within the R2 (Low Density Residential) land will be further reduced.

With regards to the land proposed for R4 (High Density Residential) zoning as per the Planning Proposal calculations in its Urban Design Study (PMDL) pg 16-17 (diagrams below), there are 3 separate parcels within that zoning, each with different Height and FSR. Only one of the parcels has a 1.3:1 FSR and height of 17.5m. One parcel contains the heritage Clubhouse and will not have further development, the other parcel forms the interface area with 8A, 14, 16, 22 Buckingham Road and has reduced height and FSR to enable 3 storey development adjacent to the Buckingham Road properties, and 4 storey adjacent to the golf course where the land has a substantial fall. The theoretical maximums that might result on the 3 areas with their differing standards is likely in the region of 165 apartments as stated in the Urban Design Study (PMDL).



Diagrams from Urban Design Study (PMDL)

The numerical difference between RMS and the Planning Proposal on the R4 (High Density Residential) area appears to be a result of RMS including levels of potential development that will not be possible with the reduced standards being proposed. Further, the proposed DCP

requirements of view corridors, setbacks, landscaped area buffers and internal roads and upper level setbacks might further reduce the numbers. The final actual dwelling yields cannot be ascertained until a development application, taking into account all the site constraints, is submitted and assessed.

In conclusion

- The guide numerics provided in the Planning Proposal are correct approximations. The final number of dwellings will only be determined when a development application is submitted which takes into account all the constraints of the site.

INTEGRATED PLANNING AND REPORTING

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Strategies, plans and processes are in place to effectively manage the impact of new development	Continue to review existing strategies and plans

GOVERNANCE MATTERS

The process for the preparation and implementation of Planning Proposals is governed by the provisions contained in the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Council sought the plan-making delegation under Section 23 (now known as section 2.4 & 2.28) of the EP&A Act 1979 to finalise the planning proposal. In issuing the Gateway Determination, the Department of Planning considered the nature of the Planning Proposal and decided to issue authorisation to Council to exercise delegation to make this plan.

Should the Planning Proposal be adopted and generally consistent with the version exhibited to the community, the finalisation of the Planning Proposal under delegation will enable Council to complete the final making of the plan in a timely manner.

Under Section 3.35 of the EP&A Act 1979, Council, as planning proposal authority may, at any time, vary its proposals as a consequence of its consideration of any submission or report during community consultation or for any other reason. If it does so, Council is to forward a revised planning proposal to the Greater Sydney Commission to determine whether or not a revised gateway determination and further community consultation is required.

RISK MANAGEMENT

This is a privately initiated applicant-led Planning Proposal. Following exhibition Council needs to determine its final position on the proposal. Council risks damage to its reputation if it does not undertake strategic land use planning in an effective and timely manner.

FINANCIAL CONSIDERATIONS

This is a private Planning Proposal and Council's Fees and Charges have been applied to cover the Departmental costs of processing the Planning Proposal. The exhibition, advertising fees and fees for the preparation of specific amendments to the DCP associated with the Planning Proposal have been paid by the applicant as per Council's Fees and Charges.

SOCIAL CONSIDERATIONS

The Killara Golf Course submitted this Planning Proposal as a means of future proofing their land by reinstating and expanding the residential uses on the site. This enables flexibility of the land use into the future. The Club has indicated it is committed to remaining in operation in the long-term, continuing to provide the existing level of recreational uses despite the global and national trends of diminishing interest in the sport of golf.

ENVIRONMENTAL CONSIDERATIONS

All aspects of the proposal with potential environmental impacts have been considered in the preparation of this Council Report. Assessment has included the investigation of riparian, biodiversity and flora/fauna aspects relating to the site. Advice from Office of Environment and Heritage has been incorporated and the Planning Proposal will not impact on the environmental aspects of the site. Any specific development that occurs on the site as a result of the proposal will be considered in detail at the development application stage.

COMMUNITY CONSULTATION

The draft Planning Proposal was publicly exhibited by Council from 3 May 2018 to 31 May 2018, in accordance with the requirements of the Gateway Determination and the NSW Department of Planning Guide to *Preparing Local Environmental Plans*.

Council staff have made multiple site visits to assess issues raised by concerned neighbours and other members of the community, including into the development at 560-568 Pacific Highway which shares a common boundary with the Planning Proposal site, and visibility into this site required access to the premises. The site visits have assisted staff in understanding the issues raised and to enable an informed assessment of the submissions.

In addition all persons who have made a submission were notified of this matter coming back to Council.

INTERNAL CONSULTATION

Where relevant, internal consultation with other Departments of Council has taken place for the preparation of this report including with traffic, engineering, development assessment, landscaping, environmental, and urban design staff.

Prior to the matter going to Council, staff presented an overview of the Planning Proposal to Councillors and the opportunity to ask any questions.

SUMMARY

The site, subject of this Planning Proposal, is owned by Killara Golf Club and forms the north-eastern part of the Golf Club land located closest to the Pacific Highway. The Planning Proposal seeks to reinstate residential zoning across the site with a split zoning of R2 (Low Density Residential) and R4 (High Density Residential) and associated height standards.

As required by the Gateway Determination, due consultation has occurred with State Agencies. Responses from the Agencies have resulted in amendment to the Planning Proposal Biodiversity mapping and Zoning Mapping. These changes were incorporated into the DCP Greenweb and other diagram amendments. Discussion on the State Agency response is provided in detail at **Attachment A3** with an overview given in this Report.

Following exhibition of the Planning Proposal and an associated DCP amendment, 64 submissions were made to Council, 34 in support and 28 in objection. All submissions have been addressed in detail in the Submissions Summary Table at **Attachment A4** with an overview provided in this report.

It is considered that sufficient mechanisms (post-exhibition amendments to the Planning Proposal and the DCP) have been put in place to address the concerns raised by the State Agencies and by the community.

The biggest objection has been around the loss of views to surrounding properties. As discussed in this report and response to the submissions in the Submissions Summary Table at **Attachment A4**, the issue of view loss is not a planning consideration as the views are not of the public domain and cannot be classed as iconic or significant.

The State Government has created the Planning Proposal process to enable landowners to apply for amendments to the zoning, standards and uses on their land. The owners of the land at the Killara Golf Club have exercised their right in the submission of this Planning Proposal. As such, Council is obliged to make assessment of any submitted planning proposal and to assess the proposal on planning grounds.

The inclusion of the proposed *Ku-ring-gai Development Control Plan* amendment is additional to the Planning Proposal seeking to amend the *Ku-ring-gai Local Environmental Plan 2015*. It has been put in place to ensure future development on the site integrates with the Ku-ring-gai area character of built form within a landscape setting with canopy trees, and to enable due consideration of neighbouring properties. All proposed amendments to the exhibited *Development Control Plan* amendment are tabulated at **Attachment A5**.

RECOMMENDATION:

- A. That Council adopts the Planning Proposal to amend the Ku-ring-gai Local Environmental Plan 2015 to rezone land at Killara Golf Club, 556 Pacific Highway, Killara, identified as Lot 2 in DP535219, subject to the following additional amendments:
- i. Amend the Terrestrial Biodiversity Map to include additional areas to those exhibited as illustrated in this Report.
 - ii. Amend the Zoning Map to include RE2 (Private Recreation) as illustrated in this Report.
 - iii. Amend Schedule 1 of the Written Instrument to include an Additional Permitted Use allowing Clubhouse use and Carpark use associated with the Clubhouse.
- B. That, in accordance with s3.35(2) of the *Environmental Planning and Assessment Act 1979*; Council forward the revised Planning Proposal to the Greater Sydney Commission to determine whether or not a revised gateway determination and further community consultation is required in accordance with s3.35(3) of the Act.
- C. That, should a revised Gateway Determination and further community consultation not be required, Council proceeds to make the Plan, under delegated authority issued by the Department of Planning and Environment under Section 3.36 of the *Environmental Planning and Assessment Act 1979*;
- D. That Council adopt the *Ku-ring-gai Development Control Plan* amendment associated with the Planning Proposal, subject to the amendments in this report and Attachments.
- E. That the adopted *Ku-ring-gai Development Control Plan* be forwarded to the Department of Infrastructure and Planning in accordance with the Environmental Planning and Assessment Regulation 2000.
- F. That delegation be given to the General Manager and Director of Strategy and Environment to verify all amendments are in accordance with the recommendations of this Council Report and its Attachments and to approve the amendment of minor inconsistencies and errors in the *Planning Proposal* and its associated amendment to the *Ku-ring-gai Development Control Plan* following adoption and prior to forwarding to the Department of Planning and Environment.
- G. That those who made submissions be notified of Council's decision.

Rathna Rana
Senior Urban Planner
















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Item GB.5

S11324

Attachments:	A1	Council Resolution and Report 27 June 2017+Table of Amendments		2018/298606
		A2	Gateway Determination 5 December 2017	2018/298607
		A3	State Agency Consultation discussion and letters	2018/332439
		A4	Community Submissions Summary Table	2018/332440
		A5	Table of Proposed Amendments to exhibited DCP (Part 14C&18R)	2018/332635
		A6	As Exhibited Draft DCP - Killara Golf Club	2018/332339
		A7	As Exhibited Planning Proposal - Killara Golf Club	2018/333135
		A8	Planning Proposal Attachment A - Checklist of Consistency with Section 117 Directions and SEPPs	Excluded 2018/332345
		A9	Planning Proposal Attachment B - Site Survey - YSCO Geomatics	Excluded 2018/332349
		A10	Planning Proposal Attachment C - Urban Design Study - PMDL	Excluded 2018/332351
		A11	Planning Proposal Attachment D - Traffic and Parking Assessment Report - Varga Traffic Planning Pty Ltd	Excluded 2018/332353
		A12	Planning Proposal Attachment E - Statement of Heritage Impact - Graham Brooks and Associates - Conservation Management Plan - Graham Brooks and Associates	Excluded 2018/332352
		A13	Planning Proposal Attachment F - Flora and Fauna Assessment - Footprint Green Pty Ltd	Excluded 2018/332356
		A14	Planning Proposal Attachment G - Preliminary Arboricultural Assessment - Urban Forestry Australia	Excluded 2018/332357
		A15	Planning Proposal Attachment H - Detailed Site Investigation Contamination Report - SESL Australia - Extension of Detailed Site Investigation Study Area - SESL Australia	Excluded 2018/332358
		A16	Planning Proposal Attachment I - Consultation Outcomes Report - Elton Consulting	Excluded 2018/332360

RESULTS OF CONSULTATION ON CONTINUATION OF THE ENVIRONMENTAL LEVY

EXECUTIVE SUMMARY

PURPOSE OF REPORT:	To report on the outcomes of community consultation on a Special Rate Variation for the permanent continuation of the Environmental Levy at the current rate (5%) and to seek endorsement for Council to notify IPART of its decision to apply for this Special Rate Variation.
BACKGROUND:	At its Ordinary Meeting on 13 June 2017 Council resolved to conduct extensive community consultation to determine community support for the permanent continuation of the Environmental Levy at the current rate (5%), commencing on 1 July 2019.
COMMENTS:	<p>In accordance with the IPART requirements, a comprehensive <i>Communication and Engagement Strategy for the Special Rate Variation - Continuation of the Environmental Levy</i> (July 2018) was developed and an extensive community consultation program delivered.</p> <p>Community acceptance of a permanent Special Rate Variation for the continuation of the Environmental Levy at the current rate (5%) and the community's ongoing willingness to pay for the environmental programs and works funded by the Environmental Levy have been clearly demonstrated through the community consultation.</p>
RECOMMENDATION:	<p>A. That Council notifies IPART of its decision to apply for a Special Rate Variation under section 508(2) of the <i>Local Government Act 1993</i> for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019, by the due date of 30 November 2018.</p> <p>B. That Council submits a Special Rate Variation application to IPART under section 508(2) of the <i>Local Government Act 1993</i> for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July, by the due date of 11 February 2019.</p>

PURPOSE OF REPORT

To report on the outcomes of community consultation on a Special Rate Variation for the permanent continuation of the Environmental Levy at the current rate (5%) and to seek endorsement for Council to notify IPART of its decision to apply for this Special Rate Variation.

BACKGROUND TEST

In 2005 the Minister for Local Government approved a seven year, five per cent Special Rate Variation to fund a range of environmental and sustainability programs and initiatives. The Environmental Levy commenced on 1 July 2005 and was due to expire on 30 June 2012.

In June 2011, Council was successful in obtaining approval from the Independent Pricing and Regulatory Tribunal (IPART) under section 508(2) of the *Local Government Act 1993* for a Special Rate Variation to continue the Environmental Levy for eight years at a rate of five per cent above the ordinary rate, commencing 1 July 2011. This incorporated the final year of the 2005-2012 Environmental Levy and the seven year works program proposed under the new Environmental Levy.

The current Environmental Levy is due to expire in June 2019 at which time if the Levy is not renewed the environmental works and programs reliant on Levy funding will cease.

At its Ordinary Meeting on 13 June 2017 Council resolved to:

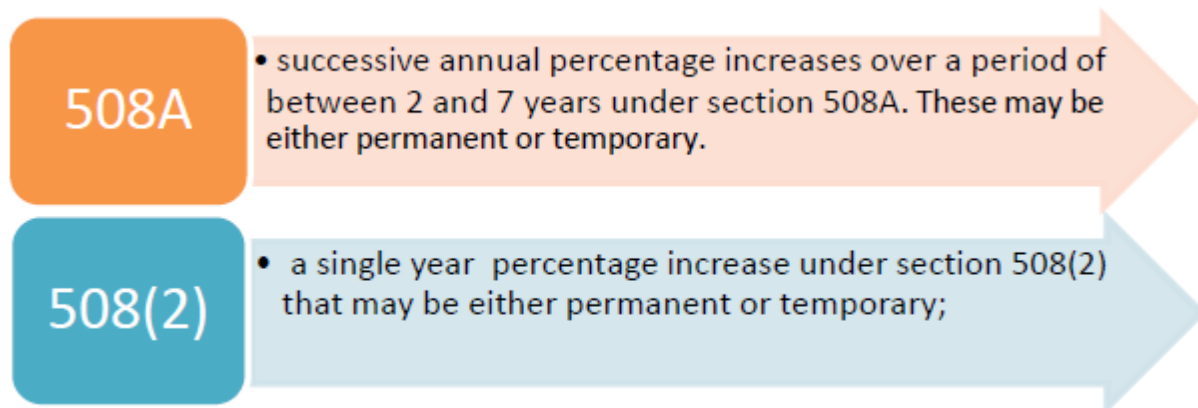
- A. *Prepare a Special Rate Variation application to IPART under section 508(2) of the Local Government Act 1993 for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019.*
- B. *Conduct extensive community consultation to determine community support for the ongoing Special Rate Variation for environmental and sustainability programs and initiatives.*
- C. *Conduct community, Councillor and staff consultation to develop an Environmental Levy program to support Council's Special Rate Variation application.*
- D. *Report back to Council the outcomes of (B) and (C), prior to Council notifying IPART of its decision to apply for a Special Rate Variation.*

This report will outline the outcomes of (B) and (C) above.

COMMENTS

The Guidelines for the preparation of an application for a Special Rate Variation to general income for 2019/20 (October 2018), included in this report as **Attachment A1**, provide guidance to councils preparing special rate variations.

The Guidelines outline the two Special Rate Variation options under the *Local Government Act 1993* when seeking a special variation:



Council intends to apply for a Special Rate Variation to permanently continue the Environmental Levy under section 508(2) of the *Local Government Act 1993* at a rate of five per cent above the ordinary rate, commencing on 1 July 2019. This would be a continuation of the current, eight year Environmental Levy which would remain permanently in the rate base.

The criteria against which IPART assesses each application are based on what councils are required to do under Integrated Planning and Reporting (IP&R). These criteria are:

1. **The need for, and purpose of, a different revenue path for the council’s General Fund (as requested through the special variation) is clearly articulated and identified in the council’s IP&R documents**, in particular its Delivery Program, Long Term Financial Plan and Asset Management Plan where appropriate. In establishing need for the special variation, the relevant IP&R documents should canvas alternatives to the rate rise. In demonstrating this need councils must indicate the financial impact in their Long Term Financial Plan applying the following two scenarios:

- Baseline scenario – General Fund revenue and expenditure forecasts which reflect the business as usual model, and exclude the special variation; and
- Special variation scenario – the result of implementing the special variation in full is shown and reflected in the General Fund revenue forecast with the additional expenditure levels intended to be funded by the special variation.

The IP&R documents and the council’s application should provide evidence to establish this criterion. This could include evidence of community need/desire for service levels/project and limited council resourcing alternatives. Evidence could also include analysis of council’s financial sustainability conducted by Government agencies.

2. **Evidence that the community is aware of the need for and extent of a rate rise.** The Delivery Program and Long Term Financial Plan should clearly set out the extent of the General Fund rate rise under the special variation. In particular, councils need to communicate the **full cumulative increase** of the proposed SV in percentage terms, and the total increase in dollar terms for the average ratepayer, by rating category. The council’s community engagement strategy for the special variation must demonstrate an appropriate variety of engagement methods to ensure community awareness and input occur.

3. **The impact on affected ratepayers must be reasonable**, having regard to both the current rate levels, existing ratepayer base and the proposed purpose of the variation. The Delivery Program and Long Term Financial Plan should:
 - clearly show the impact of any rate rises upon the community,
 - include the council’s consideration of the community’s capacity and willingness to pay rates, and
 - establish that the proposed rate increases are affordable having regard to the community’s capacity to pay.
4. **The relevant IP&R documents must be exhibited (where required), approved and adopted by the council** before the council applies to IPART for a special variation to its general income.
5. **The IP&R documents or the council’s application must explain the productivity improvements and cost containment strategies** the council has realised in past years, and plans to realise over the proposed special variation period.

INTEGRATED PLANNING AND REPORTING

Natural Environment

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
A community empowered with knowledge, learning and information that benefits the environment.	Increased community action that benefits the environment.	Deliver environmental resources and programs for residents.

GOVERNANCE MATTERS

The governance matters relating to the Special Rate Variation application for the permanent continuation of the Environmental Levy are summarised below:

Activity	Status
Council resolves to prepare a Special Rate Variation pursuant to section 508(2) of the <i>Local Government Act 1993</i> for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019.	13 June 2017
Council’s Special Rate Variation application must be based on adopted IP&R documentation and appropriate community engagement.	Subject of this report
Council resolves to notify IPART of its intention to apply for a Special Rate Variation for the continuation of the Environmental Levy.	Subject of this report
Council notifies IPART in writing of its intention to apply for a Special Rate Variation for the permanent continuation of the Environmental Levy.	Pending – deadline is 30 November 2018

Activity	Status
Council submits a Special Rate Variation application, which includes Part A and B; a certification signed by General Manager and Responsible Accounting Office; Council’s resolution to apply for the special variation; and other supporting documentation.	Pending – deadline is 11 February 2019
IPART notifies councils of outcome of their Special Rate Variation application	14 May 2019

RISK MANAGEMENT

While this is a matter for IPART, who will make a determination on the strength of Council’s case as outlined in its application, there remains a significant risk to the ongoing success and service delivery levels of Council’s environmental and sustainability program if an approval is not given.

An extensive community consultation program has been designed and implemented in accordance with IPART’s *Guidelines for the preparation of an application for a Special Rate Variation to general income for 2019/20* and “Fact Sheet – Community awareness and engagement for special variations” to ensure that Council’s application meets the criteria against which IPART assesses each application.

FINANCIAL CONSIDERATIONS

Council has assumed for many years in its adopted Long Term Financial Plan the ongoing contribution of an Environmental Levy at five per cent of notional income, to deliver the majority of Council’s environmental programs and works.

The continuation of an Environmental Levy at a rate of five per cent above the ordinary rate is consistent with the existing Environmental Levy so there will be little change to current rate levels and no major financial impact on Council. However, if Council or IPART do not support the continuation of an Environmental Levy there would be a need to significantly review Council’s financial plan and service delivery across many areas, subsequently resulting in a significant reduction in Council’s environmental programs and works, and impacting Council’s operational programs, other capital works and utility costs that are reduced as a result of various energy and water savings initiatives delivered under the Environmental Levy program.

Council has demonstrated the financial impact of a continuing Environmental Levy in its current Long Term Financial Plan applying the following two scenarios:

- Baseline scenario – General Fund revenue and expenditure forecasts which reflect the business as usual model, and exclude the special variation; and
- Special variation scenario – the result of implementing the special variation in full is shown and reflected in the General Fund revenue forecast with the additional expenditure levels intended to be funded by the special variation.

Throughout the community consultation program, Council clearly communicated the full impact of the proposed rate increases on the various categories of ratepayers. The full financial impact of the continuation of the Environmental Levy will form part of Council’s application to IPART.

SOCIAL CONSIDERATIONS

Council proactively works together with Ku-ring-gai residents and community groups to deliver the Levy program. The Levy program builds on the goodwill of local volunteers, particularly through the environmental volunteering program (including Bushcare and Streetcare) and the Environmental Levy community grants program. The Loving Living Ku-ring-gai program provides residents with opportunities to connect with Ku-ring-gai's beautiful natural environment and to connect with other likeminded residents in the Ku-ring-gai area, whilst assisting the community to take action that benefits the environment.

The Levy's recreational program has provided the Ku-ring-gai community with a number of community recreational facilities, including cycle ways, walking tracks and mountain bike tracks, contributing to the health and wellbeing of the local community through access to natural areas.

ENVIRONMENTAL CONSIDERATIONS

Key environmental and social benefits of the Environmental Levy program include:

- the reduction of urban impacts of stormwater on riparian zones;
- a reduction in potable water use;
- improvements to the condition of streams and creeks;
- regeneration of bushland;
- the control of dumping and encroachment into bushland;
- a reduction in Council's energy use and greenhouse gas emissions;
- increased community connection to nature and to others in the local community; and
- increased community wellbeing.

The Environmental Levy is the primary delivery mechanism for Council to respond to the community's long term environmental objectives in the Community Strategic Plan and to achieve the environmental goals of Council's Delivery Program and Operational Plan and its various environmental policies and strategies.

Attachment A2 provides full details of the outstanding achievements of the Environmental Levy for the benefit of Ku-ring-gai's environment and its community.

COMMUNITY CONSULTATION

Community consultation forms a major part of the Special Rate Variation application. To successfully apply Council must demonstrate to IPART that it has undertaken a comprehensive process of communications and community engagement and that:

- it has used an appropriate variety of engagement methods to ensure community awareness and input into the SRV process;
- the community is aware of the need for, and extent of, the rate rise; and
- the community are supportive of the SRV.

In assessing whether a council's application satisfies the community awareness and engagement criterion, IPART will consider the following principles:

- whether the council clearly communicated the full impact of the proposed rate increases on the various categories of ratepayers; and
- whether the council clearly communicated what the SV would fund.

Applications should clearly demonstrate how it has considered and responded to issues of common concern to the community. Consultation material should preferably measure the level of community support for different programs of expenditure by allowing respondents to rank services and/or proposed works in order of priority.

COMMUNITY CONSULTATION PROGRAM

In accordance with the IPART requirements, a comprehensive *Communication and Engagement Strategy for the Special Rate Variation - Continuation of the Environmental Levy* (July 2018) was developed and is included as **Attachment A3**.

The purpose of the Communication and Engagement Strategy was to:

1. **Inform** the Ku-ring-gai community about the proposed extension of the Environmental Levy, including:
 - What the Levy has funded and could fund in the future
 - Why the Levy is needed
 - Where the Levy has helped support environmental outcomes in Ku-ring-gai
 - The impact on services and rates with a continued Levy, a reduced Levy and no Levy
2. **Consult** the community:
 - To gauge support for a continuing Levy, reduced Levy or no Levy
 - To gauge support for a permanent Levy, should there be support for a continuing Levy
 - Ensure the level of the proposed Levy is appropriate
3. **Involve** the community:
 - To help Council prioritise environmental works and programs that should be funded by the Levy, should it continue

In summary, the community consultation program involved:

Exhibition and adoption of Integrated Planning and Reporting (IP & R) documents

A suite of information on the SRV application for the permanent continuation of the Environmental Levy, in accordance with the *Guidelines for the preparation of an application for a special variation to general income*, was included in Council's Draft Community Strategic Plan, Draft Delivery Program 2018–2021 and Operational Plan 2018 – 2019, and Draft Resourcing Strategy 2018 – 2028, which were publicly exhibited for 29 days from 11 May to 8 June 2018. Council adopted all the Plans at its Ordinary Meeting of 26 June 2018. No submissions were received from the community on the sections of the Plans containing information on the SRV application for the permanent continuation of the Environmental Levy.

Pre consultation information campaign

This purpose of this phase was to increase awareness of the Environmental Levy in advance of the consultation phase and the opportunities available for the community to provide feedback on the continuation of the Levy. This involved:

- Excerpt on the SRV application in the July rates notice, sent to 43,986 households
- Environmental Levy display and information sessions at:
 - Wildflower Garden Festival on 26 Aug 2018
 - Gordon Shopping Centre on 28 August, 8 September and 19 September 2018
 - That Great Market, East Lindfield on 16 September 2018
 - Turramurra Fresh Produce and Gourmet Market on 4 November 2018
 - Turramurra Library (display only) for one week in October 2018
 - Gordon Library (display only) for three weeks in October 2018
- Digital communication campaign including a promotional Environmental Levy video, website information and social media posts, promoting what the Environmental Levy delivers and how the community could get involved in the subsequent community consultation. Social media included 7 Facebook posts, reaching 10,908 people and tweets reaching 658 people. Promotion on the Environmental Levy webpage reached 250 people.

Direct engagement

The purpose of this phase of engagement was to gauge community support for the continuation of a permanent Environmental Levy and secure feedback the community regarding priorities for future Levy funded programs and works, should it continue. This involved:

- Recruited representative survey - a sample of 495 randomly selected residential ratepayers were recruited and surveyed by an independent market research company (via a phone, online or street intercept survey) between September and November 2018, to gauge support for the permanent extension of the Environmental Levy and to obtain feedback on the priorities for future Levy funded programs and works, should it continue. Participants were provided with an information pack regarding the Levy prior to the completion of the survey, to ensure they had some degree of knowledge when providing their opinion.
- Recruited community consultation workshop – 29 residential ratepayers who participated in the representative survey attended a consultation workshop facilitated by an independent consultant on Thursday, 18 October 2018 from 6–9pm. The three hour workshop covered:
 - A presentation of current Environmental Levy programs and works and their outcome
 - A presentation on options for the future of the Levy, namely, a continued or reduced Levy and no Levy, including the impacts on rates under these scenarios and the implications on service levels / programs
 - A presentation on the permanency of the Environmental Levy
 - A vote on the attendee's preferred option (continuation of Levy / reduced Levy or no continuation of the Levy) and the permanency of the Levy
 - A prioritisation exercise to inform Council's plan for future Levy programs and works, should the Levy continue

Item GB.6

S11574-1

- Online engagement platform – using Council's 'OurSay' online engagement facility, a consultation page was created to gain further (resident and business) ratepayer feedback between Wednesday, 3 October and Sunday, 4 November 2018, with:
 - A suite of information on the Environmental Levy and the Special Rate Variation application
 - an online survey (based on the representative survey)
 - an opportunity to provide an email submission
 - registration for an opt-in consultation workshop on Tuesday 23 October 2018
- Printed survey – based on the online survey, a printed copy of the survey was available for completion and return at Council's customer service desk, St Ives library, Gordon library and Lindfield library between Wednesday 3 October and Sunday 4 November 2018, designed for those without access or skills to complete the online survey.

A total of 197 responses were gathered through the online and printed survey.

The opt-in workshop planned for Tuesday, 23 October 2018, intended to follow the same structure and content as the recruited workshop but open to any interested community or business ratepayers, was cancelled due to lack of registrations.

The online engagement platform and opt-in consultation workshop was promoted widely through Council's various communication channels, namely:

- Advertisements in the North Shore Times, Hornsby Advocate and Sydney Observer
- Direct mail out to 773 business ratepayers, considering business ratepayers were not surveyed through the recruited, representative survey
- Five Facebook posts, reaching 10,085 people
- Tweets, reaching 533 people
- Email notifications to email subscriber lists, reaching 2,073 subscribers
- Notification in sustainability E-news (2,882 subscribers) and Ku-ring-gai E-news (9,336 subscribers)

There were a total of 1,146 visits (page views) to the 'Our Say' page over the period 3 October to 4 November 2018.

COMMUNITY CONSULTATION RESULTS

Options in relation to the future of the Environmental Levy

When asked to choose one of the following three options:

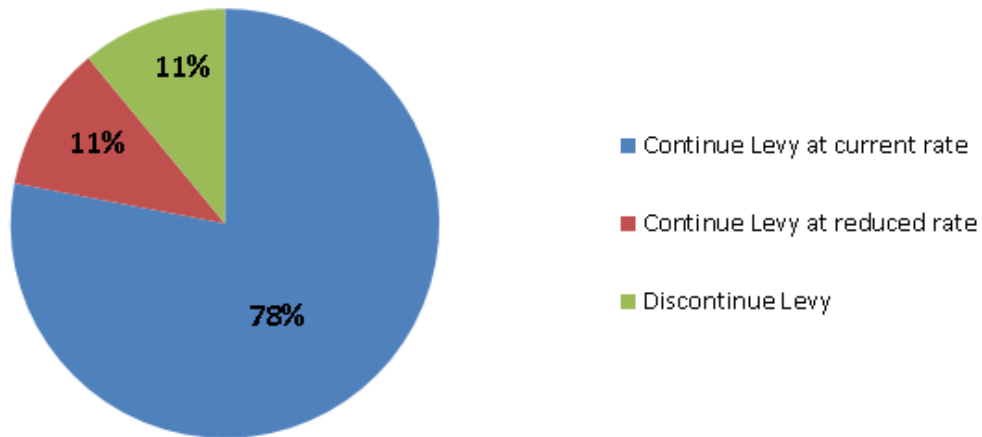
- Continue the Environmental Levy at the existing rate (around \$80 a year for the average residential ratepayer and \$65 a year for the average business ratepayer)
- Continue the Environmental Levy at a reduced rate – and reduce the environmental services and programs offered
- Discontinue the Environmental Levy – fund environmental programs and works from base rates and reduce other Council services

Item GB.6

S11574-1

The results were:

Recruited representative survey



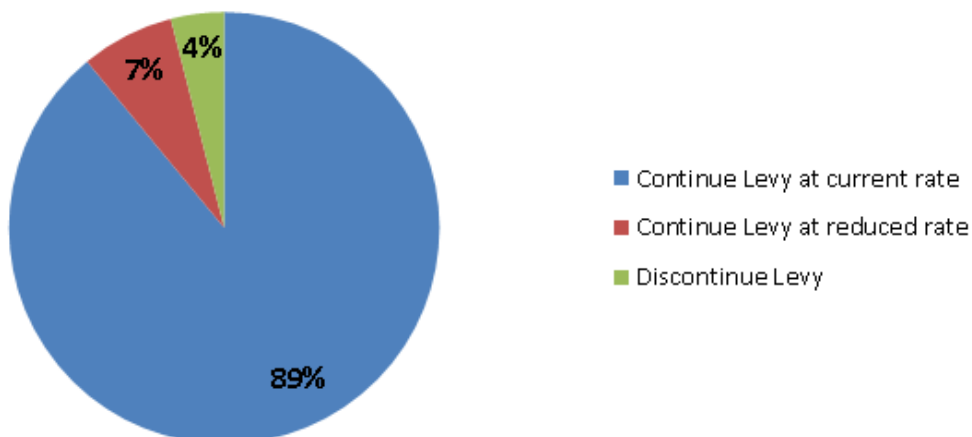
n = 495

Those who indicated a preference for the discontinuation of the Levy (n=56 respondents) were then asked to indicate why this was their preference.

The most common reason given for wanting to discontinue the current Environmental Levy was that 'the rates should be covering the Levy' (38%) i.e. that the environmental works should be covered under the general revenue collected through Council rates.

Some also felt that there was waste in the general expenditure of funds by indicating that "if they didn't spend money on stupid things they would have enough money without the levy" (17%). A similar proportion opted for the discontinuation because they hadn't seen evidence of what has been achieved to date (15%). Relatively few were objecting for financial reasons (9% indicated that it was "too expensive").

Recruited community consultation workshop



n = 28

Item GB.6

S11574-1

Even though a measure of this had already been captured in the main survey, participants at the community forum were asked to discuss the advantages and disadvantages of each potential outcome so that we would have a better understanding of why rate payers had made the choices that they made within the main survey (i.e. to explore the reasoning further).

The main advantages of continuing with the Levy at the same rate tended to relate to the fact that most were very happy with what Council had been doing to date in relation to the environment. They felt that there were a range of valuable programs in place that should be continued. A few of the participants even went as far as suggesting that the Levy could potentially even be increased in order to expand the program of works possible through the Levy. In terms of the monetary value, most felt it was not a large sum of money, and the benefits that they would draw from the program of works would more than make up for the expense involved. Participants were strongly in favour of the natural setting of their place of residence being maintained and potentially enhanced.

Another line of discussion was that this was the only option that will give council the opportunity for certainty in what they are doing – and allow them to plan a full set of environmental programs. To this end it was felt to offer both Council and ratepayers some certainty.

In terms of potential disadvantages to continuing with the Environmental Levy at the current rate, some of the forum participants were sceptical of Council generally, and weren't sure that they could 'trust' that Council would spend all of the money on the environment, or that it would be efficiently managed. Cost was raised as a potential issue for some ratepayers.

Overall, the only advantage of the option of continuing with the Environmental Levy at a reduced rate was seen to be that rate payers would be paying less for their rates each year.

In terms of potential disadvantages of this option, the main concerns related to the idea of cutting back on the current set of services offered in this area. Some participants also raised specific implications such as the impact that this would have on the Council's ability to attract matched funding grants from other levels of Government, or the direct implication on (for example) reducing the number of staff that they could employ to work in this area.

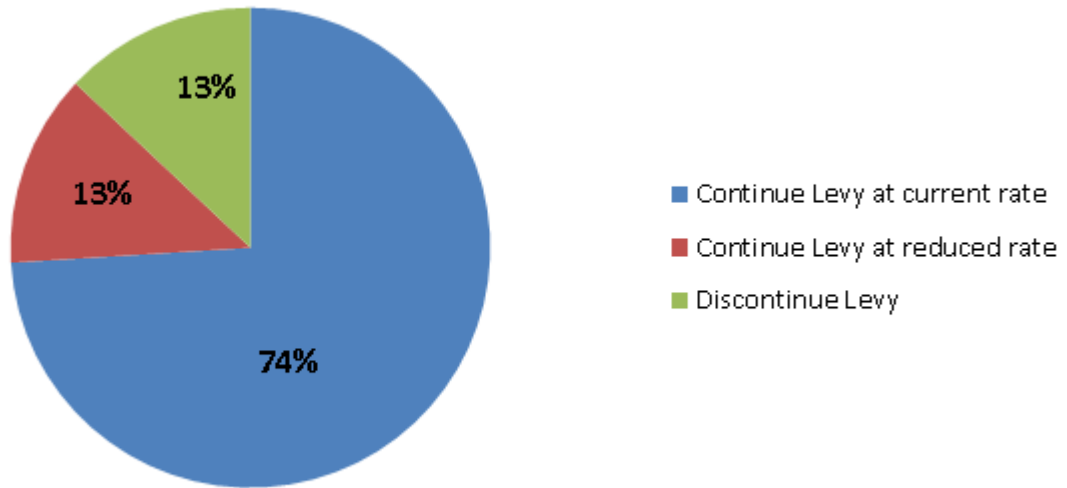
A few participants were also concerned about how the decisions would be made as to which services to keep and which ones to do away with.

The participants struggled to see what advantages there would be under the option to discontinue the Environmental Levy. The monetary saving was seen to be obvious, though not significant, and beyond that the forum participants were unable to provide any other potential advantages.

The disadvantages were seen to be more severe (than the option of continuing with the Levy but at a reduced rate) under this option. While they weren't sure which environmental services would be maintained, they also felt that other 'basic' Council services would be impacted if this option were to be selected.

In terms of disadvantages, the main one mentioned was the potential loss of current services. Some thought that this was quite short-sighted; suggesting that the environment needed to be enhanced not degraded.

Online engagement platform and printed surveys



n = 197

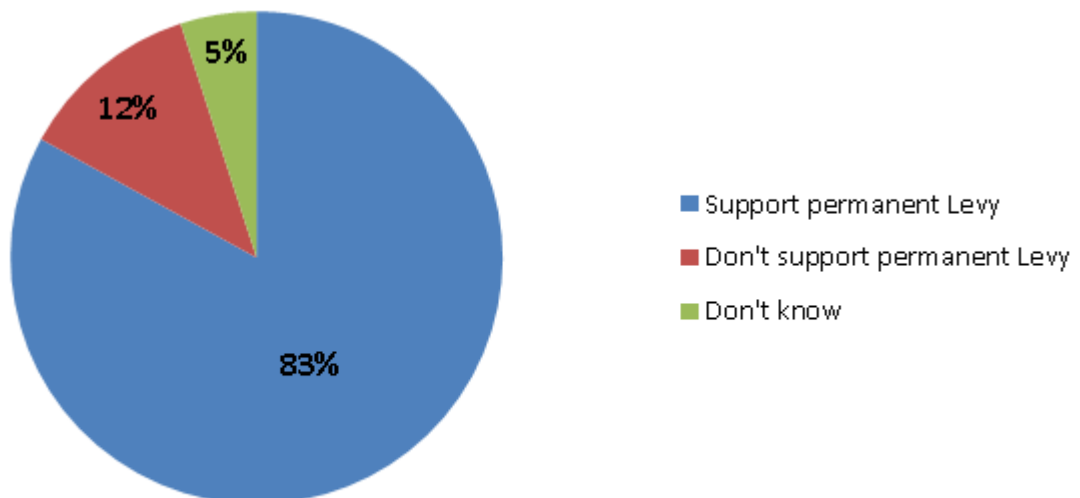
No reasons were given in the survey responses as to why respondents did not support the continuation of the Environmental Levy.

Support for the permanent continuation of the Environmental Levy

When asked the question do you support the permanent continuation of the Environmental Levy, the results were:

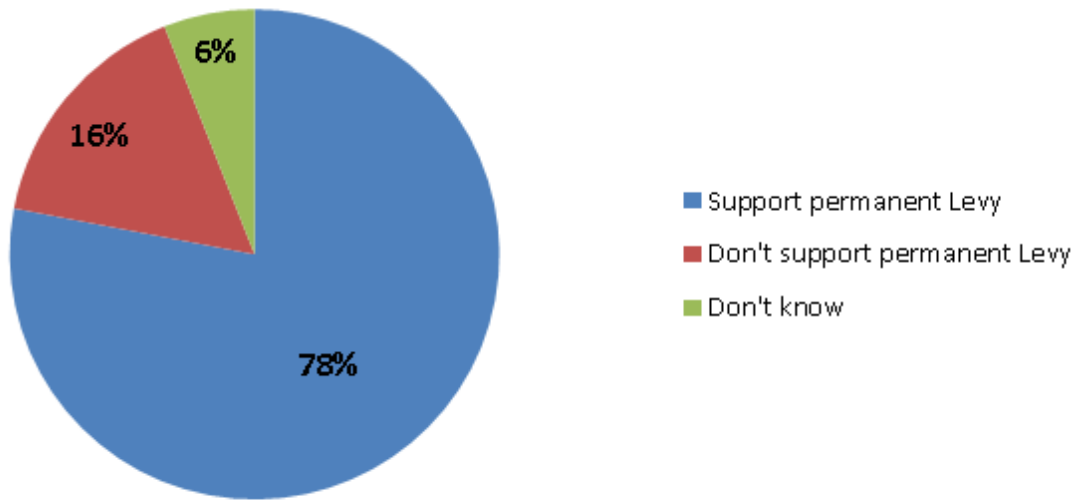
Recruited representative survey

Amongst those supporting the continuation of the Levy at the current rate (78%):



n = 388

Amongst those supporting the continuation of the Levy at the current or a reduced rate (89%):

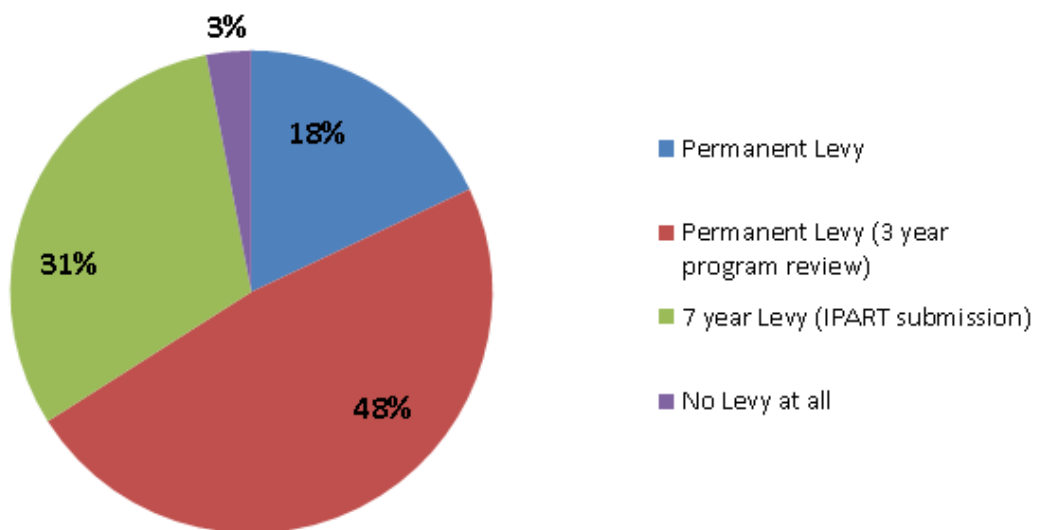


n = 442

The survey respondents who were in favour of the continuation of the Environmental Levy at the current or a reduced rate but did not support the permanent aspect of the Levy were asked to indicate why they were not in support of the Levy being in place on a permanent basis.

While based on a relatively small number of respondents, the most common reason given for not supporting the permanency of the Levy was that they liked the idea of Council having a review process in place every 7 years (59%). Some also believed that permanent programs can 'slack-off' and become 'inefficient' (22%).

Recruited community consultation workshop



n = 28

Item GB.6

S11574-1

The participants at the consultation workshop were asked to discuss the advantages and disadvantages of having a permanent Levy in place.

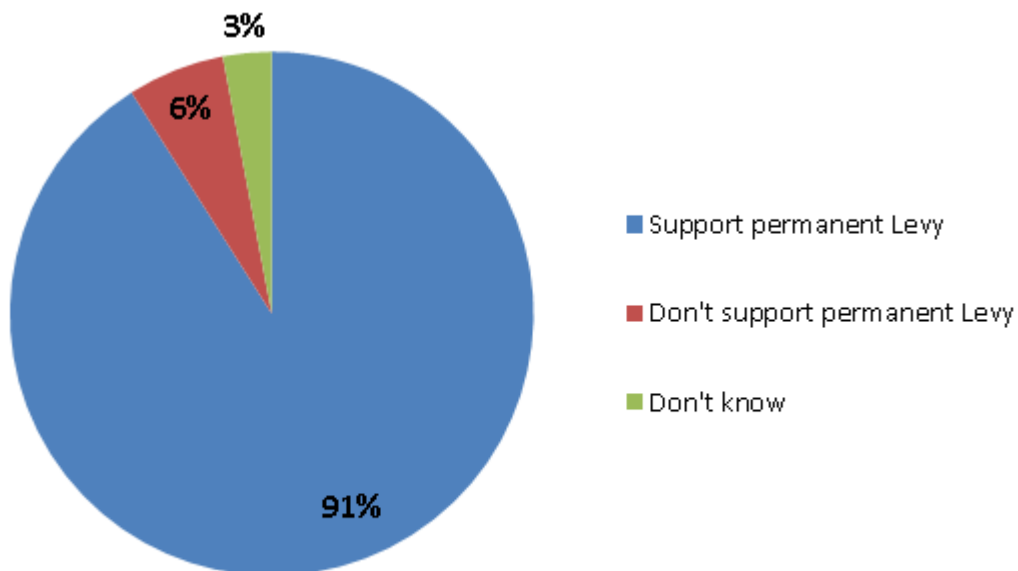
In terms of advantages, some participants simply referred to the good work that Council had been doing to date, and felt that it made sense that this was continued into the future. More specifically, there was discussion around the advantages that having an assured budget would have to the formulation of their long term plans.

A couple of participants also pointed to the fact that if the Levy was permanent there would be less 'hassle' for the Council, and they wouldn't have to go through another community consultation phase in another 7 years (which they assumed was an expensive process). There was also the suggestion that having a permanent Levy would show that the Council is committed to the environment.

However, at each of the tables, the idea of including a review in the process was raised, and this was ultimately seen to be important to most participants. While they had faith in Council based on their record to date (in this area), they didn't necessarily feel as though the Levy should continue on without any form of accountability and community review or input. To this end most agreed that forums (such as the one they were participating in) were a good way for detailed information to be delivered – thereby allowing the community to give feedback and express preferences moving forward. As such, a vote was undertaken on four potential options were presented, as above.

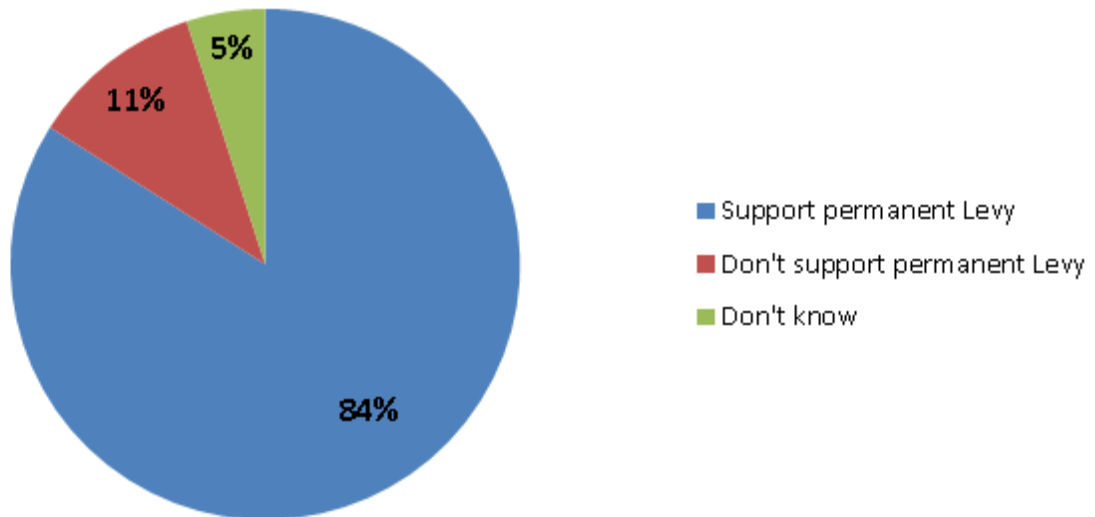
Online engagement platform and printed surveys

Amongst those supporting the continuation of the Levy at the current rate (74%):



n = 147

Amongst those supporting the continuation of the Levy at the current or a reduced rate (87%):



n = 170

Of the 11% of respondents who didn't support a permanent Levy (n = 19 respondents) the reasons given were:

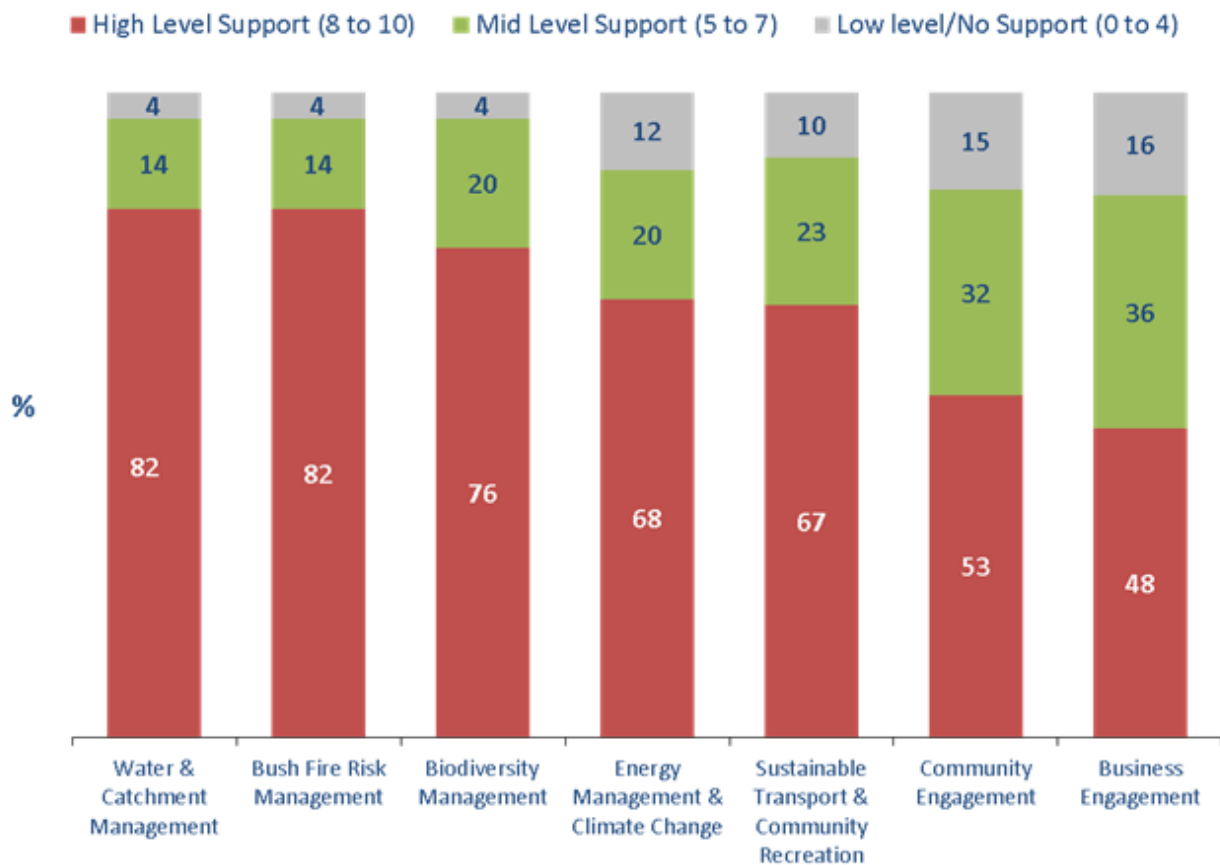
- Prevent misuse and wasting of these funds
- Create accountability
- 7 years is a reasonable framework for planning purposes and it may not be needed at the same rate forever
- Allows continuous monitoring on how effectively the money is being spent
- Might just become part of the rates collected and would no longer be ring fenced for special projects
- Good to reassess

Future Environmental Levy program priorities

When asked to rank their level of support for funding each program area on a scale of 0 (do not support at all) to 10 (very strong support), the results were:

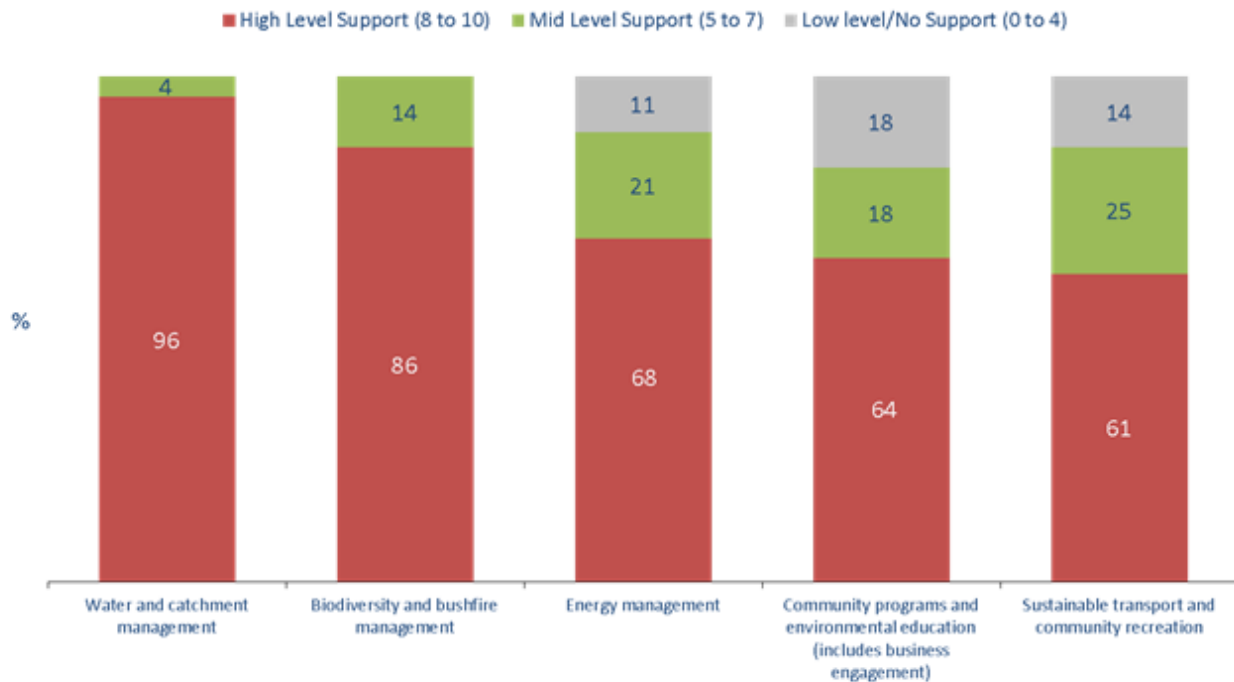
Recruited representative survey

Amongst those supporting the continuation of the Levy at the current or a reduced rate (89%):



n = 442

Recruited community consultation workshop



n = 28

In overall terms, the consultation workshop participants were very positive in their feedback on the program areas. They felt that Council was tackling a wide range of environmental issues – to the extent that some were surprised at the variety of programs that Council was currently undertaking.

When asked why they thought the budget distribution was different to the pattern of support shown in the community survey results, some simply suggested that this could be due to some activities costing more than others.

Forum feedback in relation to energy management

Some of the aspects included in this program area were not what the participants would have expected the Levy to be covering. Upon further investigation it became clear that some participants had made the assumption that the funds from the Levy would be primarily used to enhance the natural environment around them (with projects that may enhance the biodiversity of the area or eradicate pest species for example), so they were somewhat surprised to see that within this program area there was money spent on initiatives such as data management systems and electric vehicles.

Some felt that these types of initiatives should be standard for a Council like Ku-ring-gai, and as such the money for these initiatives should come out of the general expenditure budget. Even so, most participants expressed support in relation to the overall plan of works outlined to them.

Forum feedback in relation to biodiversity and bushfire management

The type of projects outlined in this program area seemed to be much more in keeping with the prior expectations that participants had in relation to Levy fund expenditure. They described them as projects that would enhance and maintain the natural environment – which fitted better with what they had been thinking of in relation to the Levy. It follows that overall there appeared to be a great deal of support for this program of works, and most agreed that these were high priority initiatives.

However, at two of the three tables there were calls for Council to do more about the rabbit situation in the area.

Forum feedback in relation to water and catchment management

Again there was positive feedback obtained at each table in relation to this program area – particularly the projects related to waterway health. The issue of flooding was also a common point of discussion, stating that flooding is likely to become more prevalent with climate change, and that this area of work will become increasingly important.

The reference to stormwater also raised comment, as many felt that stormwater was a resource that was currently underutilised. A few participants also indicated that more could be done to clear stormwater pits and drains in order to prevent localised flooding when there were significant downpours.

Forum feedback in relation to sustainable transport and community recreation

While the initiatives listed in this program area were also seen as being important, there was again some discussion as to whether they should be funded through the Environmental Levy. For example, cycle-ways did not necessarily fit with what participants had initially understood the levy to cover – but were still seen to be important in outright terms. There was also support for more to be done with walking tracks – with the separation of these from cycle ways.

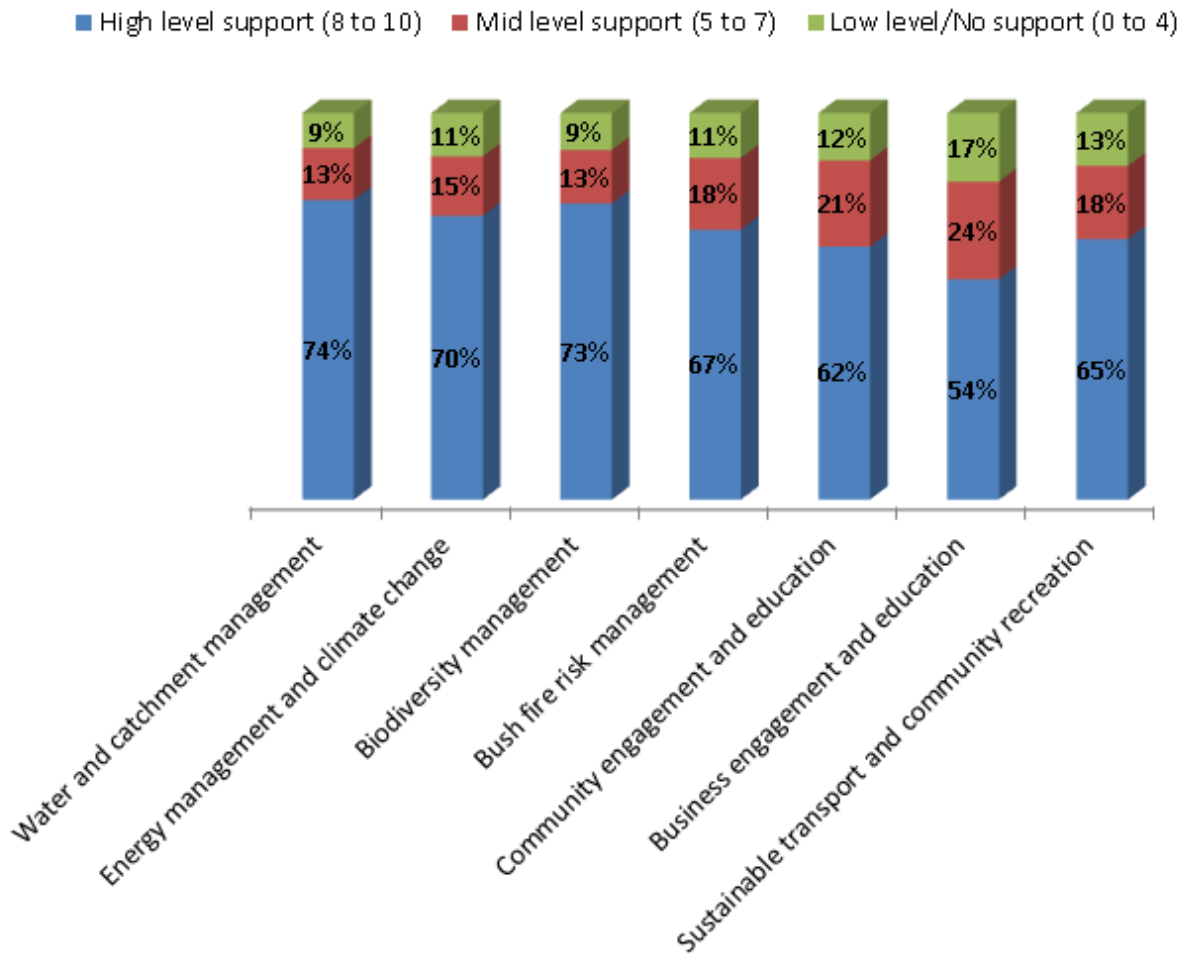
In terms of other suggestions, there was a call by a few participants for Council to look into ride sharing transport options, and transport on demand services.

The budget proportion attributed to this area was also a point of discussion at two of the three tables. Despite the reservations by some about these initiatives being funded by the Levy, they still felt that the projects were worthwhile, and wondered if more should be spent in this area, feeling that it was not a high enough proportion of the budget to result in significant infrastructure for more cycle ways and walking tracks.

Forum feedback in relation to community engagement and environmental education

The aspect of education resonated with most participants. They felt that it was important for the ‘average resident’ to be aware of the impact of their actions, and their ability to live more sustainably. Interestingly, however, the discussion at each table turned to education of the youth – with questions and suggestions that a schools program was required. In addition, the aspect of awareness was raised at each table. While participants felt that most of the projects that had been outlined to them in the presentation sounded good, but that they needed to be more broadly promoted.

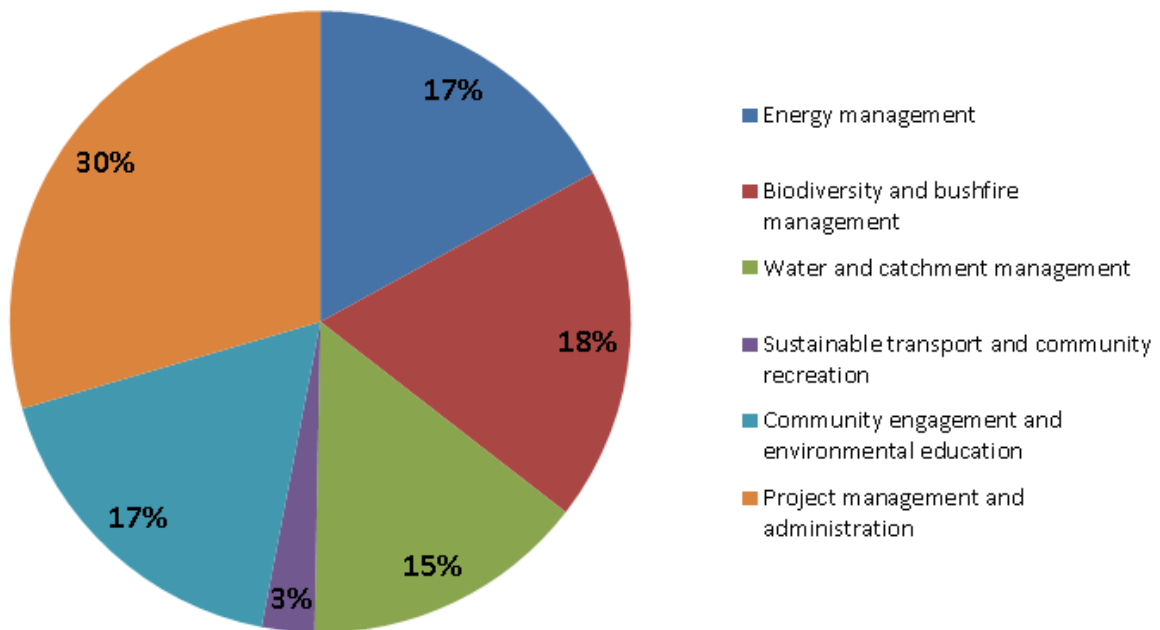
Online engagement platform and printed surveys



n = 197

As a result of the staff consultation conducted to inform a draft 10 year Environmental Levy program for 2019/20 – 2028/29 (see the internal consultation section below) and the feedback received through the community consultation process, a final 10 year Environmental Levy program for 2019/20 – 2028/29 has been developed (based on current year prices), to support Council’s application to IPART, and is included as **Attachment A4**.

Budget has been allocated as follows across the key program themes of energy management, biodiversity and bushfire management; water and catchment management; sustainable transport and community recreation; community engagement and environmental education; and project management and administration:



Proposed Environmental Levy budget allocation (2019/20 – 2028/29)

As a result of the community feedback received on the draft program:

- A 'pest species management in key reserves' budget line has been added; in accordance with the same feedback received by staff in developing the draft program
- The water and catchment management program funding has been slightly increased, and the community engagement and education program funding has been slightly decreased in the final program, in comparison to the funding amounts identified by Council staff in developing the draft program
- Funding for recreation in natural areas (including walking tracks) has been increased and funding for cycle ways has been decreased, compared to the Environmental Levy budget for 2011/12 – 2018/19
- The Levy auditing budget line has been expanded to include community consultation, to ensure that a three year program review is conducted with the community, in accordance with a key recommendation from the community consultation workshop.

Email submissions

Four (4) email submissions were received throughout the community consultation period. A summary of these submissions and a response is provided over:

Submission number	Submission content	Response
1	<p>We are not opposed to renewing the environmental levy in 2019 as proposed as long as it is reviewed for its efficacy. Governments always seem to believe that they are spending our money to our advantage, but to verify those assertions, taxation needs return-on-investment review periodically to ensure value/validity of the taxation; permanence will lessen if not eliminate those review cycles (i.e. taken for granted by Ku-ring-gai Council by those who administer the program (i.e. efficiency concerns).</p> <p>Please place us in the "NO" to permanence but "YES" to renewal in 2019 IF independent auditing validates its necessity and real value for renewal for another period as was the last one.</p>	<p>The Levy auditing budget line has been expanded to include community consultation, to ensure that a three year program review is conducted with feedback from the community (including a community consultation workshop).</p> <p>Extensive community consultation has been conducted to ensure validation of the Environmental Levy's necessity and value, as outlined in this report.</p>
2	<p>2 million in the can..... scratch me happy if it pays more we could all do with car parks.</p>	<p>Comment noted</p>
3	<p>Would like funding for:</p> <ol style="list-style-type: none"> 1. Safety on our bush tracks. I lead senior bushwalks for 2 groups and many of our steps are too eroded and steep for most of us, for example Seven Little Australians and parts of the STEP track 2. Weeding some of the spectacular cliff faces beside our roads, for example, Milton Rd off Ravenhill South Turramurra. Some require minimum help although many are large projects. 	<p>Funding has been allocated to recreation in natural areas, which will include the maintenance and renewal of walking tracks. Funding has also been allocated to our environmental volunteering program, which could include supporting groups conduct weeding in areas identified as a priority by the community.</p>
4	<p>I would like the Levy to be continued for: Bushcare, school environment 'hand on education', for street landscapes with native plants and replacing all the trees that have been removed; for public education on recycling, for Council to execute the latest technology for the ultimate disposal of all the waste.</p>	<p>The initiatives in this submission are in accordance with the proposed 10 year Levy program that forms part of this report.</p>

Demographic profile of those who participated in the engagement process

Recruited representative survey (n = 495)

Ward	Age group	Gender
Comenarra 21%	18-34 4%	Female 54%
Roseville 19%	35-54 30%	Male 46%
Gordon 19%	55+ 66%	
Wahroonga 19%		
St Ives 22%		

It was not possible to set either age and gender quotas due to the fact that in order to satisfy IPART requirements, respondents to the survey needed to be Ku-ring-gai Council rate payers, and there were no available demographic details for this sub-set of the overall community. However, in order to ensure that there was a broad mix of older and younger rate payers included, in addition to the recruitment via telephone a series of street intercept interviews were also carried out.

For a survey of this nature a relatively good gender balance was achieved. In terms of the respondents' age profile, as a comparison, the age demographics of Ku-ring-gai's population (with the total population base being those residents 19 years and older, considering we were targeting ratepayers, or 84,894 residents) are 20-34 year olds (19.2%); 35-55 year olds (39.5%); and 55+ years (41.2%) (based on the Ku-ring-gai Council area Community Profile, 2016). It was assumed, however, that due to the high property prices in Ku-ring-gai, a lower proportion of 20-34 year olds would be ratepayers.

Recruited community consultation workshop (n = 29)

Ward	Age group	Gender
Comenarra 24%	35-54 20%	Female 45%
Roseville 18%	55+ 80%	Male 55%
Gordon 17%		
Wahroonga 24%		
St Ives 17%		

Quotas on survey responses (using the question relating to the three options for the continuation of the Levy and the question relating the permanency of the Levy) were prioritised when recruiting for the community consultation workshop so that attendees reflected the outcomes of the survey attitudinally.

Online engagement platform and printed surveys (n = 197)

Suburb		Age group		Gender		Ratepayer category	
St Ives	13%	Under 18	5%	Female	60%	Residential ratepayer	84%
St Ives Chase	1%	18-35	10%	Male	39%	Business ratepayer	3%
Gordon	14%	36-50	30%	Other	1%	Residential & business ratepayer	4%
Pymble	11%	51-70	38%			Local business (non-ratepayer)	1%
West Pymble	5%	70+	17%			Local resident (non-ratepayer)	4%
Roseville	4%					None of the above	4%
Wahroonga	15%						
North Wahroonga	1%						
Killara	7%						
Lindfield	7%						
East Lindfield	5%						
Turramurra	10%						
North Turramurra	2%						
South Turramurra	1%						
Warrawee	2%						
Outside LGA	2%						

A full summary of the results for the recruited representative survey and recruited community consultation workshop is included as **Attachment A5**. A full summary of the results for the online engagement platform and printed surveys is included as **Attachment A6**.

Summary of results

Results for all three of the main engagement methods, namely the: (i) recruited representative survey; (ii) the community consultation workshop; and (iii) the online engagement platform and printed survey, show strong community support for the permanent continuation of the Environmental Levy at the current rate (5%).

Results of the community consultation also show broad support for the proposed 10 year Environmental Levy program, with the improvements outlined in this report. In summary:

- There is 84% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the recruited representative survey respondents
- there is 82% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the recruited community consultation workshop respondents
- there is 83% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the online engagement platform and printed survey respondents

Community feedback on the levels of support for funding each program area in the recruited representative survey and community consultation workshop showed an extremely high level of support for the Water and Catchment Management program, high levels of support for the Biodiversity and Bushfire Risk Management program areas and slightly lower levels of support, relatively, for the Energy Management & Climate Change, Sustainable Transport & Community Recreation and Community and Business Engagement program areas.

Item GB.6

S11574-1

The online engagement platform and printed survey results indicated a more even spread of funding support for the Water and Catchment Management, Energy Management & Climate Change and Biodiversity and Bushfire Risk Management Areas, with slightly lower levels of support, relatively, for the Sustainable Transport & Community Recreation and Community and Business Engagement program areas.

In accordance with this community feedback on the levels of support for funding each program area:

- Funding for business engagement represents a small proportion of the overall budget with the community engagement and environmental education program area
- Sustainable transport and community recreation represents a smaller proportion of the overall budget compared to other program areas
- Whilst the community engagement and environmental education program area represents a slightly higher or equal budget proportion than the water and catchment management and biodiversity and bushfire management program areas, a proportion of funding within this program area has been dedicated to the delivery of programs to achieve positive biodiversity, bushfire risk and water and catchment management outcomes, for example, the delivery of the climate Wise Communities program; Wild Things program; Water Smart rebates program and environmental volunteering program.

Community acceptance of a permanent Special Rate Variation for the continuation of the Environmental Levy at the current rate (5%) and the community's ongoing willingness to pay for the environmental programs and works funded by the Environmental Levy have been clearly demonstrated through the community consultation.

INTERNAL CONSULTATION

Staff and Councillor consultation also forms part of the Special Rate Variation application. Internal consultation took the form of:

- Staff consultation on a draft 10 year Environmental Levy program - a series of staff workshops were conducted to inform the development of a draft 10 year Environmental Levy program, to be presented to the community and Councillors for their feedback as part of the consultation process; across the themes of energy, biodiversity, water and catchments, community engagement and community education, and sustainable transport and community recreation.
- Councillor briefing – Councillors were provided with an overview of the staff and community consultation process and a summary of the community consultation results.; and were provided with an opportunity to give feedback on the 10 year Environmental Levy program that will support the IPART application; based on the outcomes of staff and community consultation. At this briefing, the Councillors in attendance endorsed the 10 year Environmental Levy program included as **Attachment A4** in this report.

SUMMARY

At its Ordinary Meeting on 13 June 2017 Council resolved to:

- A. Prepare a Special Rate Variation application to IPART under section 508(2) of the Local Government Act 1993 for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019.
- B. Conduct extensive community consultation to determine community support for the ongoing Special Rate Variation for environmental and sustainability programs and initiatives.
- C. Conduct community, Councillor and staff consultation to develop an Environmental Levy program to support Council's Special Rate Variation application.
- D. Report back to Council the outcomes of (B) and (C), prior to Council notifying IPART of its decision to apply for a Special Rate Variation.

In accordance with the IPART requirements, a comprehensive *Communication and Engagement Strategy for the Special Rate Variation - Continuation of the Environmental Levy* (July 2018) was developed to:

Inform the Ku-ring-gai community about the proposed extension of the Environmental Levy, including:

- What the Levy has funded and could fund in the future
- Why the Levy is needed
- Where the Levy has helped support environmental outcomes in Ku-ring-gai
- The impact on services and rates with a continued Levy, a reduced Levy and no Levy

Consult the community:

- To gauge support for a continuing Levy, reduced Levy or no Levy
- To gauge support for a permanent Levy, should there be support for a continuing Levy
- Ensure the level of the proposed Levy is appropriate

Involve the community:

- To help Council prioritise environmental works and programs that should be funded by the Levy, should it continue

The community consultation program involved:

Exhibition and adoption of Integrated Planning and Reporting (IP & R) documents

A suite of information on the SRV application for the permanent continuation of the Environmental Levy, in accordance with the *Guidelines for the preparation of an application for a special variation to general income*, was included in Council's Draft Community Strategic Plan, Draft Delivery Program 2018–2021 and Operational Plan 2018 – 2019, and Draft Resourcing Strategy 2018 – 2028, which were publicly exhibited for 29 days from 11 May to 8 June 2018. Council adopted all the Plans at its Ordinary Meeting of 26 June 2018. No submissions were received from the community on the sections of the Plans containing information on the SRV application for the permanent continuation of the Environmental Levy.

Pre consultation information campaign

This purpose of this phase was to increase awareness of the Environmental Levy in advance of the consultation phase and the opportunities available for the community to provide feedback on the continuation of the Levy. This involved:

- Excerpt on the SRV application in the July rates notice, sent to 43,986 households
- Environmental Levy display and information sessions at:
 - Wildflower Garden Festival on 26 Aug 2018
 - Gordon Shopping Centre on 28 August, 8 September and 19 September 2018
 - That Great Market, East Lindfield on 16 September 2018
 - Turrumurra Fresh Produce and Gourmet Market on 4 November 2018
 - Turrumurra Library (display only) for one week in October 2018
 - Gordon Library (display only) for three weeks in October 2018
- Digital communication campaign including a promotional Environmental Levy video, website information and social media posts, promoting what the Environmental Levy delivers and how the community could get involved in the subsequent community consultation. Social media included 7 Facebook posts, reaching 10,908 people and tweets reaching 658 people. Promotion on the Environmental Levy webpage reached 250 people.

Direct engagement

The purpose of this phase of engagement was to gauge community support for the continuation of a permanent Environmental Levy and secure feedback the community regarding priorities for future Levy funded programs and works, should it continue. This involved:

- Recruited representative survey - a sample of 495 randomly selected residential ratepayers were recruited and surveyed by an independent market research company (via a phone, online or street intercept survey) between September and November 2018, to gauge support for the permanent extension of the Environmental Levy and to obtain feedback on the priorities for future Levy funded programs and works, should it continue. Participants were provided with an information pack regarding the Levy prior to the completion of the survey, to ensure they had some degree of knowledge when providing their opinion.
- Recruited community consultation workshop – 29 residential ratepayers who participated in the representative survey attended a consultation workshop facilitated by an independent consultant on Thursday, 18 October 2018 from 6–9pm. The three hour workshop covered:
 - A presentation of current Environmental Levy programs and works and their outcome
 - A presentation on options for the future of the Levy, namely, a continued or reduced Levy and no Levy, including the impacts on rates under these scenarios and the implications on service levels / programs
 - A presentation on the permanency of the Environmental Levy
 - A vote on the attendee's preferred option (continuation of Levy / reduced Levy or no continuation of the Levy) and the permanency of the Levy
 - A prioritisation exercise to inform Council's plan for future Levy programs and works, should the Levy continue

Item GB.6

S11574-1

- Online engagement platform – using Council's 'OurSay' online engagement facility, a consultation page was created to gain further (resident and business) ratepayer feedback between Wednesday 3 October and Sunday 4 November 2018, with:
 - A suite of information on the Environmental Levy and the Special Rate Variation application
 - an online survey (based on the representative survey)
 - an opportunity to provide an email submission
 - registration for an opt-in consultation workshop on Tuesday 23 October 2018
- Printed survey – based on the online survey, a printed copy of the survey was available for completion and return at Council's customer service desk, St Ives library, Gordon library and Lindfield library between Wednesday 3 October and Sunday 4 November 2018, designed for those without access or skills to complete the online survey.

A total of 197 responses were gathered through the online and printed survey.

In addition, a series of staff workshops were conducted to inform the development of a draft 10 year Environmental Levy program, to be presented to the community and Councillors for their feedback as part of the consultation process; across the themes of energy, biodiversity, water and catchments, community engagement and community education, and sustainable transport and community recreation.

Results for all three of the main engagement methods, namely the: (i) recruited representative survey; (ii) the community consultation workshop; and (iii) the online engagement platform and printed survey, show strong community support for the permanent continuation of the Environmental Levy at the current rate (5%), with:

- 78% of recruited representative survey respondents supporting the continuation of the Environmental Levy at the current rate;
- 89% of community consultation workshop participants supporting the continuation of the Environmental Levy at the current rate;
- 74% of online engagement platform and printed survey respondents supporting the continuation of the Environmental Levy at the current rate;
- 83% of recruited representative survey respondents who supported the continuation of the Environmental Levy at the current rate (78%) supporting a permanent Environmental Levy;
- 78% of recruited representative survey respondents who supported the continuation of the Environmental Levy at the current or a reduced rate (89%) supporting a permanent Environmental Levy;
- 66% of community consultation workshop participants supporting a permanent Environmental Levy either out right or with a three year program review;
- 91% of online engagement platform and printed survey respondents who supported the continuation of the Environmental Levy at the current rate (74%) supporting a permanent Environmental Levy;
- 84% of online engagement platform and printed survey respondents who supported the continuation of the Environmental Levy at the current or a reduced rate (87%) supporting a permanent Environmental Levy.

Item GB.6

S11574-1

Results of the community consultation also show broad support for the proposed 10 year Environmental Levy program, with the improvements outlined in this report. In summary:

- there is 84% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the recruited representative survey respondents
- there is 82% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the recruited community consultation workshop respondents
- there is 83% or more mid or high level support for all program areas presented in the 10 year Environmental Levy program amongst the online engagement platform and printed survey respondents

Community feedback on the levels of support for funding each program area in the recruited representative survey and community consultation workshop showed an extremely high level of support for the Water and Catchment Management program, high levels of support for the Biodiversity and Bushfire Risk Management program areas and slightly lower levels of support, relatively, for the Energy Management & Climate Change, Sustainable Transport & Community Recreation and Community and Business Engagement program areas.

The online engagement platform and printed survey results indicated a more even spread of funding support for the Water and Catchment Management, Energy Management & Climate Change and Biodiversity and Bushfire Risk Management Areas, with slightly lower levels of support, relatively, for the Sustainable Transport & Community Recreation and Community and Business Engagement program areas.

In accordance with this community feedback on the levels of support for funding each program area:

- funding for business engagement represents a small proportion of the overall budget with the community engagement and environmental education program area
- Sustainable transport and community recreation represents a smaller proportion of the overall budget compared to other program areas
- Whilst the community engagement and environmental education program area represents a slightly higher or equal budget proportion than the water and catchment management and biodiversity and bushfire management program areas, a proportion of funding within this program area has been dedicated to the delivery of programs to achieve positive biodiversity, bushfire risk and water and catchment management outcomes, for example, the delivery of the climate Wise Communities program; Wild Things program; Water Smart rebates program and environmental volunteering program.







Community acceptance of a permanent Special Rate Variation for the continuation of the Environmental Levy at the current rate (5%) and the community's ongoing willingness to pay for the environmental programs and works funded by the Environmental Levy have been clearly demonstrated through the community consultation.

RECOMMENDATION:

- A. That Council notifies IPART of its decision to apply for a Special Rate Variation under section 508(2) of the *Local Government Act 1993* for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July 2019, by the due date of 30 November 2018.
- B. That Council submits a Special Rate Variation application to IPART under section 508(2) of the *Local Government Act 1993* for the permanent continuation of the Environmental Levy at a rate of five per cent above the ordinary rate, commencing on 1 July, by the due date of 11 February 2019.

Marnie Kikken
Manager Environment & Sustainability

Andrew Watson
Director Strategy & Environment

Attachments:	<p>A1  Guidelines for the preparation of an application for a Special Rate Variation to general income for 2019.20</p> <p>A2  Environmental Levy - Fact Sheet - August 2018</p> <p>A3  Communication and Engagement Strategy - Continuation of Environmental Levy - final</p> <p>A4  Environmental Levy - proposed 10 year program</p> <p>A5  Results of community consultation on continuation of Environmental Levy - Woolcott report</p> <p>A6  Online engagement platform and printed survey - results of consultation - November 2018</p>	<p>2018/345677</p> <p>2018/275842</p> <p>2018/345689</p> <p>2018/345711</p> <p>2018/345729</p> <p>2018/345837</p>
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CREATION OF EASEMENT IN FAVOUR OF COUNCIL OVER PRIVATE LAND AT GORDON FOR DRAINAGE PURPOSES

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider and approve of the creation of an easement over land at 28-30 Dumaresq Street Gordon to formalise Council's drainage system on the property.

BACKGROUND:

Under delegated authority, Council has given consent to MOD0130/18 in respect of DA0434/15 which is for an approved residential unit development at 28-30 Dumaresq Street Gordon. The modification of development consent involves changes to the approved location of stormwater drainage.

COMMENTS:

Council's Development Engineers have assessed the application and raised no objections to the changes to the stormwater discharge points. However, the new location of the stormwater drainage will require the creation of a new easement in Council's favour over the property.

RECOMMENDATION:

That Council approves of the creation of an easement for drainage purposes as set out in this report.

PURPOSE OF REPORT

For Council to consider and approve of the creation of an easement over land at 28-30 Dumaresq Street Gordon to formalise Council's drainage system on the property.

BACKGROUND

Gelder Architects, on behalf of the owner of 28-30 Dumaresq Street Gordon, have submitted an application under section 4.55 of the *Environmental Planning and Assessment Act 1979* (MOD0130/18) seeking to modify DA0443/15 in respect of the approved stormwater drainage system. Council's Development Engineers have considered and made the following comments the proposed modifications:

" Council's Development Engineers raise no objection to the changes to the stormwater discharge for the above RFB site. The drainage plan Drawing No. H04/B prepared by Sparks + Partners is acceptable for construction purposes and should be stamped for approval.

It is understood that as a result of the proposed modifications that Council will require a resolution of Council for the acquisition of the easement over the subject lot."

The proposed modifications relate to a minor change to the stormwater system within the development. The change is minor in that it seeks to delete a controlled stormwater headwall and connect it into the Council trunk drainage system that is now to be located on the site. The change does not impact on the retention of any trees, nor does it comprise the ability of the site to be landscaped. The proposal also will not alter any part of the approved development in terms of design or location, rather it is an improvement to the management and dispersal of stormwater generated by the development, that has come about through progressive design in the construction of the adjoining roadway.

On 24 September 2018, Council's delegated Development Assessment Officer signified to the owner that application MOD0130/18 had been approved to modify development consent in respect of DA0434/15 subject to a number of conditions including:

82a. Dedication of drainage easement

Subject to a resolution of Council, the Applicant shall dedicate, at no cost to Council, a drainage easement of 1.2 metre(s) wide over the allotment in favour of Council. A Section 88B Instrument shall be lodged with Council on completion of survey and registered with the NSW Land Registry Services prior to the release of the Occupation Certificate.

Reason: *To protect Council's drainage infrastructure*

82b. Registration of drainage easement

Prior to the issue of the Occupation Certificate, the applicant shall submit documentary evidence that the property owners 28 – 38 Dumaresq Street, Gordon grant Ku-ring-gai Council (as the asset owners) consent for the creation of a new drainage pipe and easement over the burdened Lot 100 in D.P. 1211427 which benefits private land and easements over all downstream properties as far as the public drainage system. A registered surveyor is to certify that the pipe is wholly contained within the easement. This documentation must include evidence that the easement has been registered with NSW Land Registry Services.

Reason: *To maintain Council's access to the pipe for maintenance purposes*

COMMENTS

To accommodate the modification to the stormwater drainage infrastructure, Council will need to acquire an easement over the land, being Lot 100 DP1211427. The proposed easement area is depicted in the survey plan enclosed shown by a broken line with a variable width 1.2m and 6.2m wide (**Attachment A1**).

The owner has given concurrence to the acquisition of the easement with no compensation to be payable by Council as it is an owner-initiated request to vary the approved drainage grant pursuant to DA0434/15. The owner will also be required to meet all costs associated with the preparation and registration of the easement and all proposed drainage works to Council’s specifications and satisfaction.

INTEGRATED PLANNING AND REPORTING.

Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
An improved standard of infrastructure that meets the community’s service level standards and Council’s obligations as the custodian of our community assets	Programs for infrastructure and asset maintenance are delivered in accordance with adopted Asset Management Strategy and Plans	Deliver Drainage Capital Works Programs on time and within budget

GOVERNANCE MATTERS

Council is permitted to deal with property, including the acquisition of easements, in accordance with the *Local Government Act 1993*.

An easement is a proprietary right that benefits Council and the easement can only be acquired by a resolution of Council.

As the proposal for the easement arises from a request by the owner to modify the previously approved stormwater arrangements, Council will not be required to pay compensation in this instance.

RISK MANAGEMENT

Subject to Council’s resolution, the appropriate legal documentation to extinguish the easement and create a new easement will be reviewed by Council’s solicitors.

FINANCIAL CONSIDERATIONS

The owner will be responsible for all costs associated with the easement, including legal, survey, stamp duty, registration, construction of new drainage works, etc.

SOCIAL CONSIDERATIONS

Council and its officers have a responsibility to the community to acquire Council’s interests in property, such as easements, for the conduct of Council’s operations in an objective and fair manner.

ENVIRONMENTAL CONSIDERATIONS

Environmental impacts for the easement have been determined and mitigated through the development assessment and approval process.

COMMUNITY CONSULTATION

There has been no specific community consultation undertaken in relation to the specific easement request contained in this report.

INTERNAL CONSULTATION

Consultation has also been held with staff from Council's Development and Regulation and Strategy and Environment Departments.

SUMMARY

Council has given consent to application MOD0130/18 which modifies stormwater drainage arrangements approved under DA0434/15 in connection with the construction of a residential apartment complex at 38-40 Dumaresq Street Gordon. The proposed modification is considered to improve the management and dispersal of stormwater generated by the development that has come about through progressive design in the construction of the adjoining roadway.

To accommodate the modification to the stormwater drainage infrastructure sought by the owner, Council will need to acquire an easement over Lot 100 DP1211427 in order to protect its drainage infrastructure and establish a legal interest in the land. The owner has given concurrence to the acquisition of the easement with no compensation to be payable by Council for burdening the land. The owner will also be required to meet all costs associated with the preparation and registration of the easement and all proposed drainage works to Council's specifications and satisfaction.

An easement is a valuable proprietary right that benefits Council and Council can only agree to acquire the easement by a resolution of Council. It is recommended that Council agrees to the creation of an easement over the subject land on the basis set out in this report.

RECOMMENDATION:

- A. That Council approves of the creation of an easement at 28-30 Dumaresq Street Gordon, being Lot 100 DP1211427 in favour of Council with no compensation to be payable and the owner meeting all costs associated with the easement and related drainage works;
- B. That the General Manager or his delegate be given delegation to complete any further negotiations associated with the creation of the easement;
- C. That Council authorises the Mayor and General Manager to affix the Common Seal of the Council to the instrument for the creation of the easement and to execute all associated documentation.

Vince Rago
Property Program Co-ordinator

Deborah Silva
Manager Integrated Planning, Property &
Assets

Andrew Watson
Director Strategy & Environment

Attachments: A1  A1 Survey plan of proposed easement - 28-30 Dumaresq St 2018/339943

NOTIFICATION OF RECEIPT OF AN OFFER TO ENTER INTO A VOLUNTARY PLANNING AGREEMENT - COLES LINDFIELD

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

To advise Council of the receipt of a letter of offer to enter into a Voluntary Planning Agreement to be associated with a Development Application for the Coles site located at 376-384 Pacific Highway Lindfield - inclusive of Balfour Lane, Lindfield

BACKGROUND:

The closure of Balfour Lane, Lindfield is intended to allow the consolidation of the properties 376-384 Pacific Highway and 1 Balfour Street, Lindfield, which would allow expansion of the current supermarket footprint to a contemporary full-line format.

COMMENTS:

A letter of offer has been received from Coles Pty Ltd to enter into a Planning Agreement to formalise the process by which a new alignment of Balfour Lane will be constructed to Council's requirements and to facilitate the delivery of public domain improvements along the public frontages of the developments and their relationship to the development contributions arising from the development proposed under DA0197/18.

RECOMMENDATION:

That the formal offer to enter into a Planning Agreement be noted and that authority be delegated to staff to pursue the negotiation of the document to a draft exhibition stage. A further report to Council will be presented at this stage.

PURPOSE OF REPORT

To advise Council of the receipt of a letter of offer to enter into a Voluntary Planning Agreement to be associated with a Development Application for the Coles site located at 376-384 Pacific Highway Lindfield - inclusive of Balfour Lane, Lindfield

BACKGROUND

Overview of the Strategic Planning history

Ku-ring-gai's strategic planning for the development of the local centres along the north shore railway line and Pacific Highway is well established with comprehensive planning commencing in the mid-2000s and continuing to the present.

The current documents guiding development in the Local Centres, including Lindfield, are:

- *Ku-ring-gai Local Environmental Plan (Local Centres) 2012*
- *Ku-ring-gai Development Control Plan*
- *Ku-ring-gai Town Centres Public Domain Plan 2010; and*
- *Ku-ring-gai Contributions Plan 2010*

Planning for the closure and relocation of Balfour Lane first became Council's policy with the adoption in 2010 of the Public Domain Plan and the Contributions Plan, supporting the then LEP and DCP and continuing to support the current LEP and the consolidated DCP for Ku-ring-gai.

Planning studies undertaken around 2005, including the Ku-ring-gai Retail Strategy, 2005 identified a significant under supply of supermarket floor space across the LGA.

The closure of Balfour Lane was intended to allow the consolidation of the properties 376-384 Pacific Highway and 1 Balfour Street, Lindfield, which would allow expansion of the current supermarket footprint to a contemporary full-line format.

The relocation of Balfour Lane was intended to provide for a number of strategic outcomes:

- retention of vehicle and pedestrian access to the school and church at 2-4 Highfield Road;
- retention of pick-up and drop-off function to school currently offered by Balfour Lane;
- maintenance of rear lane access to the properties at 402 and 406 Pacific Highway, Lindfield; and
- visual and physical separation between an adjoining dwelling, to the south-west of the site, which is also part of an heritage conservation area.

This strategic direction was reinforced with the adoption of the then Ku-ring-gai Local Environmental Plan 2010 (Town Centres) and the associated Development Control Plan and continues to be supported by the current reviews of these strategic planning documents.

COMMENTS

Background to the proposed sale of Balfour Lane

The closure of Balfour Lane will allow the consolidation of the properties 376-384 Pacific Highway and 1 Balfour Street, Lindfield, which would allow expansion of the current supermarket footprint to a contemporary full-line format.

Between 2008 and 2017 Council has considered a number of reports on the closure and potential divestment of the portion of Balfour Lane, Lindfield adjacent to land currently owned by Coles.

On 10 October 2017, Council considered a confidential report on the proposed divestment of approximately 538m² of Balfour Lane, Lindfield. At that time Council resolved:

- A. *That Council accepts the amount agreed between the parties for the divestment of approximately 538m² of Balfour Lane, Lindfield.*
- B. *That the offer is conditional upon the successful completion of the road closure of Balfour Lane, Lindfield*
- C. *That, upon issuance of the Certificate of Title for the land known as Balfour Lane is classified as Operational Land.*
- D. *That, Council authorises the General Manager and/or his delegate to negotiate the contractual terms and any Real Property related matters required to protect Council's interests.*
- E. *That Council, as landowner, provides consent to lodge the Development Application with the Lane included in the application.*
- F. *Council authorises the Mayor and General Manager to execute all documentation associated with the conveyance, the road closure and any future development application in relation to the Lane.*

In response to Council's resolution both Coles and Council have entered into a Call Option Deed for the future sale of the portion of Balfour Lane, Lindfield.

Lodgement of Development Application

Coles lodged Development Application DA0197/18 for the combined properties on 28 May 2018.

The site includes the properties at 376-384 Pacific Highway Lindfield, 386-390 Pacific Highway Lindfield and 1 Balfour Street owned by Coles and Balfour Lane owned by Ku-ring-gai Council.

Ku-ring Council, in accordance with resolution E. above, had provided owner's consent for the inclusion of Balfour Lane as part of the land included within the scope of the Development Application on 15 December 2017.

The Development Application is under assessment by an independent planning consultant reporting to Council's Development and Regulation Directorate because of the inclusion of Council land within the application. The determining authority will be the SNPP (Sydney North Planning Panel).

Item GB.8

S11840
12 November 2018

The aerial view in the image below shows the full site as illustrated in the Statement of Environmental Effects as sourced from Google Maps.

From the initial overview of the Development Application, it became apparent that there was a need to resolve the mechanism for the securing the physical delivery of the road in order to facilitate the appropriate staging and delivery of the infrastructure that supports both the sale and the new development.



Reason for the Planning Agreement

The reason for the Planning Agreement is multi-faceted.

Firstly, there is a challenge with securing the process for road delivery that stipulates the timing of events in a legally binding manner.

At present, that part of the development site which includes Council's land at Balfour Lane cannot be sold and the site consolidated until the lane is closed and title to the land is granted. The lane that sits on the land cannot be closed before the lane is rebuilt in its new location due to access rights for properties served by the current lane. The lane cannot be rebuilt on its new alignment before development approval is given to the development and the associated construction. Development approval cannot be granted until the means of vehicular and pedestrian access to the development and affected adjoining properties that rely on the current Balfour Lane is secured by formal agreement ahead of its physical construction. This agreement cannot be the sale agreement which cannot be competed at this time as explained above as there is no separate title to Balfour Lane. The Planning Agreement will bridge an otherwise apparently circuitous issue.

Item GB.8

**S11840
12 November 2018**

In this context, it is important to note that the role of the Planning Agreement is to publicly document the technical engineering process of the delivery of the realignment of Balfour Lane and agree to the timing of its delivery. This is required to support the possibility of development consent, subject to the satisfaction of other merit-based matters that are the subject of independent assessment.

The fact of the delivery of a realigned Balfour Lane is required by the arms-length agreement regarding the sale of the land in order to enable the development to be eligible for approval on a consolidated contiguous site. It is not the purpose of the Planning Agreement to determine a value for the laneway. The laneway is not being offered as a material public benefit; its realignment is essential to the development and the sale of land on which the current lane now stands. Any value or benefit arguably attributable to that laneway has been fully incorporated within the separate process of determining the sale price of the land on which the existing lane rests and does not form part of this planning agreement.

It is again emphasised that the Development Application is being separately assessed by an external consultant on its merits and that the determination process of the development cannot be fettered by the consideration of a prospective Planning Agreement.

It is important to safeguard the Council and the community by ensuring that the road is designed and constructed to Council's adopted standards and that Council officers inspect the road during the process of construction to verify adherence to those standards. The Planning Agreement will therefore stipulate the necessary engineering standards for the delivery of the new Balfour Lane.

The current Letter of Offer

Coles initially submitted a draft letter of offer to enter into a Planning Agreement dated 5 May 2018 ahead of the lodgement of their Development Application on 25 May 2018. Following a meeting with Council staff, an amended letter of offer dated 6 July 2018 was submitted and is appended at **Attachment A1**.

While the second letter incorporates several of the recommended improvements compared to the initial letter, there are still some concerns. These include:

- a disjoint between the estimated total cost of the full scope of proposed works and the maximum inflated value of the limited number of baseline works funded by the contributions plan;
- lack of clarity and distinction between works required as a consequence of the design of the proposed development, standard restoration works required as part of this development in the same manner as for any other development, works valued by the baseline Contributions Plan, and additional works proposed to be carried out by the applicant in the public domain to enhance the presentation of the development to the street; and
- ongoing need for absolute distinction between the role of the Planning Agreement in documenting the engineering standards and timing of delivery of the realignment of Balfour Lane and emphasis that the work is not a material public benefit for the purposes of offsetting development contributions (being fully compensated as part of the separate land transaction).

Item GB.8

S11840
12 November 2018**Ku-ring-gai Contributions Plan 2010**

The Contributions Plan does not provide for all the works that are described in the Development Control Plan and the Public Domain Plan.

Not all desirable works can be included in a contributions plan, which has, as a core requirement, the need to be reasonable and to ensure that orderly development is not inhibited by the imposition of an uneconomic contribution rate. Some specific works were deleted from the current contributions plan during the course of drafting, including post-exhibition, in order to achieve a reasonable contribution rate – especially some public domain works on the fringes of Local Centres or non-commercial streets. Works provided for in the contributions plan are also typically baseline works, especially in the public domain, such as polished concrete for footpaths rather than pavers.

Works included in the Contributions Plan also need to meet a core nexus test with contributing development in the Local Centre. The relocation of an existing lane is generally undertaken primarily for purposes other than the provision of a new community asset, such as site consolidation and/or the provision of improved site-specific access. By way of example, the relocation of McIntyre Lane in Gordon and Balfour Lane in Lindfield are not valued by the Contributions Plan, as they currently exist and, not being current or proposed through streets, chiefly benefit only persons directly accessing the immediate properties, and the property that will directly benefit from site consolidation through realignment.

Council's prospective divestment of the land on which each laneway stands permit an arm's length transaction. This negotiation takes into account any works required to give effect to that transaction as well as the benefit in consolidating the site et al, to ascertain fair value. Balfour Lane's new alignment is not a material public benefit under this prospective Planning Agreement, however, the specific engineering requirements and the timing of delivery can be matters for documentation and agreement secured by a Planning Agreement.

While the delivery of a realigned Balfour Lane is not a work valued by *Ku-ring-gai Contributions Plan 2010*, Coles does propose to carry out some public domain works which are valued by the contributions plan. Coles also proposes other works in the public domain that are not valued by the Contributions Plan. These include, by way of example, retaining works required as a consequence of addressing the inherent site challenges of developing this specific site; pavement, kerb and gutter restoration works required as standard from any development where infrastructure may be damaged during the course of construction and where driveways are relocated along site boundaries; and works which enhance the presentation of the proposed development beyond what the baseline contributions plan is able to value for the purposes of seeking wider contributions.

In principle it is open to any developer with adequate proximity or nexus to a proposed work that is wholly or partly supported by development contributions, to deliver the work in kind in association with the development – subject to the agreement of terms with Council secured by a Planning Agreement.

It is also not uncommon for many developers to benefit the overall presentation of their development by seeking to undertake works to a higher standard that can be provided for in a baseline Contributions Plan, subject to Council accepting the delivery and future maintenance of this work. Council's Public Domain Plan already provides guidelines for higher standard works if

Item GB.8

S11840
12 November 2018

sought. Typical examples include higher quality finishes, more advanced plantings and new or additional street furniture (subject to maintaining consistency with the centre character identified in the Public Domain Plan).

Conversely, it is also open to any developer to undertake only the essential site-specific and restoration works and not propose additional works.

This negotiated process can be beneficial to both the community and the development itself in securing the delivery of public works concurrent with that construction process. The community obtains improved public domain works earlier than it might have done had Council scheduled the works as part of the rolling works programme under the Long Term Financial Plan and the developer is certain of having works completed concurrent with the completion and marketing of their development.

The development is incentivised to deliver works as a formal agreement as to do so defers the timing of the payment of the monetary component of the total contributions payable from the proposed development. Payment is required at the release of the first Construction Certificate in the standard course of events; but this may occur prior to the release of the Occupational Certificate if negotiated as part of the Planning Agreement where works are being undertaken. This can represent a considerable cashflow benefit depending on the arrangements of the development finance. Additionally, the nett monetary amount is reduced by the agreed current value of the works to be undertaken as per the Contributions Plan.

More detail concerning the proposed public domain works under *Ku-ring-gai Contributions Plan 2010* is outlined below.

Public Domain Works – Balfour Street and Pacific Highway

Ku-ring-gai Contributions Plan 2010 includes baseline public domain improvements in the vicinity of the site as follows:

- Polished concrete full width of footpath – Pacific Highway 400 on the western side (part)
- Polished concrete full width of pavement – Balfour Street 90m on northern side (whole)
- Street Pedestrian Lighting on Pacific Highway – Major Street (share of total)
- Street Pedestrian Lighting on Balfour Street – Minor Street (share of total)
- Street Tree planting – Pacific Highway (share of total along full frontage where appropriate)
- Street Tree planting – Balfour Street (share of total among 10 streets where appropriate)
- Undergrounding of Powerlines (share of total based on power line location)*

* The current position of the main above ground infrastructure in Balfour Street is located on the southern side of the street on the opposite side of the road from the Coles development.

It was initially thought that the area of the Pacific Highway north-west of Balfour Street had been excluded from the cost estimates cited in the Contributions Plan due to the reference to Balfour Street as the end point. However a closer re-examination of the 400 metres allowed for on this side of the Pacific Highway as part of this process indicates that this is not the case and this distance is, in fact, actually included in the works programme cost estimates as well as indicated on the mapping. The confusion arises because the distinction between commercial and non-commercial areas occurs in the midblock between Balfour Street and Highfield Road.

Item GB.8

S11840
12 November 2018**Public Domain Works – Polished concrete footpaths**

The provision of a polished concrete footpath in Balfour Street on the northern side is the only work that appears separately in the contributions plan; other works being combined with properties that share part of the same street frontage. The value in 2009 dollars was \$187,425 which, due to a relatively flat Consumer Price Index in the period since, is now valued at \$216,414.

While the distance cited is 90 metres, the footpath length excludes the distance occupied by the realignment of Balfour Lane, its landscaping, ramps and splays (which are part of the realignment works) and the driveway crossing plus splays and kerb ramps on either side of the driveway (which would be a standard requirement of the driveway design associated with the site).

The development site has approximately 60 metres of frontage plus splay of the 400 metres of polished concrete footpaths for the Pacific Highway western front or slightly more than 15%. The total value in 2009 dollars of that 400m was \$590,240 and, due to a relatively flat Consumer Price Index in the period since, is now valued at \$681,532. The proportion attributable to the Coles redevelopment is in the vicinity of \$105,000 subject to accurate measurements.

Should the developer elect to undertake higher quality works to enhance their street presentation, the current value of works in the baseline Contributions Plan could be attributed to reduce the total cost to this development. Should Coles not wish to proceed at the reimbursement rate that the baseline Contributions Plan can provide, they would still need to 'make good' any footpaths damaged in the course of construction in the same manner as any new development as well as undertake works consequential to the design of the development.

Public Domain Works – Lighting

Pacific Highway: The original cost estimates for the contribution plan cited main road lighting on several commercial streets (on the commercial side of the road rather than the rail corridor side) at 36 units at \$4,500 each at 15 metre spacing plus allowance for connection and margin being a total of \$6,545 each. The inflated unit cost would be \$7,557 in today's dollars.

Balfour Street: The original cost estimates for the contribution plan cited minor road lighting for a number of streets including Balfour Street at a total of 147 units at \$3,500 each at 10 metre spacing plus allowance for connection and margin being a total of \$5,355 each. The inflated unit cost would be \$6,183 in today's dollars.

Public Domain Works – Street Trees

Pacific Highway: The original cost estimates for the contribution plan cited main road street tree planting on several commercial streets (on the commercial side of the road as distinct from the rail corridor side) at 104 trees (with tree guards) at \$1,500 each at 10 metre spacing plus margin being a total of \$1,785 each. The inflated unit cost would be \$2,061 in today's dollars.

Balfour Street: The original cost estimates for the contribution plan cited minor road street tree planting for a number of streets including Balfour Street at a total of 312 trees (with tree guards) at \$1,500 each at 10 metre spacing plus margin being a total of \$1,785 each. The inflated unit cost would be \$2,061 in today's dollars.

Item GB.8

S11840
12 November 2018

Financing the new Balfour Lane

It is reiterated that no part of the cost of delivering the realigned land is to be offset from development contributions arising from the proposed development of the site. The entire cost of relocating the laneway, which is essential to enable the existing lane to be closed and on-sold, is part of the consideration of the sale price negotiated for the existing lane. There is no residual cost to be included in this Planning Agreement. Insofar as the Planning Agreement deals with Balfour Lane, its purpose is to stipulate the timing of delivery and ensure that Council's engineering standards and procedures are given effect.

Coles current Letter of Offer

As indicated above, the appendix to the current letter of offer appears to cost *all* the works that are in and/or border the public domain including many works which are required as a direct consequence of the proposed design of the development such as the provision of new driveway crossings and the reinstatement of the kerblines at redundant crossings as well as a substantial amount of landscaping. Some works, including the reprofiling of the Balfour Street pavement levels as a result of the realignment of Balfour Lane, are considered to be an indivisible part of that work which is valued as part of the property transaction process only and not also available for offset against development contributions. As a result of the inclusion of a significant extent of works, however they come to be required; the total cost estimate for works attached to the current letter of offer is \$1,209,197. However only the works cited above within the baseline Contributions Plan are eligible for offset from development contributions and only at the current inflated rate on which the contribution is based. These works reach an indicative cost of \$425,000 (rounded).

Other matters

Part of the incentive for a developer to undertake public works identified in strategic planning documents including the contributions plan, is an opportunity to defer the final settlement of the development contributions arising from the development from the standard timing of the release of the construction certificate until a later stage to be agreed within the Planning Agreement (such as prior to the final occupation certificate).

Even though some works are not valued by the Contributions Plan or may be delivered to a higher standard than provided for in the baseline Contributions Plan, there is a cashflow benefit to a developer in being able to delay payment of the nett remaining monetary contributions (particularly open space and community facilities contributions which are not being delivered as part of this development) as a direct consequence of delivering works under a Planning Agreement.

Final settlement may occur prior to Occupation Certificate secured under a Planning Agreement, rather than the Construction Certificate being the security for payment as is the standard practice. A Planning Agreement includes clauses relating to the final settlement of development contributions in kind and as a monetary contribution.

Item GB.8

S11840
12 November 2018

Changes needed to the Current Letter of Offer

The current letter of offer requires some refinement to acknowledge the limitation to which contributions can be offset for public domain works while providing for higher quality works if the developer so wishes. A planning agreement being voluntary, it should be noted that the developer is also free to withdraw any offer to improve the public domain beyond the reinstatement of damage caused during construction and any works required as a consequence of the design of the development and the delivery of the realigned Balfour Lane.

Under the present letter of offer and its attachments, Coles proposes to undertake a number of works which appear to be a mix of works particular to the proposed design of the development, restoration works required as part of the standard process of redevelopment, works consequent on the realignment of Balfour Lane which is compensated as part of the separate property transaction, works valued by the Contributions Plan, and additional works offered to enhance the development’s street presentation. These works need to be separately identified and itemised and the letter of offer needs to make a clear distinction between these works.

The letter of offer needs to ensure that it does not appear to offer the realigned Balfour Lane (or works which arise as a consequence of its realignment) as a benefit under the draft Planning Agreement and note that any perceived value inherent in the work is part of a separate transaction being the sale of the land on which the present Balfour Lane is situated.

A revised letter of offer with these clarifications and distinctions is required to commence formal negotiations.

INTEGRATED PLANNING AND REPORTING

Theme Three: Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai	Strategies, plans and processes are in place to effectively manage the impact of new development	P8.1.1.1.1-2 Ku-ring-gai Contributions Plan 2010 ensures new development contributes towards the cost of delivering supporting infrastructure.
P4.1 Our centres offer a broad range of shops and services and contain lively urban village spaces where people can live, work, shop, meet and spend leisure time	Plans to revitalise local centres are being progressively implemented and achieve quality design outcomes in collaboration with key agencies, landholders and the community	C6.1.2.1.2; C4.1.2.1.3 New public infrastructure is planned to support new development and ensure that everyone who lives and works in Ku-ring-gai continues to enjoy access to public facilities.
P8.1 An improved standard of infrastructure that meets the community’s service level standards and Council’s obligations as the custodian of our community’s assets	Our public infrastructure and assets are planned, managed and funded to meet community expectations, defined levels of service and address inter-generational equity	C6.1.2.1.2; C4.1.2.1.3 New public infrastructure is planned to support new development and ensure that everyone who lives and works in Ku-ring-gai continues to enjoy access to public facilities.

Theme Six: Leadership and Governance

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
L2.1 Council rigorously manages its financial resources and assets to maximise delivery of services	Council expenditure satisfies the needs of the community and Council has increased its commitment to infrastructure asset management priorities	C6.1.1.1.2 Council is leveraging the value of its assets to combine with contributions to deliver major community assets.

GOVERNANCE MATTERS

The Development Application associated with the proposed Planning Agreement is being assessed on its merits by an external consultant to ensure the assessment is at arm’s length from the prospective sale of Council land. The determining authority will be the SNPP (Sydney North Planning Panel).

RISK MANAGEMENT

The same legal firm who has had carriage of the prospective sale of Balfour Lane has been retained to assist Council to ensure that all documents interrelate appropriately.

FINANCIAL CONSIDERATIONS

The strategic planning for the realignment of Balfour Lane and public domain improvements along the core street frontages in the Lindfield Local Centre have been part of Council’s adopted strategic planning documents since 2010. There is a cost in terms of the future maintenance of public domain works and the new laneway however the public domain improvements and laneway realignment have been in the planning pipeline for more than a decade.

SOCIAL CONSIDERATIONS

The relocation of Balfour Lane is to be undertaken in such a way as to maintain access for those properties that rely on the laneway for access. It is understood that a staging plan has been requested as part of the Development Application assessment process.

ENVIRONMENTAL CONSIDERATIONS

Environmental considerations are part of the detailed design of every item of infrastructure provided for in the Contributions Plan. The provision of this infrastructure is required to support cohesive and sustainable communities in areas of increasing urbanisation.

COMMUNITY CONSULTATION

Once in a final draft format, the draft Planning Agreement will be reported to Council for endorsement to place on statutory public exhibition at such time as it is in a final draft form. A further report to Council will be prepared after the close of the exhibition period.

INTERNAL CONSULTATION

A team including staff from Urban Planning, the Property Unit, the Operations Directorate and the Corporate Lawyer will be involved in the overseeing of the draft Planning Agreement in association with Council’s External Legal Team, Minter Ellison.

Item GB.8

S11840
12 November 2018

SUMMARY

Council is in receipt of a letter of offer to enter into a Planning Agreement from Coles in association with Development Application DA0197/18 for the redevelopment of a future consolidated site at 376-384 Pacific Highway Lindfield that requires some amendment to be acceptable as a gateway to negotiating a Voluntary Planning Agreement between the parties.

It is recommended that some changes be made to the letter of offer to enable the parties to proceed to the next stage and that Council provide in principle support to the advancement of the draft Planning Agreement along the lines indicated.

The proposed exhibition draft of the Planning Agreement will be reported to Council at such time as it is ready to proceed to that next stage of formal community consultation.

RECOMMENDATION:

- A. That the receipt of a formal offer to enter into a VPA from the development at 376-384 Pacific Highway Lindfield at the intersection with Balfour Street Lindfield be noted.
- B. That Council advises Coles of the following issues with the current letter of offer which require amendment:-
 - a) Acknowledgement that *Ku-ring-gai Contributions Plan 2010* is a baseline contributions plan and can only offset the proposed public domain works up to the value in the Contributions Plan inflated to today's dollars;
 - b) Additional works and works to a higher standard may be agreed in accordance with Council's Public Domain Plan, but the additional cost cannot be offset against development contributions;
 - c) Works that are required as part of, or as a consequence of, the design of the redevelopment itself cannot be offset against development contributions and the attachment to the letter of offer needs to reflect this;
 - d) As agreements must be voluntary, it is acknowledged that the developer is also free to withdraw their offer to undertake additional works to the Public Domain in the vicinity of their development beyond any standard restoration works required as a result of the construction process and any works consequential on the design of the development;
 - e) That fact of the realignment of Balfour Lane is a matter required by a separate sales agreement and cannot also be considered a material public benefit for the purposes of offsetting development contributions. As such, references to Balfour Lane in the Planning Agreement must include words which reference the realignment of Balfour Lane as the delivery of a work that is valued as part of the separate property transaction;
 - f) Acknowledgement that the planning agreement is required only to secure the engineering standards and timing of the delivery of the realignment of Balfour Lane that is part of the separate sales agreement in order to ensure any possible future development consent (which is also under independent assessment) is not precluded solely by the absence of an agreement securing public access during the construction phase and thereafter.
- C. Standard restoration works including but not limited to footpath, kerb and gutter restoration, provision of driveway crossings and closure of redundant crossings, will appear as part of the standard development consent conditions in the event of any future approval and are not to be included within the Planning Agreement.

Item GB.8


S11840
12 November 2018

- D. That on receipt of a satisfactorily revised letter of offer, delegation be granted to the General Manager or his nominee to progress the matter in line with Council's adopted strategic planning documents until it is ready for reporting for exhibition.

Kate Paterson
Infrastructure Co-ordinator

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

Attachments: A1  Revised draft letter of offer to enter into a Planning Agreement dated 6 July 2018 2018/239164

NOTICE OF MOTION

WEBCASTING OF COUNCIL MEETINGS

Notice of Motion from Councillor Ngai dated 19 November 2018

While Ku-ring-gai Council's ordinary meetings of council are open to the public, some Ku-ring-gai residents have been unable to physically attend on Tuesday at 7pm for various reasons (mobility issues, putting kids to bed, clashes with work, etc.).

Most neighbouring councils have already taken advantage of improvements in technology and falling costs of delivery to provide their residents with a webcast of their council meetings, and some residents have asked whether Ku-ring-gai Council can provide a similar service.

Council	Webcasting Available	Comments
Hornsby	Yes	Single wide angle camera, can view at multiple speeds
Hunter's Hill	No	
Lane Cove	Yes	Two concurrent wide angle cameras, blurry
Mosman	Yes	One wide angle camera, can download video file
North Sydney	Sometimes	Three concurrent wide angle cameras, blurry
Northern Beaches	Yes	Multiple wide angle cameras, user can pick which camera they wish to view, includes agenda items on a screen, can view at multiple speeds
Ryde	Yes	Sharp video quality, quickly focuses on each speaker, most interesting to watch
Willoughby	Yes	Three concurrent wide angle cameras, blurry, can download video file

The webcasting of council meetings was also included in Paragraph 5.18 of the draft Model Code of Meeting Practice. On 27th February 2018, I asked a Question without Notice regarding when Ku-ring-gai planned to implement webcasting, and the Director Corporate's response demonstrated that there were some legitimate privacy and legal reasons why Ku-ring-gai has held off webcasting for the time being.

"The Director Corporate advised at the moment the Council does not have any plans as to when or how it would implement webcasting, as you mentioned the draft code is only a draft so we don't know whether it will be implemented with the requirement to have webcasting or not. If and when the code is adopted we would then have to consider then whether to implement it. If the code was not adopted with webcasting in it, it will always be up to Council to decide whether to do it anyway and that might be something that the Council thinks is a good thing to do. In the interim some of our staff are actually investigating how it might operate and how it operates at other Councils because there are implications such as privacy for the people in the room. Potentially litigious issues as well because people have their own record of proceedings of the Council meeting. So there's a whole range of issues that would need to be taken into account including the technology itself as to how it would be done. There are people looking at that and I guess you'll expect to see something back from the staff to the Council in the future about it."

Item NM.1

S02499/12

However, on 16th November 2018 it was confirmed by the Minister for Local Government that all NSW local council meetings will be webcast (see attachment A1). This means that Ku-ring-gai has 12 months from the proclamation of the Model Code of Meeting Practice (TBD) to provide for webcasts while managing their associated risks (see attachment A2).

As part of managing the associated risks, it must also be noted that the final version of the Model Code (Paragraph 5.19) allows councils to choose either livestream, or recordings that are uploaded at a later time. In addition, councils are allowed to choose either audio recordings only, or an audio-visual recording, though most neighbouring councils have opted for the video experience.

One benefit of not being an early adopter is that Ku-ring-gai has the benefit of learning from neighbouring councils. If there are concerns regarding privacy, legal, cost, or technology then our peers may already have solved these.

I move:

- A. That Council staff consult with neighbouring councils to identify webcasting options, best practice, and learnings.
- B. That Council staff report back to the Councillors by 30 June 2019 or earlier with webcasting options, costs, associated risk management, and a recommended way forward.

RECOMMENDATION:

That the above Notice of Motion as printed be adopted.

Councillor Sam Ngai
Councillor for Roseville Ward

Background Information:

A1	Council Meetings Go Live - Minister for Local Government Media Release	2018/348672
A2	The new Model Code of Meeting Practice for Local Councils	2018/348911