



Ku-ring-gai Council

SECTION 59 PLANNING REPORT

**To heritage list 25 Bushlands Avenue,
Gordon**

May 2016

PLANNING PROPOSAL DETAILS:

PP_2016_KURIN_002_00

PLANNING PROPOSAL SUMMARY:

To list 25 Bushlands Avenue, Gordon, as a local heritage item within Ku-ring-gai Local Environmental Plan 2015

DATE OF GATEWAY DETERMINATION:

2 March 2016

1.0 SUMMARY

Relevant background issues and rationale for proceeding with the proposal:

Council received submissions from the community outlining the heritage significance of the property in response to a Development Application for the demolition of the existing dwelling house and ancillary structures and the construction of a residential care facility on the site.

On the 11 August 2015, Council resolved to make an Interim Heritage Order under the provisions of the *Heritage Act 1977* on the property in order to provide Council with time to undertake further historical research of the property to establish if it warrants formal heritage listing. On 14 August 2015 the Interim Heritage Order came into effect.

An independent heritage assessment of the property was undertaken by heritage consultant Kate Higgins, who found the property is of local heritage significance and that it should be included as a heritage item under Schedule 5 and on the heritage map of the KLEP 2015.

On 15 December 2015 Council resolved to prepare a planning proposal to include the property in Schedule 5 of the KLEP 2015 as a local heritage item.

A Gateway Determination was issued on 2 March 2016. The planning proposal was publically exhibited between 11 March 2016 and 1 April 2016, in accordance with the requirements of the Gateway Determination.

Council considered the submissions received during the public exhibition at its meeting of 26 April 2016 where it resolved to proceed with the heritage listing of 25 Bushlands Avenue, Gordon.

The rationale for proceeding with the planning proposal to heritage list 25 Bushlands Avenue, Gordon is to ensure that Ku-ring-gai's heritage is protected and conserved.

Zones/development standards to be amended:

The zoning and development standards applying to the site are not proposed to be amended as a result of this planning proposal.

The planning proposal seeks to amend Schedule 5 of the KLEP 2015 to list 25 Bushlands Avenue, Gordon as an item for local environmental heritage, and to amend the heritage map to indicate 25 Bushlands Avenue, Gordon as a heritage item.

Key exhibition dates:

The planning proposal was publically exhibited between 11 March 2016 and 1 April 2016.

Main points raised in submissions:

A total of 24 submissions were received during the public exhibition. All the submissions supported the listing of 25 Bushlands Avenue, Gordon in Council's Local Environmental Plan as a local heritage item.

Summary of any key amendments made to the planning proposal as a consequence of public exhibition or agency consultation:

There are no amendments to the planning proposal as a consequence of the public exhibition or agency consultation.

2.0 GATEWAY DETERMINATION

Date Determination issued:

2 March 2016

Timeframe for completion of proposal:

9 months from the week following the date of the Gateway Determination

Was the Gateway determination subject to a review request, if so what were the outcomes of that request?

The Gateway determination was not subject to a review request.

Have the conditions included in the Gateway Determination been complied with, if not, what is the justification for the non-compliance, and what are the impacts non-compliance may/will have on the LEP?

Yes. The conditions of the Gateway Determination 1-4 have been complied with.

3.0 COMMUNITY CONSULTATION

Dates of exhibition:

11 March 2016 – 1 April 2016

Number of submissions received:

24 submissions were received during the exhibition period.

Issues raised during exhibition:

All the submissions received supported the listing of 25 Bushlands Avenue, Gordon as a local heritage item within the KLEP 2015.

Responses to issues:

The support for the heritage listing as outlined in the submissions received from the community is noted.

Was the Planning Proposal re-exhibited, if so, provide all relevant details as above?

No – the planning proposal was not required to be re-exhibited.

Were the consultation requirements included in the Gateway Determination complied with?

Yes – the consultation requirements included in the Gateway Determination have been complied with as follows:

Condition 1(a) – The planning proposal was exhibited between 11 March and 1 April 2016, a period of 21 days which complies with the minimum 14 day exhibition period required by condition 1(a). The planning proposal was exhibited for longer as the exhibition period ran over the Easter public holidays.

Condition 1 (b) – The planning proposal was notified in accordance with the requirements of *A Guide to Preparing LEPs*. The planning proposal was advertised within the local paper, on Councils website and letters were sent to the affected properties advising them of the public exhibition.

Condition 2 – required no consultation with public authorities under section 56(2)(d) of the EP&A Act. The Heritage Division of the Office of Environment and Heritage had been consulted with by Council prior to submitting the planning proposal for Gateway.

Condition 3 – a public hearing is not required to be held under section 56(2) of the EP&A Act.

Condition 4 – The planning proposal has been complete within the 9 months required by condition 4.

Were amendments made to the Planning Proposal in response to the issues raised during public exhibition?

No amendments were made to the planning proposal in response to the issues raised during the public exhibition.

4.0 VIEWS OF PUBLIC AUTHORITIES

Which agencies were consulted?

The Gateway Determination required no consultation with public authorities under section 56(2)(d) of the EP&A Act.

Council consulted with the Heritage Division, Office of Environment and Heritage prior to submitting the planning proposal for Gateway.

Which agencies provided a response?

The Heritage Division, Office of Environment and Heritage provided a response on 6 February 2016.

What were the views of those agencies?

The Heritage Division advised:

Heritage listings provide statutory protection to assist with conservation and management of significant places. The Heritage Council of NSW support the listing of items of local heritage significance where they are supported by a robust heritage assessment.

In this regard, the proposal is based upon a comprehensive heritage assessment that sufficiently demonstrates how the property meets the significance criteria for local heritage listing. The Heritage Council of NSW therefore supports the inclusions of 25 Bushlands Avenue, Gordon as a heritage item in Schedule 5 of the Ku-ring-gai Local Environmental Plan 2015.

How were any objections or issues resolved?

There were no objections or issues to be resolved as a result of the comments received from the Heritage Division, Office of Environment and Heritage.

Did agency consultation occur in accordance with the requirements of the Gateway determination?

Condition 2 of the Gateway Determination outlined that no consultation is required with public authorities under section 56(2)(d) of the EP&A Act.

Council consulted with the Heritage Division, Office of Environment and Heritage prior to the planning proposal being submitted for Gateway.

What amendments were made to the Planning Proposal to respond to the issues raised by agencies?

No amendments were required to be made to the planning proposal in response to the comments received from the Heritage Division, Office of Environment and Heritage.

5.0 CONSISTENCY WITH S.117 DIRECTIONS AND OTHER STRATEGIC PLANNING DOCUMENTS

Is the planning proposal consistent, justifiably inconsistent or inconsistent with all relevant s117 Directions?

Directions under S117	Objectives	Consistency
2. ENVIRONMENT AND HERITAGE		
2.3 Heritage Conservation	The objective of this direction is to conserve items, areas, objects and places of environmental Heritage significance and indigenous heritage significance.	Consistent. The Planning Proposal is consistent with this direction and it will result in the conservation of a property that has been assessed to satisfy the NSW Heritage Council's criteria for local heritage significance.
3. HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT		
3.1 Residential Zones	The objectives of this direction are: (a) to encourage a	Consistent. The Planning Proposal relates to an established dwelling, and

Directions under S117	Objectives	Consistency
	variety and choice of housing types to provide for existing and future housing needs, (b) to make efficient use of existing infrastructure and services and ensure that new housing has appropriate access to infrastructure and services, and (c) to minimise the impact of residential development on the environment and resource lands.	in this regard will have no effect on the housing choice, infrastructure or environment.
3.3 Home Occupations	The objective of this direction is to encourage the carrying out of low-impact small businesses in dwelling houses.	Consistent. The planning proposal does not preclude the carrying out of a home occupation.
6. LOCAL PLAN MAKING		
Approval and Referral Requirements	The objective of this direction is to ensure that LEP provisions encourage the efficient and appropriate assessment of development.	Consistent. The planning proposal will not result in the requirement for concurrence, consultation or referral of a future development application to a Minister or public authority as a result of the proposed local heritage listing.
7. METROPOLITAN PLANNING		
7.1 Implementation of the Metropolitan Strategy	The objective of this direction is to give legal effect to the vision, land use strategy, policies, outcomes and actions contained in the Metropolitan Strategy.	Consistent. The planning proposal will not adversely affect the directions and actions outlined in the strategy to achieve the four goals relating to economy, housing, environment and community.

Directions under S117	Objectives	Consistency
		The planning proposal is specifically consistent with the following directions and actions contained within <i>A Plan for Growing Sydney</i>: • Direction 3.4 <i>Promote Sydney's heritage, arts and culture</i> • Action 3.4.4 <i>Identify and re-use heritage sites, including private sector re-use through the priority precincts program.</i>

Is the planning proposal consistent, justifiably inconsistent or inconsistent with all relevant SEPPs?

SEPP	Comment on Consistency
SEPP 55 Remediation of Land	Consistent. There is no evidence to suggest that the subject site could be affected by contamination from past land uses or activities being carried out on the land.
SEPP (Housing for Seniors or People with a Disability) – 2004	Consistent. The planning proposal is not inconsistent with the aims of the policy.
SEPP Building Sustainability Index : Basix 2004	Consistent. The planning proposal is consistent with the aims of the policy.
SEPP Infrastructure 2007	Consistent. The planning proposal is consistent with the aims of the policy.
SEPP Affordable Rental Housing 2009	Consistent. The planning proposal is consistent with the aims of the policy
SEPP Exempt and Complying Development Codes 2008	Consistent. The planning proposal is consistent with the aims of the policy.
SREPP	Comment on Consistency
SYDNEY REP (Sydney Harbour Catchment) 2005	Consistent. The planning proposal is consistent with the aims of the

SREPP	Comment on Consistency
	policy and will have no adverse impacts on the Sydney Harbour Catchment.

Is the planning proposal consistent, justifiably inconsistent or inconsistent with all other strategic planning documents?

Yes. This planning proposal is consistent with the outcomes stated under the six themes of the Ku-ring-gai Council Community Strategic Plan 2030. The themes, listed below, seek to provide for a sustainable environment for Ku-ring-gai's future.

1. Community, People and Culture
2. Natural Environment
3. Places, Spaces and Infrastructure
4. Access, Traffic and Transport
5. Local Economy and Employment
6. Leadership and Governance

This planning proposal specifically supports the 2 following themes:

P1.1 Ku-ring-gai's unique visual character and identity is maintained

P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai

P5.1 Ku-ring-gai's heritage is protected, promoted and responsibly managed

The planning proposal is also consistent with the following aims of the KLEP 2015:

- (a) To guide the future development of land and the management of environmental, social, economic, heritage and cultural resources within Ku-ring-gai*
- (f) To recognise, protect and conserve Ku-ring-gai's indigenous and non-indigenous cultural heritage*

6.0 PARLIAMENTARY COUNSEL OPINION

Was an Opinion sought and given by Parliamentary Counsel?

Council sought an opinion from Parliamentary Counsel on 28 April 2016. Parliamentary Counsel issued the opinion on 3 May 2016.

7.0 OTHER RELEVANT MATTERS

Have representations been received on the Planning Proposal from State or Federal members of Parliament?

No representations have been received on the planning proposal from State or Federal members of Parliament.

Has Council has met with the Minister in relation to the Planning Proposal?

Council has not met with the Minister in relation to the planning proposal.

8.0 MAPPING

Proposed LEP Maps are attached in the Appendix to this Report.

9.0 RECOMMENDATION

At Council's meeting on 26 April 2016, Council resolved the following:

- A. *That the Planning Proposal to list the property known as 'Birralee' at 25 Bushlands Avenue, Gordon as a local heritage item under the Ku-ring-gai Local Environmental Plan 2015 proceed without variation.*
- B. *That Council proceed to make the Plan, using its delegated authority, under Section 59(2) of the Environmental Planning & Assessment Act 1979.*
- C. *That those who made submissions be notified of Council's decision.*

APPENDICES

- PCO Legal Drafting - signed under delegation
- Proposed LEP Map
- Department's Attachment 5 - Delegated plan making reporting template
- Gateway Determination
- Planning Proposal