



Planning,  
Industry &  
Environment

IRF21/1456

## Plan finalisation report – PP-2020-553

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Ku-ring-gai Consolidated Local Environmental Plan

June 2021



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# 1 Introduction

## 1.1 Overview

### 1.1.1 Name of draft LEP

Ku-ring-gai Local Environmental Plan 2015 (Amendment No. 21)

The plan seeks to consolidate Ku-ring-gai's Local Environmental Planning Instruments into a single Local Environmental Plan (LEP), PP\_2018\_KURIN\_005\_00. This will involve the repealing of Ku-ring-gai Local Environmental Plan (Local Centres) 2012 and Ku-ring-gai Planning Scheme Ordinance.

### 1.1.2 Site description

#### *Ku-ring-gai Local Environmental Plan (Local Centres) 2012*

The planning proposal applies to land identified within Ku-ring-gai LEP (Local Centres) 2012 (**Figure 1**). The Local Centres LEP incorporates local centre land surrounding railway stations at Turramurra, Pymble, Gordon, Lindfield, Roseville and St Ives centre. The Local centres LEP was introduced in accordance with the Standard Instrument LEP and came into effect 8 February 2013.

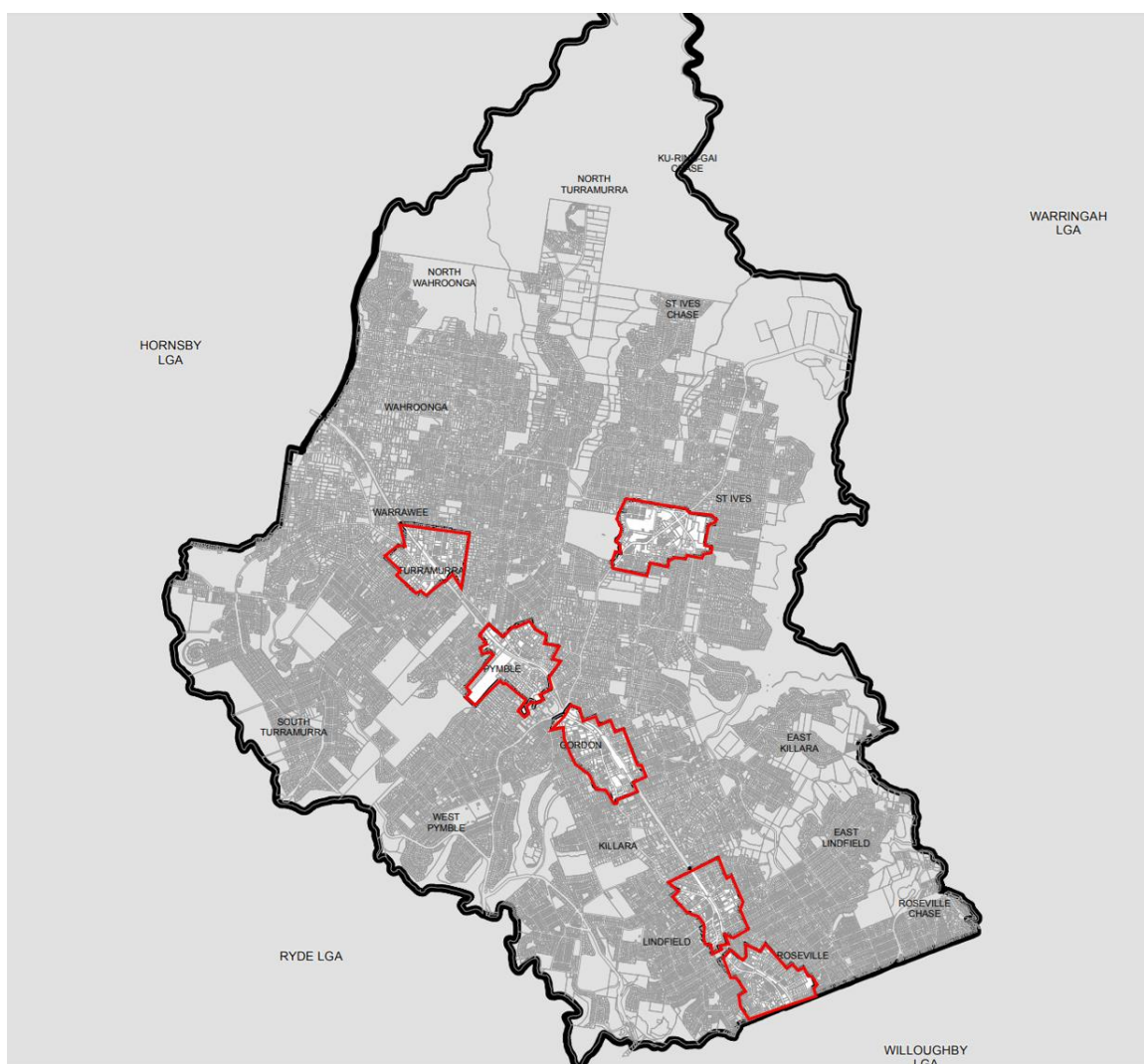


Figure 1 Ku-ring-gai Local Government Area with land applying to the Local Centres 2012 LEP outlined in red.

### *Ku-ring-gai Local Environmental Plan (KLEP) 2015*

The Ku-ring-gai Local Environmental Plan (KLEP) 2015 applies to the majority of the local government area (LGA) (**Figure 3**), which came into effect 2 April 2015 and was prepared in accordance with the Standard Instrument LEP.



Figure 2: Ku-ring-gai LGA, with land applying to KLEP 2015 shaded green, with the area covered by Local Centres LEP shaded white.

### *Ku-ring-gai Planning Scheme Ordinance (KPSO)*

The Ku-ring-gai Planning Scheme Ordinance (KPSO) was initially gazetted in 1971, with significant changes over this time. The KPSO currently applies to only 2 areas:

- Area 14 – Land surrounding ‘The Briars’ (14 Woonona Avenue, Wahroonga), which is a deferred matter. *The Briars* is a state heritage item (**Figure 2**).
- Area 15 – Land within the eastern portion of Killara Golf Course (Lot 2 DP 535219). This land was rezoned as part of a separate planning proposal (PP-2020-126). This proposal was gazetted 9 August 2019.

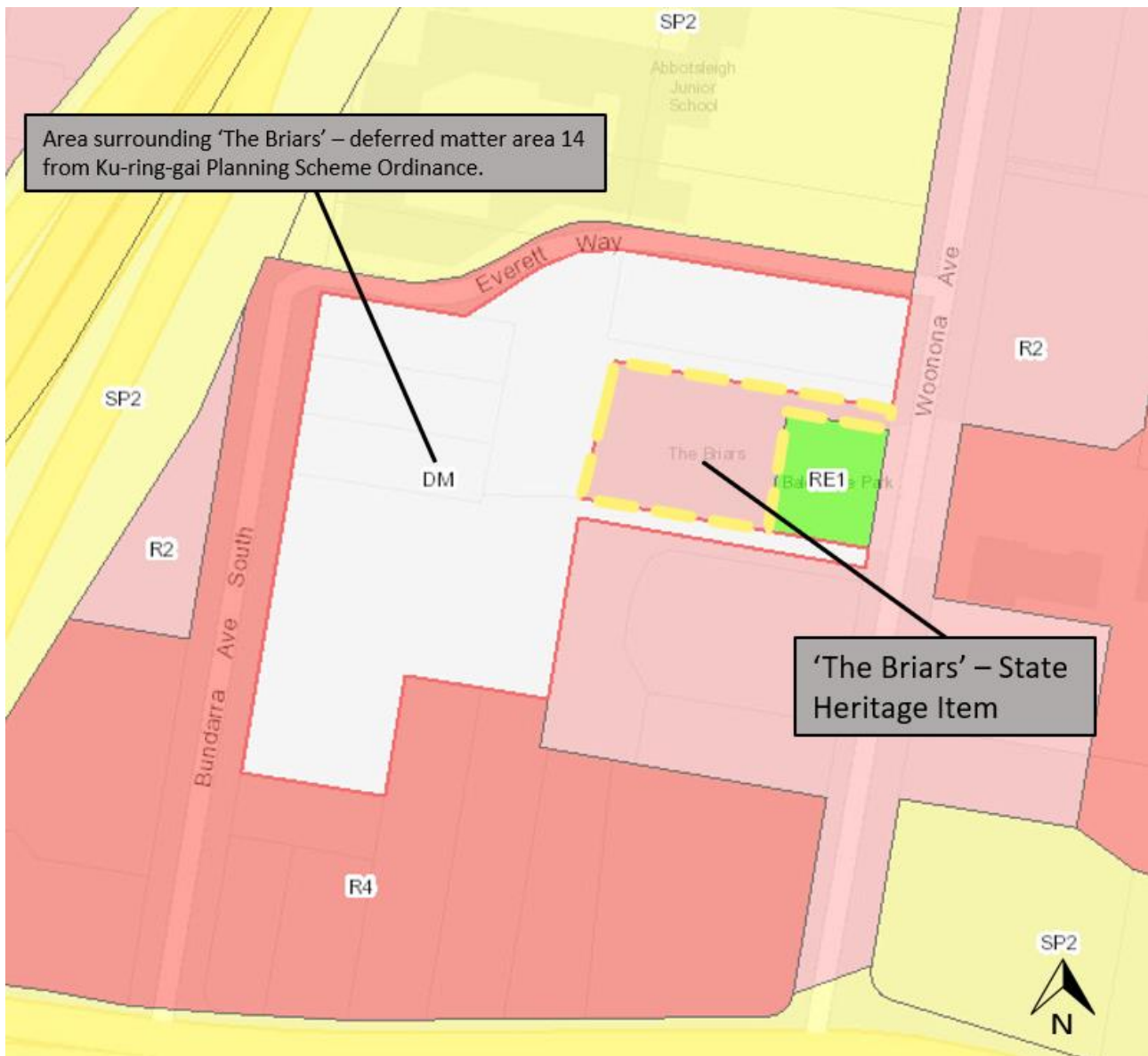


Figure 3: KPSO Deferred matter Area 14 – Land surrounding 'The Briars'

### 1.1.3 Purpose of plan

The draft LEP seeks to consolidate the Local Centres LEP and KLEP 2015 into a single LEP applying to the whole local government area. This involves interpreting land currently zoned under the Local Centres LEP into KLEP 2015. The interpretation of some clauses in the Local Centres LEP will result in amendments to KLEP 2015. The full list of written instrument comparisons is found at **(Attachment H)**.

In addition to the consolidation process, the planning proposal also seeks to make the following amendments and resolve the following matters:

- Incorporate the land which is currently under the Ku-ring-gai Planning Scheme Ordinance into the consolidated LEP **(Figure 3)**, including applying zoning and development standards for the land surrounding The Briars, Wahroonga.
- Remove two land reservations identified for acquisition. The proposal seeks to remove a local road reservation at Holford Crescent, Gordon as the acquisition commitment



represents an unfunded liability to Council, and Moree Street, Gordon as the land has since been acquired by Council.

- Amend heritage listings. The proposal seeks to include new heritage listings for the train stations at Turrumurra, Lindfield, Pymble and Roseville and remove or adjust existing heritage listings where sites have been subdivided or new dwellings constructed on new lots, and other minor corrections to Schedule 5.
- Resolve mapping errors and inconsistencies. The proposal seeks to amend site specific mapping errors, which are generally minor in nature and generally in the form of incorrect zoning or development standards applying to sites. This will ensure consistency across land use zones regarding planning standards such as the maximum height of building, minimum lot size and floor space ratio.

The above changes involve mapping amendments to a total of 108 sites, with a list of each contained at **Attachment I**. These amendments will ensure the final consolidated LEP is correct and up-to date.

#### 1.1.4 State electorate and local member

The site falls within the Ku-ring-gai state electorate. Alister Henskens MP is the State Member.

The LGA encompasses the Bradfield federal electorate, for which Paul Fletcher MP is the Federal Member, and the Davidson federal electorate, for which Jonathan O'Dea BA LL M MBA MP is the Federal Member. To the regional planning team's knowledge, these MPs have not made any written representations regarding the proposal.

There are no donations or gifts to disclose, and a political donation disclosure is not required.

There have been no meetings or communications with registered lobbyists with respect to this proposal.

## 2 Gateway determination and public exhibition endorsement

The Gateway determination issued on 13 May 2019 (**Attachment C**) determined that the proposal should proceed subject to conditions.

The Gateway Determination included conditions which required amendments to be made to the Planning Proposal prior to public exhibition. The revised Planning Proposal was re-submitted to the Department for review and approval prior to exhibition on 7 August 2019. The Department endorsed the revised proposal for public exhibition on 3 September 2019 (**Attachment D**).

Council has met all the Gateway determination conditions and the proposal was due for finalisation by 13 November 2020.

## 3 Public exhibition and post-exhibition changes

In accordance with the Gateway determination, the proposal was publicly exhibited by Council from 25/10/2019 to 22/11/2019, as required by section 29 of the *Local Government Act 1993*.

A total of six community submissions were received, with one resulting in a post-exhibition change. Council's submission summary can be found at **Attachment F1** as further outlined below.

## 3.1 Submissions during exhibition

### 1 Vista Street, Pymble

The exhibited planning proposal proposed the Schedule 5 heritage item name for 1 Vista Street Pymble to change from 'Robyn Hill' to 'Tarquinia'.

The submission raised concerns around changing the name, and argued that :

- There is no relevance or knowledge of the relevance of the name 'Tarquinia';
- The property has a strong history and connection to the community, and should not be changed; and
- Further reasoning behind the proposed changing of the name is requested.

Upon further analysis of the history of the site, Council has indicated that the original proposal to amend the name to 'Tarquinia' was based on incorrect information. The analysis also indicated that the correct spelling of the historical name of the site was 'Robin Hill'.

Council recommended that Schedule 5 of KLEP 2015 be amended for the site (I656) to reflect the historical spelling of 'Robin Hill'.

#### Department comment:

Council has considered the response and agrees with the change to amend the heritage listing name from 'Tarquinia' to 'Robin Hill' to accurately reflect the historical name of the item. The post-exhibition change is considered minor and does not require re-exhibition. Further information on this post-exhibition change is at **Section 3.3** of this report.

### Site 91 – 2B Havilah Road, Lindfield

The submission raised concerns about the rezoning of land around 2B Havilah Road, Lindfield, stating that:

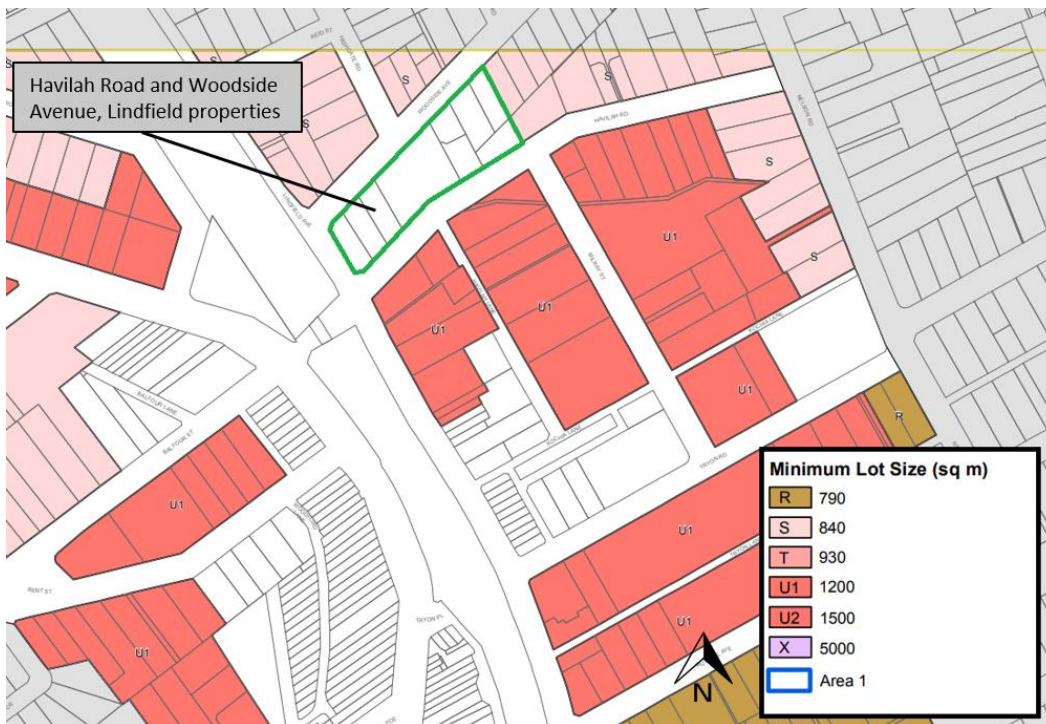
- The rezoning will devalue property and spoil the village atmosphere, and lead to more cars parked in adjacent streets;
- It is wrong that land can be rezoned at any time by Council; and
- Nothing has been done to relieve existing traffic problems in the area.

Council responded by stating that the planning proposal does not rezone any land in this area and the change is limited including a minimum lot size for sites that currently do not have a minimum lot size control (**Figure 4**). This change affects land at:

- 1, 3, 11, 15 and 17 Woodside Avenue; and
- A2, 2 and 2B Havilah Road, Lindfield.

It is proposed to apply a minimum lot size of 1200m<sup>2</sup>, consistent with other R3 and R4 land within the locality, and therefore no change to the proposal is necessary.





**Figure 2: Havilah Road and Woodside Avenue properties (outlined in green). The sites currently have no minimum lot size control (NSW Legislation).**

#### Department comment

This amendment does not involve a change to the land zoning and is proposing a minimum lot size control that is consistent with that of the surrounding equivalent zones. The proposed FSR is not anticipated to alter the outcomes for the area, and the Department recommends no change to the exhibited plan.

#### **Ravenswood – ‘Lolanthe’ 691 Pacific Highway, Gordon**

The submission raised concerns about an error in the current heritage listing of the site, specifically:

- The listing in the Local Centres LEP identifies the site as being of State Heritage Significance and applies to the whole site. Whereas the State Heritage Register identified the site as being *Part Lot 100 DP776508*.

The submission recommended that the proposal be amended to correct the above mentioned error.

Council responded by indicating that the original proposal did not consider this error, and any such amendment would require further exhibition and delay of the proposal. No post-exhibition amendment was recommended by Council.

#### Department comment

There is no need for the proposal to be updated to include the above matter, and further consideration would be more appropriate through a separate planning proposal. No change to the exhibited plan is recommended.

#### **Site 18 – Part of 8 Muttama Street, Wahroonga**

The submission raised concern about rezoning the land at 8 Muttama Street, Wahroonga. The site is currently zoned part E2 Environmental Conservation and part E4 Environmental Living (**Figure 5**) and suggested that Council retain the E2 zoning. The submission suggested that if an R2 Low

Density Residential zone was applied to the site, then the portion of the adjoining park off the Comenarra Parkway should be retained as E2 to improve biodiversity linkages.

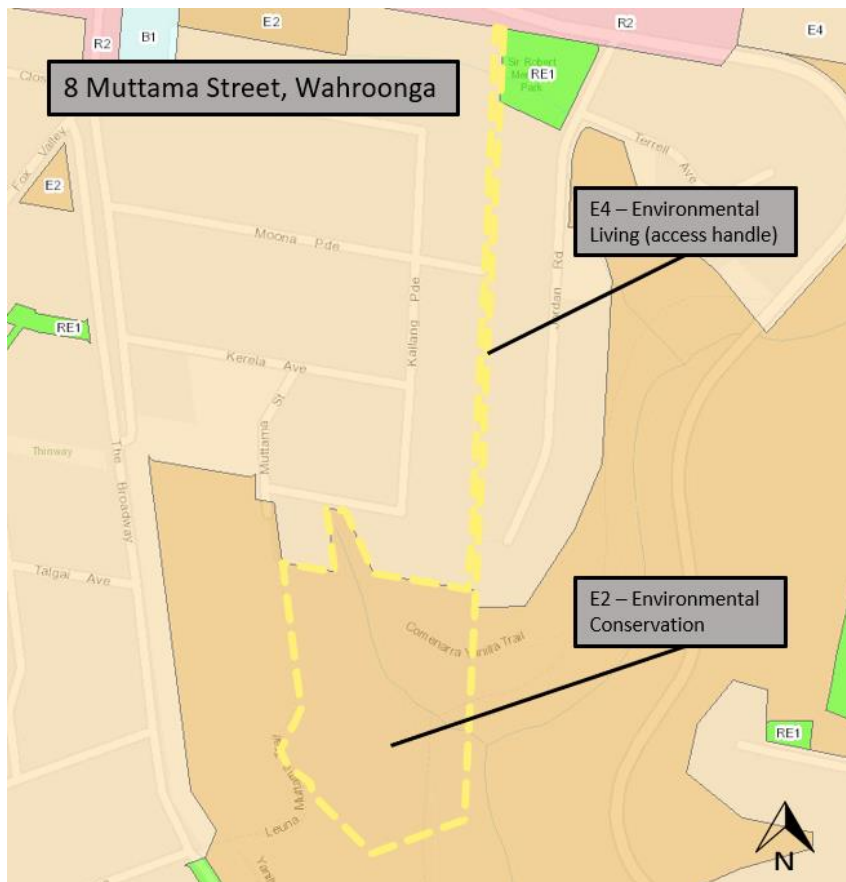


Figure 3: Land at 8 Muttama Street, Wahroonga (NSW Planning Portal).

Council has indicated that the proposal does not propose any rezoning of the site, and that the proposal is applying a height of building and floor space ratio control that is consistent with other E4 zoned land within the LGA.

Council also made clear that there are no plans to sell any portion of the E4 zoned land.

**Department comment:**

The controls that are proposed are consistent with E4 zoned land throughout the LGA, and do not present any significant impacts regarding the biodiversity values or the use of the land. No change to the exhibited plan is recommended.

**Schedule 3 – Complying Development**

The submission raised concerns regarding the ability to undertake complying development in E4 zoned land under Schedule 3 of KLEP 2015 for the purposes of a dwelling house. The Local Centres LEP currently does not have this provision and this should not be carried over into the Consolidated LEP.

Council noted that complying development under State Environmental Planning Policy (Exempt and Complying Development) 2008 is not permitted in E4 zoned land. However, Council has specifically allowed complying development to be permissible for the purposes of a dwelling house in E4 zoned land, so as long as the development is not land identified within clause 6.3 or 6.4 of KLEP 2015. It is not proposing to amend this clause, and no amendment to the planning proposal was recommended post-exhibition.

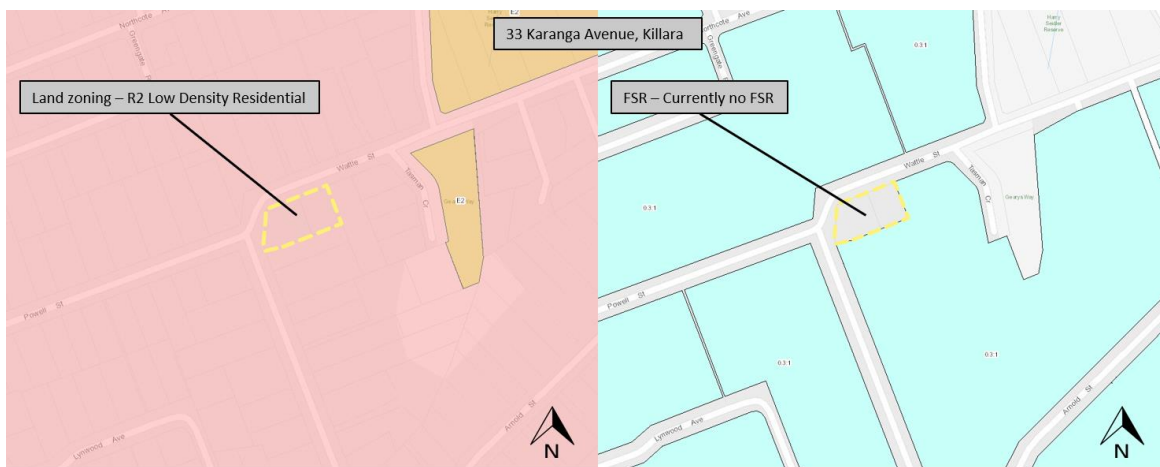
The complying development provisions for dwelling houses within the E4 zone was a solution as part of the deferred areas planning proposal for the introduction of KLEP 2015, where large pockets of land were zoned E4 due to initial bushfire evacuation risks. Residents expressed concern over the restriction of complying development for these properties, hence the clause to specifically allow complying development for the purposes of a dwelling house. Under the Local Centres LEP there are 75 properties zoned E4 and 175 with a part E4 land zoning.

Department comment:

This clause has been within KLEP 2015 since it was first gazetted, and the intent of this planning proposal is to preserve details under Schedule 3. Council has considered the submission but has not expressed its intention to remove the clause. No change to the exhibited plan is recommended.

**Site 80 – 31 Karranga Avenue, Killara**

The site is zoned R2 Low Density Residential under KLEP 2015, and currently has no FSR control applying to the land (**Figure 6 and Figure 7**). As part of this proposal the site is identified to have an FSR of 0.3:1, which is consistent with the R2 zoned land in the locality.



**Figure 6: 31 Karranga Avenue, Killara current FSR control – no FSR and Figure 7 :land zone – R2 low density residential (NSW Planning Portal).**

The submission did not raise any objection to the proposal, however raised the following:

- The application of the FSR control of 0.3:1 if the existing dwelling was already over this control; and
- Lot 1 is listed in KLEP 2015 in Schedule 1 – Additional Permitted Uses; how does the FSR being applied in this case.

Council responded by stating that the FSR would only be applied for future alterations and additions to the existing dwelling, and that 0.3:1 is a standard FSR control for low density sites within the LGA.

The Additional Permitted Use is linked to clause 4.4(2b) of KLEP 2015 that allows an FSR of 0.4:1 for dual occupancy (detached) if they are permitted on the land.

Department comment:

Council has responded satisfactorily, and no additional consideration is required. Further examination of the control is required through the development assessment process. No change to the exhibited plan is recommended.

**Holford Crescent, Gordon**

Holford Crescent is located between Ryde Road and Ridge Street, Gordon (**Figure 8**), with a portion of the road currently zoned SP2 affected by a local road reservation identified on Council's



Land Reservation Acquisition Map (**Figure 9 and 10**) under KLEP 2015. The proposal is removing this acquisition as Council has stated it is unfunded and no longer required, as well as rezoning the site from SP2 Local Road to R2 Low Density Residential, consistent with the surrounding land.

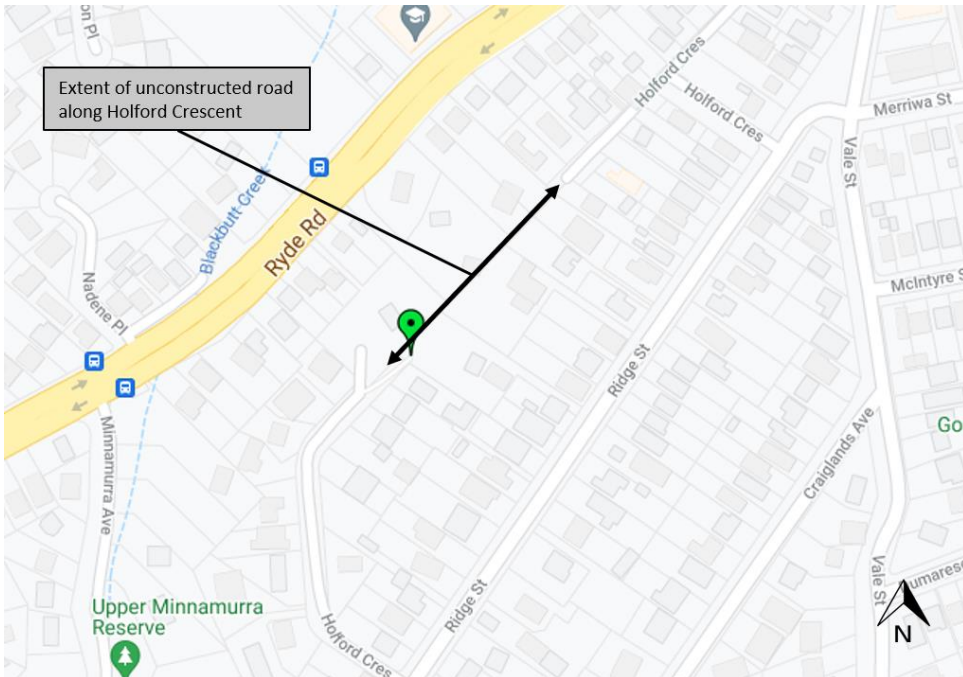


Figure 4: Holford Crescent, Gordon (NearMap).

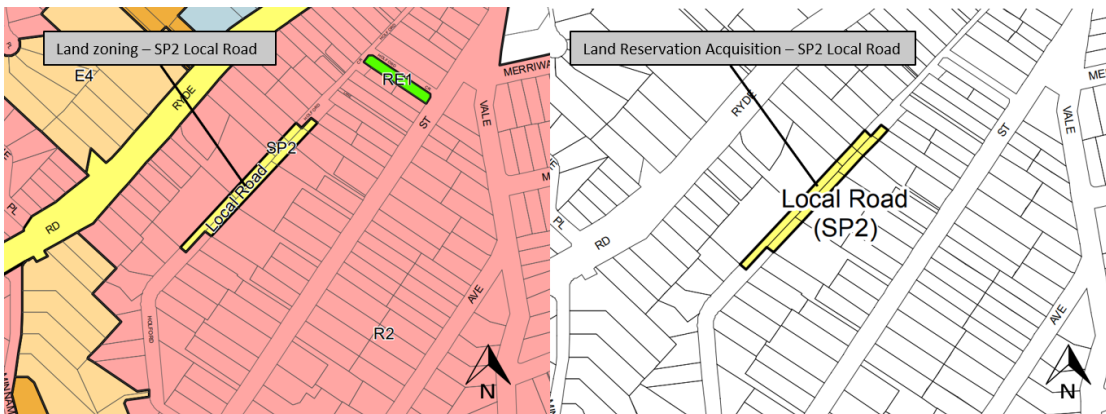


Figure 5: Current Land zone - SP2 (Local Road) and Figure 10: Current Land Reservation identification - SP2 (Local Road) for part of Holford Crescent (NSW Legislation).

Representations were made regarding the removal of this acquisition as a landowner made financial contributions towards the construction of the road – as well as dedicating land as part of an historic approval. The landowner requested a refund as construction of the road is not proceeding.

Council has stated that the KPSO included this road reservation to facilitate historical subdivisions and construction of dual occupancies fronting Holford Crescent from the mid-1990's. At the time, Council required the extension of Holford Crescent, and included the dedication of land on development consents. The details were translated into an SP2 zoning through the standard instrument implementation, however the clause requiring construction of the road (CI 59 of KPSO) was not able to be implemented through the standard instrument. Council's Section 7.11 plans do not include the construction of the road.

As the infrastructure required is unfunded and the process has never been completed, Council sees no need to continue identifying this site on the Land Acquisition Map. It is also noted in the

proposal that there is no justification for the acquisition to appear on any Section 7.11 plan due to the small number of landholders that would benefit from the extension of this road. **Figure 11** shows the current extent of construction of the road.

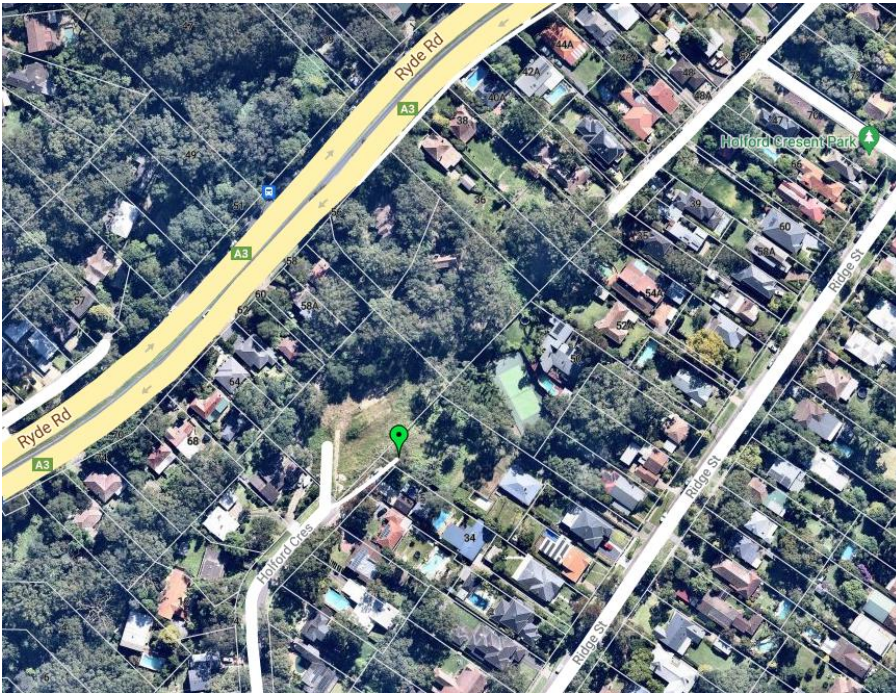


Figure 11: Holford Crescent aerial image (NearMap).

Department comment:

It is Council's responsibility to appropriately utilise the funds generated from contributions relating to historical development consents, and the Department notes that Council is not removing this responsibility.

The draft consolidated DCP details provisions that will support the future subdivision of the locality through the construction and extension of Holford Crescent. This includes controls for appropriate road widths and setbacks for future dwellings (**Attachment J**). No change to the exhibited plan is recommended.

## 3.2 Advice from agencies

In accordance with the Gateway determination, Council was required to consult with agencies listed below in Table 1 who have provided the following feedback.

**Table 1 Advice from public authorities**

Agency	Advice raised	Council response
NSW Environment Energy and Science Group (EES)	<p>No objections were raised; however the following issues were detailed:</p> <p><u>28 Cliff Avenue, North Wahroonga</u></p> <p>The site is currently zoned E2 and is proposed to be rezoned RE1. EES recommends that the E2 zoning is retained as there have been a few records of threatened species on the site.</p>	<p><u>28 Cliff Avenue, North Wahroonga</u></p> <p>The site is occupied by a Scout Hall, with the proposed zoning of RE1 being consistent with other sites that contains Scout Halls.</p> <p>This proposal does not result in the alteration of KLEP 2015 Terrestrial Biodiversity Map and other biodiversity controls within Council's DCP. As the mapping and controls cover the entire site, Council is satisfied that the site's native vegetation is given proper consideration.</p>
	<p><u>Site 43 – Part of Aurora Drive, St Ives</u></p> <p>The proposal amends the land zone from E2 Environmental Conservation to E4 Environmental Living, allowing residential development.</p> <p>EES recommends satisfactory APZ's to be applied for any developable area of the site.</p>	<p><u>Site 43 – Part of Aurora Drive, St Ives</u></p> <p>This is to be considered as part of any future development application for the site.</p>
Heritage NSW	<p><u>The Briars</u></p> <p>Supported the rezoning as it reflects existing development patterns, and it limits the built form controls for land to the north and north-west. If any significant change is proposed, then Heritage NSW recommends a State of Heritage Impact.</p> <p><u>Railway Stations</u></p> <p>Heritage NSW encourages the identification of the Railway Stations as items of local heritage significance (Turramurra, Lindfield, Pymble and Roseville Stations), so long as proper due diligence and assessment has been undertaken.</p> <p><u>Removal and adjustment of heritage items</u></p> <p>No objection and decisions of this nature rest with Council.</p>	<p><u>Railway Stations</u></p> <p>Council has undertaken proper assessment of the proposed listing of Turramurra, Lindfield, Pymble and Roseville Stations, and consulted with Sydney Trains as part of agency consultation (Further details below).</p>
Transport for NSW	No objections raised	



Agency	Advice raised	Council response
TfNSW – Sydney Trains	<p>The proposed local heritage listings of Turramurra, Lindfield, Pymble and Roseville Stations is in accordance with information from the Section 170 Register, which is maintained by Railcorp.</p> <p>Sydney Trains are looking at a holistic review of the Register, which includes a reassessment of heritage assets (including those mentioned above). Due to the uncertainty of the results of the reassessment, Sydney Trains recommends that the proposal does not proceed until there is a better understanding.</p>	<p>Council in completing the inventory sheets for the Roseville Station Group; Lindfield Station Group; Pymble Station Group and Turramurra Station Group utilised information contained within the s170 register but also other sources including information provided by the Ku-ring-gai Historical Society when they nominated the North Shore Railway Line for local heritage listing.</p> <p>In addition, the sites were visited for on the ground assessment of the fabric.</p> <p>After completing a heritage assessment consistent with the Office of Environment and Heritage publication 'Assessing Heritage Significance', it was the conclusion of Council heritage staff that these four stations do have local heritage significance and recommend that the local listing proceed.</p>
TfNSW Roads and Maritime Services	No objections raised as the planning proposal does not seek to remove/amend any TfNSW road corridor reservations	Noted, no changes to the proposal.
NSW Rural Fire Service	No objections raised ( <b>Attachment F3</b> ).	N/A
National Parks and Wildlife Service	Council has provided an email trail that consists of comments from EES that confirm that National Parks and Wildlife Service is incorporated into its response ( <b>Attachment F4</b> ).	N/A

TfNSW – Sydney Trains submission – Department comment:

Lindfield, Pymble, Roseville and Turramurra Stations are all currently included on the Transport for New South Wales, Sydney Trains Section 170 Heritage and Conservation Register. The register documents and recognising the four stations as having heritage significance at a local level with each consisting of a variety of heritage fabric built form elements. The current status of the register shows no update to the statement of significance has occurred since 2016.

Council has undertaken a comprehensive analysis of the Section 170 Register as well as its own site visits and heritage assessment that is documented within individual heritage inventory sheets for each station (**Attachment K1-K4**). The proposal concludes that the stations each have specific local heritage significance.

The inventory sheets also contain an assessment of each station against the NSW Heritage Council's criteria for local heritage listing, most of which meet several of the criteria. It is noted that for a local listing, an item is only required to meet one of the seven set criteria.



In the event that the S170 Register is updated, it will be a matter for Sydney Trains to discuss with Council how this impacts the local listing of each item. However, there has been no information that would preclude an assessment from Council concerning the local significance of each station, and no further information that suggests the significance as stated in the existing Register has been altered. Further, the Heritage NSW submission, as indicated in Table 1, encourages the identification of the Railway Stations as items of local heritage significance (Turramurra, Lindfield, Pymble and Roseville Stations), as long as proper due diligence and assessment has been undertaken, which Council has advised it has undertaken.

It is recommended that the listings of the four stations proceed as part of this finalisation, and no post-exhibition change is required.

#### NSW Environmental Energy and Science Group (EES) submission – Department Comment

28 Cliff Avenue, North Wahroonga,

The site is currently zoned E2 and is proposed to be rezoned RE1. EES recommends that the E2 zoning is retained as there have been a few records of threatened species on the site.

Council has indicated that the site contains a scout hall, and the RE1 zoning is proposed as it is consistent with other scout hall sites within Ku-ring-gai and enables them to continue to operate as a permissible use. Other mapping, such as Terrestrial Biodiversity, is not proposed to be amended and Council has appropriate tree protection controls within its DCP.

It is noted that section of land proposed to be rezoned RE1 contains the scout hall structure, sections of grassed areas and mix of mature trees as compared to the heavily vegetated bushland adjacent to the west that is to remain zoned E2. Particularly given Council's terrestrial biodiversity and tree protection controls and state legislation providing protection to any threatened species, there are not considered to be any impediments to progressing the proposal on this basis.

#### Summary

The Department considers Council has adequately addressed matters raised in submissions from public authorities. Further information regarding the Department's assessment is contained in **Section 4** of this report.

## 3.3 Post-exhibition changes

### 3.3.1 Council resolved changes

At Council's Ordinary Meeting on 17/03/2020, Council resolved (**Attachment E2**) to proceed with the planning proposal with the following minor post-exhibition change:

#### **1 Vista Street, Pymble**

The exhibited planning proposal proposed to change the heritage listing name of 1 Vista Street Pymble from 'Robyn Hill' to 'Tarquinia'.

Upon further investigation, Council has indicated that the information from the original request to change the name to 'Tarquinia' was incorrect. The investigation also identified that naming of this property (dating back to 1935) was 'Robin Hill' and not 'Robyn Hill'. As such, the proposal was updated to recommend an amendment of the property name under Schedule 5 to 'Robin Hill' (**Attachment E1**).

### 3.3.2 Changes made after request for finalisation

Following the receipt of the revised planning proposal from Council, the Department has made further changes to the proposal as follows:

#### **Request to delay gazettal**

Council has requested a delay of 14 days prior to the commencement of the LEP amendment following the notification of the plan. This is to ensure Council's property systems are organised (i.e. Council's Section 10.7 Certificates and the like). Once the date of gazettal is known, the commencement date will be specified.

This post-exhibition change is considered minor, and re-exhibition is not required. The tentative dates are set for 11 June 2021 notification date, with the Final PCO stating a commencement of 28 June 2021 (**Attachment PC**).

### Amendments to Lot descriptions

Through the legal drafting process Council noticed historical Lot descriptions for various heritage items that are proposed. Council has since provided the department updated Lot descriptions. This is a minor post-exhibition change that does not require re-exhibition of the proposal.

### 3.3.3 Justification for post-exhibition changes

The Department notes that these post-exhibition changes are justified and do not require re-exhibition. It is considered that the post-exhibition changes:

- Correct previous information regarding the historical name of the 'Robin Hill' heritage item;
- Are reasonable and update the lot descriptions of various sites;
- Do not alter the intent of the planning proposal and are minor amendments to the planning proposal.

## 4 Department's Assessment

The proposal has been subject to detailed review and assessment through the Department's Gateway determination (**Attachment A**) and subsequent planning proposal processes. It has also been subject to a high level of public consultation and engagement.

The following reassesses the proposal against relevant Section 9.1 Directions, SEPPs, Regional and District Plans and Council's Local Strategic Planning Statement. It also reassesses any potential key impacts associated with the proposal (as modified).

As outlined in the Gateway determination report (**Attachment G**), the planning proposal submitted to the Department for finalisation:

- Remains consistent with the regional and district plans relating to the site
- Remains consistent with the Council's Local Strategic Planning Statement
- Remains consistent with all relevant Section 9.1 Directions
- Remains consistent with all relevant SEPPs

The following tables identify whether the proposal is consistent with the assessment undertaken at the Gateway determination stage. Where the proposal is inconsistent with this assessment, requires further analysis or requires reconsideration of any unresolved matters these are addressed in Section 4.1

**Table 2 Summary of strategic assessment**

	Consistent with Gateway determination report Assessment	
Regional Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
North District Plan	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

	Consistent with Gateway determination report Assessment	
Local Strategic Planning Statement	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Local Planning Panel (LPP) recommendation	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Section 9.1 Ministerial Directions	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
State Environmental Planning Policies (SEPPs)	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

**Table 3 Summary of site-specific assessment**

Site-specific assessment	Consistent with Gateway determination report Assessment	
Social and economic impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Environment impacts	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1
Infrastructure	<input checked="" type="checkbox"/> Yes	<input type="checkbox"/> No, refer to section 4.1

## 4.1 Detailed Assessment

The following section provides details of the Department's assessment of key matters and any recommended revisions to the planning proposal to make it suitable.

### North District Plan

The proposal gives effect to the North District Plan, and is consistent with the following Planning Priority:

*N6 – Creating and renewing great places and local centres, and respecting the District's heritage*

The proposal lists 4 new heritage items at Turramurra, Lindfield, Pymble and Roseville Train Stations. The proposal also amends other heritage items to provide a more accurate representation of heritage significance throughout the LGA.

### Section 9.1 Ministerial Directions

#### 2.1 Environmental Protection Zones

The objective of this direction is to protect and conserve environmentally sensitive areas. The Gateway determination (**Attachment A**) imposed a condition to remove the proposed amendments to 11, 23 and 25 Glen Road, Roseville as this was inconsistent with this Direction.

The proposed was revised and submitted to the Department for endorsement prior to exhibition, which was given 3 September 2019 (**Attachment D**).

The proposal also amends the extent of the environmental protection zones, with the amendments summarised in **Table 4** below:

**Table 4 – Environmental Protection zone amendments**

Environmental Protection amendments			
Site	Current control	Proposed control	Justification from Council
28 Cliff Avenue, North Wahroonga	Part E2 Environmental Conservation and Part RE1 Public Recreation	Extension of RE1 land	The site is leased to Scouts Australia, the extension of the RE1 zone allows scouts to continue as a permissible use. This is consistent with other scout sites within the LGA, and no changes to Biodiversity mapping or biodiversity considerations in the DCP are proposed. Mapping information contained within <b>Attachment I – Site 23.</b>
169 Warrimoo Avenue	E2	E4 Environmental Living	The site is in private ownership and is not subject to any land acquisition. This site was part of a larger site that is zoned E4. Rezoning and amendment of other development standards is consistent with the remainder of the site included in deferred areas planning proposal. Mapping information contained within <b>Attachment I – Site 43.</b>
460 Mona Vale Road, St Ives (Part Lot)	E1	E3 Environmental Management	Part lot is now in private ownership, and part of larger lot in Northern Beaches LGA. The proposed E3 zone is consistent with the zoning under Warringah LEP. Mapping information contained within <b>Attachment I – Site 44.</b>
Lister Street, North Wahroonga	E4	E2	This site is the access handle to Wahroonga Recreation Reserve which is zoned E2. The amendment is to match the zoning of the larger reserve. Mapping information contained within <b>Attachment I – Site 12.</b>
1 Buna Close, North Turramurra (Part Lot)	Part E4	E2	This site is the access handle to larger lot zoned E2. Mapping information contained within <b>Attachment I – Site 27.</b>
151A Koola Avenue, East Killara (Part Lot)	Part E4	E2	This site is the access handle to larger lot zoned E2. Mapping information contained within <b>Attachment I – Site 76.</b>

The amendments proposed are generally minor in nature and through the above justification provided by Council for each site the Department is satisfied that the proposal is justifiably inconsistent with the Ministerial Direction.

### 2.3 Heritage Conservation

The proposal seeks to identify items of local heritage significance for

- Turramurra Station Group, Rohini Street, Turramurra (written instrument amendment only)
- Lindfield Station Group, Lindfield Avenue, Lindfield

- Pymble Station Group, Grandview Street, Pymble
- Roseville Station Group, Jill Street, Roseville.

Any further amendments or adjustments to heritage listings involve cases where subdivision has occurred, and the heritage significance has been altered or removed.

The proposal also seeks to remove various items of local heritage significance, and is summarised in **Table 5** below:

**Table 5: Summary of proposed Heritage removals**

Heritage Removal	
Site	Justification from Council
2A and 2B Pibrac Avenue, Warrawee	This land was subdivided from 55 Hastings Road, Warrawee (larger heritage parcel), and new dwellings were constructed on this lot.
46 Water Street, Wahroonga	The bushland was acquired by Council following a subdivision in 2008, and this site formed part of a larger heritage site. The existing heritage site remains at 1 Glenwood Close (1932). Other lots that were part of the subdivision have had this status removed.
8 Laurel Avenue, Turramurra	This land was subdivided from 12 King Street (larger heritage parcel). There is a current DA for a new dwelling to be constructed on this lot.
7A Fairway Avenue, Pymble	Consent for a new dwelling and subdivision created 7A Fairway Avenue, which incorrectly retained the heritage listing from the larger historical parcel.
62 Livingstone Avenue,	This site was created from the subdivision of 66 Livingstone Avenue which is listed as a heritage item. 62 Livingstone incorrectly retained the heritage listing. The dwelling was constructed in 2000.
7 Womerah Street, Turramurra	Lot 3 (this lot) and Lot 4 formed part of listing of the property at 5 Womerah Street. Lot 3 has consent for the construction of a detached dwelling and there is little remaining relationship with the original item.

#### Deferred Area 14 KPSO

The proposal has included planning investigations concerning the rezoning of land in the 'Deferred Area 14' surrounding 'The Briars' heritage item from the KPSO. This has resulted in proposing R4 and R2 zoning and development standards that are considered compatible in the context of the locality and this has received no objection from Heritage NSW.

The proposal is consistent with this Direction and is supported.

#### 4.4 Planning for Bushfire protection

The proposal was forwarded to the NSW Rural Fire Service (RFS) as part of the agency referral conditions imposed upon the Gateway determination (**Attachment A**). A response from the NSW RFS is contained at **Attachment F3** and does not raise any objection to the proposal.

There are no further considerations from the Department regarding the consolidation of Ku-ring-gai's environmental planning instruments into one LEP, and the proposal is consistent with this Direction.

## 6.2 Reserving Land for Public Purposes

The Gateway determination report noted that the consistency with this Direction was unresolved. This Direction applies to the following properties:

### *33 Moree Street, Gordon*

The land at 33 Moree Street, Gordon is identified in Council's land reservation acquisition mapping as a 'local road'. The land has been acquired by Council and the road has been constructed, thus the proposal intends to remove the reservation. This amendment is supported.

### **1 Burgoyne Street, Gordon.**

This site is currently zoned SP2 – Rail Infrastructure. Council's report has indicated that the site is in private ownership and is incorrectly zoned and proposes to rezone the site to R4 high density residential – consistent with the surrounding high density zoned land.

No objections were raised to the proposal by TfNSW – Sydney Trains through the standard agency consultation and the land zoning proposal is consistent with the wider locality. This amendment is supported.

### **Holford Crescent land dedication**

The road reservation along Holford Crescent was previously included in the KPSO and carried over into KLEP 2015 as part of the introduction of the Standard Instrument LEP. The land is currently identified on the Land Acquisition Map and is proposed to be removed. Section 3.1 of this report contains further information regarding Council's response to representations made during the exhibition period.

Council's draft consolidated DCP contains a clear objective to ensure the construction and extension of Holford Crescent (**Attachment J**). This proposal is to remove the financial burden from Council to acquire the land. There is no objection to this approach, and the responsibility of ensuring existing contributions are utilised appropriately rests with Ku-ring-gai Council.

### **Sydney Trains submission**

An assessment of this issue is contained in **Section 3.2** of this report.

## 5 Post assessment consultation

The Department has consulted with the following stakeholders after the assessment.

**Table 6 Consultation following the Department's assessment**

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Mapping	All maps have been prepared by Council and the Department's ePlanning team and meet the technical requirements.	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

Stakeholder	Consultation	The Department is satisfied with the draft LEP
Council	<p>Council was consulted on the terms of the draft instrument under clause 3.36(1) of the <i>Environmental Planning and Assessment Act 1979</i>.</p> <p>Council confirmed on 14 May 2021 that it was agreeable with the draft and that the plan should be made (<b>Attachment C</b>)</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details
Parliamentary Counsel Opinion	<p>On 9/06/2021 , Parliamentary Counsel provided the final Opinion that the draft LEP could legally be made. This Opinion is provided at <b>Attachment PC</b>. Changes made to the amendment are generally minor and detailed in <b>Section 3.3.2</b> above.</p>	<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No, see below for details

## 6 Recommendation

It is recommended that the Minister's delegate as the local plan-making authority determine to make the draft LEP under clause 3.36(2)(a) of the Act because:

- The draft LEP has strategic merit being consistent with the North District plan;
- It is consistent with the Gateway Determination;
- Issues raised during consultation have been addressed, and there are no outstanding agency objections to the proposal; and
- The draft LEP intends to consolidate Ku-ring-gai Council's Local Environmental Plan into one plan, simplifying the planning controls for the LGA and correcting a series of mapping errors.



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Manager, North District



Brendan Metcalfe  
Director, North District



Malcolm McDonald  
Executive Director, Eastern Harbour City



Assessment officer

Michael Cividin

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## Attachments

**Attachment PC** – Parliamentary Counsel Opinion and Instrument

**Attachment A** – Gateway Determination – 13 May 2019

**Attachment B** – Finalisation Request – 20 March 2020

**Attachment C** – Council agreement to make the plan – 14 May 2021

**Attachment D** – Exhibition Endorsement Letter to Council – 3 September 2019

**Attachment E1** – Council Report – 17 March 2020

**Attachment E2** – Council Resolution – 17 March 2020

**Attachment F1** – Summary of Submissions

**Attachment F2** – Responses from Agencies

**Attachment G** – Original Gateway determination report – 13 May 2019

**Attachment H** – Written instrument comparison

**Attachment I** – Consolidated mapping amendments

**Attachment J** – Draft DCP

Attachment K1-K4 – Draft Heritage Inventory Sheets (Pymble, Turramurra, Roseville and Lindfield Stations)