



Our ref: PP\_2016\_KURIN\_001\_00  
Your ref: S10611

Mr John McKee  
General Manager  
Ku-ring-gai Council  
Locked Bay 1006  
Gordon NSW 2072

Dear Mr McKee

### **Planning proposal to amend Ku-ring-gai Local Environmental Plan 2015**

I am writing in response to your Council's letter dated 10 December 2015 requesting a Gateway determination under section 56 of the *Environmental Planning and Assessment Act 1979* ("EP&A Act") in respect of the planning proposal to include 13 deferred areas within *Ku-ring-gai Local Environmental Plan 2015*.

As delegate of the Greater Sydney Commission, I have now determined the planning proposal should proceed subject to the conditions in the attached Gateway determination.

I have also agreed, as delegate of the Secretary, the planning proposal's inconsistency with S117 Direction 3.1 Residential Zones and 3.4 Integrating Land Use and Transport are of minor significance. No further approval is required in relation to these Directions.

In addition, Council is to demonstrate consistency in the planning proposal with S117 Direction 2.3 Heritage Conservation and 6.2 Reserving Land for Public Purposes.

I note that Council has consulted with NSW Rural Fire Service (RFS) and NSW Police prior to requesting a Gateway determination. To ensure no further assessment is required, I have also imposed a condition to the determination requiring Council to consult with NSW RFS and NSW Police prior to community consultation. Any responses from NSW Rural Fire Service and NSW Police are to be forwarded to the Department for information purposes.

I understand there is a proposed reduction of land zoned for open space purposes. There is limited explanation within the planning proposal to address this situation and a condition has been attached to the determination to clarify this aspect of the proposal.

The planning proposal is likely to be of interest to land owners and the community. I have conditioned the Gateway determination so that Council is required to notify all affected land owners of the planning proposal and exhibition details.

I note Council is seeking to introduce an additional permitted use of 'eco-tourist facility', at 20 Kanowar Avenue, East Killara. In conjunction with the Rural Fire Service it is required that Council investigates and carefully considers a suitable provision that limits the size, or number of rooms/occupants, of any eco-tourist facility on this site, in view of

the site's location in a high bushfire prone area. It is a condition of the Gateway, that after consultation with the RFS, the subsequent provision is referred to the Department for review and approval, prior to proceeding to exhibition.

Plan making powers were delegated to councils in October 2012. It is noted that Council has requested to be issued with delegation for this planning proposal. I have considered the nature of Council's planning proposal and have decided not to issue an authorisation for Council to exercise delegation to make this plan in this instance.

The amending Local Environmental Plan (LEP) is to be finalised within 12 months of the week following the date of the Gateway determination. Council should aim to commence the exhibition of the planning proposal as soon as possible. Council's request for the Department of Planning and Environment to draft and finalise the LEP should be made 6 weeks prior to the projected publication date.

The State Government is committed to reducing the time taken to complete LEPs by tailoring the steps in the process to the complexity of the proposal, and by providing clear and publicly available justification for each plan at an early stage. In order to meet these commitments, the Greater Sydney Commission may take action under section 54(2)(d) of the EP&A Act if the time frames outlined in this determination are not met.

Should you have any queries in regard to this matter, please contact Mrs Catherine Van Laeren of the Sydney Region West Office of the Department on 02 9860 1520.

Yours sincerely,

 27 June 2016  
**Stephen Murray**  
**Acting Executive Director, Regions**  
**Planning Services**

Encl:  
Gateway Determination



## Gateway Determination

**Planning proposal (Department Ref: PP\_2016\_KURIN\_001\_00):** to remove the deferred status of 13 areas and introduce associated planning controls and other proposed zones.

I, the Acting Executive Director, Regions, at the Department of Planning and Environment as delegate of the Greater Sydney Commission, have determined under section 56(2) of the *Environmental Planning and Assessment Act 1979* that an amendment to the *Ku-ring-gai Local Environmental Plan 2015* (LEP) to include 13 deferred areas and introduce associated controls and the application of certain zones should proceed subject to the following conditions:

1. Prior to exhibition, the Council is to consult with the Rural Fire Service to determine a suitable provision that limits the size, or number of rooms/occupants, of any eco-tourist facility at 20 Kanowar Avenue, East Killara, in view of the site's location in a high bushfire prone area. The agreed provision and amended planning proposal is to be submitted to the Department's regional team for review and approval, prior to proceeding to exhibition.
2. Prior to exhibition, Council is to amend the planning proposal as follows:
  - (a) On page 1 of the planning proposal remove the words 'excavation' and insert 'evacuation', where appropriate.
  - (b) Under Part 2 "Explanation of Provisions" include lots/addresses of land that have an alternative zoning to the proposed zoning E4 Environmental Living. Especially lands proposed as zones RE1 Public Recreation and E2 Environmental Conservation in Areas 3, 5, 7, 8, 11, and 12.
  - (c) Under Part 3 "Justification", address consistency with S117 Direction 2.3 Heritage Conservation.
  - (d) Under Part 4 "Mapping", for Area 12 East Killara, the site zoned SP2 Infrastructure should be labelled 'SP2 Water Supply System'
  - (e) Under Part 4 "Mapping", all heritage maps are to include heritage item label numbers.
  - (f) Address S117 Direction 6.2 Reserving Land for Public Purposes, by identifying all land subject to this direction within the planning proposal and describing the reason for the removal/alteration of the zone/reservation. Note: Where necessary, Council is to obtain approval(s) to satisfy the Direction, prior to finalisation of the plan.
  - (g) Include a table comparing the land use table of the E4 Environmental Living, E3 Environmental Management and R2 Low Density Residential zones.
3. In accordance with S117 Direction 4.4 Planning for Bushfire Protection, Council is to consult with the NSW Rural Fire Service prior to exhibition. In addition, prior to Council commencing community consultation, Council is to consult with the NSW Police Force and provide copies of any advice provided by both these agencies to



the Director of the Department's Sydney Region West Office for information purposes.

4. Community consultation is required under sections 56(2)(c) and 57 of the *Environmental Planning and Assessment Act 1979* (EP&A Act) as follows:
  - (a) the planning proposal must be made publicly available for a minimum of 28 days; and
  - (b) the relevant planning authority must comply with the notice requirements for public exhibition of planning proposals and the specifications for material that must be made publicly available along with planning proposals as identified in section 5.5.2 of *A Guide to Preparing LEPs (Department of Planning & Infrastructure 2013)*.
5. Council is to notify affected land owners and residents of the proposed exhibition of the planning proposal.
6. Consultation is required with the following public authorities under section 56(2)(d) of the EP&A Act:
  - Office of Environment and Heritage
  - Department of Education and Communities
  - Roads and Maritime Services
  - Department of Health
  - Fire and Rescue NSW
  - NSW Police Force
  - NSW Rural Fire Service
  - State Emergency Service
  - Ambulance Service of NSW
  - Sydney Water

Each public authority is to be provided with a copy of the planning proposal and any relevant supporting material, and given at least 21 days to comment on the proposal, or indicate that they will require additional time to comment on the proposal. Public authorities may request additional information or additional matters to be addressed in the planning proposal.

7. A public hearing is not required to be held into the matter by any person or body under section 56(2)(e) of the EP&A Act. This does not discharge Council from any obligation it may otherwise have to conduct a public hearing (for example, in response to a submission or if reclassifying land).

8. The timeframe for completing the LEP is to be **12 months** from the week following the date of the Gateway determination.

Dated 27<sup>th</sup> day of June 2016.



Stephen Murray  
Acting Executive Director, Regions  
Planning Services  
Department of Planning and  
Environment

Delegate of the Greater Sydney  
Commission