

DEFERRED AREAS PLANNING PROPOSAL

EXECUTIVE SUMMARY

PURPOSE OF REPORT:

For Council to consider a Planning Proposal to amend the *Ku-ring-gai Local Environmental Plan 2015* to include 13 Deferred Areas.

BACKGROUND:

13 areas within Ku-ring-gai were deferred from inclusion within the *Ku-ring-gai Local Environmental Plan 2015* when it commenced on 2 April 2015.

These areas had been identified as areas of high bushfire evacuation risk, and were deferred to allow Council to undertake a re-assessment of the bushfire evacuation risks and zoning within these areas.

COMMENTS:

The purpose of this report is to progress the Planning Proposal to the next stage in the process – where it will be submitted to the Department of Planning and Environment for a Gateway Determination and proceed to public exhibition.

RECOMMENDATION:

That the Planning Proposal be forwarded to the Department of Planning and Environment for a Gateway Determination.

PURPOSE OF REPORT

For Council to consider a Planning Proposal to amend the *Ku-ring-gai Local Environmental Plan 2015* to include 13 Deferred Areas.

BACKGROUND

On 26 November 2013, in considering a report on the submissions made in response to the public exhibition of the then *Draft Ku-ring-gai Local Environmental Plan 2013*, Council resolved the following:

- B. That Council request the Minister, under S59(4) of the EP&A Act, defer the inclusion of the 13 areas identified on the maps at Attachment A14 and that Council resolve to prepare a planning proposal in accordance with section 55 of the EP&A Act to re-exhibit these areas within the proposed zoning outlined in the body of this report. This planning proposal then be forwarded to the DoPI for a Gateway Determination in accordance with the provision of the EP&A Act and Regulations.*

Accordingly, when the *Ku-ring-gai Local Environmental Plan 2015* commenced on the 2 April 2015, the 13 areas were deferred from inclusion within the plan. The Ku-ring-gai Planning Scheme Ordinance currently applies to land within these 13 deferred areas.

These 13 areas were identified as areas of high bushfire evacuation risk, and were deferred from the KLEP 2015 to allow Council to undertake re-assessment of the bushfire evacuation risk and proposed zoning within these areas.

The 13 deferred areas are as follows:

- Area 1 – North Turramurra
- Area 2 – North Wahroonga
- Area 3 – Warrimoo Avenue
- Area 4 – Campbell Drive
- Area 5 – Browns Road, Fox Valley Road, Jordan Avenue
- Area 6 – Howson Avenue
- Area 7 – Eastern Arterial Road
- Area 8 – Parker Avenue, Evans Street
- Area 9 – Bowen Avenue
- Area 10 – Ashburton Avenue
- Area 11 – Boronga Avenue, Gloucester Avenue
- Area 12 – East Killara
- Area 13 – Bradfield Road

Council also made the following resolution with regard to South Turramurra and bushfire on 26 November 2013:

- K. That further consultation occur with the NSW Rural Fire Service and other relevant state agencies to investigate the incidence of fire and the implications on evacuation risks for South Turramurra with the view of identifying an appropriate planning response for the area, including potential further amendments to the KLEP to address bushfire issues.*

Bushfire Evacuation Risk

As part of the preparation for the *Ku-ring-gai Local Environmental Plan 2015*, Council prepared a background study – *Managing Bushfire Risk, Now and Into the Future*, March 2012. A copy of the background study is included at **Attachment A2**. One of the aims of this background study was to better understand the future risk of bushfire in the Ku-ring-gai local government area.

In order to reduce the risks to people and property from bushfire, the background study made a number of recommendations which focused on the use of land use planning and development controls, such as zoning, lots sizes and lot depths.

In order to assess bushfire evacuation risk, the background study considered research undertaken by Thomas Cova (2005) *Public Safety in the Urban – Wildland Interface: Should Fire-Prone Communities Have a Maximum Occupancy?*

This research identified a range of factors that affect the capacity of evacuate from areas with a high bushfire risk, which include the capacity of the road, type of land use and the number and location of exits.

The research proposes that fire prone communities at the bushland interface should have a maximum occupancy rate dependent on the above factors. Cova (2005) recommends a minimum number of exit roads based on the number of households in a sensitive area – this is shown in the table below.

Number of households	Minimum Number of Exit Roads	Maximum Number of Households per exit
1 – 50	1	50
51 – 300	2	150
300 – 600	3	200
601+	4	

The background study – *Managing Bushfire Risk, Now and Into the Future* – notes: “Development has also occurred in a number of locations where the local community is surrounded by extensive areas of bushfire prone vegetation, often with inadequate road networks to enable safe evacuation. Pressure to increase development in these areas has led to increasing evacuation risk to residents and workers, including a high number of elderly and very young residents.”

Environmental zoning

The background study – *Managing Bushfire Risk, Now and Into the Future* – identified zoning as a mechanism for managing the risks associated with bushfire and evacuation. The background study recommended that environmental zones – such as E3 Environmental Management and E4 Environmental Living – could be applied to properties as a way to reduce the risks from bushfire as these zones would limit or exclude incompatible development within areas where it is likely to be difficult to evacuate during a bushfire.

The environmental zones – E3 and E4- permit residential development, but exclude development types, such as childcare centres – which would lead to increased evacuation risks to vulnerable groups of people. Prohibited uses include those uses identified as “special fire protection purposes” under s100B of the *Rural Fires Act 1997*.

Draft Ku-ring-gai Local Environmental Plan 2013

The background study – *Managing Bushfire Risk, Now and Into the Future* – made the following recommendation for land use in the then *Draft Ku-ring-gai Local Environmental Plan 2013*:

- b. Apply the E3 – Environmental Management to sites that are both:

- identified as extreme bushfire risk using the Bushfire Risk Management Plan 2010 (Hornsby and Ku-ring-gai Councils) as a guide; and
- within the evacuation risk zones identified by the Rural Fire Service 'Bushfire Prone Land Map and Bushfire Evacuation Risk Map' that do not meet the exit criteria identified by research by Cova (2005).

Based on the above recommendation, the then *Draft Ku-ring-gai Local Environmental Plan 2013* was exhibited between 25 March 2013 and 6 May 2013 with the E3 Environmental Management zone applying to properties that were identified at extreme bushfire risk, within a bushfire evacuation risk area and did not meet the exit criteria as specified by Cova (2005).

The "Bushfire Prone Land Map and Bushfire Evacuation Risk Map" has a category which is linked to the SEPP (Housing for Seniors or People with a Disability) 2004. This category is an exclusion zone with areas being identified as having an evacuation risk. Accordingly, there are restrictions on further development of housing for seniors or people with a disability (such as retirement villages and nursing homes) within these areas of evacuation risk.

Changes to methodology

During the exhibition of the *Draft Ku-ring-gai Local Environmental Plan 2013*, a number of submissions were made regarding the application of the E3 zone in areas of high bushfire evacuation risk. The issues raised in the submissions questioned the methodology and the consistency of the application of the methodology.

Consultation was undertaken with the Rural Fire Services and NSW Police, and based on the discussions the following change was made to the methodology:

- apply the environmental zoning to all land in the evacuation risk zones (as identified on the Bushfire Evacuation Risk Map) that do not meet the exit criteria.

This was due to advice from the emergency services that in the event of a bushfire, they would be looking at evacuating more than those properties identified as extreme bushfire risk under the Bushfire Risk Management Plan 2010 (Hornsby and Ku-ring-gai).

Council undertook a re-assessment against the revised methodology (above). As a result, additional streets and catchments were found not to satisfy the minimum number of exit roads criteria, and therefore should have the environmental zone applied. There were also areas identified that did satisfy the minimum number of exit roads, and therefore should not be subject to the environmental zoning.

Changes to zoning

Also as a result of the consultation with the RFS and Police, it was advised that secondary dwellings (granny flats) do not pose a great evacuation risk. Accordingly, the following change was proposed:

- permit secondary dwellings within the bushfire evacuation risk areas.

Secondary Dwellings are not a permissible development type within the E3 zone – which was applied to land within the bushfire evacuation risk areas within the Draft KLEP 2013. Secondary Dwellings are a permissible development type within the E4 zone.

Accordingly, it was recommended to zone all the properties within the bushfire evacuation risk areas (as identified on the Bushfire Evacuation Risk Map), which do not meet the exit criteria as specified by Cova(2005), **E4 Environmental Living**.

Deferred from KLEP 2015

Due to the extent of the changes to the methodology and zoning, Council requested that the 13 areas be deferred from inclusion within the KLEP 2015, in order to allow further assessment and further community consultation, which will allow Council to re-exhibit the proposed changes prior to making a final decision on the zoning within these areas.

KLEP 2015 Amendment No. 5

On 23 October 2015 KLEP 2015 Amendment No. 5 was gazetted. This amendment included the provision of Complying Development provisions for Dwelling Houses within Zone E4 Environmental Living. This amendment allows for complying development to be carried out under Schedule 3 of the KLEP 2015 on land zoned E4 – where the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* does not apply.

The amendment includes appropriate standards and exclusions, such as for landscaped area, riparian and biodiversity, to ensure that the objectives of the E4 Environmental Living zone can still be met.

In line with the recommendation to zone properties identified in bushfire evacuation risk areas that is E4 Environmental Living, the Amendment No.5 to the KLEP 2015 also included inserting the following bushfire zone objectives from the E3 zone to the E4 zone:

- *To minimise direct and indirect risks to life property and the environment from bushfire events.*
- *To ensure development in this zone on land that adjoins land in Zone E1 National Parks and Nature Reserves or Zone E2 Environmental Conservation is compatible with the objectives of those zones*
- *To enable other land uses that provide facilities or services to meet the day to day needs of residents*

COMMENTS

The following section details information regarding the re-assessment of the deferred areas and the Planning Proposal.

Consultation with emergency services

As part of the re-assessment of all the deferred areas and as required by Council resolution K with regard to South Turramurra, Council meet with representatives from the Rural Fire Service, NSW Police, Fire and Rescue, State Emergency Service and National Parks and Wildlife Service on 12 August 2015 to discuss the evacuation risks within the 13 deferred areas and Council's proposed planning measures to prevent significant increases in density and development types that would increase evacuation risks. Also discussed were the implications on evacuation risks for South Turramurra.

Some of matters discussed by the representatives included what are the evacuation issues and how would emergency services evacuate these areas, views on the methodology and whether the proposed planning measures were supported.

The emergency services advised that the area to be evacuated would depend on the incident, the fire, conditions and available resources. They advised that evacuation from some areas, such as North Turramurra, were further complicated by the number of Special Fire Protection Purpose developments with vulnerable people including retirement villages, schools, hospitals and nursing homes.

It was agreed that excluding land uses that provide for vulnerable groups (children, elderly, infirmed) in evacuation risk areas was a reasonable approach as it would ease the number of resources and co-ordination required by the emergency services.

It was also noted that these areas generally adjoin wider bushland areas, including national parks, which is a fact that is not going to change in the future, and that it is likely that a fire event will impact these areas eventually.

With regards to South Turrumurra it was noted that South Turrumurra does not contain the types of developments as North Turrumurra, such as nursing homes, retirement villages, limited childcare centres and one high school. It was noted that the bushland surrounding the area is not as extensive as that surrounding North Turrumurra, however it was noted due to the narrow nature of the valley, this could make the fire behaviour unpredictable. It was also noted that the area had a number of bushfires in the past.

The full notes from the meeting are included at **Attachment A3**.

Following on from the meeting, Council sought written feedback to the following questions:

- *What are the issues for evacuation within these 13 areas?*
- *What are your views on the methodologies and assumptions that Council has used to inform the decisions?*
- *Based on the methodology and assumptions, is Council making responsible, reasonable and realistic decisions?*
- *Are Council's proposed planning measures to prevent increase in density and development types that increase evacuation risks supported?*
- *What are the evacuation risks for South Turrumurra as a whole? Would the proposed planning response be necessary or appropriate for the whole of the South Turrumurra peninsular?*

The responses from the Police and RFS generally advised that the concepts adopted by Council are supported and noted that increasing population densities and certain land uses in these areas may be problematic and require more resources to evacuate them.

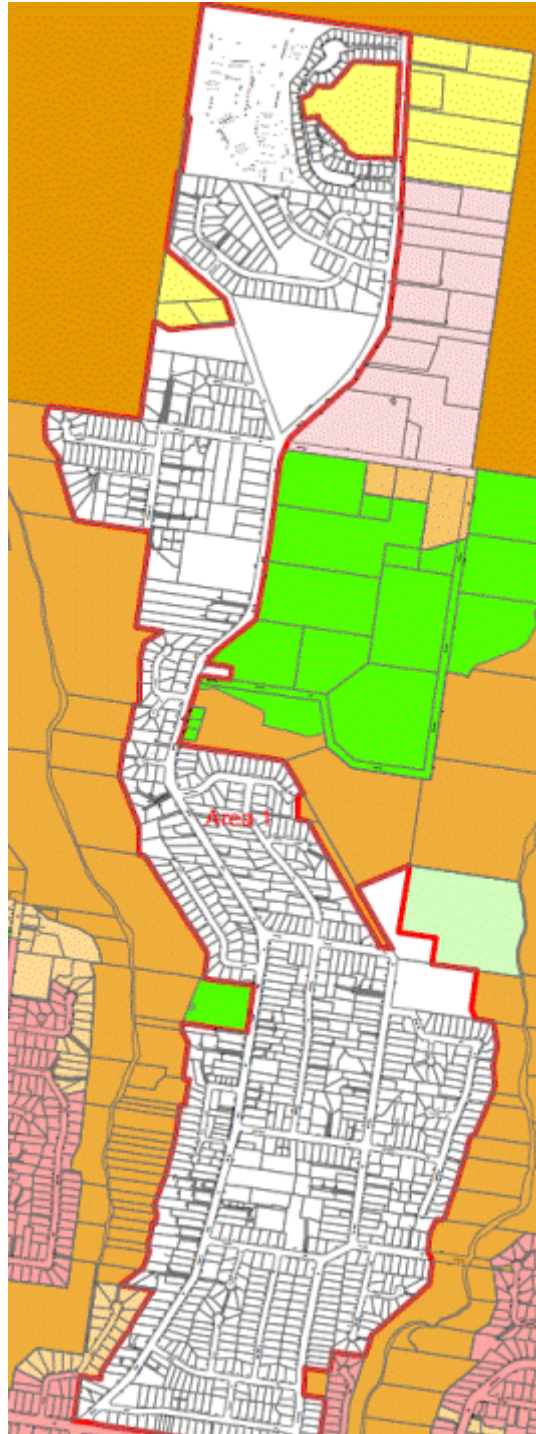
With regards to South Turrumurra, the RFS advised that the NSW RFS is proposing to undertake an evacuation risk modelling study which is intended to be used to assess evacuation risk issues and may be applied to areas such as South Turrumurra. It is hoped that this will be undertaken in the next 12 months. Accordingly, it is recommended that at this stage Council take no further planning response for the whole of the South Turrumurra area with regards to addressing bushfire issues and wait for the NSW RFS evacuation risk modelling study.

Copies of the written responses from the NSW Police and RFS are included in Appendix B of the Planning Proposal which is included at **Attachment A1**.

Proposed zoning

A summary of the proposed zoning in each of the 13 deferred areas is provided below:

Deferred Area 1 – North Turramurra



All land to be zoned E4 Environmental Living except for:

- 245-247, 261-265, 270, 272-274, 276, 278-280, 284, 286, 288 and 290 Bobbin Head Road to be zoned B1 Neighbourhood Centre
- 243 Bobbin Head Road to be zoned SP2 Infrastructure
- 24 Apps Avenue, 16A Allara Avenue, Lot 34 DP206882, Lot 3 DP557349, Lot 34 DP710498 zoned RE1 Public Recreation
- Lot 323 DP752031 (part of Glengarry) zoned RE2 Private Recreation
- Knox Curagul Playing Fields 408, 410-412 Bobbin Head Road North Turramurra – RE2 Private Recreation

North Turrumurra is proposed to be zoned E4 Environmental Living as the area is within an identified bushfire evacuation risk area and does not meet the require number of exit roads required for the number of dwellings – leading to increased evacuation risk in the event of bushfire. The table below provides an assessment of the number of exit roads and dwellings within the North Turrumurra area in accordance with Cova (2005).

No. Exits	No. Dwellings	Recommended Max. Dwellings	No. over recommended
2	1325	300	1025
1 (north of 359A Bobbin Head)	256	50	206

It should be noted there is a high proportion of Special Fire Protection Purpose developments, such as schools, nursing homes and retirement villages, already existing within this area.

The neighbourhood centre zoning, the infrastructure zoning and the public recreation zoning to be applied to lots along Bobbin Head Road, Apps Avenue and Allara Avenue are a translation of the KPSO zoning into the comparable Standard LEP zoning.

Knox Curagul Playing Fields 408, 410-412 Bobbin Head Road North Turrumurra

During the exhibition of the then Draft KLEP 2013, a submission was received on behalf of Knox Grammar School. The submission noted that the proposed zoning of the playing fields under the Draft KLEP 2013 was E3 Environmental Management, and requested the site be zoned SP2 Infrastructure. The submission raised concern that the E3 does not reflect the purpose for which Knox uses the land. Concern was also raised that the E3 zoning prohibits educational establishments, and the E3 zone is not a prescribed zone under the Infrastructure SEPP, and in this regard there would be no avenue for obtaining consent to develop the site.

The Council comments on the submission by Knox were included in a report to Council on 26 November 2013. The Council report acknowledged that the Draft KLEP 2013 and Infrastructure SEPP prohibit school uses within the E3 zoning. The Council report noted that whilst E3 might restrict uses, the reasoning behind its allocation is sound, noting the site is located within a bushfire evacuation risk area and the zone limits the density of the population and developments which cater for vulnerable groups of people, including schools, nursing homes and childcare centres.

As part of the re-assessment of the North Turrumurra deferred area, further consideration was given to the zoning of this site. It is acknowledged that an SP2 Infrastructure zoning would be consistent with the zoning of other school sites across the LGA. However, a zoning of SP2 Infrastructure on the site would allow the site to be further developed and its use intensified under the provisions of the Infrastructure SEPP. In this regard, the further intensification of the use of the site for a school campus is not compatible with the aims of the Planning Proposal or the surrounding area. The North Turrumurra area is identified as a bushfire evacuation risk area, and the Planning Proposal is seeking to exclude land uses such as schools, retirement villages and childcare centres, which area identified as Special Fire Protection Purposes under s100B of the Rural Fires Act 1997. These uses will lead to increased excavation risks to vulnerable groups of people and in this regard are incompatible.

The Knox Curagul Playing Fields are recommended to be zoned RE2 Private Recreation. The Department of Planning and Environments LEP Practice Note PN11-002 outlines that the RE2 Private Recreation zone “*is generally intended to cover a wide range of recreation areas and facilities on land that is privately owned or managed. The use of facilities developed on this land may be open to the general public or restricted e.g. to registered members only. Private recreation may include racecourses, golf clubs, bowling clubs, rifle ranges, speedways, tennis complexes and*

other sporting or recreational facilities which may be on significant parcels of privately owned land or on land leased from councils or state authorities”

In this regard, the proposed RE2 Private Recreation zoning is consistent with the current use of the site. This zoning will facilitate the ongoing use of the site for its current purposes for private recreation and will not permit further intensification of the use for school purposes.

Lot 323 DP752031 (part of Glengarry)

Lot 323 DP752031 which is part of Glengarry is proposed to be zoned RE2 Private Recreation. The lot is currently zoned part residential 2(c) and part recreation 6(a) under the KPSO. The Lot was exhibited with part RE2 and part E3 zoning under the Draft KLEP 2013. A submission was received from the Girl Guides NSW/Act which requested that the whole of Lot 323 DP752031 be zoned RE2. It was acknowledged that the RE2 zoning across the whole of the lot would better facilitate the ongoing use of the site for its current purposes and is therefore supported.

9, 9a and 11-15 Curagul Road, North Turramurra

These 3 properties are located at the north-eastern end of North Turramurra. Due to an error they were not included within the boundary of the North Turramurra Deferred Area. The properties are currently zoned E3 under the KLEP 2015. The planning proposal seeks to amend the zoning of these 3 properties from E3 to E4, consistent with the zoning for the rest of North Turramurra.

Deferred Area 2 – North Wahroonga



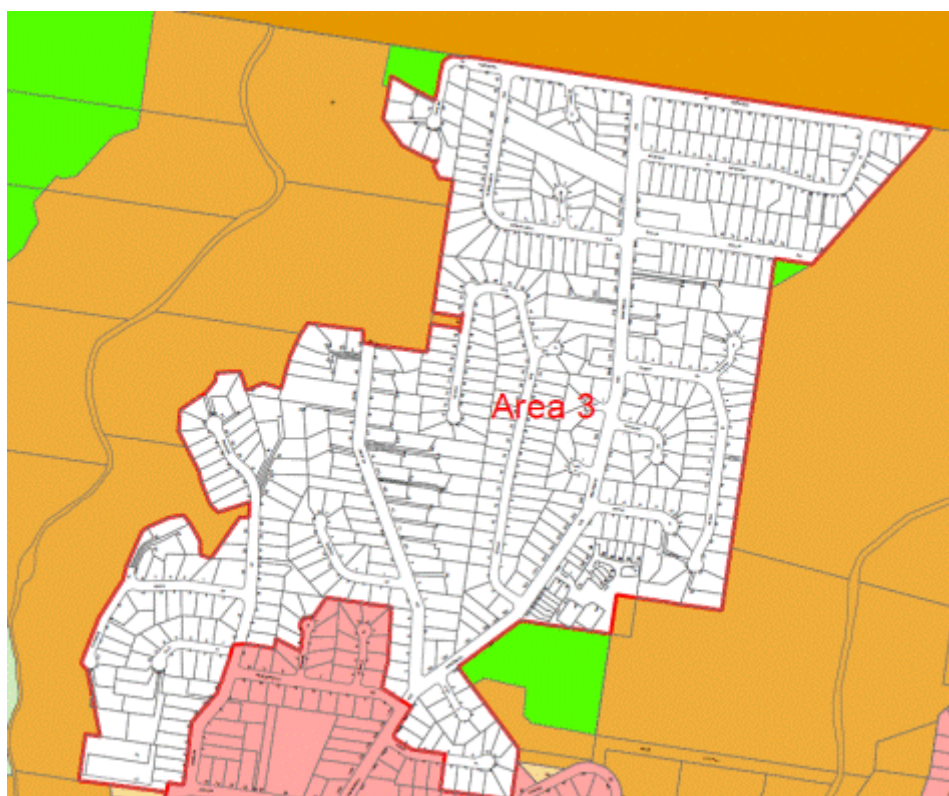
All land to be zoned E4 Environmental Living except for:

- 29 Scullin Place and 2A Holt Avenue to be zoned E2 Environmental Conservation as these are Council reserves categorised and managed as natural areas.

North Wahroonga is proposed to be zoned E4 Environmental Living as the area is within an identified bushfire evacuation risk area and does not meet the number of exit roads required for the number of dwellings – leading to increased evacuation risk in the event of bushfire. The table below provides an assessment of the number of exit roads and dwellings within the North Wahroonga area in accordance with Cova (2005).

No. Exits	No. Dwellings	Recommended Max. Dwellings	No. over recommended
1	487	50	437

Deferred Area 3 – Warrimoo Avenue



All land to be zoned E4 Environmental Living except for:

- 2, 4, 6, 8, 10, 12, 14, 16, 18 Waipori Street to be zoned R2 Low Density Residential;
- 149B,151,153 Warrimoo Avenue to be zoned R2 Low Density Residential;
- 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 11A, 12, 14, 15, 17 Ovens Place to be zoned R2 Low Density Residential.

The above properties are proposed to be zoned R2 Low Density Residential as they fall outside of the catchments and therefore do not rely on the identified exits for evacuation in the event of bushfire.

Warrimoo Avenue is proposed to be zoned E4 Environmental Living as the area is within an identified bushfire evacuation risk area and does not meet the number of exit roads required for

the number of dwellings – leading to increased evacuation risk in the event of bushfire. The table below provides an assessment of the number of exit roads and dwellings within the Warrimoo Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	Recommended Max. Dwellings	No. over recommended
2	526	300	226
1 (Warrimoo)	438	50	388
1 (Waipori)	88	50	38

In this area, there are two separate catchments, each with one exit road – Warrimoo Avenue and Waipori Street.

Deferred Area 4 – Campbell Drive



All land to be zoned R2 Low Density Residential except for:

- 1, 3, 5, 7, 9, 11 Cooper Crescent to be zoned E4 Environmental Living;
- 112 Campbell Drive to be zoned E4 Environmental Living.

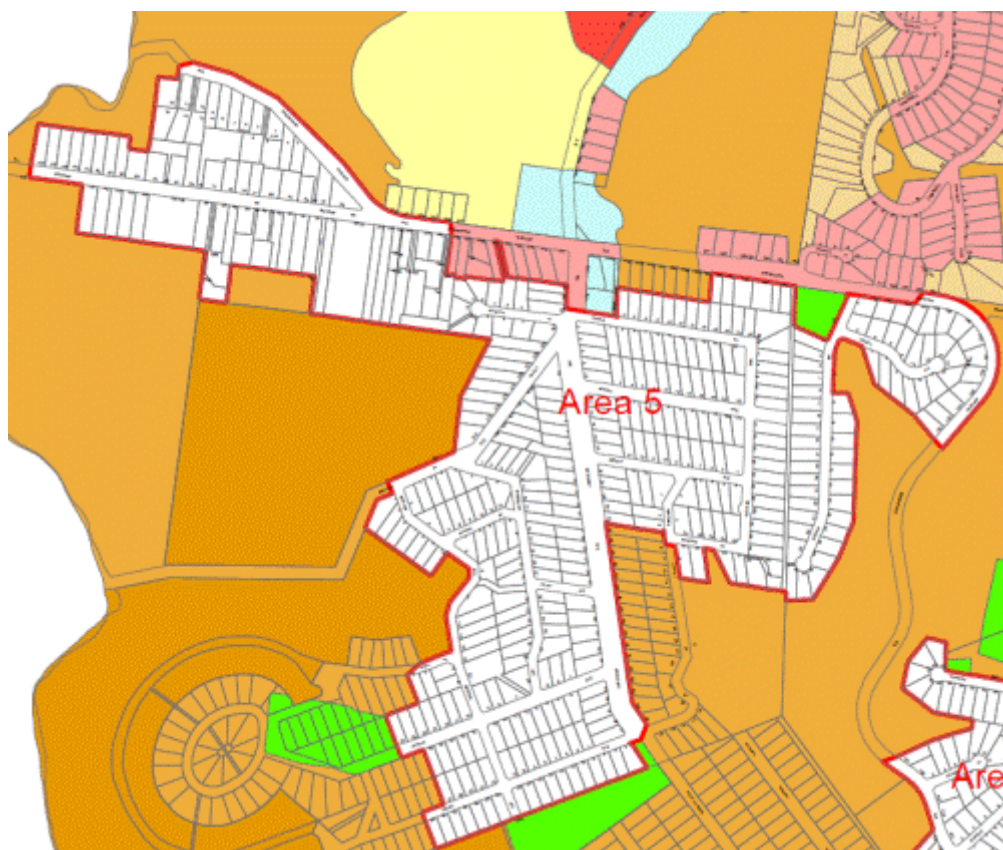
Campbell Drive is proposed to be zoned R2 Low Density Residential as the area meets the required number of exit roads for the number of dwellings. No.'s 1-11 Cooper Crescent and 112 Campbell Drive are proposed to be zoned E4 Environmental Living due to the riparian and biodiversity values mapped across these properties. The application of the E4 Environmental Living zone on these properties is not due to bushfire evacuation risk.

The table below provides an assessment of the number of exit roads and dwellings within the Campbell Drive area in accordance with Cova (2005).

No. Exits	No. Dwellings	Recommended Max.	No. over recommended
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		Dwellings	
2	83	300	-217

Deferred Area 5 – Browns Road – Fox Valley Road – Jordan Avenue



All land to be zoned E4 Environmental Living except for:

- 198, 200, 206, 208, 208A The Comenarra Parkway to be zoned R2 Low Density Residential.

This area has a frequent fire history, with more than 2 fires in 30 years. The area is proposed to be zoned E4 Environmental Living as the area is within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

198-208A The Comenarra Parkway are proposed to be zoned R2 Low Density Residential as they are not located within the catchment area, and do not have a direct interface within the bushland.

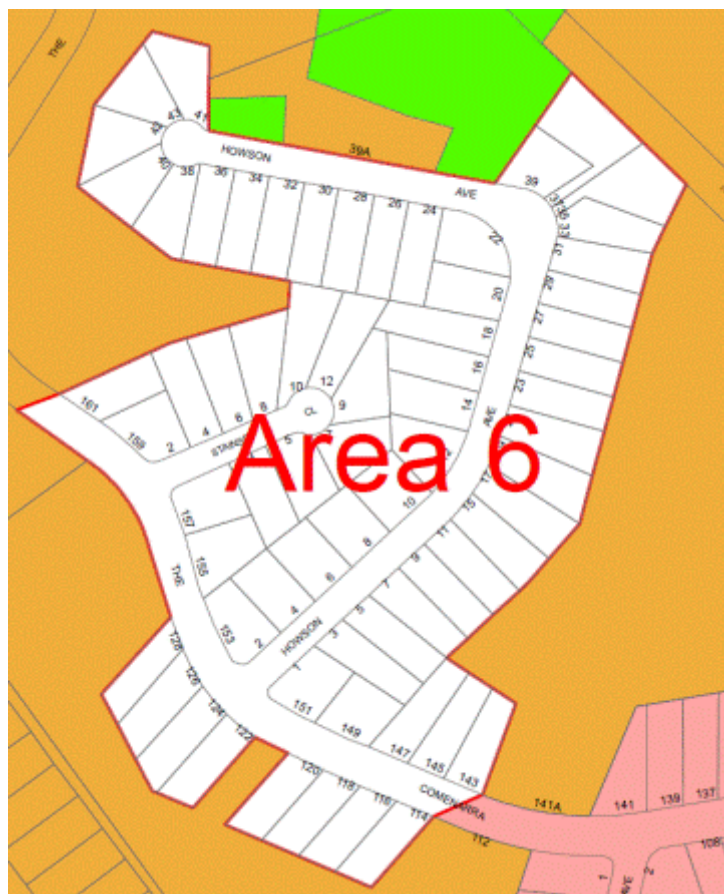
The table below provides an assessment of the number of exit roads and dwellings within the Browns Road-Fox Valley Road-Jordan Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1 to 2	381	50 to 300	331 to 81
1 (Browns)	72	50	22

1 (The Broadway)	249	50	199
1 (Jordan)	60	50	10

There are three catchments within this area, with all exit roads exiting on The Comenarra Parkway, both to the north and south. Due to the bushland to the north and south it is likely that only one exit would be feasible. Accordingly, a maximum of two exit roads have been included in the assessment.

Deferred Area 6 – Howson Avenue



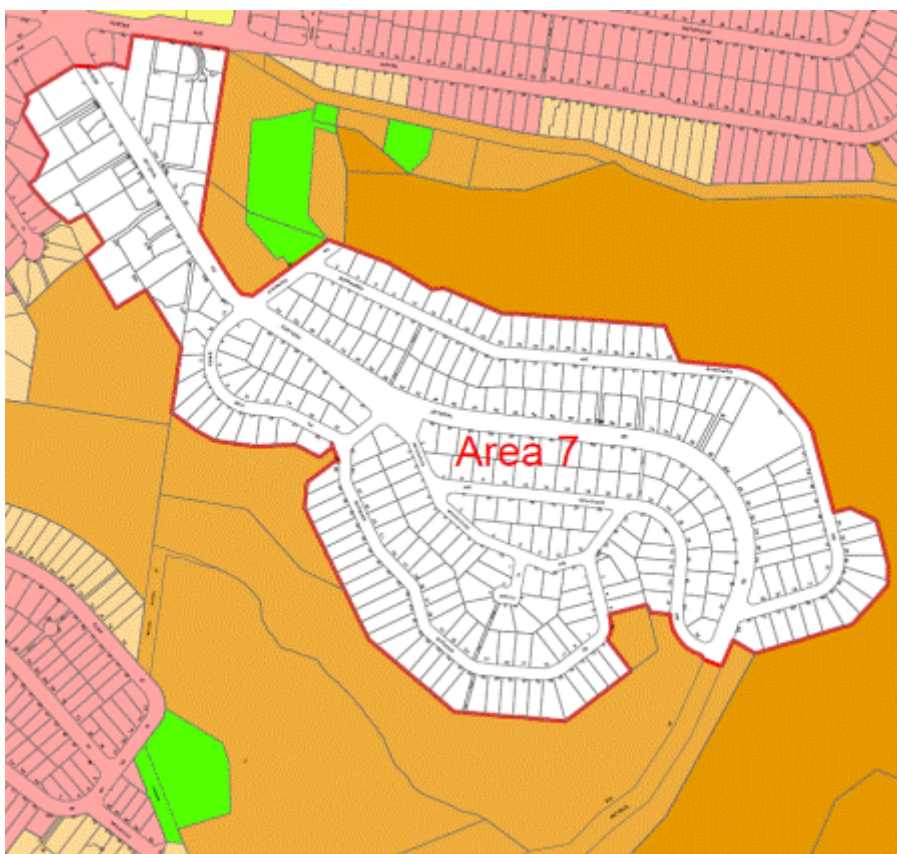
All land to be zoned E4 Environmental Living

The area of Howson Avenue is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire. The table below provides an assessment of the number of exit roads and dwellings within the Howson Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	67	50	17

Both exits out of this area exit onto The Comenarra Parkway, however, as the exit to the north goes into bushland – in the event of a bushfire the only feasible evacuation option would be to the south. Accordingly, only one exit onto The Comenarra Parkway has been included in the assessment.

Deferred Area 7 – Eastern Arterial Road



All land to be zoned E4 Environmental Living except for:

- A9, A11, A15, A17, A19, A21, A23 Hunter Avenue to be zoned R2 Low Density Residential.

The area of Eastern Arterial Road is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

A9-A23 Hunter Avenue is proposed to be zoned R2 Low Density Residential as these properties are not located within the catchment area and have numerous exit road options in the event of an evacuation.

The table below provides an assessment of the number of exit roads and dwellings within the Eastern Arterial Road area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	305	50	255

Both exits out of this area are onto Eastern Arterial Road (to the north and south), however due to the bushland to the south, in the event of a bushfire the only feasible evacuation option would be to the north. Accordingly, only one exit has been included in the assessment.

Deferred Area 8 – Parker Avenue – Evans Street



All land to be zoned E4 Environmental Living.

This area of Parker Avenue and Evans Street has a frequent fire history, with more than 2 fires in 30 years.

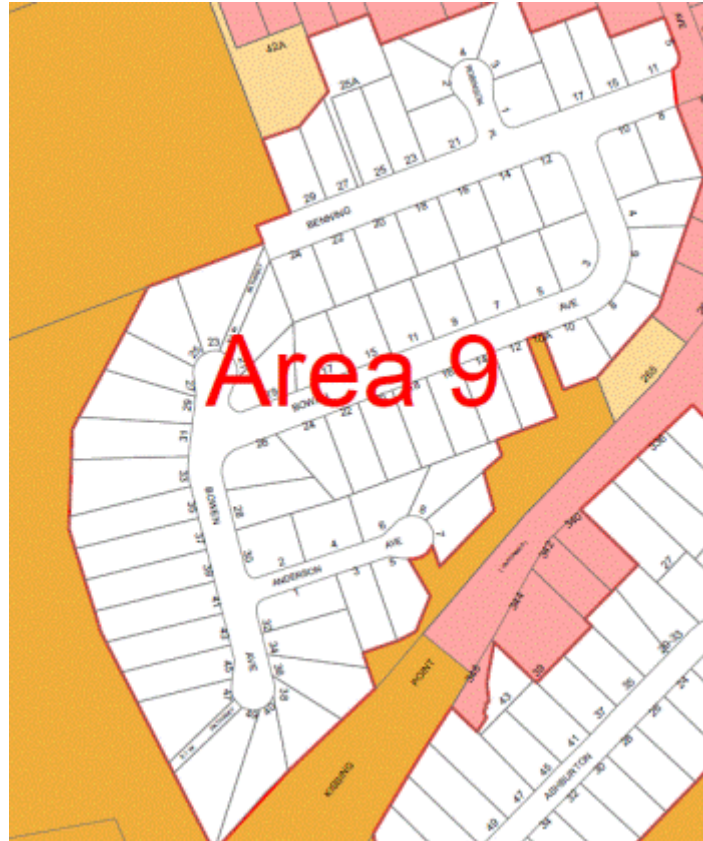
The area is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The table below provides an assessment of the number of exit roads and dwellings within the Parker Avenue-Evans Street area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	105	50	55

Due to the exit through bushland to the north, it is likely that only the exit to the south will be feasible in the event of a bushfire. Accordingly, only one exit has been included in the assessment.

Deferred Area 9 – Bowen Avenue



All land to be zoned E4 Environmental Living.

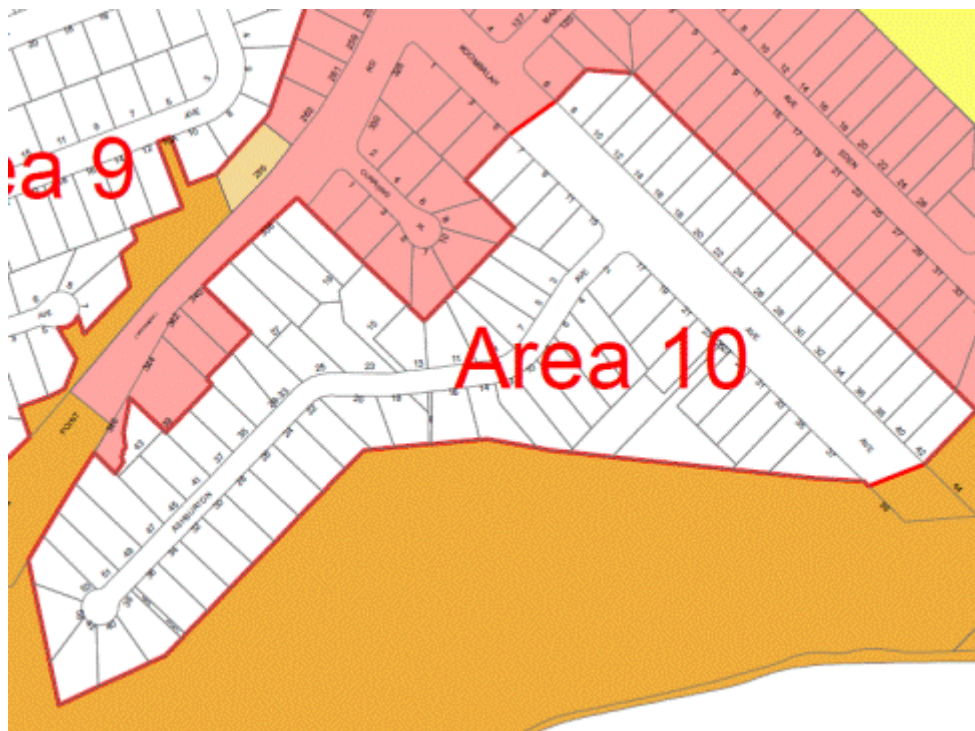
This area has a frequent fire history with more than 2 fires in 30 years.

This area of Bowen Avenue is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The table below provides an assessment of the number of exit roads and dwellings within the Bowen Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	70	50	20

Deferred Area 10 – Ashburton Avenue



All land to be zoned E4 Environmental Living.

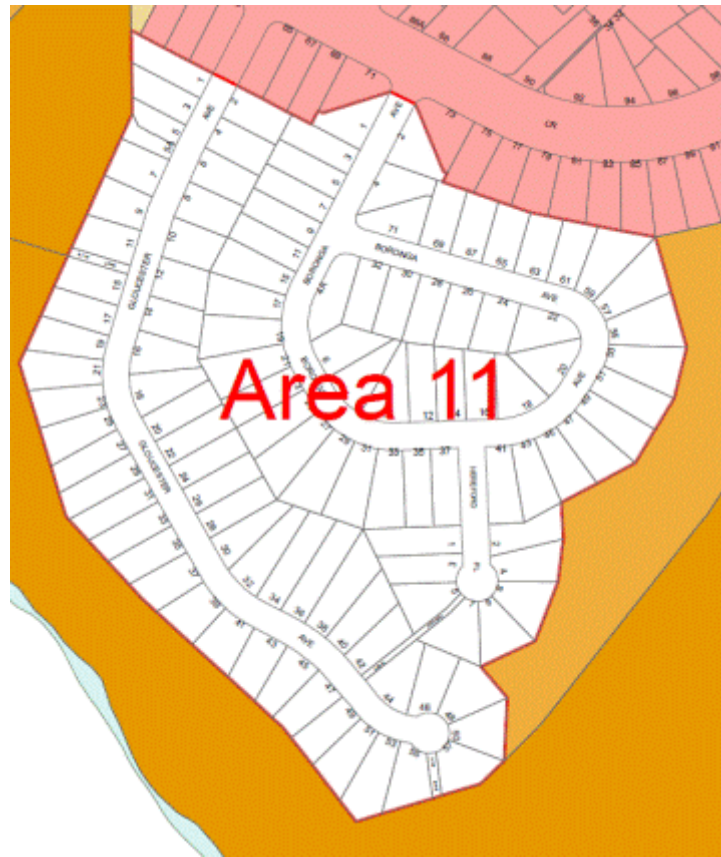
This area has a frequent fire history, with more than 2 fires in 30 years and has been the subject of arson attempts.

This area of Ashburton Avenue is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The table below provides an assessment of the number of exit roads and dwellings within the Ashburton Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	78	50	28

Deferred Area 11 – Boronga Avenue – Gloucester Avenue



All land to be zoned E4 Environmental Living.

This area has a frequent fire history, with more than 2 fires in 30 years.

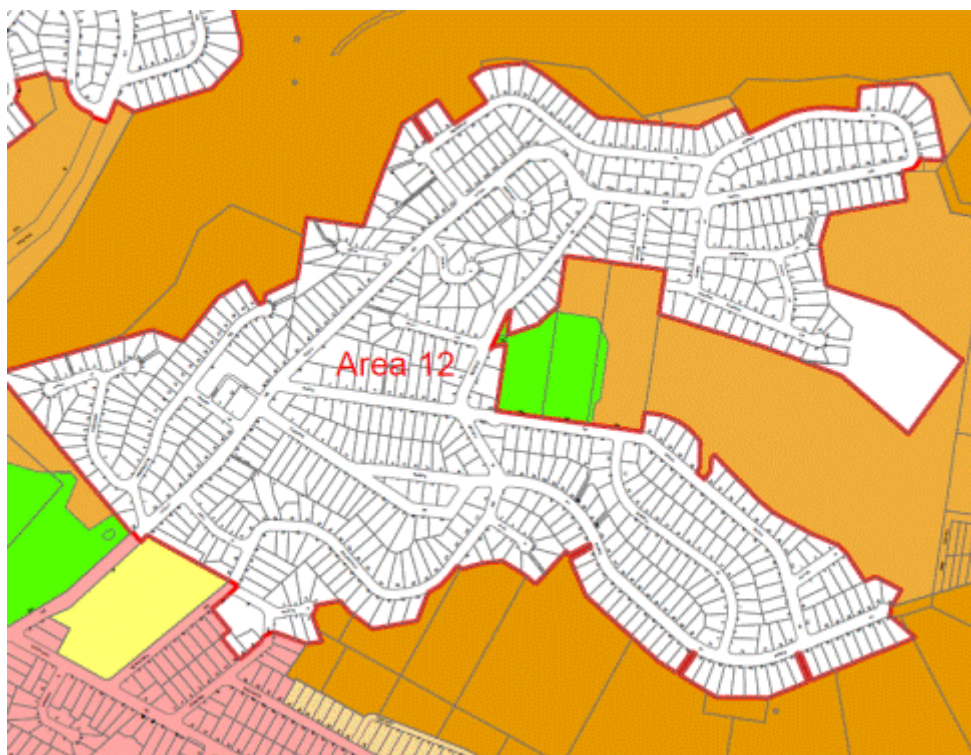
This area of Boronga Avenue and Gloucester Avenue are proposed to be zoned E4 Environmental Living as the area is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The table below provides an assessment of the number of exit roads and dwellings within the Boronga Avenue-Gloucester Avenue area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
2	112	300	-188
1 (Gloucester)	54	50	4
1 (Boronga)	58	50	8

This area is unusual in that it is made up of two separate cul-de-sac catchments – which means each street only has one exit. If each catchment (street) is considered separately the number of dwellings exceeds the required number of exit roads.

Deferred Area 12 – East Killara



All land to be zoned E4 Environmental Living except:

- 20 Kanowar Avenue to be zoned E2 Environmental Conservation;
- 56-58 Koola Avenue to be zoned part E4 Environmental Living and part B1 Neighbourhood Centre;
- 23 Wentworth Avenue to be zoned R2 Low Density Residential;
- 18 and 20 Fairbairn Avenue to be zoned R2 Low Density Residential; and
- Lot 32 DP28795 in Redfield Road to be zoned E2 Environmental Conservation.

20 Kanowar Avenue East Killara

20 Kanowar Avenue covers an area of approximately 2.8ha. This area was originally Crown Land and was the subject of Aboriginal Land Claim 6039, which was granted in 2000 by the then Minister for Agriculture and Minister for Land and Water Conservation. A Torrens title redefinition plan was registered on the 26 June 2012 which defined the land to be granted under Section 36 of the Aboriginal Land Rights Act, 1983. The site is currently owned by the Metropolitan Local Aboriginal Land Council.

The site was zoned Residential 2(b) under the KPSO. The site was exhibited with a draft zoning of E2 Environmental Conservation in the Draft KLEP 2013.

As part of the re-assessment of the zoning within the East Killara deferred area, Council engaged independent consultants to undertake an ecological assessment of the site. The assessment evaluated the site in terms of its ecological condition and determined its potential use as a biobank offset site in order to inform the future land use as zoning. The full ecological assessment report is included at **Attachment A4**.

The ecological report included assessment of onsite vegetation in accordance with the Biobanking Assessment Methodology (OEH 2014). The site was found to support over 95% native vegetation with the remainder made up of exotic turf surrounding residential properties as well as access and fire trails (See table below).

Vegetation Community	% cleared since European settlement	Approximate area (ha)	Legal status	Status
<i>Red Bloodwood – Scribbly Gum Woodland on the Sydney Sandstone Plateaux of the Sydney Basin Bioregion</i>	25%	2	not listed as threatened under State or Commonwealth Legislation	The substantial proportion of younger trees and small occurrences of scattered older growth trees, indicate that these communities are regrowth woodland.
<i>Sydney Peppermint – Smooth-barked Apple – Red Bloodwood shrubby open forest on slopes & gullies of the Eastern Sydney Basin Bioregion.</i>	30%	1		

Fauna habitat within the site included five hollow bearing trees and over 25 metres of fallen logs (providing foraging and shelter for a wide range vertebrate species including bird, mammals, amphibians and reptiles). Records of threatened fauna include a potential call from a Red Crowned Toadlet and potential feather from a Powerful Owl (both species are vulnerable under the *Threatened Species Conservation Act 1995*).

This site is proposed to be zoned E2 Environmental Conservation. The Department of Planning and Environment's LEP Practice Note PN 11-002 regarding the use of standard zones outlines that the E2 Environmental Conservation zone *"is generally intended to protect land that has high conservation values outside the national parks and nature reserves system. The use of this zone needs to be justified by appropriate evaluation of the area in term of meeting the core objectives of having high ecological, scientific, cultural or aesthetic values."*

The site has high ecological value, containing bushland in good condition with only minor weed infestation. It adjoins other more extensive vegetation which together provide important wildlife connectivity between larger areas of bushland from Garigal National Park and Ku-ring-gai Chase National park to the north to Middle Cove in the south. It was mapped as forming part of the then Sydney Metropolitan Catchment Management Authority Regional Fauna Habitat with 'Highest Fauna Values' (DECC 2008). It also forms part of the Regional Fauna Habitat within the Middle Harbour Valley, one of three key areas of regional fauna habitat identified by Ku-ring-gai Council (Ku-ring-gai 2013). The site is identified as Biodiversity lands on the Terrestrial Biodiversity Map under the KLEP 2015 and Core Biodiversity Lands with the Greenweb mapping of the KDCP 2015.

The site is proposed to be zoned E2 Environmental Conservation instead of translating the existing Residential 2(b) zone to the equivalent standard instrument LEP zone, which is E4 Environmental Living. Development on the site under an E4 zoning would be severely constrained by the bushfire planning requirements, which would require limiting the Asset Protection Zone* to within the site which would in turn require construction to BAL40**.

*An asset protection zone is a buffer zone between bushfire hazard and buildings, which is managed to minimise fuel loads and reduce the potential radiant heat levels, flame contact, ember and smoke attack on life and property.

*** The Rural Fire Service defines BAL40 bushfire attack level as increased attack from burning debris with significant radiant heat and the potential for flame contact, which could threaten building integrity. This requires buildings to be designed and constructed in a manner that can withstand the extreme heat and potential flame contact.

The Department of Planning and Environment's LEP practice note PN 09-002 outlines that there are no mandatory permitted uses within the E2 Environmental Conservation zone, and the uses Council chooses should protect the high conservation value of the land and avoid adverse effect in relation to natural hazards.

LEP practice note PN 09-002 outlines that with the permitted uses chosen for the E2 zone;

"Council's should be aware that uses should not be drawn too restrictively as they may, depending on circumstances, invoke the Land Acquisition (Just Terms Compensation) Act 1991 and the need for the Minister to designate a relevant acquiring authority"

Currently within the KLEP 2015 the following uses are permitted within the E2 zone:

Environmental protection works; Environmental facilities; Flood mitigation works; Roads; Water storage facilities.

As the site is currently within private ownership and in order not to expose Council to a potential claim under the *Land Acquisition (Just Terms Compensation) Act 1991*, it is recommended that "Eco tourist facility" also be included as a permitted use specifically for 20 Kanowar Avenue. This will be achieved through an amendment to Schedule 1 – Additional Permitted Uses within the KLEP 2015. "Eco tourist facility" means *"a building or place that:*

- (a) Provides temporary or short-term accommodation to visitors on a commercial basis, and*
- (b) Is located in or adjacent to an area with special ecological or cultural features, and*
- (c) Is sensitively designed and located so as to minimise bulk, scale and overall physical footprint and any ecological or visual impact*

It may include facilities that are used to provide information or education to visitors and to exhibit or display items"

Clause 5.13 of the Standard LEP Template outlines the requirements in relation to the granting of development consent for eco-tourist facilities. The requirements include conservation of the natural environment, design and construction requirements, infrastructure requirements and requirements for the monitoring and review of the development on the natural environment. The Planning Proposal will seek an amendment to the KLEP 2015 to include this standard clause relating to the development of eco tourist facilities.

The additional permitted use on the site for "Eco tourist facilities" is well-suited for the site, noting that objective of the use is to maintain the environment and cultural values of land on which development is to be carried out which is compatible with the high ecological values assessed on the site.

The inclusion of "Eco tourist facility" is an additional commercial use of site and in this regard the use of the E2 zoning on the site provides a reasonable range of uses.

Additionally the site is of sufficient size and quality that a Biobanking site (under the *Threatened Species Conservation Act 1995*) may also be considered. The ecological assessment (**Attachment A4**) generated a total of 24 ecosystem credits for the proposal site. This may be increased through improved site management or by creating species credits (should further work confirm the presence of selected threatened species).

Further information on the creation of biobanking site within lands owned by aboriginal land council's is available at: <http://www.alc.org.au/land-rights/biobanking.aspx>

56-58 Koola Avenue East Killara

56-58 Koola Avenue covers an area of 3,276.4sqm and currently operates as a communal carpark, natural area (Warrington Avenue Reserve) and park (Reading Avenue Reserve) surrounding the East Killara neighbourhood shops.

The site was zoned part B1 Neighbourhood Centre (part of the site fronting Koola Avenue) and part RE1 Public Recreation (part of the site fronting Warrington Avenue) under the Draft KLEP 2013.

Council made the following resolution regarding 56-58 Koola Avenue East Killara on the 26 May 2015 after considering a report following the public hearing into the proposed re-classification of four properties in St Ives, East Killara, Roseville Chase and Wahroonga:

Recommendations relating to Part 56-58 Koola Avenue East Killara

- H. That Part 56-58 Koola Avenue (being Lot 3 DP 588630) be classified as operational land and the zoning unchanged.*
- I. That, following gazettal of the reclassification for Part 56-58 Koola Avenue, that the General Manager be authorised to proceed with the preparation and lodgement of a subdivision plan for the property to divide the property along the present zoning.*
- J. That the appropriate zoning and classification for each of the new allotments under the standard template be considered as part of the Planning Proposal for the whole of surrounding area which was also deferred from Ku-ring-gai Local Environmental Plan 2015.*
- K. That the area fronting Warrington Avenue be considered as part of the Planning Proposal referred to in J above be investigated for a potential residential zoning and the lot facing Koola Avenue be considered for a Neighbourhood Business zone.*

A Planning Proposal for the reclassification of the site is currently with the Department of Planning and Environment awaiting gazettal.

As part of the investigation for the zoning, Council engaged independent consultants to carry out a biodiversity assessment of the subject sites. The biodiversity assessment evaluated the site conditions and potential ecological constraints on the site in order to inform the future land use and zoning. The full copy of the biodiversity site condition report for 56-58 Koola Avenue is included at **Attachment A5**.

The biodiversity assessment included assessment of onsite vegetation in accordance with the Biobanking Assessment Methodology (OEH 2014).

The site was found to contain *Red Bloodwood – Scribbly Gum Woodland on the Sydney Sandstone Plateaux of the Sydney Basin Bioregion*. This vegetation community is common in the greater Sydney area. It is estimated that this vegetation type has only been cleared by 25% since European settlement (OEH, 2015) and as such, is not listed as endangered or threatened under State or Commonwealth Legislation.

Vegetation communities at the site were also assigned a vegetation condition as per the Biobanking Assessment Methodology (OEH 2014), which compared onsite data against benchmark data for that community. Under the methodology native vegetation is either in low condition or moderate to good condition.

Whilst the site was determined to be in good to moderate condition, all values scored below the bench mark; within the exception of native over-storey and native grass ground cover (See Table 1). The decreased species diversity, lack of mid-storey and dominance of grass within the ground cover rather than shrubs or herbs, are a result of past and ongoing impacts (including edge effects, clearing, hydrological changes, weed invasion, time since fire).

Table 1 Comparison of site obtained data against the benchmark data

	Native plant species	Native over-storey cover	Native mid-storey cover	Native ground cover (grass)	Native ground cover (shrubs)	Native ground cover (other)	# trees with hollows	Over-storey regeneration	Total length of fallen logs
Benchmark data	≥39	17 to 27	75 to 85	1 to 10	7 to 11	13 to 17	≥1	1	≥30
Site data	23	17	6	22	2	9	0	0	18

Fauna habitat observed on site included several arboreal termite mounds (which may provide habitat for avian fauna) and fallen logs (provides foraging and shelter for a wide range vertebrate species including bird, mammals, amphibians and reptiles). Considering the lack of important habitat features (such as hollows, caves, bush rock etc) and the small patch size, which is impacted by edge effects, the proposal site only provides minor disturbed habitat and is more likely to be used by highly mobile fauna species able to withstand high levels of disturbances. The proposal site is therefore not considered vital in maintaining habitat connectivity or providing breeding/foraging habitat for native species in a local or regional context.

Funding allocation within Council's bush regeneration program is directed through a bushland prioritisation matrix. This matrix is currently limited to reserves containing threatened species or threatened ecological communities and as such does not include Warrington Avenue Reserve. Due to resource constraints this is unlikely to change in the foreseeable future.

Over the past 6 years, works within the site have included reactive requests to clear the reserve of rubbish, fallen branches and debris listed as potential fire hazards and minor targeting of noxious weeds. The site has however been actively regenerated since 2005 by a local bush care group (which is currently listed as inactive).

The entire site is identified as "Biodiversity" lands on the Terrestrial Biodiversity Map under the KLEP 2015 and Core Biodiversity Lands with the Greenweb mapping of the KDCP 2015. The intent is to retain the application of the Terrestrial Biodiversity Map and associated LEP provisions within the site.

The part of the site which has a frontage to Warrington Avenue is currently zoned 6(a) Open Space under the KPSO and has an area of approximately 2,709sqm. The Council resolution K above required the investigation of a potential residential zoning for this part of the site. Having regard for the findings of the biodiversity assessment, it is proposed to zone this part of the site E4 Environmental Living due to its location within an identified bushfire evacuation risk area and which does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

E4 Environmental Living zone has a minimum lot size requirement of 1,500sqm. Accordingly, the site only has capacity for 1 allotment that meets the minimum lot size requirements of Clause 4.1 of the KLEP 2015.

Any future development of the site would require considerations of:

- Bushfire planning requirements in accordance with Planning for Bushfire Protection 2006 (as the site is located within bushfire prone lands). This will include the management of onsite vegetation/ gardens as asset protection zones.
- Section 3A General Controls for Consolidation and Subdivision (KDCP 2015)
- Section 22 - 22.1 Earthworks and Slope (KDCP 2015)
- Biodiversity provisions within Section 6.3 KLPE 2015 and Section 19 KDCP 2015. Including (but not limited to):

- minimising disturbance and adverse impacts on remnant vegetation communities and habitat; and
 - no net loss of significant vegetation and habitat. Where proposed works will impact vegetation on site, offsetting will be required. These offsetting requirements are to be determined at subdivision stage and are to be partially funded through sale of the site.
- The potential for unrecorded sites within sandstone outcrops in the western part of the reserve was noted. Should future development affected this sandstone, the Aboriginal Heritage Office recommend that further Aboriginal heritage assessment be undertaken (including removal of all on ground debris). If these outcrops are not impacted, then no further assessment is required. See **Attachment A6** for full copy of advice from the Aboriginal Heritage Office.

The part of the site which has a frontage to Koola Avenue which is currently used as a communal carpark is recommended to be zoned B1 Neighbourhood Centre which is consistent with its current zoning and the zoning of the adjoining neighbourhood centre shops and carpark.

23 Wentworth Avenue and 18 and 20 Fairbairn Avenue

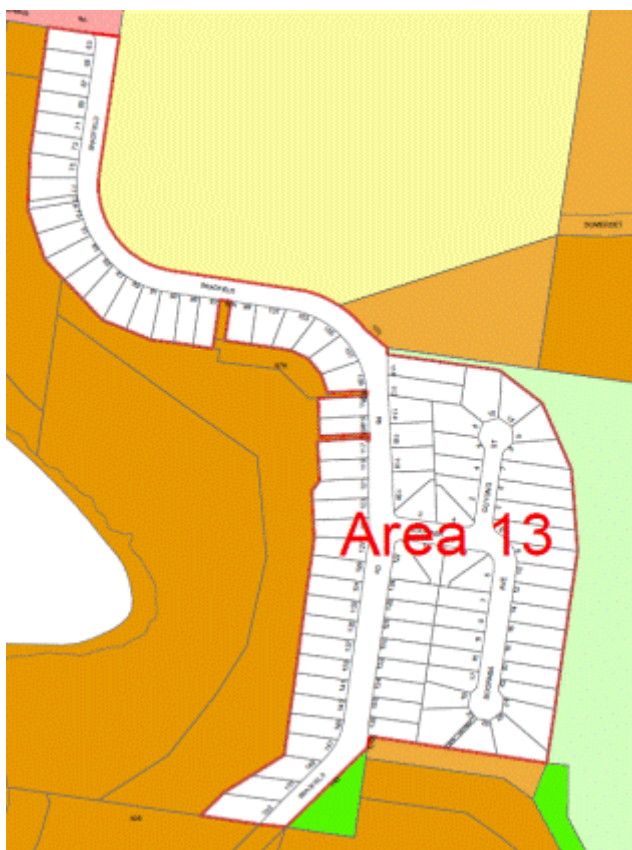
These properties are located on the edge of the deferred area boundary and are proposed to be zoned R2 Low Density Residential as there is numerous exit options in the event of bushfire for these properties.

This deferred area of East Killara is proposed to be mostly zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The below table provides an assessment of the number of exit roads and dwellings within the East Killara area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
2 to 3	651	300 to 600	351 to 51

Deferred Area 13 – Bradfield Road



All land to be zoned E4 Environmental Living.

Houses were lost in this part of Bradfield Road in the 1994 bushfire.

This area of Bradfield Road is proposed to be zoned E4 Environmental Living as it is located within an identified bushfire evacuation risk area and does not meet the required number of exit roads for the number of dwellings – leading to increased evacuation risk in the event of bushfire.

The table below provides an assessment of the number of exit roads and dwellings within the Bradfield Road area in accordance with Cova (2005).

No. Exits	No. Dwellings	No. Recommended Dwellings	No. over recommended
1	95	50	45

The proposal to apply the E4 Environmental Living zone within the deferred areas is a planning measure to prevent development types that will result in an increase to the evacuation risk.

Proposed zoning maps for each of the 13 deferred areas are included in Part 4 of the Planning Proposal which is included at attachment **A1**.

Complying Development - KLEP 2015 Amendment No. 5

During the exhibition of the Draft KLEP 2013, a number of submissions raised concern that the proposed Environmental zoning (E3 and E4) meant that they would not be able to rely on the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 to undertake complying development.

Under the provisions of the General Housing Code within the SEPP, complying development can only be carried out on land zoned R1, R2, R3, R4 and R5.

It was assessed that it was not unreasonable to allow complying development in the Environmental zones (E3 and E4), as the main land use within these zones is dwelling houses, the same as R2 Low Density Residential.

On 23 October 2015 KLEP 2015 Amendment No. 5 was gazetted. This amendment includes the provision of Complying Development provisions for Dwelling Houses within Zone E4 Environmental Living. This amendment allows for complying development to be carried out under Schedule 3 of the KLEP 2015 on land zoned E4 – where the Codes SEPP does not apply.

The amendment includes appropriate standards and exclusions, such as for landscaped area, riparian and biodiversity, to ensure that the objectives of the E4 Environmental Living zone can still be met.

In this regard, the proposed E4 Environmental Living zoning to the majority of properties within the deferred areas will not adversely impact on the ability to undertake complying development.

INTEGRATED PLANNING AND REPORTING

Places, Spaces and Infrastructure

Community Strategic Plan Long Term Objective	Delivery Program Term Achievement	Operational Plan Task
P2 – Managing Urban Change	Land use strategies, plan and process are in place to effectively manage the impact of new development	P2.1.1.1.2 Implement and monitor the Local Environmental Plans and supporting Development Control Plans

GOVERNANCE MATTERS

The process for preparation and implementation of Planning Proposal is governed by the provision contained within the *Environmental Planning and Assessment Act 1979* and the *Environmental Planning and Assessment Regulation 2000*.

Council should seek the plan-making delegation under Section 23 of the EP&A Act to finalise the Planning Proposal. This involves Council taking on the Director General's function under s59(1) of the Act in liaising with the Parliamentary Counsel's Office (PCO) to draft the required local environmental plan to give effect to the Planning Proposal as well the Minister's function under s59(2) of the Act in making the Plan.

RISK MANAGEMENT

The 13 deferred areas are still subject to the *Ku-ring-gai Planning Scheme Ordinance*, which as a planning document is out dated in its approach to zoning, land use controls and is difficult to interpret. This Planning Proposal seeks to include the 13 deferred areas into the *KLEP 2015*. There is a risk that if Council does not progress the amendment to the *KLEP 2015* to include these 13 deferred areas there could be ongoing uncertainty for both staff and the general public.

There is a risk that if the permitted land uses are too restrictive within the E2 zone applying to 20 Kanowar Avenue, East Killara, they may depending on circumstances invoke *the Land Acquisition (Just Terms Compensation) Act 1991* and the need for the Minister to designate a relevant acquiring authority, which under the circumstances would be Council. There is no identified funding source for such an acquisition.

FINANCIAL CONSIDERATIONS

The cost for the preparation of this Planning Proposal and additional supporting studies is covered by the Strategy and Environment operational budget.

SOCIAL CONSIDERATIONS

Social issues cover all aspects of human life, including how we live, our culture, our community, health, wellbeing and aspirations.

It is not expected that the Planning Proposal will result in any adverse social impacts.

ENVIRONMENTAL CONSIDERATIONS

The Planning Proposal and the use of the proposed E4 zoning is a proactive approach to both the management of natural resources and the management of the environmental hazards caused by bushfire risk. The risks result from the historical development patterns in Ku-ring-gai which has seen fingers of bushland into residential areas protected from development and large residential sites which support an extensive tree canopy and areas of remnant bushland.

Biodiversity assessments of 56-58 Koola Avenue and 20 Kanowar Avenue, East Killara were undertaken by independent consultants in order to evaluate the site conditions and potential ecological constraints on the site in order to inform the future land use and zoning on the sites.

20 Kanowar Avenue, East Killara is proposed to be zoned E2 Environmental Conservation as the site has high ecological values.

COMMUNITY CONSULTATION

Should the Planning Proposal be granted a Gateway Determination by the Department of Planning and Environment, the Planning Proposal will be placed on statutory public exhibition in accordance with the requirements of the Gateway Determination and the Departments publication *A Guide to Preparing Planning Proposals*.

During the statutory public exhibition the community will be invited to make submissions on the proposal.

INTERNAL CONSULTATION

Council officers from Development and Regulation and Strategy and Environment have been consulted with during the preparation of the Planning Proposal and this report.

Council officers also held a workshop on the deferred areas with representatives from the Rural Fire Service, NSW Police, Fire and Rescue, State Emergency Service and National Parks and Wildlife Service on 12 August 2015.

SUMMARY

13 areas within Ku-ring-gai were deferred from inclusion within the KLEP 2015 when it came into effect on 2 April 2015. These areas were identified as bushfire evacuation risk areas, and were deferred to allow Council to re-assess the evacuation risks and zoning within these areas.

The deferred areas that are located within bushfire evacuation risk areas and that do not meet the number of exit road requirements as per the Cova (2005) research are proposed to be zoned E4

Environmental Living. The E4 zoning is a planning measure to prevent increases in density and development types that would increase evacuation risks within these areas.

RECOMMENDATION:

- A. That the Planning Proposal (**Attachment A1**) be forwarded to the Department of Planning and Environment for a Gateway Determination in accordance with the provisions of the EP&A Act and Regulations.
- B. That delegation be granted to the General Manager to make any necessary corrections and amendments for drafting inconsistencies, or minor amendments as necessary to ensure consistency with NSW Standard Order Template and Department of Planning & Environment Policy.
- C. That Council request the plan making delegation under Section 23 of the EP&A Act for this Planning Proposal.
- D. That upon receipt of a Gateway Determination, the exhibition and consultation process is carried out in accordance with the requirements of the EP&A Act and with the Gateway Determination requirements.
- E. That a report be brought back to Council at the conclusion of the exhibition period.
- F. That Council wait for the NSW Rural Fire Service evacuation risk modelling study to be completed prior to further investigating a planning response for the whole of the South Turrumurra area with the aim of addressing bushfire issues.

Alexandra Plumb
Urban Planner

Craige Wyse
Team Leader Urban Planning

Antony Fabbro
Manager Urban & Heritage Planning

Andrew Watson
Director Strategy & Environment

Resolved:

(Moved: Councillors Malicki/McDonald)

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- F. That Council wait for the NSW Rural Fire Service evacuation risk modelling study to be completed prior to further investigating a planning response for the whole of the South Turrumurra area with the aim of addressing bushfire issues.

CARRIED UNANIMOUSLY