

# Ku-ring-gai Council

PLANNING PROPOSAL

To amend the Ku-ring-gai Local Environmental Plan 2015 to include 13 deferred areas - reassessment of bush fire evacuation risk and zoning

November 2015

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# INTRODUCTION

This Planning Proposal has been prepared to amend the Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015) to resolve 13 areas identified as "Deferred Matters" on the Land Application Map. These 13 areas were deferred from inclusion within the KLEP 2015 when it commenced on 2 April 2015. The areas had been identified as areas of high bushfire excavation risk, and were deferred to allow Council to undertake a reassessment of the bushfire excavation risk and reassessment of the proposed zoning within these areas.

This Planning Proposal has been prepared in accordance with Section 55 of the *Environmental Planning and Assessment Act 1979* (EP&A Act 1979) and the NSW Department of Planning and Environment (DPE) "A guide to preparing planning proposals" (October 2012).

Council will request the plan making delegation under Section 23 of the *Environmental Planning and Assessment Act 1979* for this Planning Proposal.

#### Background

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

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 with 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 provisions of the EP&A Act and Regulations

Accordingly, when the Local Environmental Plan, the KLEP 2015, was gazetted on the 5 March 2015, the 13 areas were deferred from inclusion within the KLEP 2015. The Ku-ring-gai Planning Scheme Ordinance currently applies to these 13 deferred areas.

The following maps show the 13 areas deferred from inclusion within the KLEP 2015 and are the areas that are the subject of this Planning Proposal.

#### 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 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



DISCLAIMER This plan has been prepared as part of a review process only and as such no reliance is to be placed upon this plan as it is not and does not purport to be a Planning Instrument. Ku-ring-gai Council acceopts no liability for the accuracy or otherwise of this plan.

# Area 13 – Bradfield Road



#### **Bushfire Evacuation Risk**

As part of the preparation of the Ku-ring-gai Local Environmental Plan 2015 (KLEP 2015), Council prepared a background study *Managing Bushfire Risk, Now and into the Future,* March 2012 (Appendix A). The aim of the 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 study made key recommendations which focused on the use of the following land use planning and development controls :

- Zoning
- Minimum lot size
- Minimum lot depth

In assessing 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 to evacuate from areas with a high bushfire risk. These factors include:

- Degree of hazard
- Road capacity
- Type of land use
- Number and location of exits from danger area
- Presence of fuel buffer to exit roads

The research proposes that fire prone communities at the bushland interface should have a maximum occupancy rate dependent on the above factors. This is based on research in a number of US communities that have experienced major bushfires. Cova (2005) recommends a minimum number of exits based on the number of households in the sensitive area. This is shown in the table below.

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

#### **Environmental Zoning**

Managing Bushfire Risk, Now and Into the Future identified zoning as a mechanism for managing the risks associated with bushfire and evacuation. The study recommended the application of environmental zones (E3 Environmental Management and E4 Environmental Living) to properties, as a way to reduce the risks

from bushfire events by limiting or excluding incompatible development in bushfire affected areas where it is likely to be difficult to evacuate during a bushfire. These environmental zones (E3 and E4) would permit residential development, but limit the overall number of development types or uses permissible.

#### **Draft Principal Local Environmental Plan 2013**

*Managing Bushfire Risk, Now and into the Future* made the following land use recommendation for the draft Principal Local Environmental Plan 2013:

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

- Identified as extreme bushfire risk using the Bushfire Risk Management Plan 2010 (Hornsby and Ku-ring-gai Councils 2010) as a guide; and
- Within the evacuation risk zones identified by the RFS '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 draft KLEP 2013 zoning map applied the E3 Environmental Management zone to properties that were identified as extreme bushfire risk, within a bushfire evacuation risk area and did not meet the exit criteria as specified by Cova (2005). The draft KLEP 2013 was exhibited from 25 March 2013 to 6 May 2013.

#### **Changes to Methodology**

As a result of submissions received during the exhibition of the draft KLEP 2013, consultation was undertaken with the Rural Fire Service and NSW Police. Based on the discussion with these emergency services responsible for evacuation, the following change was made to the approach to applying the Environmental zoning:

• Apply the environmental zoning to all land in the evacuation risk zones (identified on the Bushfire Evacuation Risk Map) that do not meet the exit criteria, not just those sites deemed to be extreme bushfire risk under the Bushfire Risk Management Plan 2010 (Hornsby and Ku-ring-gai).

This was due to advice from the Rural Fire Service that in a worst case scenario, they would be looking to evacuate more than those properties proposed as E3 in the draft KLEP 2013 – properties in the R2 zone would also be at risk and need to be evacuated.

A re-assessment was undertaken against the revised approach (above). As a result of this re-assessment, additional streets and catchments were found not to satisfy the minimum number of exits criteria, and

therefore should be subject to the environmental zoning. There were also areas identified that do satisfy the minimum number of exits criteria 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 a permissible development type within the E4 zone. Secondary dwellings are not a permissible development type within the E3 zone, which was applied to the properties identified as being within bushfire evacuation risk areas that did not meet the exit criteria under the draft KLEP 2013.

Accordingly, this Planning Proposal seeks to zone all the properties identified in the evacuation risk areas, which do not meet the exit criteria, E4 Environmental Living.

#### **Deferred Areas**

Due to the extent of 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 of the bushfire evacuation risks and to allow further community consultation on the proposed changes.

As these 13 areas are not included within the KLEP 2015, the Ku-ring-gai Planning Scheme Ordinance still applies to these areas.

### 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 proposed zoning for the rest of North Turramurra.



KLEP 2015 Zoning Map Extract – 9, 9A and 11-15 Curagul Road North Turramurra

# PART 1 – OBJECTIVE AND INTENDED OUTCOMES

### A statement of the objectives and intended outcomes of the proposed instrument

The objectives and intended outcomes of the Planning Proposal are as follows:

#### 1. Deferred Areas

The objective of the Planning Proposal is to resolve the deferred status of 13 areas by including these areas within the *Ku-ring-gai Local Environmental Plan 2015*. The intended outcomes of the proposed instrument are to apply zoning, land uses and development standards to these 13 areas appropriate with the level of bushfire evacuation risk and environmental significance of the land.

### 2. 9, 9A and 11-15 Curagul Road, North Turramurra

The objective of the Planning Proposal is to amend the zoning of these 3 properties from Zone E3 Environmental Management to Zone E4 Environmental Living, consistent with the proposed zoning for the rest of North Turramurra.

# **PART 2 – EXPLANATION OF PROVISIONS**

#### An explanation of the provisions that are to be included in the proposed instrument

The objectives and intended outcomes will be achieved through the following amendments to the map sheets and written instrument of *Ku-ring-gai Local Environmental Plan 2015*:

#### **Deferred Areas**

- 1. Amendment to the Land Application Map to remove the "Deferred Matter" status from the 13 areas in accordance with the proposed Land Application Map included in Part 4 Mapping.
- 2. Amendment to the Zoning Map to show the following:

#### **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 RE2 Private Recreation

#### Deferred Area 2 – North Wahroonga

All land to be zoned E4 Environmental Living except for:

o 29 Scullin Place and 2A Holt Avenue to be zoned E2 Environmental Conservation

#### Deferred Area 3 – Warrimoo Avenue

All land to be zoned E4 Environmental Living except for:

- o 2,4,6,8,10,12,14,16,18 Waipori Street to be zoned R2 Low Density Residential
- o 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

#### **Deferred Area 4 – Campbell Drive**

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

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

#### Deferred Area 5 - Browns Road - Fox Valley Road - Jordan Avenue

All land to be zoned E4 Environmental Living except for:

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

#### Deferred Area 6 – Howson Avenue

All land to be zoned E4 Environmental Living

#### Deferred Area 7 – Eastern Arterial Road

All land to be zoned E4 Environmental Living except for:

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

#### Deferred Area 8 – Parker Avenue – Evans Street

All land to be zoned E4 Environmental Living.

#### Deferred Area 9 – Bowen Avenue

All land to be zoned E4 Environmental Living.

#### Deferred Area 10 – Ashburton Avenue

All land to be zoned E4 Environmental Living.

#### Deferred Area 11 - Boronga Avenue - Gloucester Avenue

All land to be zoned E4 Environmental Living.

#### Deferred Area 12 – East Killara

All land to be zoned E4 Environmental Living except:

- o 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
- o 23 Wentworth Avenue to be zoned R2 Low Density Residential
- o 18 and 20 Fairburn Avenue to be zoned R2 Low Density Residential
- $\circ$   $\:$  Lot 32 DP28795 in Redfield Road to be zoned E2 Environmental Conservation

#### Deferred Area 13 – Bradfield Road

All land to be zoned E4 Environmental Living.

A copy of the proposed zoning maps as described above are included within Part 4 Mapping of this Planning Proposal.

- 3. Amendment to the Acid Sulfate Soils Map in accordance with the proposed Acid Sulfate Soils Map included within Part 4 Mapping of this Planning Proposal.
- 4. Amendment to the Terrestrial Biodiversity Map in accordance with the proposed Terrestrial Biodiversity Maps included within Part 4 Mapping of this Planning Proposal.
- 5. Amendment to the Floor Space Ratio Map in accordance with the proposed floor space ratio map included within Part 4 Mapping of this Planning Proposal.
- 6. Amendment to the Height of Buildings Map in accordance with the height of buildings map included within Part 4 Mapping of this Planning Proposal.
- Amendment to the Lot Size Map in accordance with the lot size map included within Part 4 Mapping of this Planning Proposal.
- 8. Amendment to the Riparian Lands and Watercourses Map in accordance with the Riparian Lands and Watercourses Map included within Part 4 Mapping of this Planning Proposal.
- Amendment to the Heritage Map in accordance with the Heritage Map included within Part 4 Mapping of this Planning Proposal.
- 10. Amendment to Schedule 5 of the written instrument as follows:

### Schedule 5 Environmental Heritage

| Suburb     | Item Name   | Address     | Property    | Significance | Item No |
|------------|-------------|-------------|-------------|--------------|---------|
|            |             |             | Description |              |         |
| North      | "Brooklyn", | 183-185     | Lot 12, DP  | Local        | 1492    |
| Turramurra | dwelling    | Bobbin Head | 827972      |              |         |
|            | house       | Road        |             |              |         |

| North      | Dwelling  | 36 Banks     | Lot 5, DP  | Local | 1488 |
|------------|-----------|--------------|------------|-------|------|
| Turramurra | house     | Avenue       | 1061616    |       |      |
| North      | "Nazareth | 402 Bobbin   | Lot 8, DP  | Local | 1490 |
| Turramurra | House",   | Head Road    | 23868      |       |      |
|            | dwelling  |              |            |       |      |
|            | house     |              |            |       |      |
| North      | "Taree",  | 93 Grosvenor | Lot 1,     | Local | 1494 |
| Wahroonga  | dwelling  | Street       | DP504381   |       |      |
|            | house     |              |            |       |      |
| North      | Dwelling  | 102          | Lot 12, DP | Local | 1495 |
| Wahroonga  | house     | Grosvenor    | 1128746    |       |      |
|            |           | Street       |            |       |      |

11. Amendment to Schedule 1 of the written instrument as follows:

### 54 Use of certain land at 20 Kanowar Avenue, East Killara

- (1) This clause applies to land at 20 Kanowar Avenue, East Killara, being Lot 100 DP1176072
- (2) Development for the purpose of an "eco-tourist facility" is permitted with development consent.
- Amendment to the written instrument to include the of Standard Instrument standard clause 5.13
   Eco-tourist Facility

#### 9, 9A and 11-15 Curagul Road, North Turramurra

13. Amendment to the Zoning Map to zone 9, 9A and 11-15 Curagul Road, North Turramurra E4 Environmental Living, in accordance with the Zoning Map included at Part 4 Mapping.

# **PART 3 - JUSTIFICATION**

The justification for those objectives, outcomes and the process for their implementation

#### A. Need for the planning proposal

#### Q1. Is the planning proposal a result of any strategic study or report?

Yes. The Planning Proposal is the result of the recommendations contained within *Managing Bushfire Risk, Now and Into the Future* (March 2012). As part of the preparation of the Ku-ringgai Local Environmental Plan 2015, Council prepared this background study to guide the preparation of the KLEP 2015 with the aim to reduce risks from bushfire events through the incorporation of strategic land management approaches. The study is included at **Appendix A**.

In assessing bushfire evacuation risks, the study looked at research undertaken by Cova (2005), which reasons that fire prone communities at the bushland interface should have a maximum occupancy rate and recommends a minimum number of exits based on the number of households in the sensitive area.

The study also recommended zoning properties within high bushfire evacuation risk areas an environmental zone under the KLEP 2015 in order to reduce the risks from bushfire events. The environment zones permit residential development, but limit the overall number of development types or uses permissible. The application of the environment zoning is a planning measure to prevent increases in density and development types that would increase evacuation risks within these areas.

As a result of the study, Council is proposing to apply the E4 Environmental Living zone to properties that are located within evacuation risk areas (as identified on the Bushfire Evacuation Risk Map) that no do meet the exit criteria as defined by Cova (2005).

Council engaged independent consultants to carry out biodiversity assessments of 20 Kanowar Avenue, East Killara and 56-58 Koola Avenue, East Killara which evaluated the site conditions and potential ecological constraints on the sites in order to inform the future land use zoning.

The proposed E2 Environmental Conservation zoning applied to 20 Kanowar Avenue is supported by the biodiversity assessment which demonstrates that the site meets the zone objectives of the E2 zone relating to high ecological values. The assessment found that the

bushland is in good condition with only minor weed infestation. It adjoins other more extension vegetation which together provides important wildlife connectivity between larger areas of bushland from Gangal 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 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 areas of regional fauna habitat identified by Ku-ring-gai Council. The site is also considered a Category 1 site in accordance with the conservation significance assessment and has high ecological value. A copy of the assessment is included at **Appendix B**.

# **Q2.** Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way?

Yes. The Planning Proposal is the best means of including the 13 deferred areas within the KLEP 2015 and resolving the deferred status of these areas. A Planning Proposal is required in order to have such amendments made to the KLEP 2015.

#### B. Relationship to strategic planning framework

# Q3. Is the planning proposal consistent with the objectives and actions of the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)?

The Planning Proposal is consistent with the goals, directions and actions contained within *A Plan for Growing Sydney* (the Sydney Metropolitan Strategy).

Specifically, the Planning Proposal is consistent with the following:

 Goal 4 - A sustainable and resilient city that protects the natural environment and has a balanced approach to the use of land and resources

This goal seeks to build a more sustainable, resilient city that responds to the potential threat of natural hazards such as flooding and bushfire. The Planning Proposal is consistent with this goal in that it seeks to appropriately zone areas identified has having a high risk of evacuating safely in the event of a bushfire. The E4 zoning will reduce the potential for increasing the number of people trying to evacuate from these areas, through limiting land uses and subdivision lot sizes. The E4 zoning will also reduce the number vulnerable groups of people, and assets within these areas that are likely to be impacted by bushfire events.

• Direction 4.2 - Build Sydney's resilience to natural hazards

This direction acknowledges that Sydney's unique environmental setting allows us to live close to bushland and waterways. Many of us highly value these features, however the threat of bushfire and floods to community safety, homes and livelihoods must be considered when planning the city.

The proposed use of the E4 Environmental Living zone is a proactive approach to the both the management of natural resources and the management of environmental hazards caused by bushfire risk. The bushfire risk results from the historical development pattern in Ku-ring-gai which has seen fingers of bushland into residential areas. The proposed use of the E4 Environmental Living zone is based on the best available evidence and a rigorous assessment of the risks.

• Action 4.2.1 - Provide local councils and communities with tools and information to shape local responses to natural hazards

This action acknowledges that urban planning can manage some risks from natural hazards through design, landscaping, emergency management, and infrastructure and in some cases limiting development in high risk areas. The Planning Proposal applies a local response to the bushfire and evacuation risk hazards impacting communities within the Kuring-gai local government area by limiting the permissible types of development within these areas.

Action 4.2.3 - Map natural hazard risks to inform land use planning decisions
 This direction outlines that hazard mapping will guide planning decisions so that new land for housing and jobs is not created in areas with unacceptable risk. By integrating this information into strategic planning, new developments will not be placed in harm's way and will not increase risks. The Planning Proposal and the land use planning decision to apply the E4 Environmental Living zone has been informed by the evacuation risk mapping identified on the Bushfire Evacuation Risk Map in order reduce evacuation risks within the deferred areas.

There is currently no exhibited draft sub-regional strategy for the north sub-region in which Ku-ring-gai is located. However, *A Plan for Growing Sydney* identifies a number of priorities for the north sub-region. The Planning Proposal is consistent with the following priorities:

• Protection the natural environment and promote its sustainability and resilience

 Promote early strategic consideration of bushfire, flooding and coastal erosion in relation to any future development in the subregion

The Planning Proposal seeks to provide early strategic consideration of bushfire through strategic land use management. It is proposed to apply the E4 Environmental Living zone to properties that are located within evacuation risk areas (as identified on the Bushfire Evacuation Risk Map) that no do meet the exit criteria as defined by Cova (2005). The application of the E4 zoning is a planning measure to prevent increases in density and development types (particularly those that cater to vulnerable groups of people) that would increase evacuation risks within these areas.

# Q4. Is the planning proposal consistent with a council's local strategy or other local strategic plan?

The Planning Proposal is consistent with Ku-ring-gai Council's Community Strategic Plan *Our Community. Our Future. Community Strategic Plan 2030,* specifically Theme 03 relating to Places, Spaces and Infrastructure. The Planning Proposal is consistent with the following objectives and achievements:

- P2 Managing Urban Change
- P2.1 A robust planning framework is in place to deliver quality design outcomes and maintain the identity and character of Ku-ring-gai
  - Strategies, plans and processes are in place to effectively manage the impact of new development
  - Community confidence has continued in our assessment, regulatory and environmental processes

The Planning Proposal will help provide a robust planning framework for the local government area through the inclusion of 13 deferred areas within the principal LEP. The inclusion of these areas within the principal LEP will mean that the old Ku-ring-gai Planning Scheme Ordinance will cease to apply to these areas.

The Planning Proposal will provide land use zoning and development standards to effectively manage the impact of new development within these areas identified as having a high evacuation risk in the event of a bushfire.

# Q5. Is the planning proposal consistent with applicable State Environmental Planning Policies?

The following table identifies the key applicable SEPPs and outlines this Planning Proposal's consistency with those SEPPs.

| SEPP  | Comment on Consistency   |
|---|--|
| SEPP 19 Bushland in Urban<br>Areas                                  | The Planning Proposal is consistent with the aims and<br>objectives of SEPP 19 which seek to protect and preserve<br>bushland within urban areas. The Planning Proposal gives<br>priority to retaining bushland through the biodiversity and<br>riparian lands mapping within the 13 deferred areas.   |
| SEPP 55 Remediation of<br>Land                                      | SEPP 55 requires a planning authority to give consideration to<br>contamination issues when rezoning land which allows a<br>change of use that may increase the risk to health or the<br>environment from contamination.   |
|   | The zoning proposed within this Planning Proposal will not result in a significant change to permissible uses which will increase risks to health or environment.  |
| SEPP (Housing for Seniors or<br>People with a Disability) –<br>2004 | The aim of this policy is to encourage the provision of housing<br>that increases the supply and diversity of residences that meet<br>the needs of seniors or people with a disability.<br>The deferred areas the subject of this Planning Proposal are<br>located within areas identified within the SEPP (Housing for<br>Seniors or People with a Disability) 2004 exclusion zone, which<br>restricts further development of housing for seniors or people<br>with a disability due to the evacuation risk for groups of<br>vulnerable people in the event of a bushfire. In this regard, the<br>Planning Proposal is consistent with Schedule 1 of the SEPP as<br>the areas the subject of this Planning Proposal are identified as<br>Environmentally sensitive land for the purposes of the SEPP. |
| SEPP Infrastructure 2007  | The aim of this policy is to facilitate the effective delivery of<br>infrastructure across the state. The Planning Proposal is<br>consistent with the aims of the SEPP and will not restrict the<br>provision of infrastructure under the SEPP.  |
| SEPP Exempt and Complying<br>Development Codes 2008                 | The Codes SEPP aims to provide a streamlined assessment process for certain types of development that are considered to have minimal environment impact.   |
|   | The Planning Proposal does not include any exempt or complying development provisions that are inconsistent with the SEPP.   |

| SREPP Comment on Consistency |  |
|------------------------------|--|
|------------------------------|--|

| SREPP   | Comment on Consistency   |  |
|---|--|--|
| SYDNEY REP 20 Hawkesbury-<br>Nepean River     | The SREPP requires consideration be given to the impact of<br>future land uses in the Hawkesbury-Nepean River catchment in<br>a regional context. The SEPP covers water quality and quantity,<br>environmentally sensitive areas, riverine scenic quality,<br>agriculture and urban and rural residential development.<br>The Planning Proposal is consistent with the aims of the SREPP<br>and the proposed zoning and land uses will not result in<br>adverse impact to the Hawkesbury-Nepean River catchment. |  |
| SYDNEY REP (Sydney<br>Harbour Catchment) 2005 | The SREPP aims to provide a balance between a working<br>harbour, a healthy and sustainable waterway and recreational<br>access to the foreshore and waterways.<br>The Planning Proposal is consistent with the SREPP and the<br>proposed zoning and land uses will not result in adverse impact<br>to the Sydney Harbour catchment.   |  |

#### Q6. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)?

The following table identifies applicable Section 117 Directions and outlines this Planning Proposal's consistency with those Directions.

| Dire | ctions under S117               | Objectives  | Consistency   |
|------|---------------------------------|---|---|
| 2.   | ENVIRONMENT AND HERITAGE        |   |   |
| 2.1  | Environment<br>Protection Zones | The objective of this direction is to protect and conserve environmentally sensitive areas. | Consistent.<br>The Planning Proposal provides for the<br>protection and conservation of<br>environmentally sensitive areas. The<br>proposed use of the E4 Environmental<br>Living zone is a proactive approach to both<br>the management of natural resources and<br>the management of environmental<br>hazards caused by bushfire risk.<br>The Planning Proposal provides for the<br>protection of 20 Kanowar Avenue East<br>Killara which has been identified as having<br>high ecological value through an<br>independent biodiversity assessment.<br>Accordingly, the site is proposed to be<br>zoned E2 Environmental Conservation in<br>order to protect the land that has a high<br>conservation value outside of the national<br>park and reserve system. It is proposed to<br>permit "eco-tourist facilities" with consent<br>on this site via Schedule 1 of the LEP, being<br>one of the very limited commercial uses<br>potentially compatible with the ecological<br>constraints of the site. |

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| Directions under S117 | Objectives  | Consistency   |  |  |  |
|-----------------------|---|---|--|--|--|
| 3. HOUSING, INFRAST   | HOUSING, INFRASTRUCTURE AND URBAN DEVELOPMENT   |   |  |  |  |
| 3.1 Residential Zones | The objectives of this direction are:<br>(a) to encourage a variety and<br>choice of housing types to<br>provide for existing and<br>future housing needs,<br>(b) to make efficient use of<br>existing infrastructure and<br>services and ensure that<br>new housing has<br>appropriate access to<br>infrastructure and services,<br>and<br>(c) to minimise the impact of<br>residential development on<br>the environment and<br>resource lands. | Justifiably inconsistent.<br>The Planning Proposal meets the objective<br>(c) of the direction which seeks to<br>minimise the impact of residential<br>development on the environment. The E4<br>Environmental Living zone is a proactive<br>approach to both the management of<br>natural resources and the management of<br>environmental hazards caused by bushfirer<br>risk. The E4 zone will allow low impact<br>residential development.<br>The land to which the Planning Proposal<br>applies to is not suitable to encourage a<br>variety of housing types (e.g. higher<br>densities and seniors living) due to the<br>evacuation risk associated with the areas.<br>The Planning Proposal seeks to limit the<br>amount of additional people trying to<br>evacuate from these areas in the event of<br>a bushfire. The evacuation risk to these<br>areas is already well established with the<br>SEPP (Housing for Seniors or People with a<br>Disability) 2004 exclusion zone.<br>The proposed zoning is supported by<br>Council's study <i>Managing Bushfire Risk</i> ,<br><i>Now and into the Future</i><br>The Planning Proposal will result in the<br>down-zoning of three sites currently zonedrifts stillara<br>• Lot 323 DP752031 – Part of<br>Glengarry<br>• Knox Curagul Playing Fields at<br>408 and 410-412 Bobbin Hear<br>Road North Turramurra<br><b>20 Kanowar Avenue East Killara</b> – The site<br>is zoned residential 2(b) under the KPSO.<br>The planning proposal seeks to zone the<br>site E2 Environmental Conservation as a<br>means to protect the site which has high<br>ecological values. An independent<br>assessment of the site found the site to<br>have high ecological values, consistent<br>with the objectives of the E2 zone. The<br>parcel of land is currently undeveloped, if<br>the site was to retain it residential zoning,<br>any development would be highly<br>constrained by the constraints of the site,<br>including slope, bushfire planning<br>requirements. |  |  |  |

| Directions under S117 | Objectives | Consistency   |
|-----------------------|------------|---|
|                       |            | It is proposed to permit "eco-tourist<br>facilities" with consent on this site via<br>Schedule 1 of the LEP, being a commercial<br>uses potentially compatible with the<br>ecological constraints of the site.  |
|                       |            | Lot 323 DP752031 – The lot is currently<br>zoned part residential 2(c) and part<br>recreation 6(a) under the provisions of the<br>KPSO. A submission was received from the<br>land owner – Girl Guides NSW/ACT –<br>during the exhibition of the then draft<br>KLEP 2013 which requested the whole of<br>the site be zoned RE2 Private Recreation.<br>It is acknowledged that the RE2 zoning<br>across the whole of the site – instead of<br>zoning the site part E4 and part RE2 –<br>would better facilitate the ongoing use of<br>the site for its current purpose (girl guides<br>training and camp).   |
|                       |            | Knox Curagul Playing Fields – The site is<br>currently zoned Residential 2(h) under the<br>KPSO. It was proposed to be zoned E3<br>Environmental Management under the<br>Draft KLEP 2013. During the exhibition of<br>the Draft KLEP 2013, a submission was<br>received on behalf of Knox Grammar<br>School which requested the site be zoned<br>SP2 Infrastructure. The submission raised<br>concern that the E3 zoning does not<br>reflect the purpose for which Knox uses<br>the land, that the E3 zoning prohibits<br>educational establishments, and the E3<br>zone is not a prescribed zone under the<br>Infrastructure SEPP, and in this regard<br>there would be no avenue for obtaining<br>consent to develop the site for school<br>purposes.   |
|                       |            | As part of the re-assessment of the North<br>Turramurra deferred area, further<br>consideration was given to the zoning of<br>this site. It is acknowledged that an SP2<br>Infrastructure zoning would be consistent<br>with the zoning of other school sites<br>across the LGA. However, a zoning of SP2<br>Infrastructure on the site would allow the<br>site to be further developed and its use<br>intensified under the provisions of the<br>Infrastructure SEPP. In this regard, the<br>further intensification of the use of the site<br>for a school campus is not compatible with<br>the aims of the Planning Proposal or the<br>surrounding area. The North Turramurra<br>area is identified as a bushfire evacuation<br>risk area, and the Planning Proposal is<br>seeking to exclude land uses such as<br>schools, retirement villages and childcare<br>centres, which area identified as Special |

| Direction                             | ns under S117                      | Objectives  | Consistency  |  |  |  |
|---------------------------------------|------------------------------------|---|--|--|--|--|
|                                       |                                    |   | Fire Protection Purposes under s100B of<br>the Rural Fires Act 1997. These uses will<br>lead to increased excavation risks to<br>vulnerable groups of people and in this<br>regard are incompatible.<br>The Knox Curagul Playing Fields are<br>recommended to be zoned RE2 Private<br>Recreation, which is consistent with the<br>current use of the site. This zoning will<br>facilitate the ongoing use of the site for its<br>current purposes for private recreation<br>and will not permit further intensification<br>of the use for school purposes.   |  |  |  |
| 3.3 Ho                                | ome Occupations                    | The objective of this direction is to<br>encourage the carrying out of low-<br>impact small businesses in dwelling<br>houses.   | Consistent.<br>The Planning Proposal will not restrict<br>home occupations to be carried out<br>without the need for development<br>consent.   |  |  |  |
| 4. HA                                 | AZARD AND RISK                     |   |  |  |  |  |
| Bu                                    | anning for<br>ushfire<br>rotection | <ul> <li>The objectives of this direction are:         <ul> <li>to protect life, property<br/>and the environment from<br/>bush fire hazards, by<br/>discouraging the<br/>establishment of<br/>incompatible land uses in<br/>bush fire prone areas, and</li> <li>to encourage sound<br/>management of bush fire<br/>prone areas.</li> </ul> </li> </ul> | Consistent.<br>The Planning Proposal takes into<br>consideration the findings and<br>recommendations of the background<br>study, "Managing Bushfire Risk, Now and<br>Into the Future" (2012, Ku-ring-gai<br>Council) which uses a risk management<br>approach to assess the management of<br>bushfire risks and provides guidance for<br>zoning, land use and development<br>standards in high risk areas.<br>The application of the E4 zoning will<br>prohibit incompatible land uses within the<br>bushfire evacuation risk areas.<br>The NSW Rural Fire Service, as well as<br>other services involved in evacuations<br>such as the Police, Fire and Rescue, SES<br>and Ambulance, will be consulted with<br>during the process. |  |  |  |
| 6. LC                                 | 6. LOCAL PLAN MAKING               |   |  |  |  |  |
| Approval and Referral<br>Requirements |                                    | The objective of this direction is to<br>ensure that LEP provisions<br>encourage the efficient and<br>appropriate assessment of<br>development.   | Consistent.<br>The Planning Proposal does not seek to<br>include additional provisions that require<br>concurrence, consultation for referral of<br>development applications to a Minister or<br>public authority, or identify development<br>as designated development.   |  |  |  |
| 7. MI                                 | 7. METROPOLITAN PLANNING           |   |  |  |  |  |

| Dire | ctions under S117                                 | Objectives   | Consistency   |
|------|---|--|---|
| 7.1  | Implementation of<br>the Metropolitan<br>Strategy | The objective of this direction is to<br>give legal effect to the vision, land<br>use strategy, policies, outcomes<br>and actions contained in the<br>Metropolitan Strategy. | <ul> <li>Consistent.</li> <li>The Planning Proposal is consistent with the NSW Government's Metropolitan Strategy, "A Plan for Growing Sydney".</li> <li>Specifically the following: <ul> <li>Goal 4 – A sustainable and resilient city that protects the natural environment and has a balance approach to the use of land and resources</li> <li>Direction 4.2 – Build Sydney's resilience to natural hazards</li> <li>Action 4.2.1 – Provide local Councils and communities with tools and information to shape local responses to natural hazards</li> <li>Action 4.2.3 – Map natural hazard risks to inform land use planning decisions</li> <li>Protection of the natural environment and promote it sustainability and resilience</li> <li>Promote early strategic consideration to any future development in the subregion</li> </ul> </li> </ul> |

#### C. Environmental, social and economic impact

# Q7. Is there any likelihood that *critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal?*

The Planning Proposal is unlikely to have an adverse effect on critical habitat or threatened species populations or ecological communities, or their habitats. An independent biodiversity assessment of the 20 Kanowar Avenue, East Killara has identified the site as having high ecological value. Accordingly, the site is proposed to be zoned E2 Environmental Conservation in order to protect the land that has a high conservation value outside of the national park and reserve system. It is proposed to permit "eco-tourist facilities" with consent on this site via Schedule 1 of the LEP, being one of the limited commercial land uses potentially compatible with the ecological constraints of the site. The associated provisions eco-tourist facilities to be inserted into the LEP seek to:

a) to maintain the environmental and cultural values of land on which development for the purposes of eco-tourist facilities is carried out,

b) to provide for sensitively designed and managed eco-tourist facilities that have minimal impact on the environment both on and off-site

# Q8. Are there any other likely *environmental effects as a result of the planning proposal and how are they proposed to be managed?*

The Planning Proposal is a proactive approach to both the management of natural resources and the management of environmental hazards caused by bushfire risk through the application of the E4 Environmental Living zone and associated development standards.

The proposed application of the E4 Environmental Living zone to properties located within evacuation risk areas (as identified on the Bushfire Evacuation Risk map) that do not meet the exit criteria, seeks to reduce the risks from bushfire events through limiting the development types and permissible uses within these areas. The proposed E4 zoning will not permit uses identified as *"special fire protection purpose"* under Section 100B of the *Rural Fires Act 1997*.

Development will be limited to low density and low impact land uses, including bed and breakfast accommodation, community facilities, dwelling houses, environmental facilities, environmental protection works, flood mitigation works, home-based child care, home businesses, home industries, recreation areas, road and secondary dwellings.

The minimum lot size requirement of 1500sqm for subdivision of land zoned E4 Environmental Living is proposed in order to reduce the potential for increasing the number of people trying to leave an area where there is a high risk of not being able to evacuate safely.

#### Q9. Has the planning proposal adequately addressed any social and economic effects?

The Planning Proposal is expected to result in positive social effects as it will prevent any further intensification of vulnerable population living in areas of high bushfire evacuation risk.

The Planning Proposal is not expected to result in significant economic effects. It is noted that the increase to 1500sqm minimum lot size for subdivision may in some cases have a negative impact on individual property values as they will no longer be able to subdivide. However, this is considered to be offset by the grater social and community safety benefit of restricting any further intensification of development and vulnerable populations living in these areas.

It is noted that within 6 of the deferred areas, there is no potential for subdivision under the current lower 929sqm minimum lot sizes, therefore increasing the minimum lot size to 1500sqm does not make a difference to the subdivision potential.

#### D. State and Commonwealth interests

#### Q10. Is there adequate public infrastructure for the planning proposal?

The Planning Proposal will not result in any increase to residential density or intensity of land uses, and therefore it is considered that there will be negligible additional demands or pressures placed on existing infrastructure.

# Q11. What are the views of state and *Commonwealth public authorities consulted in accordance* with the Gateway determination?

Consultation has been undertaken with the following agencies:

- NSW Rural Fire Service
- o NSW State Emergency Service
- o NSW Police
- o NSW Fire and Rescue
- o National Parks and Wildlife Service

A meeting was held with Council staff and representatives from the above agencies on 12 August 2015. Council provided a brief presentation and explanation of the background to the deferred areas, the background study *"Managing Bushfire Risk Now and Into the Future"*, and the methodology used – Cova – "Public Safety in the Urban-Wildland Interface: Should Fire Prone Communities Have a Maximum Occupancy?"

The following questions were raised and discussed:

- What are the issues for evacuation within these 13 deferred areas?
- How would emergency services go about evacuating these areas?
- What are your views on the methodologies and assumptions that Council has used to inform our 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 would increase evacuation risks supported?
The emergency services advised that the area to be evacuated would depend on the incident, the fire, conditions and 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 eventually a fire event will impact these areas.

The representatives from the NSW Police and NSW Rural Fire Service also provided written comments to the above discussion questions. These comments are included at **APPENDIX C**.

### PART 4 - MAPPING

#### Maps, where relevant, to identify the intent of the planning proposal and the area to which it applies

The Planning Proposal will require amendments to the as shown on the following maps:

# Land Application Map – Existing and Proposed





## Zoning Maps – Existing



























## Zoning Maps – Proposed



























Zoning Map – Existing 9, 9A, 11-15 Curagul Road, North Turramurra



Zoning Map – Proposed 9, 9A, 11-15 Curagul Road, North Turramurra


## Height of Buildings Maps – Proposed

Note – No existing Height mapping under Ku-ring-gai Planning Scheme Ordinance



























## Floor Space Ratio Maps – Proposed

Note – there is no existing FSR mapping under Ku-ring-gai Planning Scheme Ordinance



























## Lot Size Maps – Proposed

Note – there is no existing minimum lot size mapping under Ku-ring-gai Planning Scheme Ordinance


























## Acid Sulfate Soils Maps - Proposed

Note – there is no existing acid sulphate soils mapping under KPSO



























## **Terrestrial Biodiversity Maps – Existing**



























## Terrestrial Biodiversity Maps – Proposed


























## **Riparian Lands and Watercourses Maps – Existing**



























## Riparian Lands and Watercourses Maps – Proposed


























# Heritage Maps – Existing





# Heritage Maps – Proposed





## PART 5 – COMMUNITY CONSULTATION

### Details of the community consultation that is to be undertaken on the planning proposal

Community consultation for this Planning Proposal will be consistent with the prescribed consultation guidelines contained within *A guide to preparing Local Environmental Plans* (April 2013).

Consultation will also have regard to the requirements outlined in the gateway determination issued by the Department of Planning and Environment.

Public exhibition of the Planning Proposal is generally undertaken in the following manner:

- Notification in a newspaper the circulates the area affected by the Planning Proposal (The North Shore Times)
- Notification on Council's website
- Notification in writing to the affected and adjoining land owners

During the public exhibition periods, the following material would be made available for inspection:

- The Planning Proposal
- The gateway determination
- Any information or technical information relied upon by the Planning Proposal

At the conclusion of the public exhibition, a report will be prepared and reported back to Council to allow for the consideration of any submissions received during the public exhibition.

## PART 6 – PROJECT TIMELINE

| Stage   | Timing  |
|---|---|
| Anticipated commencement date (date of Gateway determination)   | February 2016   |
| Timeframe for government agency consultation (pre and post exhibition as required by Gateway determination) | 1 March 2016 – 28 March<br>2016                                 |
|   | <b>28 days</b><br>- Run concurrently with<br>exhibition period. |
| Commencement and completion dates for public exhibition period  | 1 March 2016 – 28 March<br>2016                                 |
|   | - 28 days exhibition  |
| Dates for public hearing (if required)  | N/A   |
| Timeframe for the consideration of a proposal post exhibition   | OMC May 2016  |
|   | 2 weeks for reporting   |
| Date of submission to the department to finalise the LEP  | June 2016   |
| Anticipated date RPA will make the plan (if delegated)  | June 2016   |
| Anticipated date RPA will forward to the department for notification.                                       | June 2016   |

APPENDIX A – Background Study "Managing Bushfire Risk, Now and into the Future" – March 2012

APPENDIX B – Biodiversity Report 20 Kanowar Avenue, East Killara

### APPENDIX C – Comments from NSW Police and Rural Fire Service

### **Alexandra Plumb**

| From:    | Jonathan Gross   |
|----------|--|
| Sent:    | Monday, 31 August 2015 9:53 AM   |
| To:      | Alexandra Plumb  |
| Cc:      | David Jones  |
| Subject: | Re: Follow up - Meeting Ku-ring-gai Council - Bushfire Evacuation Risk |

Hi Alex

Superintendent Jones has asked me to respond to your enquiry. Thankyou for the invite. I note that a number of the attached questions are a matter for Council to decide. Having said that, the denser the population the more resources are required to evacuate them. Further, if there is one way in and one way out, bottlenecks can occur. There will not likely be an issue with transport as most of the population will have access to a vehicle. Evacuations, if required, would generally occur in stages, with the most effected area evacuated first.

Plans may revolve around `worst case scenario' based on the likelihood of `high'. If we expect a fire storm to hit (based on some history) it makes sense to limit the population or provide a higher fire fighting capacity with building code restrictions, increased fire service connections and to limit development. Development restriction however, would have to consider the likelihood of a catastrophic event and what that rating may be low, medium or high.

Many thanks

J A Gross Detective Inspector Kuring-Gai LAC Duty Officer

### Alexandra Plumb

| From:    | David Boverman   |  |
|----------|--|--|
| Sent:    | Monday, 31 August 2015 2:05 PM                                     |  |
| To:      | Alexandra Plumb  |  |
| Cc:      | Peter Marshall; Corey Shackleton                                   |  |
| Subject: | Follow up - Meeting Ku-ring-gai Council - Bushfire Evacuation Risk |  |

### Hi Alexandra,

Thank you for the opportunity to participate in the workshop and to comment on the questions below. Please find answers to the questions following each question.

The NSW RFS is committed to continuing to work with you on the bush fire prone land mapping evacuation exclusion zones and in addressing associated issues.

If you have any questions please let me know.

Kind Regards, David



David Boverman | Manager | Development Planning & Policy NSW RURAL FIRE SERVICE Headquarters 15 Carter Street Lidcombe NSW 2141 | Locked Bag 17 Granville NSW 2142 24 Hour Media Enquires 02 9898 1855 www.rfs.nsw.gov.au | www.facebook.com/nswrfs | www.twitter.com/nswrfs

PREPARE. ACT. SURVIVE.

#### Deferred Areas - Bushfire Evacuation Risk and Strategic Land Management

- What are the issues for evacuation within these 13 areas? Bush fire evacuation issues are complex in
  nature and arise when evacuation times become excessive. Single evacuation routes may become blocked
  due to fire scenarios and occupants may need to shelter as a last resort. In these areas, increasing
  population densities and certain land uses may be problematic and should be carefully considered. Because
  of the complexities involved, 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 these. It is
  hoped that this will be undertaken within a year's time.
- What are your views on the methodologies and assumptions that Council has used to inform our decisions? – We believe that the methodologies and assumptions are objective and methodical and that they form a good starting point for assessing the issues addressed for land-use planning decisions in the areas in question. However, the issue of land-use planning for bush fires is a complex one which requires further work. The NSW RFS supports the concepts used for decision making but believes that the approach is more complex than the one adopted. It should be noted that the results of the Cova study may not be practical on a landscape scale due to limitations inherent in urban planning.
- Based on the methodology and assumptions, is Council making responsible, reasonable and realistic
   decisions? Yes we agree that council is making responsible, reasonable and realistic decisions within the
   context that each council has the responsibility to determine adequate levels of safety in their respective
   communities. The NSW RFS will continue mapping areas identified as bush fire evacuation risk exclusion
   zoness as part of the Ku-ring-gai bush fire prone land map. It should be noted that as discussed above this is
   a very complex matter and therefore additional work is proposed to address the issues.

- Are Council's proposed planning measures to prevent increase in density and development types that
  increase evacuation risks supported? The concept adopted is supported by the NSW RFS. The NSW RFS
  will continue to work with council towards addressing the complexities associated with evacuating from
  bush fires, in particular for those areas identified.
- What are the evacuation risks for South Turramurra as a whole? Would the proposed planning measures be necessary or appropriate for the whole of the South Turramurra peninsular? As discussed above, evacuation from bush fires is a complex matter and as such 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 these. It is hoped that this will be undertaken within a year's time. Should council have concerns regarding bush fire evacuation in areas beyond those currently captured on the Ku-ring-gai bush fire prone land map, the NSW RFS is happy to discuss and consider options.

APPENDIX D – Council Report and Resolution OMC 8 December 2015