



Ms Elizabeth Richardson  
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Via email: [andrew.kearns@hawkesbury.nsw.gov.au](mailto:andrew.kearns@hawkesbury.nsw.gov.au)

Dear Ms Richardson

### **Planning proposal PP-2020-3581 – Alteration of Gateway Determination**

I refer to the Independent Planning Commission's (the Commission) advice dated 1 July 2021 in respect of the Gateway determination (as altered) for 2 Inverary Drive, Kurmond.

I have determined as the delegate of the Minister, in accordance with section 3.34(7) of the *Environmental Planning and Assessment Act 1979*, to accept the advice of the Commission and alter the Gateway determination dated 28 June 2018 (since altered) for PP-2020-3581.

I note the Commission found some weight should be afforded to Council's previous strategic planning work for this area and as such recommends a 4,000m<sup>2</sup> minimum lot size for at the front of the site west of the riparian areas and 1 hectare lots at the rear of the site east of the riparian areas. These lots sizes may be required to be larger for the proposal to adequately comply with Council's 2015 interim development principles for the Kurmond Kurrajong Investigation Area, Environment, Energy and Science Group (EES) concerns, and to demonstrate consistency with planning priorities in the District Plan.

Prior to a revised subdivision plan being prepared to reflect these minimum lot sizes, additional reporting is to be undertaken to assist in informing the subdivision layout and further consideration of how the proposal can respond more appropriately to the site's constraints and reduce its impact on biodiversity and views.

I note the Commission and EES do not support the use of section 88B instruments (Section 88B of the *Conveyancing Act 1919*) as it is not a recognised conservation measure under the Biodiversity Offsets Scheme and *Biodiversity Conservation Act 2016*. The revised layout and reports will need to demonstrate appropriate biodiversity conservation measures.

Following the revision of the proposal and subdivision concept plan, it is to be submitted to the Department of Planning, Environment and Industry (the Department) for endorsement. To ensure this occurs within a timely manner, the Gateway alteration requires the submission of this information within a certain timeframe. If the

additional information and supporting concept subdivision layout is not satisfactory upon submission, the proposal will not proceed.

I also note advice from EES, which outlines unresolved issues of concern relating to the potential for the development to cause detrimental impacts including loss of habitat for a critically endangered ecological community and at least five threatened fauna species.

Considering the significance of the ecological communities present on site, I have therefore determined to remove Council as the local plan-making authority. In addition, this will ensure the finalisation of the proposal in a timely manner. The Gateway alteration has been updated accordingly.

This proposal must be finalised by 24 December 2021. To ensure the timeframe is met, milestones have been inserted into the Gateway. Council will also be required to consider the post exhibition report on this proposal by 30 November 2021.

This timeframe does not allow for additional fauna reporting required by EES to occur prior to the LEP being finalised. As a result, the Gateway alteration will require the planning proposal be updated to include site specific provisions in the LEP for the Department's Secretary to consider the outcomes of the studies at the development application stage.

The Department is also concerned the proposal's demand on local infrastructure has not been resolved. The Department's Secretary will also consider whether infrastructure demands of the development have been addressed at the development application stage.

If you have any questions in relation to this matter, I have arranged for Ms Elizabeth Kimbell to assist you. Ms Kimbell can be contacted on 9860 1521.

Yours sincerely



**Jane Grose**  
**Director, Central (Western)**  
**Central River City and Western Parkland City**

Encl:  
Alteration of Gateway Determination  
Office of Water Guidelines for riparian corridors on waterfront land, July 2012