



Our ref: DOC20/310967

Your ref: D20/75536

Ms Meryl Bishop
Georges River Council
PO Box 205
HURSTVILLE NSW 1481

Attention: Ms Stephanie Lum

Dear Ms Bishop

Subject: EES comments on the Public Exhibition of draft Georges River Local Environmental Plan 2020

Thank you for your letter of 1 April 2020 requesting comments on the public exhibition of the draft Georges River Local Environmental Plan 2020 (draft LEP 2020).

EES has reviewed the draft LEP 2020 and provides its recommendations and comments at Attachment A.

Please note that EES has not provided comments on Aboriginal cultural heritage matters. This does not represent EES support for the proposal and this matter may still need to be considered by the consent authority.

If you have any queries regarding this matter, please do not hesitate to contact Janne Grose, Senior Conservation Planning Officer on 02 8837 6017 or at janne.grose@environment.nsw.gov.au

Yours sincerely

A handwritten signature in black ink that reads 'S. Harrison'.

26/05/20

Susan Harrison

**Senior Team Leader Planning
Greater Sydney Branch
Environment, Energy and Science**

Attachment A

Subject: EES comments on draft Georges River Local Environmental Plan 2020

The Environment, Energy and Science Group (EES) has reviewed the following documents:

- Draft Georges River Local Environmental Plan 2020 (LEP)
- Planning Proposal Report (PPR)
- Combined LEP mapping
- Housing Investigation Areas Paper (HIAP) – April 2020

and provides the following comments.

Background

The PPR notes the Georges River Council was formed out of the amalgamation of the former Kogarah Council and the former Hurstville City Council. The planning controls for the Georges River LGA currently include three LEPs:

- *Kogarah Local Environmental Plan (KLEP) 2012*;
- *Hurstville Local Environmental Plan (HLEP) 2012*; and
- *Hurstville Local Environmental Plan (HLEP) 1994*.

Flood

The flood planning clause 6.3 of the proposed LEP is based on the flood planning clause of the Kogarah City Council LEP. The flood planning area is based on 100 Year ARI flood map. The flood planning level is based on 100 Year ARI flood level plus a freeboard of 0.5m.

The former Hurstville City Council completed the Hurstville LGA overland flood study in 2015 where the flooding conditions were assessed for the full range of flood events including the PMF event. The former Kogarah City Council completed the flood studies for Beverley Park and Kogarah Bay Catchments, and the flood information is available up to the PMF level. The proposed LEP maps include the flood planning map based on an 100Year ARI event.

Biodiversity

The Georges River Local Government Area (LGA) has extensive areas with high environmental values (HEVs). HEVs reflect current statutory and planning policy (mostly at the State government level) for the protection of the environment in planning matters. Areas of HEV should be given consideration in all strategic land use planning processes, including growth strategies and regional and local plans. The HEV criteria encompass: areas protected for conservation; native vegetation of high conservation value; threatened species and populations; wetlands, rivers, estuaries and coastal features of high environmental value; and areas of geological significance.

The attached maps show some indicative HEVs for the Georges River LGA including:

- seven threatened ecological communities i.e. Coastal Saltmarsh, Freshwater Wetlands on Coastal Floodplains, Littoral Rainforest, River-flat Eucalypt Forest, Swamp Oak Floodplain Forest, Swamp Sclerophyll Forest and Sydney Turpentine-Ironbark Forest (see the attached map 'NSW-listed threatened ecological communities and habitat of known occurrences of threatened plants')
- known habitat for threatened plants (Magenta Lilly Pilly (*Syzygium paniculatum*), Downy Wattle (*Acacia pubescens*) and the *Acacia prominens* (Gosford Wattle) endangered population in the Hurstville and Kogarah LGAs) (see the 'NSW-listed threatened ecological communities and habitat of known occurrences of threatened plants' map)

- coastal wetlands and littoral rainforests identified under the State Environmental Planning Policy (Coastal Management) 2018 (see the 'Coastal Wetlands and Littoral Rainforest State Environmental Planning Policy (Coastal Management) 2018' map)
- high value fauna habitat (including shorebird habitat, see the 'Fauna habitat' map) and
- a priority investment area for the Cumberland subregion (see the 'Salt Pan Creek priority investment area identified in the Cumberland subregion BioMap study' map).

EES can provide HEV data to Council. Other biodiversity related factors, such as the occurrence of native vegetation communities, native vegetation integrity and habitat suitability for threatened species, along with local biodiversity corridors, will also be important for consideration at the local planning stage.

Draft LEP

Table of Contents

EES recommends the Table of Contents in the LEP is amended so that:

- The Land Use Table lists each Zone
- Part 4 lists each of the Principal development standards
- Part 5 lists each of the Miscellaneous provisions
- Part 6 lists each of the additional local provisions

Aims of Plan

EES notes the inclusion of the following Aims in the draft LEP:

c) to promote and facilitate an ecologically and economically sustainable and vegetated urban environment in which the needs and aspirations of the community are realised,

(e) to protect and preserve the natural, built, cultural and Aboriginal heritage of Georges River, to build upon and enhance the character of local areas,

(g) to protect, preserve and enhance the natural landform, vegetation and open space, especially foreshores or bushland, in order to maintain landscape amenity and public access and use,

EES recommends the Aims of the Plan are amended to specifically:

- protect and improve biodiversity/remnant native vegetation in the LGA
- protect and conserve waterways, riparian land and groundwater dependent ecosystems
- maintain and improve water quality
- facilitate adaptation to climate change

Council may wish to consider for example, the Aims in the following gazetted LEPs:

LEP	Clause
Ku-ring-gai LEP 2015	(b) to protect, enhance and sustainably manage the biodiversity, natural ecosystems, scenic values, water resources and ecological processes within the catchments of Ku-ring-gai for the benefit of current and future generations,

	(c) to maintain and improve water quality within the catchments of Ku-ring-gai, (d) to facilitate adaptation to climate change,
Ashfield LEP 2013	(h) to ensure that development has proper regard to environmental constraints and minimises any adverse impacts on biodiversity, water resources, riparian land and natural landforms
Hornsby LEP 2013	(h) to protect and enhance the scenic and biodiversity values of environmentally sensitive land, including bushland, river settlements, river catchments, wetlands and waterways
Wingecarribee LEP 2010	l) to develop an ecologically sustainable future for Wingecarribee through the conservation, rehabilitation and regeneration of native vegetation (particularly threatened species populations and ecological communities), soil, waterways, riparian land and water quality (surface and groundwater)

2.8 Temporary use of land

EES recommends the following amendment is included at sub-clause 2.8 (3)(c) to make specific reference to biodiversity values, remnant vegetation, waterways and riparian land:

- (3) Development consent must not be granted unless the consent authority is satisfied that:
- (c) the temporary use and location of any structures related to the use will not adversely impact on environmental attributes or features of the land **including biodiversity values, remnant vegetation, waterways and riparian land**, or increase the risk of natural hazards that may affect the land, and

Land Zoning Map

EES recommends the land use zone map is amended to label the actual zone on the map (ie E1, E2 etc) so it is clear which colour on the map applies to which zone.

Land Use Table

The protection and improvement of biodiversity, remnant native vegetation, waterways and catchment health etc in the LGA depends on residential, industrial and recreation zoned land etc protecting these natural assets. EES recommends specific objectives are included under the relevant land use zones:

- To ensure that development is sympathetic to the natural environment and ecological processes of the area – (see for example Hawkesbury LEP 2012 objectives for Zones R2 and R3)
- to protect, maintain and rehabilitate waterways and riparian land.

Zone R2 Low Density Residential - Zone R3 Medium Density Residential and Zone R4 - High density Residential

As waterways/riparian land/remnant vegetation adjoin, or are in the R2, R3 or R4 zones, EES recommends a specific objective is included under these zones:

- **to protect, maintain and rehabilitate waterways, riparian land and remnant native vegetation.**

- **To maintain or improve the water quality of receiving water catchments**

The R2 Zone proposes to permit with consent boat sheds and jetties and the R3 and R4 zones propose to permit jetties in and along the bed and banks of waterways. The proliferation of such development on the bed and banks of waterways needs to be minimised.

Council needs a provision in place for considering and managing the potential proliferation of boatsheds to guide Council's assessment of potential cumulative impacts.

Zone RE1 Public Recreation

Most of the open space in the Georges River LGA is zoned RE1 Public Recreation. EES notes the draft Georges River LEP proposes the following objectives, and permissible and prohibited developments, for the RE1 zone:

1 Objectives of zone

- *To enable land to be used for public open space or recreational purposes.*
- *To provide a range of recreational settings and activities and compatible land uses.*
- *To protect and enhance the natural environment for recreational purposes.*

2 Permitted without consent

Environmental facilities, Environmental protection works.

3 Permitted with consent

Aquaculture; Boat launching ramps; Centre-based child care facilities; Emergency services facilities; Information and education facilities; Jetties; Kiosks; Markets; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Signage; Take away food and drink premises; Water recreation structures; Water storage facilities.

4 Prohibited

Any development not specified in item 2 or 3.

As native vegetation, waterways and riparian land can occur in, or adjacent to the RE1 zoned land, the objectives should also protect these natural assets for environmental purposes and not just for recreational purposes as currently proposed in the LEP. EES recommends the RE1 zone objectives are amended to include the following additional objectives:

- **to maintain or improve the water quality of receiving water catchments**
- **to protect and enhance the natural environment (including biodiversity, remnant vegetation, wildlife corridors and natural habitat, waterways and riparian land) for environmental purposes**

Council may wish to consider RE1 zone objectives which are included in the following LEPs for this purpose:

Hawkesbury LEP 2012	To protect and enhance the natural environment for environmental purposes
Hornsby LEP 2013	To protect and maintain areas of bushland that have ecological value
Campbelltown LEP 2015	To preserve and rehabilitate bushland, wildlife corridors and natural habitat, including waterways and riparian lands, and facilitate public enjoyment of these areas

Ku-ring-gai LEP 2015	To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values
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The zoning of open space needs to balance recreational and environmental needs.

There are extensive areas in the LGA that have been identified as having high environmental values (HEVs), and there are other important bushland sites that have been identified by Council too e.g. see <https://www.georgesriver.nsw.gov.au/Environment/Trees-and-Biodiversity/Bushland>. Many of these are zoned RE1 Public Recreation but the objectives and permissible development types listed above are incompatible with these areas and sites.

EES recommends the zoning of open space in the Georges River LGA is reviewed and revised, so that areas with HEVs and other important biodiversity values are appropriately zoned. EES considers the E2 Environmental Conservation zone to be the most appropriate zone for these areas (see <https://www.legislation.nsw.gov.au/#/view/EPI/2006/155a/partlanduseta/included30>).

EES notes the adjoining Sutherland Shire Council has zoned most of the land along the Georges River foreshore as E2 Environmental Conservation (*Georges River Strategic Directions Paper*, Ethos Urban December 2018).

EES also notes that the zoning of larger open spaces could be tailored to suite the set of values occurring at a site, for example, one site could have areas zoned RE1 Public Recreation and E2 Environmental Conservation, to meet both the recreational and environmental needs of the community.

The characteristics of the western boundary of the LGA (along Salt Pan Creek) makes this area a prime candidate for rezoning. This is because:

- the vast majority is occupied by coastal wetlands and their proximity areas under the Coastal Management SEPP
- the upper Salt Pan Creek has been identified as a core investment area for the Cumberland subregion
- there are many open spaces zoned RE1 Public Recreation that contain, or are adjacent to, threatened ecological communities, including Riverwood Park and Wetlands, Lillian Road Reserve (and the adjacent strip of land zoned RE1, which does not appear to have a Lot number), Basil Street Reserve, Clarendon Road Reserve, Murdoch Crescent Reserve and Evatt Park Foreshore Reserve and
- it contains sections of Georges River National Park.

Other prime candidates include Myles Dunphy Reserve, Lime Kiln Bay Reserve, Edith Bay Wetlands and Quarry Reserve, along with remnant bushland sites listed on Councils website <https://www.georgesriver.nsw.gov.au/Environment/Trees-and-Biodiversity/Bushland>.

Zone E2 - Environmental Conservation

The PPR notes that the Planning Proposal does not propose to rezone areas (page 21). EES considers the preparation of the Georges River LEP provides a great opportunity to rezone areas of biodiversity value in the LGA as E2 – Environmental Conservation and recommends the draft Land Zoning Maps are amended to rezone RE1 zoned land as discussed above as E2.

EES's preference is for the riparian land/remnant vegetation along George River and Salt Pan Creek to be zoned E2 - Environmental Conservation zone but notes that Kyle William Recreation Reserve along the foreshore of Kyle Bay is the only area of remnant vegetation that is proposed to

be zoned E2 in the LGA. Other remnant vegetation in the LGA is either zoned E1, RE1 or R2.

It is recommended the E2 zone includes a specific objective to protect, maintain and rehabilitate waterways and riparian land within the E2 zoned land.

Zone W2 Recreational Waterways

The zoning of estuarine waters needs to be consistent with the Coastal Management SEPP. EES notes that all the estuarine waters of the LGA are proposed to be zoned W2 - Recreational Waterways, with the objectives and permissible activities being:

1 Objectives of zone

- *To protect the ecological, scenic and recreation values of recreational waterways.*
- *To allow for water-based recreation and related uses.*
- *To provide for sustainable fishing industries and recreational fishing*

3 Permitted with consent

Aquaculture; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Environmental facilities; Environmental protection works; Jetties; Kiosks; Marinas; Mooring pens; Moorings; Roads; Water recreation structures.

There are significant areas within this proposed zone that are identified as coastal wetlands and littoral rainforests under the Coastal Management SEPP. The management objectives for this coastal management area are (see

<https://www.legislation.nsw.gov.au/#/view/act/2016/20/part2/sec6#/part2/sec6/subSec2>):

- a) to protect coastal wetlands and littoral rainforests in their natural state, including their biological diversity and ecosystem integrity,
- b) to promote the rehabilitation and restoration of degraded coastal wetlands and littoral rainforests,
- c) to improve the resilience of coastal wetlands and littoral rainforests to the impacts of climate change, including opportunities for migration,
- d) to support the social and cultural values of coastal wetlands and littoral rainforests,
- e) to promote the objectives of State policies and programs for wetlands or littoral rainforest management.

Importantly, there is little synergy between these two sets of objectives and the associated activities of the proposed LEP.

Since the aim of the Coastal Management SEPP (clause 3) “is to promote an integrated and co-ordinated approach to land use planning in the coastal zone in a manner consistent with the objects of the *Coastal Management Act 2016*, including the management objectives for each coastal management area ...” EES recommends the extent of the proposed W2 Recreational Waterways zone is revised, to strike a balance between providing for the recreational use of the Georges River and Salt Pan Creek, and providing for the protection and rehabilitation of coastal wetlands and littoral rainforests in the LGA.

To this end, EES notes the adjoining Sutherland Shire LEP 2015 has applied both the W1 Natural Waterways and W2 Recreational Waterways to the Georges River, with selective use of the latter. This approach will likely benefit the Georges River LGA, as the objectives and permissible development types of W1 Natural Waterways (as per the Standard Instrument – Principle Local Environmental Plan) are much more conducive to protecting coastal wetlands and littoral rainforests than those of W2 Recreational Waterways i.e. under the Standard Instrument,

aquaculture, kiosks and marinas are permitted with consent in W2 Recreational Waterways, but only aquaculture is permitted for W1 Natural Waterways, and one of the objectives for W1 Natural Waterways is “To prevent development that would have an adverse effect on the natural values of waterways in this zone”.

The cumulative impact of development such as marinas, boat launching ramps, boat sheds, jetties, kiosks, mooring pens, water recreation structures etc which are permitted with consent in the W2 zone in and along the bed and banks of the Georges River and Salt Pan Creek. needs to be assessed, including the impact on remnant native vegetation and/or the rehabilitation of native vegetation and the stability of the bed and banks.

EES considers the locating of such development on the bed and banks of W2 waterways needs to be minimised. Council needs a provision in place for considering and managing the potential proliferation of such development and to guide Council’s assessment of potential cumulative impacts of such development.

EES questions whether marinas, boat launching ramps, boat sheds, jetties, kiosks, mooring pens, water recreation structures are consistent with the objective of the W2 waterway zone to protect the ecological and scenic values of these waterways and how the proliferation of such development will be restricted.

EES’s preference is for kiosks to be located outside waterways and riparian land.

Part 3 Exempt and Complying development

3.3 Environmentally sensitive areas excluded

The PPR notes this clause will be as per the Standard Instrument LEP and that the clause defines an ‘environmentally sensitive area’ where exempt or complying development must not be carried out (page 37).

Clause 3.3 (1) in the draft LEP outlines exempt and complying development must not be carried out on any environmentally sensitive area and Clause 3.3(2) lists the environmentally sensitive areas which includes:

(j) *land that is a declared area of outstanding biodiversity value under the Biodiversity Conservation Act 2016 or declared critical habitat under Part 7A of the Fisheries Management Act 1994.*

Clause 3.3 of the Standard Instrument – Principal LEP notes additional areas may be added to the list. EES recommends waterways and riparian land and land in the E2 and W2 zones is added to the list of environmentally sensitive areas to prevent the proliferation and potential impact of such development on riparian land and E2 and W2 zoned land.

The locating of exempt and complying development within riparian lands will adversely affect the current and future values and functions of the riparian land including existing riparian vegetation or the re-establishment of riparian vegetation. Council may wish to consider the inclusion of:

- Clause 3.3 (2)(jc) in Penrith LEP 2010 which applies to “land that is, or is near, the river, or is in the riverine corridor, wetlands or conservation areas sub catchments, within the meaning of [Sydney Regional Environmental Plan No 20—Hawkesbury-Nepean River \(No 2—1997\)](#)”.
- Clause 3.3(2)(jd) in Kiama LEP 2011 which applies to land identified a riparian land and watercourses in the LEPs clause 6.5.
- Clause 3.3 (2)(ja) in the Penrith LEP 2010 which applies to. “land in Zone E2 Environmental Conservation, Zone W2 Recreational Waterways”

- Clause 3.3 (2)(jc) in Campbelltown LEP 2015 which applies to land that is in Zone E2 Environmental Conservation

Part 4 Principal development standards

4.1 Minimum subdivision lot size

EES recommends draft Objective (1)(c) is amended as follows:

- (c) to ensure lot sizes **and dimensions** reflects the land's environmental capability with consideration to topography **to allow development to be sited to protect and/or enhance** other-natural features **including remnant vegetation, waterways and riparian land**

Part 5 Miscellaneous Provisions

5.14 Pond-based, tank-based and oyster aquaculture [compulsory]

Subclause 2(b)(i) refers to pond-based aquaculture or tank-based aquaculture in Zone R5 Large Lot Residential but this zone does not apply in the LGA and it is recommended reference to it is removed to avoid confusion

Subclause 2(b)(ii) refers to pond-based aquaculture in Zone E3 Environmental Management or Zone E4 Environmental Living but as these zones do not apply in the LGA it is recommended reference to these zones is removed.

Subclause 2(b)(iii) refers to tank-based aquaculture in Zone E3 Environmental Management or Zone E4 Environmental Living but as these zones do not apply in the LGA it is recommended reference to these zones is removed

Subclause 2(b)(iv) refers to pond-based aquaculture or tank-based aquaculture in Zone W1 Natural Waterways, and Zone W3 Working Waterways but as these zones do not apply in the LGA and it is recommended reference to these zones is removed

Part 6 Additional local provisions

Clause 6.2 Earthworks

EES supports the inclusion of Clause 6.2 in the LEP so that development applications must consider the impact of proposed earthworks/excavation on matters, such as soil stability, soil erosion, and the health and vitality of existing trees but recommends the following amendments are included:

- (1) The objectives of this clause ~~is~~ are to ensure that earthworks for which development consent is required will not have a detrimental impact on:
 - (a) environmental functions and processes, neighbouring uses and amenity, cultural or heritage items or features of the surrounding land
 - (b) **biodiversity values, remnant vegetation, waterways and riparian land**
- (3) Before granting development consent for earthworks (or for development involving ancillary earthworks), the consent authority must consider the following matters:
 - (a) the likely disruption of, or any detrimental effect on, **waterways, riparian land**, drainage patterns and soil stability in the locality of the development

- (g) the effect of the development on **biodiversity values**, the health and vitality of trees **and remnant native vegetation** on the land and adjoining lands

Clause for Biodiversity protection

EES recommends the draft Georges River LEP is amended to include:

- a specific provision to protect biodiversity in the LGA
- a Biodiversity Map, particularly as there are areas of remnant native vegetation, waterways, riparian areas etc in the LGA which are not currently protected by an E2 zoning

It is well-established that ecologically sustainable development requires the effective integration of social, economic and environmental considerations in decision-making processes, and that a healthy, productive and resilient environment is dependent, in part at least, on the protection and conservation of biodiversity.

The inclusion of a dedicated biodiversity provision in the LEP is considered best practice and would better align the policy with key environmental legislation like the *Biodiversity Conservation Act 2016* and the *Coastal Management Act 2016*. It would also mean the LEP was consistent with local planning priority P17 of the *Georges River Local Strategic Planning Statement 2040* (LSPS 2040) i.e. “P17. Tree canopy, bushland, landscaped settings and biodiversity are protected, enhanced and promoted” (page 23 of the LSPS 2040).

EES notes “No studies relating to biodiversity and vegetation have informed the preparation of the draft LEP as no new biodiversity and vegetation provisions have been proposed in the draft LEP. Council will be undertaking a biodiversity study for the LGA as part of its broader strategic program relating to the natural environment. The findings of this study may inform a future amendment to the LEP, including a biodiversity provision.” (page 2 of the *FAQ SHEET Vegetation and Tree Protection*). EES recommends this study occurs as a priority, and that it informs a biodiversity provision in the very near future. The HEVs described above reflect some of the issues that should be addressed, including the occurrence of threatened species, populations and ecological communities, and high ecological value waterways and water dependent ecosystems. The conservation of native vegetation located away from the foreshore area, should also be addressed.

EES also recommends the biodiversity study is developed in such a way that it can provide valuable input to the prioritisation of investments in biodiversity across the LGA, as well as informing the rezoning of areas with HEVs and other biodiversity values, especially those that are currently zoned RE1 Public Recreation.

Following on from this, EES recommends developing a local offsetting strategy to address impacts that do not exceed the Biodiversity Offset Scheme thresholds, and mapping areas of urban tree canopy that provide benefits for urban cooling and native species habitat. For council’s information, some modelling has been undertaken of urban tree canopy cover for the Greater Sydney Region and this is available at <https://datasets.seed.nsw.gov.au/dataset/greater-sydney-region-urban-vegetation-cover-to-modified-mesh-block>).

EES recommends the LEP includes a Biodiversity provision like clause 6.3 in Ku-ring-gai LEP 2015.

Clause 6.6 Riparian lands and ~~watercourses~~ waterways

EES suggests Clause 6.6 uses the word ‘waterway’ rather than ‘watercourses’ as the definition for waterway in the Dictionary is more encompassing and includes watercourses (rivers, creeks, streams, chain of ponds etc), wetlands and waterbodies both artificial and natural.

The Riparian Lands and Watercourses Map only maps riparian land along the Georges River and Salt Plan Creek. EES suggests other waterways in the LGA such as: Dairy Creek, Myles Dunphy Creek, Poulton Creek etc are also included on the map.

EES recommends the following amendments are made to Clause 6.6:

- (1) The objective of this clause is **are**:
 - (a) to protect and maintain **or improve** the following:
 - (i) water quality within **waterways and the quality of water entering waterways**,
 - (ii) the stability of the bed and banks of **waterways**,
 - (iii) aquatic and riparian **species, communities, populations and** habitats,
 - (iv) ecological processes within **and continuity and connectivity between-waterways** and riparian areas
 - (v) **the natural flow regime**
 - (vi) **Aboriginal cultural heritage values of waterways and riparian lands**.
 - (b) **to provide for the rehabilitation of existing degraded, piped or channelised waterways to mimic a near natural state, where practicable.**
- (2) This clause applies to land identified as "Sensitive Land" on the Riparian Lands and Watercourses Map
- (3) Before determining a development application for development on land to which this clause applies, the consent authority must consider:
 - (a) whether the development is likely to have any adverse impact on the following:
 - i) the water quality ~~and flows~~ within the ~~watercourse~~ **waterway and the quality of water entering waterways**,
 - ii) **the natural flow paths of waterways and the natural flow regime, including groundwater flows to the waterway**
 - iii) the stability of the bed, **shore** and banks of the **waterway**,
 - iv) integrity of coastal wetlands located within the vicinity of the land including the aquatic and riparian species, habitats and ecosystems of the ~~watercourse~~ **waterway**,
 - v) pollution or siltation of the waterway arising from the development
 - vi) impact on indigenous trees and other vegetation, including opportunities for additional planting **of local native riparian vegetation**, ~~and~~
 - vii) **the free passage of native aquatic and terrestrial organisms within or along any waterway and riparian land**
 - viii) **the underlying and surrounding groundwater resources and groundwater dependent ecosystems**
 - (b) **any future rehabilitation of the waterway and riparian land to mimic a natural system**
 - (c) whether or not the development is likely to increase water extraction from the ~~watercourse~~ **waterway**, and
 - (d) any appropriate measures proposed to avoid, minimise or mitigate the impacts of the development.
- (4) Development consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that:
 - (a) **the development is consistent with the objectives of this clause**
 - (b) the development is designed, sited and will be managed to avoid any **potential significant** adverse environmental impacts, or

- (c) if the impact cannot be reasonably avoided—the development is designed, sited and will be managed to minimise that impact, or
- (d) if the impact cannot be minimised—the development will be managed to mitigate that impact.

Clause 6.7 Foreshore scenic protection area

The proposed clause 6.7 has improvements for biodiversity, but EES recommends more could be considered by council.

EES notes that while the proposed Foreshore Scenic Protection Area (FSPA) provision is not a biodiversity provision, it does contain “considerations regarding the protection and maintenance of the biodiversity within the FSPA” (page 3 *FAQ SHEET Foreshore Scenic Protection Area*). Most notably, the objectives of this draft clause specifically address the protection, maintenance and improvement of native vegetation and habitats, and encourages the recovery and repopulation of threatened species, communities, populations and their habitats. EES notes the drafting of this clause was based on clause 6.3 (Biodiversity protection) of the Ku-ring-gai LEP 2015, and the current FSPA clause within the Hurstville LEP 2012 (Appendix 4 – Additional Local Provisions Justification, March 2020).

While the proposed FSPA clause considerably extends all aspects of the existing clause in the HLEP 2012, including those aspects relating to biodiversity and the increased spatial extent of the provision, the Georges River LEP requires a biodiversity provision as discussed above.

By restricting the strongest biodiversity related objectives of the proposed LEP to the FSPA clause, there will be many areas with HEVs and remnant bushland sites (as listed on Councils website <https://www.georgesriver.nsw.gov.au/Environment/Trees-and-Biodiversity/Bushland>) that will not benefit from this provision, for example, Johnstone Street Reserve, Depot Road Reserve, Pearce Avenue Reserve and a significant portion of Myles Dunphy Reserve. These reserves are zoned RE1 Public Recreation or IN2 Light Industrial and neither the zone objectives, or the types of development allowed with consent, are compatible with these areas. Furthermore, the proposed FSPA clause does not provide for climate change adaptation, which is integral to the long-term protection and maintenance of biodiversity.

EES recommends the objectives of this clause are amended to include an additional objective:

- (g) to protect and maintain the ecological processes that support native vegetation and native flora and fauna; and climate change adaptation.

and subclause 6.7(3) is amended as follows:

(3) Before determining a development application for development on land to which this clause applies, the consent authority is satisfied that the development facilitates the following:

- (a) **the development is consistent with the objectives of this clause**
- (b) protection of the natural environment, including topography, rock formations, canopy vegetation or other ~~significant~~ **remnant native** vegetation
- (c) **avoids and minimises** ~~minimising~~ disturbance and adverse impacts on remnant vegetation communities, habitat and threatened species and populations,
- (d) maintenance **and enhancement** of native vegetation and habitat in parcels of a size, condition and configuration that will facilitate biodiversity protection and native flora and fauna movement through biodiversity corridors,
- (e) achievement of no net loss of significant vegetation or habitat,



Clause 6.13 Landscaped areas in certain residential and environmental protection zones

EES notes this new provision which is not currently included in the *HLEP 2012* or *KLEP 2012* will require development in residential and environmental protection zones to provide landscaped areas that:

- enable the establishment of plantings of an appropriate scale and density to maintain and enhance the streetscape and the desired future character of the locality;
- enables the establishment of indigenous vegetation and habitat for native fauna; and
- conserves significant natural features of the site.

As the clause seeks to retain and provide vegetation that contributes to biodiversity and enhance the tree canopy of the LGA, minimise urban run-off, and reduce the urban heat island effect, EES recommends the clause also applies to the business zones, the industrial zone and RE1 zoned land so that minimum landscaping requirements in these zones is also specified.

End of Submission