

ITEM 1

LADY CARRINGTON ESTATE SOUTH, HELENSBURGH - DRAFT PLANNING PROPOSAL TO PERMIT URBAN DEVELOPMENT

In 2013 a draft Planning Proposal request was lodged seeking rezoning to permit urban development of the Lady Carrington Estate South precinct, located at Otford Road and Lilyvale Road, Helensburgh. On 29 July 2013, as part of the review of former 7(d) lands at Helensburgh, Otford and Stanwell Tops, Council resolved that the Lady Carrington Estate South precinct be zoned E2 Environmental Conservation. Council also resolved not to support the draft Planning Proposal request. The applicant subsequently lodged a pre-Gateway appeal to the NSW Department of Planning, Industry and Environment (Department).

The Department referred the Council Planning Proposal for the former 7(d) lands and the pre-Gateway Appeal to the Southern Joint Regional Planning Panel (JRPP) for review. In July 2014, the JRPP recommended that further studies be undertaken for the Lady Carrington Estate South precinct to guide the preparation of a Planning Proposal to permit residential development. The Department accepted the recommendations of the JRPP and determined that an amended proposal for the Lady Carrington Estate South precinct should proceed to Gateway determination. The land has remained zoned E3 Environmental Management.

In 2016 and 2018 consultants for the land owners (Ensile Pty Ltd and Bob's Bushland Pty Ltd) lodged the additional studies and proposed the residential rezoning and development of the land into an estimated 310 lots. In 2019 the Wollongong Local Planning Panel (Panel) reviewed the proposal and advised that a modified proposal had some merit and could be progressed to Gateway determination and exhibition.

Based on the Panel advice, in October 2019 the draft Planning Proposal request was amended to include the majority of the Ensile Pty Ltd / Bob's Bushland holdings (142 lots, 205 hectares). Although the focus of the rezoning remained on the Lady Carrington Estate South precinct and adjoining land, with the extent of the proposed residential zone being reduced.

In December 2019 - January 2020 preliminary community consultation occurred, resulting in 224 'Have your say' comments and 236 submissions, with 86% objecting to the proposed rezoning and development of the area.

Following additional assessment, it is considered that the site is not suitable for a residential zone, and it is recommended that the submitted proposal not be supported.

The site may be appropriate for a lower density form of development which may be considered as an alternative Planning Proposal.

RECOMMENDATION

- 1 The submitted draft Planning Proposal request for the Lady Carrington Estate South precinct and surround land located between Otford Road and Lilyvale Road, Helensburgh proposing a rezoning to R2 Low Density Residential not be supported for the following reasons:
 - a Helensburgh and the site are not strategically identified in the Illawarra Shoalhaven Regional Plan (2016), previous Council Planning Strategies or Council's recently adopted Wollongong Local Strategic Planning Statement (20202) as an urban release area, or for increased low density housing
 - b Council has consistently considered the site unsuitable for low density residential development since the 1980s
 - c The R2 Low Density Residential zone would support a medium density housing product on the edge of Helensburgh, on the bushland interface, remote from town services and public transport
 - d The R2 Low Density Residential zone would support a medium density housing outcome that would increase hard surfaces runoff into the Hacking River Catchment
 - e The R2 Low Density Residential zone would enable the clearing of vegetation, including some 9.5 ha of native bushland communities
 - f The R2 Low Density Residential zone would enable an increased housing development and population on the bushland interface in a high bush fire prone area. The future ownership and maintenance of the Asset Protection Zone has not been resolved
 - g There is significant community opposition to the Proposal.

REPORT AUTHORISATIONS

Report of: Chris Stewart, Manager City Strategy

Authorised by: Linda Davis, Director Planning + Environment - Future City + Neighbourhoods

ATTACHMENTS

- 1 Study Area Map and Air Photo
- 2 Current Zoning
- 3 Planning and Zoning Site History
- 4 Revised (2019) Concept Plan
- 5 Original Study Area Boundaries Comparison Map
- 6 Topography and Slope Map
- 7 Drainage Catchment Map
- 8 Vegetation Communities Map
- 9 Southern Sydney Sheltered Forest Comparison Map
- 10 Southern Precinct - Land Clearing
- 11 Submitted Proposed Amendments to Wollongong LEP 2009 Maps
- 12 Alternate E4 Zoning Option
- 13 Summary of State Agencies Comments - 2016

BACKGROUND

Study area

The study area and boundary of the draft Planning Proposal has changed over the seven years since lodgment.

Original study area (2013):

The original study area (2013-2019) covered some 39 hectares and included the Lady Carrington Estate South precinct and part of the Central Bushland precinct. These were two of the precincts considered

under the Review of former 7(d) lands in Helensburgh, Otford and Stanwell Tops, between 2006 and 2016.

The Lady Carrington Estate South precinct is located on the eastern side of Helensburgh and is located to the north of Otford Road, east of Werrong Road and includes part of Lilyvale Road (Attachment 1). The precinct is located approximately 1km from the Helensburgh shops and 3.5km from the Helensburgh Rail Station

The Lady Carrington Estate South precinct covers an area of 13.58 hectares and contains 101 lots, of which 100 are paper subdivision residential sized lots (1,000m²) (lots 1-26 Section 6 DP 2644, lots 1-75 Section 7 DP 2644) and a paper road lot (lot 102 DP 787218, formerly known as Wattamolla Road and Solander Road. The land was subdivided in 1891 as part of the "Lilyvale Township Extension". A large part of the precinct has been cleared (approximately 9.8 hectares), and the remainder (3.8 hectares) is covered in bushland or scattered trees. Historic aerial photos show that the land has been used for grazing, timber storage, and part of the precinct was used as a Sydney Water compound. The photos also indicate that parts of the precinct have been filled.

The Lady Carrington Estate South precinct is currently zoned E3 Environmental Management under the Wollongong LEP 2009 (Attachment 2).

The Lady Carrington Estate South precinct is surrounded by the "central bushland" precinct (Attachment 1) to the north and east by Lot 1 DP 616228 (41.98 hectares) which is divided by a paper road (the extension of Koornong Road – part of Lot 7 DP1153054). This lot was created in 2015, through DA-2014/935. A 3.3 hectare triangular part of the Lot 1 DP 616228 is located south of Koornong Road extension. Lilyvale Road does not formerly cross the lot (as a Council road), although the track to Lilyvale does cross the lot. This part of Lilyvale Road was "closed" 1982, as part of a previous subdivision. The lot includes an easement for access to Lilyvale along the track. The lot is zoned E2 Environmental Conservation.

To the east of Lot 1 DP 616228 is Lot 3003 DP 120418 which has an area of 106.6 hectares. This lot was created in 2015, through DA-2014/935. The lot is zoned E2 Environmental Conservation.

Final study area (2019):

On 11 October 2019, following the consideration of the draft Planning Proposal request by the Wollongong Local Planning Panel, the applicant amended the study area and draft Planning Proposal to cover the majority of the Ensile Pty Ltd / Bob's Bushland holdings (142 lots, 204 hectares) (Attachment 1). This includes land in the Lilyvale, Camp Creek and Central Bushland precincts.

The focus of the rezoning proposal remains on the Lady Carrington Estate South precinct and adjoining land. The expanded rezoning area responded to questions from the Panel about the future of the remainder of the holdings. The amended draft Planning Proposal proposes the retention of an E2 Environmental Conservation zone on the holding, beyond the Lady Carrington Estate South area. The expansion of the boundary by the applicant was to demonstrate that the majority of the holding would retain an E2 Environmental Conservation zone, and not be subject to future residential rezoning proposals.

Planning history

The planning and zoning issues of the site have a long history, including a number of rezoning proposals. Key events relating to the site prior to lodgement of the current planning proposal are detailed in Attachment 3.

The most recent history relating to the assessment of current planning proposal request is provided as follows:

- 21 June 2013 – Smyth Planning Pty Ltd on behalf of the land owner lodged a rezoning proposal for Lady Carrington Estate South precinct seeking an urban zoning to permit low density residential development. The request included a draft Planning Agreement to facilitate the transfer of the E2 Environmental Conservation zoned holdings to the National Parks and Wildlife Service.

- 29 July 2013 - Council considered 13 reports addressing the issues raised in the submissions. Council resolved to make a number of amendments to the exhibited Planning Proposal and submit the revised Planning Proposal to the (then) Department of Planning and Infrastructure for finalisation. In terms of the Lady Carrington Estate South precinct, Council resolved (in part) that:
 - 2 *The part of the Planning Proposal for the Lady Carrington Estate South precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by rezoning the precinct to the E2 Environmental Conservation zone be progressed to finalisation.*
 - 3 *The preparation of a new draft Planning Proposal to rezone the Land Pooling and Lady Carrington Estate South precincts to permit residential development, in exchange for the transfer of the Ensile Pty Ltd holdings within Lady Carrington Estate, Lilyvale, Central Bushland and Otford Valley Farm precincts to Council or the State, via a draft Planning agreement, as requested by Smyth Planning on 21 June 2013, not be supported.*
- 5 February 2014 - the Department referred the Planning Proposal to the Southern Joint Regional Planning Panel (JRPP) for review and recommendations. The Department also referred to the JRPP a Pre-Gateway appeal lodged by Smyth Planning Pty Ltd against Council's refusal to support the rezoning of the Lady Carrington Estate South and the Land Pooling precincts to permit urban development. Council had resolved that the majority of these precincts be zoned E2 Environmental Conservation.
- In July 2014 - the JRPP recommended that further studies be undertaken for the Lady Carrington Estate South precinct to guide the preparation of a Planning Proposal to permit residential development. The JRPP recommended that:
 - 3 *Further investigations be carried out by or on behalf of the owners of the Lady Carrington Estate South precinct to validate the presence, location and characteristics of threatened species, endangered ecological communities and fauna habitat linkages, and to determine the current water quality of natural watercourses within and in the vicinity of the precinct. These investigations are to evaluate potential impacts of urban development on ecological attributes in this precinct and the water quality of the Hacking River catchment. Reports of these investigations are to take into account submissions from state agencies and, once finalised, are to be peer reviewed by relevant state agencies.*
 - 4 *A concept plan of subdivision be prepared by Smyth Planning and submitted to Wollongong City Council for the cleared land at the Lady Carrington Estate South precinct, including the vegetated land located between the existing urban settlement of Helensburgh and the cleared land. The plan of subdivision should be based on the application of the sustainability criteria contained in Appendix 1 to the Illawarra Regional Strategy to ascertain areas suitable for development, appropriate environmental safeguards having regard to the findings of investigations carried out in response to Recommendation 3, and proposed housing types and densities. The vegetation offsets tool developed by the Office of Environment and Heritage is to be applied to ensure that an adequate area of vegetated land can be set aside to offset clearing of the area of land located at the north west of the precinct between the existing urban area and cleared land.*
 - 5 *Subject to recommendations 2, 3 and 4, a planning proposal be submitted to the Department of Planning and Environment for determination under section 56 of the Environmental Planning and Assessment Act 1979. The proposal is to amend Wollongong Local Environmental Plan 2009 by prescribing appropriate land zones and lot sizes for the Central Otford, Otford North and Lady Carrington Estate South precincts, and include the developable land at the Lady Carrington Estate South precinct as an Urban Release Area.*
- 25 August 2014 - Council considered a report on the JRPP recommendations and resolved (in

part) to advise the Department that Council:

objects to the JRPP's recommendation on the Lady Carrington Estate South precinct and emphasising Council's desire to review any additional information that may lead to a Gateway determination and exhibition. If the Department is supportive of the proposal, the additional ecological and water quality investigations and concept subdivision plan recommended by the JRPP should occur prior to any Gateway determination, and Council be given the opportunity to review the documentation.

- 20 November 2014 - Council approved DA-2014/935 for the reconfiguration of three existing lots into three new lots. The application created 2 40 hectare lots at Otford Valley Farm (lots 3001 and 3002 DP1204148) which contain existing dwelling houses, and which have been subsequently sold by Ensile Pty Ltd. The application also created lot 3003 DP120418 (106.6 hectares), Zone E2 Environment Conservation which is subject to the revised draft Planning Proposal request.
- 22 December 2014 – the Land and Environment Court approved DA-2012/1480 for the consolidation of 91 lots (including 26 small lots in Lady Carrington Estate South) and re-subdivision into 7 lots of 40 hectares. The development application was lodged in 2012 and initially proposed the consolidation of 123 lots (including 26 of the small lots within the Lady Carrington Estate precinct) and the resubdivision into eight (8) lots of 40 hectares, two of which containing existing dwellings. The application proposed a cluster of six (6) new dwelling house locations on the eastern side of the Lady Carrington Estate South precinct. On 7 November 2013 the application was refused by Council.

During the Court proceedings the application was amended to reduce the number of lots being consolidated by 19, the number of proposed lots to seven (7) and only four (4) new dwelling sites. The Court approved the amended proposal. No development applications have been lodged for new dwelling houses. In 2019 a modification was approved to stage the subdivision. Stage 1 being the creation of the two lots at Otford Valley (lots 3001 and 3002) created by DA-2014/935. Stage 2 being the remaining five (5) 40 hectare lots, which are on-hold pending the outcome of the rezoning proposal

- 18 December 2014 - The Department advised that it has accepted the recommendations of the JRPP and determined that an amended proposal should proceed to Gateway determination. The boundary of the rezoning being determined by additional studies. It is noted that this position was contrary to Council's proposed rezoning to E2 Environmental Conservation and objection to the JRPP recommendation.

The Department asked Council to prepare a Planning Proposal for Gateway determination, following the completion of the required additional studies, to be prepared by the applicant. The Department has indicated that if Council does not wish to progress the matter an alternate Relevant Planning Authority (RPA) may be appointed.

- 23 February 2015 - Council considered the Department's response and resolved (in part) that:
 - 1 *The decision of the NSW Department of Planning and Environment to support the preparation of a draft Planning Proposal for the Lady Carrington Estate South precinct be noted.*
 - 2 *The NSW Department of Planning and Environment be advised that Council is willing to be the Relevant Planning Authority.*
 - 3 *Council officers be authorised to be involved in the preparation of the additional studies by the applicant, review the submitted reports and work on the Planning Proposal and reports to Council.*
- 5 June 2015 – Wollongong LEP 2009 (Amendment 19) notified. The LEP implemented the recommendations of the Review of the former 7(d) lands. Based on the direction of the Department, the site retained an E3 Environmental Management zone. This remains the current

zoning.

- May 2016 - Burrell Planning and Legal, on behalf of the owner (Ensile Pty Ltd & Bob's Bushland Pty Ltd), lodged studies to support a rezoning to permit urban development. The reports were distributed to State agencies for comment.
- 20 June 2016 - a Flora and Fauna site inspection occurred, with Council officers, OEH representatives and the applicant's ecological consultants in attendance.
- January 2017 the applicant was advised that State agencies and Council had concerns on some aspects of the proposal and the information submitted, including contamination, flora, fauna, water quality, traffic. The applicant requested that the matter not be reported to Council and they be allowed to submit additional information to address the concerns.
- July 2018 - Additional studies submitted.
- 31 July 2019 – Draft Planning Proposal request was reported to Wollongong Local Planning Panel for advice. The Panel advised that:
 1. *The Wollongong Local Planning Panel recommends to Council the draft Planning Proposal for land known as Lady Carrington Estate South / Bob's Bushland, Helensburgh be submitted to the Department of Planning and Environment (DPE) for a Gateway Determination.*
 2. *The Wollongong Local Planning Panel recommends to Council that the Department of Environment and Planning be requested to include conditions in any Gateway Determination that prior to public exhibition the following amendments should be made to the planning proposal:*
 - i. *The triangular shaped bushland area in the north-west corner of the site be zoned as E2 Environmental Management, and retain its current zoning;*
 - ii. *A public park with a minimum area of 2,000m², shall be located centrally to the residential development and zoned RE1 Public Recreation and should include a playground; and*
 - iii. *Consideration be given to relocating the boundary between the R2 and E3 zones (as shown in Attachment 2) west to by up to 20 metres to provide a larger buffer to the bushland EEC. This zone is to be extended to create a larger and more distinct buffer between the R2 and E2 land so there is a transition in zoning. This may also relocate services such as the proposed stormwater management system to a less sensitive location.*
 - iv. *The proposal and mapping should be amended to capture the whole site/s even without the E2 zone changing to the north, east and south-east.*
 3. *The Wollongong Local Planning Panel recommends to Council that should a Gateway Determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway Determination, and to provide details of any submissions received throughout that process.*
- 11 October 2019 - revised Planning Proposal information lodged, including expanding the proposal to cover most of the of the Ensile Pty Ltd / Bob's Bushland holdings (142 lots, 204 hectares) (Attachment 1).
- December 2019 – 31 January 2020 preliminary community consultation. 460 submissions were received, the majority objecting to the rezoning and development of the area.

PROPOSAL

SUBMITTED PROPOSAL

The final study area is currently zoned E3 Environmental Management and E2 Environmental Conservation. The applicants are seeking to amend the planning controls in the Wollongong LEP 2009 to enable the land to be subdivided into residential lots. The submitted amended draft concept plan (2019) (Attachment 4) indicates:

- Estimated 300 small (450-600m²) residential lots, covering 17.8 hectares;
- Estimated 13 larger (1000m²) lots along Lilyvale Road, covering 1.4 hectares;
- A public reserve of 1.34 hectares on the eastern knoll;
- A central park of 0.2 hectares;
- The closure of part of Lilyvale Road and a new road connection provided through the subdivision;
- A 6m wide landscape buffer along Otford Road;
- An Asset Protection Zone (APZ) surrounding the lots;
- 3 detention basins / water quality ponds, located in the Asset Protection Zone (APZ), and
- Bush regeneration areas, surrounding the site
- 180 hectares - the balance of the final study area is to remain bushland, and retain the existing E2 Environmental Conservation zone.

The concept plan is indicative to provide Council, State agencies and the community an indication of the possible future development and to enable an assessment of the possible impacts and benefits. The subdivision layout may change through the rezoning process, and if rezoned, through the preparation of a development application for subdivision.

To enable the concept plan, the applicant has proposed that:

- 17.8 hectares be zoned R2 Low Density Residential, with a minimum lot size of 449m² and floor space ratio of 0.5:1;
- 1.4 hectares be zoned E4 Environmental Living, with a with a minimum lot size of 1000m² and floor space ratio of 0.3:1;
- 1.54 hectares be zoned RE1 Public Recreation - the 2 parks;
- 0.23 hectares be zoned E3 Environmental Management – the 6m wide landscape buffer along Otford Road;
- 4.44 hectares be zoned E3 Environmental Management – the Asset Protection zone and detention basins; and
- 180 hectares - the balance of the final study area is to retain the existing E2 Environmental Conservation zone.

If the site is rezoned and residential development permitted, the draft concept plan could be abandoned and the existing subdivision pattern and road layout could be relied on to enable residential development to occur on part of the site. The existing 100 small lots (1000m²) could be developed for a dwelling house, development applications lodged for subdivision or complying development certificates assessed for dual occupancy, manor homes of terrace houses. Each existing lot could theoretically be developed for up to four (4) dwellings. A development application for subdivision would be required for the large lot to the east of the small lots.

A full description of the proposed amendments to the Wollongong Local Environmental Plan 2009 is provided later in this report.

To support the proposal the following studies were submitted in 2016:

- Outline of Proposal (R Smyth & Associates, April 2016)
- Constraints & Structure Plan Analysis (Burrell Planning & Legal, April 2016)
- Structure Plan and Subdivision concept (RPS, December 2015)
- Flora Survey Report (K Mills, December 2015)
- Tree Hollows survey report (K Mills, March 2016)
- Fauna Assessment Report (J Manners, April 2016)
- A Biodiversity Offsets Report (J Manners, April 2016)
- Hacking Water Quality Assessment (Advisian Pty Ltd, December 2015)
- Water Quality Management Report (G Herman, April 2016)
- Stormwater Management Plan (G Herman, March 2016)
- Aboriginal Archaeological Assessment (Streat Archaeological Services, March 2016)
- Aboriginal Cultural Heritage Assessment (Streat Archaeological Services, March 2016)
- Anthropological Assessment (S Donaldson, March 2016)
- Bushfire Assessment Report (Conacher consulting, June 2016)
- Detailed Site Investigation (Soil contamination) of the proposed 40ha Minimum Area Subdivision 7 lots from 91 (Benviron Pty Ltd, October 2014)
- Road connections to the proposed subdivision at Otford Road, Helensburgh (Traffic Impact Services Pty Ltd, June 2016)

The submitted reports were referred to internally to various Council Divisions and externally to a number of State agencies for advice and input into the preparation of this report.

In January 2017 the applicant was advised that State agencies and Council had concerns about some aspects of the proposal and the information submitted, including contamination, flora, fauna, water quality, indigenous heritage and traffic. The applicant requested that the matter not be reported to Council and they be allowed to submit additional information to address the concerns.

In July 2018 the following additional reports and information were submitted:

- Water Quality Assessment (Advisian Pty Ltd, May 2018)
- Water quality responses to EPA comments (Advisian Pty Ltd, May 2018)
- Wildlife Corridor Values of Ensign Rezoning site (Cumberland Ecological, May 2018)
- Road Network Assessment (Traffic Impact Services August 2018)
- Contamination Supplementary Investigation (EI Australia, July 2018)
- Site Audit Report (Arcadis, July 2018)
- Site Audit Statement (Arcadis, July 2018)
- Aboriginal Archaeological Assessment (Streat Archaeological Services, July 2018)

In October 2019 following the advice by the Wollongong Local Planning Panel revised plans were submitted that expanded the study area to 205 hectares.

ASSESSMENT

Process

The Council report of 23 February 2015 included the following assessment process, which has been updated to indicate the current status:

Action	Responsibility	Status
1. Additional investigations <ul style="list-style-type: none"> a. Threatened species and fauna habitat investigations b. Water quality investigation; c. Aboriginal cultural heritage; d. Contaminated lands assessment; e. Bushfire impact assessment; and f. Traffic impact assessment. 	Applicant	Completed, reports submitted
2. Evaluation of potential impacts of urban development on ecological attributes and water quality, including input from State agencies.	Applicant	Flora & Fauna - OEH and Council officers attended a site visit. Based on the referral comments received in 2016, it appears that RMS, OEH, EPA, RFS did not have any input into the studies during their preparation and prior to submission to Council.
3 Preparation of concept subdivision plan.	Applicant	Completed & submitted, May 2016, revised October 2019
4 Submission of reports and plans from Actions 1-3 to Council.	Applicant	Completed – May 2016
5 Review of reports, plans and Planning Proposal.	Council officers, including referrals to State agencies	Completed. Reports referred to State agencies.
6 Submission of additional information	Applicant	Completed. July – August 2018
7 Refer to Wollongong Local Planning Panel for advice (new requirement included in 2018 due to Ministerial Direction)	Council	Completed. 31/7/19
8 Preliminary notification	Council	Completed. Dec 2019 - Jan 2020
9 Report to Council, to determine whether to progress the proposal to the Department for a Gateway determination.	Council (Relevant Planning Authority)	This report
10 Advise the Department of Planning, Industry and Environment of Council's determination (support or not support). [Note: if Council does not support the Planning Proposal, the applicant may appeal to the Department, who may become the Relevant Planning Authority or they may request the Southern Region Planning Panel (SRPP) to review and make recommendations].	Council officers	Following this meeting

Action	Responsibility	Status
11 The Department reviews the documentation and Council's report/resolution and determines whether the proposal proceeds to a Gateway Determination to enable exhibition.	Department of Planning, Industry and Environment	
12 a If supported the Department will issue Gateway determination, with or without conditions b If not supported no further action.	Department of Planning, Industry and Environment	
13 If supported, the draft Planning Proposal will be exhibited. A minimum 60 day exhibition is proposed.	Council officers	
14 Following the exhibition period, Council officers will review submissions, and prepare a report to Council.	Council officers	
15 Report to Council to determine whether the Planning Proposal should be finalised and a draft LEP amendment prepared.	Council (Relevant Planning Authority)	
16 Advise the Department of Planning, Industry and Environment of Council's determination (support or not support). [Note: if Council does not support the Planning Proposal the Department may accept Council's decision or review the proposal].	Council officers	
17 If supported, a draft amending LEP will be prepared and finalisation / notification.	Department of Planning, Industry and Environment	

Boundary of planning proposal

In its 2016 submission, the (then) Office and Environment and Heritage (OEH) objected to the proposal partially on the grounds that there was confusion around the boundary of the proposed rezoning / study area.

The definition of Lady Carrington Estate, the extent of the original rezoning proposal, the advice from the JRPP all refer to different boundaries and has created the confusion. To provide clarification, Attachment 5 depicts a number of boundaries:

- The 101 small lots and the northern triangular part of Lot 1 DP 616228, was referred to as Lady Carrington Estate South as part of the Review of former 7(d) lands (outlined in Red). The large lots to the east were known as the Central Bushland precinct.
- The JRPP (2014) supported further investigations to support urban development in both the Lady Carrington South and Central Bushland precincts. The JRPP report did not contain a map, so there was some conjecture as to whether the JRPP supported development in the bushland areas. Subsequent correspondence with the JRPP clarified that they supported the inclusion of the triangular part of Lot 1 DP 616228 but not the small lots covered in bushland to the south near Otford Road (outlined in Green). Note – the assumed boundary was based on the 2014 air photo which shows greater tree cover near Otford Rd, than the current 2018 air photo. This issue is discussed later in the report, and an air photo comparison is provided by Attachment 10.
- The Department of Planning, Industry and Environment advised that all land is to be included in

the study area, and that the technical assessment would determine the future rezoning and subdivision boundaries. The study area is outlined in Black.

- The proposed rezoning area nominated by the applicant in 2016 is outlined in Blue (Attachment 5). This boundary includes all land proposed to be zoned either RE1 Private Recreation, RE2 Private Recreation, E3 Environmental Management, R2 Low Density Residential and E4 Environmental Living.

In accordance with the Department of Planning, Industry and Environment's advice all land within the Lady Carrington South precinct and part of the Central Bushland precinct was including in the original study area. The land constraints, technical assessment reports and their review have been used to determine the boundaries of the proposed rezoning for Council's consideration

Topography & land capability

The Lady Carrington Estate South precinct is located on the Helensburgh plateau at the top of three sub-catchments of the Hacking River. The elevation ranges from 244-288m above sea level. The highest point of the site is near Otford Road, from where the site slopes down to the north, east and south. The site has gentle slopes (generally less than 14% or 8 degrees). The steepest part of the precinct is the triangular part of Lot 1 DP 616228 which has slopes of 7-32.5% (4-18 degrees). To the east and north of the area proposed to be rezoned, the land slopes steeply (greater than 32% or 18 degrees) (Attachment 6).

Land with slopes of less than 15% (8.5 degrees) is generally regarded as being suitable for some form of urban development, land with slopes of between 15-25% (8.5-14 degrees) is regarded as marginal, and land with slopes of more than 25% (14 degrees) is generally regarded as not suitable for urban development. As noted, the part of the site proposed to be rezoned to permit urban development has generally gentle slopes and is not constrained by topography.

The study area has an underlying geology of Hawkesbury Sandstone and has a "Bundeena" Soil Landscape, (Soil landscapes of the Wollongong – Port Hacking 1:100,000 sheet, Soil Conservation Service 1990). The Bundeena soil landscape is characterised by very low rolling rises on exposed Hawkesbury Sandstone plateaus and ridges, with gentle slopes (5-20%), broad ridges and crests, shallow soil with low fertility, moderate erodibility and a high erosion hazard. The soil landscape is regarded as being not suitable for urban development.

The majority of Helensburgh is located on the Bundeena soil landscape, and has been developed for residential use. If development occurs on the site, appropriate soil and erosion control measures will be important to prevent erosion and off-site sedimentation (discussed later in this report).

The site drains north, east and south, to four watercourses which form three tributaries of the Hacking River (Attachment 7).

- The north-west corner of the site drains to an unnamed tributary of Camp Gully Creek;
- The north-east part of the site drains to Gardiners Creek;
- The eastern part of the site drains to an unnamed tributary of Gardiners Creek;
- The south-east part of the site drains to Herbert Creek that runs parallel with Otford Road.

The watercourses start at the edges of the proposed development area. They are mapped as watercourses and category one riparian corridors, generally downstream of the site.

Development on the site has the potential to impact on four tributaries of the Hacking River. The first three tributaries join the Hacking River to the north of Otford, whilst Herbert Creek tributary intersects with the Hacking River upstream (south) of Otford. Water quality is discussed later in this report.

Biodiversity, Flora and Fauna

Vegetation communities

Approximately 10 hectares of the site has been cleared and approximately 8 hectares is covered in bushland. Consultants for the applicant have completed a Flora Survey Report (Mills 2015) which mapped the bushland into seven (7) vegetation communities, of which the Southern Sydney Sheltered Forest is an Endangered Ecological Communities (EECs) and three (3) are unnatural / introduced (Table 1 and Attachment 8)

The Southern Sydney Sheltered Forest was listed in 2007 as an Endangered Ecological Community. The community occurs on transitional sandstone soils and is a transitional vegetation community between the Peppermint–Apple Open Forest (Coastal Sandstone Gully Forest) which occurs on higher slopes, and the Tall Blackbutt Forest (Illawarra Escarpment Blackbutt Forest) which occurs on lower slopes. The consultants report found that the OEH had overmapped the extent of the Southern Sydney Sheltered Forest by 47.7 hectares in some parts of the study area, and undermapped the extent by 13.8 hectares in other parts of the site (Attachment 9). A total over-estimate of 33.9 hectares, which means that the extent of Southern Sydney Sheltered Forest is less than that shown on OEH maps, and is less common and therefore more significant. Correspondingly, the extent of the areas of Tall Blackbutt Forest and Peppermint – Apple Forest are greater. It is noted that OEH were mapping vegetation communities on a broader scale, and used air photo interpretation, rather than site specific inspections and on-site transects.

The report indicated that some 13.85 hectares of native vegetation is proposed to be removed (as indicated in the following table), including 2.51 hectares of Southern Sydney Sheltered Forest. The report notes that the loss of the Southern Sydney Sheltered Forest will be offset by the conservation of 39.4 hectares of Southern Sydney Sheltered Forest outside the study area, in the same ownership and will be preserved through a BioBanking Scheme. It is noted that the surrounding Southern Sydney Sheltered Forest offset land is already zoned E2 Environmental Conservation, and the bushland is largely undisturbed and is in good condition.

The 2019 amendments to the proposal reduced the impact on the Southern Sydney Sheltered Forest within the triangular part of Lot 1 DP 616228.

Table 1 - Type and extent of Vegetation proposed to be removed

Plant Community	Area proposed to be removed (2016)	Revised proposal (2019)
C1. Tall Blackbutt Forest (Illawarra Escarpment Blackbutt Forest)	Nil	Nil
C2. Southern Sydney Sheltered Forest (EEC)	2.33 ha	0 ha
C2a. Southern Sydney Sheltered Forest, understorey disturbed	0.18 ha	0.18 ha
C3. Peppermint–Apple Open Forest (Coastal Sandstone Gully Forest)	0.48 ha	0 ha
C3a. Peppermint–Apple Open Forest, understorey removed	3.47 ha	3.47 ha
C4. Bloodwood–Scribbly Gum Woodland (Sydney South Exposed Sandstone Woodland)	2.92 ha	1.39 ha
C4a. Bloodwood–Scribbly Gum Woodland, understorey removed	4.47 ha	4.47 ha
Subtotal	13.85 ha	9.51ha
Non-native communities		
C5. Wattle Stand	0.45 ha	0.45 ha
C6. Coral Tree Stand	0.06 ha	0.06 ha
Subtotal	0.51ha	0.51 ha

Total	14.36 ha	10.02 ha
C7. Treeless grassland / bare ground	10.94 ha	10.94 ha

In their 2016 submission, OEH questioned the methodology used to determine the boundary of the Southern Sydney Sheltered Forest, however noted that the boundaries aligned with their on-site observations.

OEH raised concern that potential clearing and disturbance of bushland in the southern part of the site had occurred, which had been identified through the comparison of January and December 2015 air photos (Attachment 10). The applicant denies that clearing occurred. If the clearing occurred, it was not reported or observed at the time, and no retrospective regulatory action can be taken. A comparison of Council's air photos over the period 2012-2018 confirms that there is more open land visible in the southern part near Otford Road in the 2018 air photos than shown in the 2016, 2014 or 2012 air photos, which suggests that further tree removal has occurred since 2015, although the owners consultant denies this has occurred (Attachment 10).

As noted previously, the OEH objected to the inclusion of the "intervening land" which is covered in bushland being included in the rezoning proposal (C4. Bloodwood–Scribbly Gum Woodland and Southern Sydney Sheltered Forest). As noted previously, the JRPP supported the inclusion of the triangular part of Lot 1 DP 616228 in the rezoning. The Wollongong Local Planning Panel did not support the clearing of this area and in response the applicant amended the concept and rezoning plans to reduce the extent of the proposed clearing.

The JRPP did not support the clearing of the small lots covered in bushland to the south near Otford Road (as outlined in Attachment 5). The concept plan and draft Planning Proposal request partially show this area as a buffer (proposed to be zoned RE2 Private Recreation) and partially to be cleared for urban development, which is inconsistent with the JRPPs advice.

Tree hollows

The Tree Hollow report (Mills 2016) found there were 85 trees within the area proposed to be rezoned, containing 144 hollows which could be used for fauna habitat. Of those trees some 67 trees are proposed to be removed by the future development, and 18 trees retained in open space areas.

Fauna survey

The Fauna Survey and Assessment report (Conacher Consulting 2016) notes that the consultants observes three (3) amphibian species (frogs), seven (7) reptiles (lizards and skinks), 77 birds species and 22 mammals (marsupials, gliders, wallaby and bats). An additional eight (8) introduced mammals were also observed, including the grazing cattle and horses, plus rats, dogs, deer, goat and foxes.

The report notes that the study area contains suitable habitat for the following nationally listed threatened or migratory species which are known to occur within 10 km of the subject site:

- Littlejohn's Tree Frog (*Litoria littlejohni*)
- Giant Burrowing Frog (*Heleioporus australiacus*)
- Broad-headed Snake (*Hoplocephalus bungaroides*)
- Swift Parrot (*Lathamus discolor*)
- Regent Honeyeater (*Anthochaera phrygia*)
- Spotted-tailed Quoll (*Dasyurus maculatus*)
- Koala (*Phascolarctos cinereus*)
- New Holland Mouse (*Pseudomys novaehollandiae*)
- Grey-headed Flying-fox (*Pteropus poliocephalus*)

- Large-eared Pied Bat (*Chalinolobus dwyeri*)

No nationally listed threatened fauna species were observed within the subject site during surveys.

The study area also contains suitable habitat for the following nationally listed threatened or migratory species recorded which occur or which may occur within 10 km of the subject site:

- White-throated Needletail (*Hirundapus caudacutus*)
- Fork-tailed Swift (*Apus pacificus*)
- Rainbow Bee-eater (*Merops ornatus*)
- Cattle Egret (*Ardea ibis*)
- Oriental Cuckoo (*Culculus optatus*)
- Black-faced Monarch (*Monarcha melanopsis*)
- Spectacled Monarch (*Monarcha trivirgatus*)
- Satin Flycatcher (*Myiagra cyanoleuca*)
- Rufous Fantail (*Rhipidura rufifrons*)

These species were not observed, however the report notes that the Rufous Fantail and Black-faced Monarch were observed within the Lady Carrington Estate during previous surveys undertaken by Quality Environmental Management (1991). The report notes that these species inhabit predominantly wet sclerophyll and rainforest habitats which are located outside of the proposed development area to the east of the site.

The loss of habitat for the threatened fauna species will be required to be offset, under the Biodiversity Conservation Act 2016.

In terms of the likely presence of koalas, no koala food trees were identified on site, therefore the site does not contain potential koala habitat as defined by State Environmental Planning Policy No. 44 Koala Habitat Protection.

In their 2016 submission, OEH considered the fauna assessment undertaken to be adequate.

Biodiversity corridor

In their 2016 submission, OEH objected to the proposed impact of the development, through 12 hectares of clearing, on the Regional Biodiversity Corridor mapped in the Illawarra Shoalhaven Regional Plan (2015) and its inconsistency with the Wollongong LEP 2009 Natural Resources Sensitivity Map.

The applicant engaged Cumberland Ecology to review the objection. Cumberland Ecology concluded that:

- The Illawarra Shoalhaven Regional Plan (2015) contains an Environmental Values map with “High Environmental Values” and a “Biodiversity Corridor” (page 6). Due to the large scale of the map, however, it is impossible to ascertain if the subject site is included in any of these areas.
- The Wollongong LEP 2009 mapping of Natural Resource Sensitivity – Biodiversity Map – Sheet NRB_008 shows the eastern half of the subject site as “Natural resource sensitivity – biodiversity”. This Biodiversity mapping seems to include all extant woody vegetation within the LGA, i.e. a total of 46,183 ha, including hostile gaps such as railway lines and roads. It does not differentiate between different qualities of habitat and therefore does not provide guidance in what constitutes a biodiversity corridor or priority land with high ecological value. The proposed rezoning will excise a tiny fraction (i.e. 15.7 ha or 0.03 %) of this corridor, which will be offset by providing a Stewardship site under the NSW Biodiversity Offsets Scheme.

The report also notes that the draft Illawarra Biodiversity Strategy (2010) did not map the cleared part of the site as an Regional Biodiversity Corridor, the final adopted Illawarra Biodiversity Strategy (2011) did map the cleared part of the site as part of a regional biodiversity corridor.

Council officers have reviewed the Illawarra Shoalhaven Regional Plan (2015) and agree that although the large scale makes the map difficult to read, the site is mapped as part of a Biodiversity Corridor.

Biodiversity offsets

A Biodiversity Offsets Assessment Report (Conacher Consulting 2016) was prepared in 2016 based on the 2014 Biobanking Assessment Methodology published by OEH under the former Threatened Species Conservation Act 1995. The report was prepared at the request of Council and OEH to provide an indication of the likely impact of the future development. With the commencement of the Biodiversity Conservation Act 2016, in 2017, the submitted assessment has been superseded by the new legislation and new methodology, including different offset ratios. A new report based on the current Biodiversity Assessment Methodology (BAM) and development footprint would be required to accompany any future Development Application.

Bushfire

The site is surrounded by bushland and is identified as high risk bushfire prone lands. The site has been subject to bushfires, such as the 2001 bushfire.

The concept plan indicates that a perimeter Asset Protection zone, a perimeter road, a fire trail connection to Otford Road will be incorporated into the future development.

The Bushfire Assessment Report (Conacher Consulting 2016) confirms the bushfire risk and proposes that the development incorporate:

- A 39m wide Asset Protection Zone (APZ) is required to be maintained to the north east, east, south east and south of the future estate for dwellings constructed to BAL29 (Bushfire Attack Level);
- A 50m wide APZ is required to be maintained to the north of the future estate for dwellings constructed to BAL29 and the concept subdivision plan should be amended to reflect this.
- The proposed two access points from Otford Road / Werrong Road and Koornong Road and the perimeter road network is required to reduce the risk of bushfires impacting on the development.
- A Bushfire Attack Level (BAL) assessment for any future dwellings is required following the subdivision of the land;

The Rural Fire Service reviewed the proposal and raised no objection to the proposal. The RFS noted that the removal and maintenance of the vegetation in the “intervening bushland” was important in maintaining the APZ. The RFS also noted that the multiple access points to Otford Road / Werrong Road and Koornong Road are critical in providing alternative access and evacuation routes.

The 39m and 50m wide APZ surrounding the development will need to be maintained once the development has occurred. In correspondence dated 3 May and 22 June 2019, the applicant has proposed that the land be transferred to Council to maintain, with a funding mechanism. The letter proposes that the cost of maintaining the APZ and the stormwater drainage system will be paid by the lot owners in the estate by means of a levy – styled as a levy for Community Shared Costs – raised via a s.88B positive covenant.

Alternatively, the subdivision could be community titled, and the APZs, roads and other assets remain the responsibility of the collective land owners.

Water quality & drainage

The impact of urban development at Helensburgh on the water quality of the Hacking River and Royal National Park has been an issue of concern since the 1970s. The Helensburgh Commission of Inquiry (1994) was focused on the impact that proposed urban development areas (such as the subject site) would have on downstream water quality. The introduction of the 7(h) Hacking River Environment Management zone in 1988 (subsequently changed to the 7(d) zone), the prohibiting dual occupancies in Helensburgh and the sewerage of Helensburgh were three of the measures to prevent the further deterioration of water quality.

The Office of Environment and Heritage identifies the water quality and river flow objectives of the Hacking River as *“streams in the Royal National Park are highly valued for conservation and recreation. They have relatively natural flows and water quality, although upstream impacts on these need ongoing improvement”*.

As noted previously, the site drains north, east and south east, to four watercourses which form three tributaries of the Hacking River (Attachment 7).

Advisian Pty Ltd on behalf of the applicant prepared the Water Quality Assessment report examining the water quality of the Hacking River, between Helensburgh and the Audley Weir. The consultants:

- Reviewed 14 previous water quality reports undertaken within the Hacking River catchment dating back to 1986
- Undertook water quality monitoring at 13 sites, upstream and downstream of the site, on six occasions over four months

The consultants found that their sampling produced similar results to the historic water quality monitoring. None of the monitoring sites had “good” water quality, with Ammonia, NOx and total Nitrogen levels exceeding the ANZECC default trigger values at most sites. Kellys Creek was found to have better water quality than Gills Creek, Herbert Creek and Gardiners Creek.

The report provides baseline data that can be used to assess the impacts of the proposed development, can be used as the basis for a ‘neutral or beneficial effect’ (NorBE) and on-going monitoring. It is noted that the site is not within the Sydney Drinking Water Catchment area, and a NorBE assessment is not a statutory requirement, although is a good objective to follow.

G Herman & Associates on behalf of the applicant prepared a Water Quality Management Report which identifies water quality impacts of the proposed development and proposed management strategies to address the impacts. The report uses the results of the Advisian study and models the impacts of the proposed development. As noted previously, the site drains into three tributaries of the Hacking River, Camp Gully, Gardiners Creek (plus an unnamed tributary of Gardiners Creek), and an unnamed tributary that parallels Otford Road.

The study notes that the proposed development will significantly increase the area of impermeable surfaces, which will increase run-off and peak discharges, unless controlled by on-site detention. The study notes that residential developments typically increase gross pollutants, suspended solids, Total Nitrogen (TH) and Total Phosphorus (TP), as well as potential hydrocarbons and other pollutant spills. To mitigate the impacts, three detention basins with gross pollutant traps are proposed (and incorporated into the concept plan).

The EPA reviewed the report and raised concern about whether the proposed stormwater management system will achieve nominated water quality targets. Additionally, the targets may not be suitable to restore or maintain the environmental values of the receiving waters, as the approach used to derive the trigger values adopted as targets does not align with the practices and principles of the ANZECC (2000) Guidelines

The OEH noted that the clearing of over 12 hectares of native vegetation on highly erosive soils, the expansion of residential development in this location has the potential to lead to downstream water quality impacts.

In 2018 the applicant submitted an updated Water Quality Assessment report and a response to the EPA concerns. The updated report was amended to address the EPAs concerns. The updated report has not been reviewed by the EPA, which will occur during the exhibition period, if the draft Planning Proposal progresses.

Based on the water quality data collated and assessed for this report and Council’s requirements, the proposed stormwater quality performance targets for the creeks downstream of the development would be as set out in the following table:

Table 2 Proposed Stormwater Quality Performance Targets

Analyte	Load Reduction Target	80th Percentile Concentration
Gross Pollutants	90%	-
Total Suspended Solids	85%	10 mg/L
Total Phosphorus	60%	0.042 mg/L
Total Nitrogen	45%	0.52 mg/L

These performance targets should be incorporated into a future site specific Development Control Plan chapter and then used as part of the Development Application assessment (if the draft Planning Proposal is progressed to finalisation).

The report concludes that a Water Sensitive Urban Design (WSUD) strategy for the site is likely to include a suite of measures (e.g. rainwater tanks, bio-retention swales/basins, detention ponds, gross pollutant traps, etc). By inclusion of 80th percentile concentration targets for the downstream receiving waters as well as pollution load reduction targets, a WSUD strategy could be developed that would be capable of achieving no impact on water quality in the Hacking River.

The applicant has proposed that the ownership of the three detention basins with gross pollutant traps is proposed to be transferred to Council, with the cost of maintaining the stormwater drainage system will be paid by the lot owners in the estate by means of a levy – styled as a levy for Community Shared Costs – raised via a s.88B positive covenant.

Heritage

To address indigenous issues, the applicant has submitted an Aboriginal Archaeological Assessment (Streat Archaeological Services, March 2016), Aboriginal Cultural Heritage Assessment (Streat Archaeological Services, March 2016) and an Anthropological Assessment (S Donaldson, March 2016). These reports were referred to OEH for review.

The reports identified three aboriginal sites, all of which were previously recorded. Two of the sites are outside the study area.

In their 2016 submission, OEH raised concern about the recording and location of two of the three known sites. The OEH supported the recommendation to prepare an Aboriginal Heritage Management Plan. The OEH noted the detailed consultation with the Aboriginal community. The OEH also provided other minor comments to update / clarify the report.

An updated Aboriginal Archaeological Assessment report was submitted in 2018 (Streat Archaeological Services 2018) responding to the comments and suggestions made by Council and the OEH, noting that additional fieldwork had occurred, and the report was updated accordingly.

Both the 2016 and 2018 reports confirmed that the recorded sites were located outside the proposed development / rezoning area, and no Aboriginal Heritage Impact permit (AHIP) was being sought.

There are no non-indigenous heritage sites listed on the site or located nearby. A non-indigenous heritage study has not been submitted and is not required.

Contamination

A Soil Contamination Assessment was prepared for the applicant as part of DA-2012/1480 (the large lot subdivision) and submitted as part of the rezoning proposal. The assessment includes some 85 test pits located around the north-west part of the site, where the proposed dwelling houses were proposed to be located as part of the subdivision. This is also the area of historic filling.

The assessment did not include the balance of the area proposed to be rezoned, including the former Sydney Water depot.

The EPA also noted that the report appears to be missing key information including maps and information on the potential extent of waste emplacement and dumping activities across the entire site.

This includes details on the amount and character of the waste material and any recommended remedial actions.

The EPA advised that State Environmental Planning Policy 55 (SEPP 55) states that as part of any land use change process, the following key considerations should be addressed when preparing an environmental planning instrument:

- Whether the land is contaminated
- If the land is contaminated whether it is suitable in its contaminated state (or will be suitable, after remediation) for all the purposes to which the land will be used; and
- If the land requires remediation, will be made suitable for any purpose for which the land will be used.

If a rezoning allows a change of use that may increase the risk to health or the environment from contamination, then Council must be satisfied that the land is suitable for the proposed use or can be remediated to make it suitable. If remediation is necessary, Council must be satisfied that suitable planning controls are in place to ensure that this occurs.

As the proposal involves rezoning the land for residential purposes the EPA recommended that Council involve an EPA-accredited Site Auditor during the contamination assessment and management process. This should include the audit of a Remediation Action Plan (RAP) and the provision of a Site Audit Statement certifying that the land can be made suitable for the proposed uses if this RAP is implemented.

In 2018 a Supplementary Contamination Assessment report (EI Australia), a Site Audit Report (Arcadis) and Site Audit Statement (Arcadis) were submitted.

The EI Australia report reviewed the previous Contamination Assessment and sampled an additional 44 test pits over the balance of the site. The report noted that no soil samples exceeded the adopted human and health criteria.

The Site Audit Report reviewed the previous investigations and advised that the site is suitable for residential subdivision without further assessment or remediation.

Traffic and Transport

If approved and developed, the proposed 310 lots has the potential to generate 2,800 vehicle movements per day. If lots are developed for dual occupancy or multi-dwelling housing the resulting dwelling numbers and traffic generation will be greater.

The concept design proposes two access points to the proposed subdivision. A 5-way roundabout at Otford Road / Werrong Road and an extension of Koornong Road.

The concept design proposes the closure of part of Lilyvale Road and a new road connection provided through the subdivision to connect with the remainder of Lilyvale Road.

In their 2016 submission, the RMS advised that the "Assessment of Traffic Implications of Proposed Road Connections" report does not consider the impact to the greater road network, including the intersection of Walker Street and Lawrence Hargrave Drive. The RMS confirmed that a traffic impact study is required to identify any infrastructure upgrades required and is to identify pedestrian, cyclist and public infrastructure. The RMS suggested that Council consider relevant contributions that may be required for infrastructure upgrades (Section 94 Contribution Plan or a Voluntary Planning Agreement).

In 2018, the applicant submitted a Road Network Assessment (Traffic Impact Services August 2018). This report assumed 450 dwellings, based on 150 dual occupancies, as an upper estimate. As a worst case, the subdivision could generate up to 364 vehicle trips per hour during the AM peak and 380 vehicle trips per hour during the PM peak periods.

The report concludes that the proposed subdivision will have minimal impact on the greater network of the Helensburgh township. The traffic conditions on the roads through Helensburgh are satisfactory with volumes within acceptable levels for that representing its respective road classification.

The report was also prepared prior to Council installing a roundabout at the Princes Highway – Parkes Street intersection. The report did not identify the need for any major infrastructure upgrades, apart from the widening of the road shoulder on the western side of Parkes Street at Cemetery Road, to permit vehicles heading northbound to pass up the inside when vehicles are turning right into Cemetery Road. This existing issue should not be linked to the proposed subdivision.

The report did note existing bus routes, but did not consider the needs for pedestrian, cyclist and public infrastructure, as requested by the RMS. The RMS has not reviewed the latest report, but will consider it during the exhibition period should the proposal proceed.

The site is some 3.4km from the Helensburgh Rail Station by road.

Infrastructure services

Sydney Water advised that both the existing drinking water system and wastewater system have sufficient capacity to serve the proposed development. Sydney Water noted that the water and sewer mains will need to be extended to the site, at the developer's expense.

Endeavour Energy noted that electricity easements traverse the site, but had no objection to the rezoning or proposed development.

Social & local economic issues

Census data indicates that in 2016 there were 2,365 dwellings in Helensburgh and Otford (ABS 2016). Of the dwellings, 1,973 (83.4%) are separate dwelling houses, 307 medium density dwellings (13%) and 58 higher density units (2.5%). The area had a 2018 population of 7,072 persons (id Profile).

The concept plan indicates a draft subdivision design of 300 residential lots (450-600m²) and 10 larger residential lots (1000m²) along the extension of Koornong Road. This would represent a 12% increase in the number of dwellings. The likely future population would be in the order of 713 persons (assuming an occupancy rate of 2.3 persons per household). If lots are developed for dual occupancy or multi-dwelling housing the resulting population may be greater.

The increased population would provide an economic benefit for the shops in the Helensburgh Town Centre. There would also be a short term employment boost for tradespersons during the construction phase. The extent of the construction and long term economic benefit has not been quantified.

The additional population would not result in a public High School being constructed in Helensburgh. The Department of Education's guidelines indicate that High Schools typically serve 6,000 dwellings. The addition of another 310 dwellings is still significantly less than the threshold for a high school. Additionally, the previously proposed Helensburgh High School site was subdivided for residential development by Landcom between 2003-10.

Subdivision design

The submitted concept plan (Attachment 4) indicates a draft subdivision design of 300 residential lots (450-600m²) and 10 larger residential lots (1000m²) along the extension of Koornong Road. The design also proposes the closure of part of Lilyvale Road and a new road connection provided through the subdivision.

The concept design proposes two access points to Otford Road / Werrong Road and Koornong Road. This will spread the traffic and provide alternate access points in the event of an emergency blocking one of the accesses.

The revised concept plans show two public reserves, one on the eastern knoll (1.34 hectares) and a central park was included (0.2 hectares) (following the request of the Wollongong Local Planning Panel). Neither proposed reserve will be suitable for active recreation.

The original concept plan included a bushland reserve near Koornong Road / Shannon Drive (0.34 hectares). This area contains sandstone boulders and rockfaces which would have provided an interesting play space for children. Site inspections show it is already being used by children for play. Following review by the Panel this reserve has been removed from the concept and is proposed to be zoned E2 Environmental Conservation.

A 6m wide landscape buffer is proposed along Otford Road. The revised concept plans shows this strip being zoned E3 Environmental Management. As the strip is to provide a buffer to the adjoining development, this land is proposed to be incorporated into the adjoining lots and will be maintained by the future lot owners. No access is proposed from Otford Road.

Housing types and densities

In 2014, the JRPP required an assessment of the proposed housing types and densities.

The site currently contains 101 small lots each with an areas of about 1000m².

The submitted Concept Plan shows a low density housing outcome of some 310 lots. Under the R2 Low Density Residential Zone, all of the lots would be capable of dual occupancy development, which would increase the housing density and traffic generation. The Low Rise Medium Density Housing Diversity Code would enable a Private Certifier to assess a Complying Development Application for a dual occupancy, manor home or terrace house.

As noted the site is some 1.2km from the Helensburgh Town Centre and 3.4km from the Helensburgh Rail Station, adjoins some existing residential development on the western side, and is surrounded by bushland on the other sides. The remote location of the site from the town centre and support services means it is unsuitable for higher forms of residential densities.

Located on the edge of Helensburgh adjacent to bushland, the site could provide a transition from the existing R2 Low Density Residential area of Helensburgh to the bushland. An E4 Environmental Living zone may be more appropriate in this regard and would remove the opportunity for dual occupancy and multi dwelling housing.

An appropriate lot size also needs to be considered. The following table provides a comparison of development potential and lot sizes within an R2 zone, based on the submitted proposal of 19.43 hectares. The table also includes an indication of development outcomes under an alternative E4 zone:

Table 3 – Development potential options

		Area:	19.43	ha		
Zone	Lot size	Efficiency (excludes roads)	Estimated lots	Dual occupancy	Proportion	Estimated number of dwellings
R2	300	80	518.1	yes	0.1	569.9
R2	449	80	346.2	yes	0.2	415.4
R2	500	80	310.9	yes	0.2	373.1
R2	600	80	259.1	yes	0.3	336.8
R2	700	80	222.1	yes	0.5	333.1
R2	800	80	194.3	yes	0.8	349.7
E4	1000	90	174.9	no	0	174.9
E4	1500	90	116.6	no	0	116.6
E4	2000	90	87.4	no	0	87.4
E4	3000	90	58.3	no	0	58.3
E4	4000	90	43.7	no	0	43.7
E4	5000	90	35.0	no	0	35.0

The proposal was lodged prior to Council encouraging an Affordable Housing component to be incorporated into any residential rezoning proposal. The location of the site on the edge of Helensburgh and approximately 1km from the Helensburgh shops and 3.5km from the Helensburgh Rail Station is not ideal for Affordable Housing. The proposed R2 Low Density Residential zone and 450m² Minimum Lot Size would enable dual occupancy development and Low Rise Medium Density, which would contribute to housing supply and affordability.

Development Control Plan

The Wollongong Development Control Plan 2009 (DCP) applies to the site and would continue to apply if rezoned.

The proposed inclusion of the site on the Urban Release Area Map, would require the preparation of a site specific DCP chapter. This chapter would include the concept plan (or Neighbourhood Plan) and may adopt the generic residential standards in the DCP or nominate site specific variations. This report recommends that the water quality targets be included in a DCP chapter should the rezoning proceed.

The DCP chapter would be assessed as part of the future subdivision application. Once subdivided, it is likely that development applications for dwelling houses and Low Rise Medium Diversity (dual occupancy, manor houses, terrace houses) would be assessed by private certifiers under the Code SEPP.

Developer Contributions

The site is currently subject to the Wollongong City-wide Development Contributions Plan 2019, which requires a 1% levy on the cost of the development. Initially this would be 1% of the cost of the subdivision works (roads, drainage etc) and then each of the 310 applications for dwelling houses would contribute 1% of value of each dwelling house.

The applicant has not proposed entering into a planning agreement.

The revised concept plan shows two public reserve, one on the eastern knoll (1.34 hectares) and a central park (0.2 hectares). The proposed public reserves could be transferred to Council as part of the subdivision process, if a Development Application is approved. If transferred, these reserves would be required to be maintained by Council. A Vegetation Management Plan would be required to be prepared and implemented by the applicant, which would specify the condition of the reserves prior to handover. The applicant has proposed a funding mechanism to be paid by the lot owners in the estate by means of a levy – styled as a levy for Community Shared Costs – raised via a s.88B positive covenant.

Future Council assets

Based on the concept plan the following assets may be transferred to Council in the future if development were to proceed:

- local roads and footpaths
- A local drainage network and three detention basins
- Two (2) public reserves, one on the eastern knoll (1.34 hectares), and the central park (0.2 hectares)
- The Asset Protection Zones (APZs) surrounding the development.

The assets would be included in Council's Asset Register and be scheduled for on-going maintenance based on the required service level. The central park would require a higher level of maintenance (mowing, landscaping, rubbish removal) than the bushland reserves. Maintenance budgets would need to be adjusted to accommodate the additional assets.

The applicant has proposed a funding mechanism to be paid by the lot owners in the estate by means of a levy – styled as a levy for Community Shared Costs – raised via a s.88B positive covenant. Further detail on this scheme would be required if the proposal is supported by Council.

CONSULTATION AND COMMUNICATION

The views of the community are well known through the long history of rezoning proposals for the site, and the three exhibition periods associated with the Review of the former 7(d) lands at Helensburgh, Otford and Stanwell Tops. As part of the exhibition of the draft Planning Proposal between 6 August and 26 October 2012, Council received over 58,000 submissions. Some 403 submissions commented on the Lady Carrington South Precinct, apart from the submission on behalf of the land owner, all other submission supported the proposed E2 Environmental Conservation zone. The submission on behalf of

the owner objected to all land being zoned E2 Environmental Conservation and requesting residential development.

The 2016 submitted consultants reports were referred to a number of State agencies for advice and input into the preparation of this report. Responses were received from the following agencies, and their advice has been incorporated into this report. Their responses are summarised in Attachment 13:

- Office of Environment and Heritage (OEH)
- Roads and Maritime Service (RMS)
- Rural Fire Service (RFS)
- Sydney Water
- Environment Protection Authority (EPA)
- Endeavour Energy

The 2018 Ecological and Aboriginal reports were referred to the OEH.

The draft Planning Proposal request was exhibited for preliminary consultation between 12 December 2019 and 31 January 2020. The Have your say Page on Council's website was visited 1,337 times with some 317 persons downloading at least one document and 224 persons leaving comments on the survey. Separately 236 written submissions were received. A summary of the submissions have been provided to Councillors under separate cover. The following table summarises the level of support and objection for the proposal:

	Support	Object	Comment	Total
Have your say page comments				
• Helensburgh	14	109	11	134
• Otford	3	20	0	23
• Stanwell Tops	1	3	0	4
• Stanwell Park	0	10	0	10
• Other Wollongong LGA suburbs	5	29	0	34
• Other LGAs	5	14	0	19
Sub-total	28	185	11	224
Written submissions				
• Helensburgh	6	91	3	100
• Otford	0	14	0	14
• Stanwell Park	0	2	0	2
• Other Wollongong LGA suburbs	0	6	0	6
• Other LGAs	0	14	1	15
• Community groups	0	9	0	9
• State agencies	0	0	1	1
• Email / location unknown	12	76	1	89
Sub-total	18	212	6	236
Total	44	397	17	460
Percentage	10.0	86.3	3.7	100

One State agency submission was received from the NSW Department of Planning, Industry and Environment – Biodiversity and Conservation Team commenting on the proposal.

Submissions from the following Community Groups were received objecting to the proposal:

- Neighbourhood Forum 1
- National Parks Association – Illawarra Branch
- National Parks Association – Sydney Branch
- NIRAG Inc
- Oatley Flora and Fauna Conservation Society Inc
- Saving Sydney's Trees
- Spring Gully Protection Group (Bundeena)
- Sutherland Shire Environment Centre
- The Colong Foundation for Wilderness Ltd

The key reasons for support were:

- More local housing is required to increase supply and reduce cost
- Been waiting long enough for rezoning
- Development will provide a boost for local economy
- There is plenty of parking in town centre

The key reasons for opposition were:

- Impact on Hacking River water quality
- Impact on Royal National Park
- Impact on flora, fauna, wildlife corridor
- Impact on traffic & parking
- Limited bushfire & emergency access to Helensburgh
- The land has been zoned for Environmental Protection for 25 years, why change
- No means No, why is it being revisited again

If Council and the NSW Department of Planning, Industry and Environment resolves to progress the rezoning, the draft Planning Proposal will formally be exhibited for community comment and referred to relevant State agencies.

Wollongong Local Planning Panel

On 31 July 2019 the Wollongong Local Planning Panel (WLPP) inspected the site, met with the applicant and discussed the proposal. The panel noted (in part):

In reviewing this planning proposal, it is apparent that there is no current strategy which identifies Helensburgh for future residential release. The Panel raised concern about the lack of strategic merit in respect to the proposal.

In December 2014, the Department of Planning accepted the JRPP recommendations and directed that an amended proposal, prepared on the basis of the additional studies, should proceed to Gateway Determination.

The Panel therefore acknowledges that it is appropriate to consider this planning proposal in the context of the history associated with the site and given this history and intervention by the JRPP and Department of Planning. The Panel acknowledges that at these earlier stages it is considered that there is some strategic merit in pursuing the rezoning and subsequent subdivision was considered.

The Panel is of the view that the proposal has merit and the site is generally suitable for residential development. The Panel considers that potential future residential development should be concentrated around the generally cleared parts of the site and that the existing bushland area to the north-west should be retained, as it was observed to be in a relatively

pristine bushland condition, and should be maintained as a buffer. Given that this area of bushland also contains EEC's (Southern Sydney Sheltered Forest) as depicted in the mapping in the Cumberland Ecology Report, dated May 2018 there is even more justification to retain this important vegetation and this would avoid the requirement for providing offsets. The Panel is not satisfied that the proposed offsets are appropriate and it is noted that this may not be satisfactory to OEH as proposed.

The panel considered alternative zoning scenarios, including Environmental Living with larger allotments. Given the immediately adjoining established R2 residential zone to the west, the Panel considers that a minimum lot size of 450m² for land within the proposed R2 zone is appropriate in terms of promoting the orderly and economic use and development of the land.

In summary the Panel has concerns relating to the following aspects of the planning proposal:

- *The adjacent bushland regeneration areas are not part of the planning proposal. Therefore, concern is raised about the future mechanisms available to ensure that the regeneration occurs.*
- *The interface between proposed residential development and bushland may be insufficient to prevent adverse impacts.*
- *The proposal for 1,000m² lots in the north-western triangular bushland area is likely to result in the removal of most if not all existing trees and potential EEC's which will require offsets. The proposed offsets created outside the rezoned area within existing bushland is not considered a suitable alternative.*
- *The amount of open space provided for the public is considered inadequate and is poorly located. In particular, there is no centrally located open space.*
- *The proposal does not provide any direct public benefit outcomes, as the areas of open space would only be able to accommodate passive recreational activities. Alternatives should be explored so that any future subdivision will provide some greater, broader community benefits.*

The Panel advised:

1. *The Wollongong Local Planning Panel recommends to Council the draft Planning Proposal for land known as Lady Carrington Estate South / Bob's Bushland, Helensburgh be submitted to the Department of Planning and Environment (DPE) for a Gateway Determination.*
2. *The Wollongong Local Planning Panel recommends to Council that the Department of Environment and Planning be requested to include conditions in any Gateway Determination that prior to public exhibition the following amendments should be made to the planning proposal:*
 - i. *The triangular shaped bushland area in the north-west corner of the site be zoned as E2 Environmental Management, and retain its current zoning;*
 - ii. *A public park with a minimum area of 2,000m², shall be located centrally to the residential development and zoned RE1 Public Recreation and should include a playground; and*
 - iii. *Consideration be given to relocating the boundary between the R2 and E3 zones (as shown in Attachment 2) west to by up to 20 metres to provide a larger buffer to the bushland EEC. This zone is to be extended to create a larger and more distinct buffer between the R2 and E2 land so there is a transition in zoning. This may also relocate services such as the proposed stormwater management system to a less sensitive location.*
 - iv. *The proposal and mapping should be amended to capture the whole site/s even without the E2 zone changing to the north, east and south-east.*

3. *The Wollongong Local Planning Panel recommends to Council that should a Gateway Determination be issued, a further report be presented to Council following the public exhibition period to demonstrate compliance with the Gateway Determination, and to provide details of any submissions received throughout that process.*

PLANNING AND POLICY IMPACT

This report contributes to the delivery of Our Wollongong 2028 goals “We value and protect our environment” and “We have a healthy community in a liveable city”. It specifically delivers on the following:

Community Strategic Plan	Delivery Program 2018-2022	Operational Plan 2020-21
Strategy	4 Year Action	Operational Plan Actions
5.1.1 We work in partnership to built on opportunities to strengthen vulnerable communities	5.1.12 Continue to undertake social, land use and environmental planning activities that assists in service planning	Assess rezoning submissions and progress supported Planning Proposals.

Illawarra Regional Plan 2006

The Illawarra Regional Plan was replaced by the Illawarra Shoalhaven Regional Plan in 2015. In 2014, the JRPP required the proposal to be assessed against the sustainability criteria contained in Appendix 1 to the Illawarra Regional Strategy to ascertain areas suitable for development, appropriate environmental safeguards.

The Sustainability Criteria was:

	Comment
1. Infrastructure provision – timely & efficient	Infrastructure services can be extended to service the proposed development
2. Access - Accessible transport options	The site is some 3.4km from Helensburgh Rail Station
3. Housing Diversity – housing choices	The concept plan predominantly proposes R2 low density housing (449m ²) with a small amount of E4 Environmental Living (1000m ²). The R2 lots could be further developed under the Low Rise Housing Diversity Code.
4. Employment Lands – avoid loss of	NA – there is no existing employment land
5. Avoidance of Risk – eg floodplains, steep slopes	The proposed development is located on the ridge on gently sloping land. The surrounding area is steep bushland.
6. Natural Resources – eg water, energy, agricultural land	The site is currently used for grazing. It is not prime agricultural land.
7. Environmental Protection – maintain or improve	The proposed development will result in the removal of vegetation. The applicant has proposed water quality treatment ponds to maintain water quality. Many of the community submissions are concerned about the environmental impact of the proposed development.
8. Quality and Equity in Health, Education, Cultural and Community Services - availability	The proposed development would rely on services available within Helensburgh. There are no hospitals in Helensburgh, the closest public hospitals being located at Wollongong and Miranda. There is no high school in Helensburgh. Council is proposing the upgrade to Helensburgh library.

Illawarra Shoalhaven Regional Plan 2015

The Illawarra Shoalhaven Regional Plan does not specifically mention the need to rezone additional land for residential development in Helensburgh. The Plan does identify the need to supply additional housing in the LGA to meet the forecast population growth. Wollongong has sufficient capacity of zoned and/or planned residential land to exceed the level of population growth forecast for Wollongong under the Plan.

The site does appear to be identified as having High Environmental Values and located in the Biodiversity Corridor

The following directions and actions are relevant:

- 2.3 Deliver housing in new release areas best suited to build new communities, provide housing choice and avoid environmental impact
- 2.4 Identify and conserve biodiversity values when planning new communities
- 5.1 Protect the region's environmental value by focusing development in locations with the capacity to absorb development
 - 5.1.1 Avoid, minimise and mitigate the impact of development on significant environmental assets
 - 5.1.3 Protect the region's biodiversity corridors in local planning controls

Section 9.1 Ministerial Directions, SEPPs

The following Section 9.1 Ministerial Direction and State Environmental Planning Policies are relevant to the draft Planning Proposal request.

Table 4 – Relevant Ministerial Directions

Direction	Comment
2.1 Environment Protection Zones	Inconsistent – the Planning Proposal request proposes to reduce the extent of land zoned E2 and E3, by rezoning it to R2 and E4. The proposed change is justified by the documentation submitted with the Planning Proposal request and the determination by the NSW Department of Planning and Environment, that the proposal should proceed to a Gateway determination.
3.1 Residential zones	Consistent – the Planning Proposal request proposes to introduce R2 and E4 zones to provide additional housing and some housing choice. Sydney Water and Endeavour Energy have advised that the site can be serviced.
3.4 Integrating Land Use and Transport	Inconsistent. The proposal does not <ul style="list-style-type: none"> (a) improve access to housing, jobs and services by walking, cycling and public transport, (b) increase the choice of available transport and reducing dependence on cars, (c) reduce travel demand including the number of trips generated by development and the distances travelled, especially by car, (d) supporting the efficient and viable operation of public transport services

4.4 Planning for Bushfire Protection	Consistent – the site has a bush fire risk. The submitted Bush Fire report has been reviewed by the NSW RFS, which support the proposed mitigation measures, including APZs and Perimeter Roads. The RFS will be concerned if the intervening bushland is not cleared and development. Consultation with the RFS will occur as part of any exhibition.
5.10 Implementation of Regional Plans	Consistent and inconsistent. The site is within the area covered by the Illawarra Shoalhaven Regional Plan. Refer to comments above.
6.1 Approval and Referral Requirements	Consistent. The Planning Proposal does not introduce additional approval or referral processes for State agencies

Table 5 – Relevant State Environmental Planning Policies (SEPPs)

SEPP	Comment
SEPP 55 - Remediation of Land	As indicated previously, Council is required to be satisfied that the site is suitable for the proposed future use, ie residential development. The applicant has submitted a number of reports that indicate that the site can be rehabilitated and has appointed a site auditor to oversee the rehabilitation.
SEPP Affordable Rental Housing 2009 SEPP Exempt and Complying Development 2008 SEPP Educational Establishments and Child Care Facilities 2017 SEPP Housing for Seniors or People with a Disability 2004	The proposed R2 Low Density Residential Zone will enable the forms of development permitted under these SEPPs. Whether the opportunity is taken up will depend on the current and future owners.

Planning Proposal policy

The Planning Proposal request commenced in 2013, prior to Council's adoption of the Planning Proposal Policy in 2018. The decision of the Department of Planning that an amended Planning Proposal should proceed to Gateway determination overrides the policy.

Wollongong Local Strategic Planning Statement (2020)

The Planning Proposal request commenced in 2013, prior to Council's adoption of the Wollongong Local Strategic Planning Statement on 29 June 2020. The Wollongong Local Strategic Planning Statements notes that Helensburgh is not an urban release area and only in-fill housing development is proposed.

Prior to the adoption of the LSPS, Council did not have a Strategy in place that supported additional residential lands at Helensburgh.

FINANCIAL IMPLICATIONS

The assessment of the draft Planning Proposal has required the allocation of considerable Council resources over number of years. If Council resolves to progress the draft Planning Proposal to exhibition, Council officers will exhibit the draft Planning Proposal and supporting documents and then summarise and report the submissions to Council.

If the site is rezoned and eventually developed, then a number of assets are proposed to be transferred to Council, including roads, two reserves, an asset protection zone and detention basins.

SUMMARY

Based on the assessment of the submitted, modified draft Planning Proposal request and concept, it is recommended that the proposal not be supported, as:

1. Helensburgh and the site are not strategically identified in the Illawarra Shoalhaven Regional Plan (2016), previous Council Planning Strategies or Council's recently adopted Wollongong Local Strategic Planning Statement (20202) as an urban release area, or for increased low density housing.
2. Council has consistently considered the site unsuitable for low density residential development since the 1980s.
3. The R2 Low Density Residential zone would support a medium density housing product on the edge of Helensburgh, on the bushland interface, remote from town services and public transport.
4. The R2 Low Density Residential zone would support a medium density housing outcome that would increase hard surfaces runoff into the Hacking River Catchment.
5. The R2 Low Density Residential zone would enable the clearing of vegetation, including some 9.5 ha of native bushland communities.
6. The R2 Low Density Residential zone would enable an increased housing development and population on the bushland interface in a high bush fire prone area. The future ownership and maintenance of the Asset Protection Zone has not been resolved.
7. There is significant community opposition to the Proposal.

ALTERNATIVE PLANNING OUTCOME

The assessment of the submitted proposal has found that while the site is not suitable to be rezoned to R2 Low Density Residential, there may be merit in considering an alternate housing outcome, that addresses some of the concerns noted above.

An E4 Environmental Living zone, with a 2000m² minimum lot size, and 0.3:1 Floor Space Ratio would enable the site to be developed into approximately 87 lots (Table 3). This number is similar to the existing 100 small lots.

The E4 Environmental Living Zone is used in other parts of the LGA (e.g. at Wongawilli) for land on the urban fringe / interface, to provide a transition to the adjoining more constrained land. The E4 Environmental Living Zone would enable the provision of a larger lot housing product on the edge of Helensburgh.

An E4 Environmental Living Zone could be used to enable subdivision but limit development to one dwelling house per lot, although a secondary dwelling (granny flat) would be permissible but could not be subdivided.

Larger lots under an E4 zone would provide the potential for the retention of more trees and require less hard stand areas that place pressure on the water catchment through increased run-off.

An E4 Environmental Living Zone would also address the concern raised by the community that each of the residential lots, or a large proportion, could be developed for dual occupancy development, which would dramatically increase the number of dwellings, the traffic generation and the potential population at risk during a bush fire. An approval pathway for dual occupancy, manor homes and terrace housing is

now available through the Low Rise Housing Diversity Code, under SEPP Exempt and Complying Development. Under the Code, these applications would not be advertised and could be determined by a Private Certifier. The Low Rise Housing Diversity Code does not apply to E4 zoned lands.

OPTIONS

Council is able to support no change to the current planning status of the site. If Council wishes to consider a zone change, there are 3 basic options available, with a number of variants:

1. Support the submitted modified proposal, and resolve to prepare a draft Planning Proposal.
2. Resolve to prepare a draft Planning Proposal for a modified proposal.
3. Resolve not to support the preparation of draft Planning Proposal.

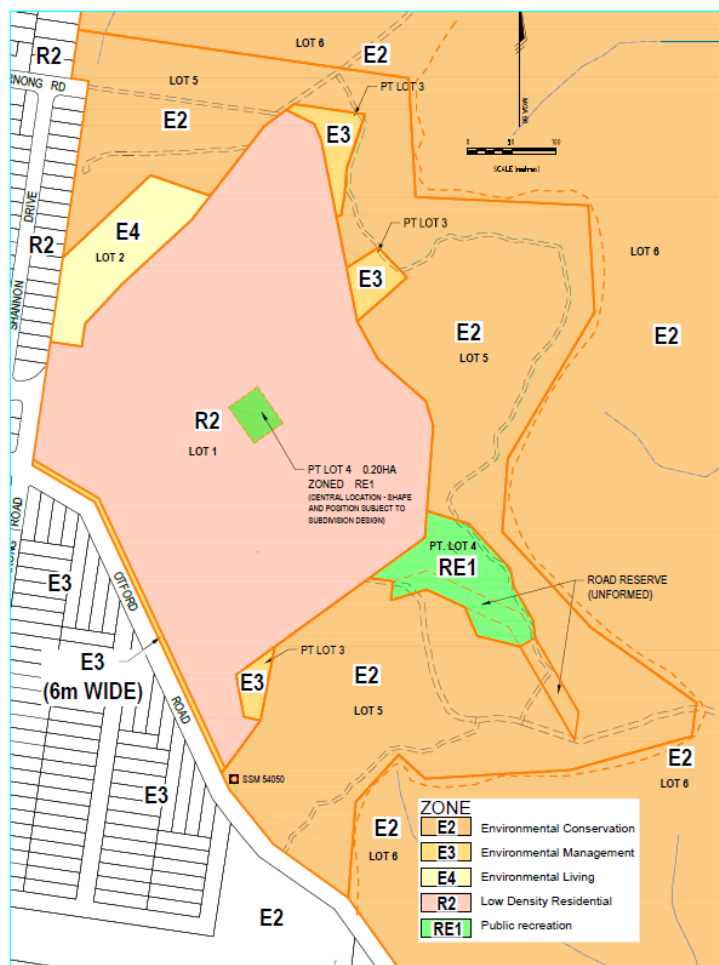
1. Support submitted proposal

If Council supports the submitted modified draft Planning Proposal request, a draft Planning Proposal and amendments to the Wollongong LEP 2009 will need forwarded to the NSW Department of Planning and Environment for a Gateway determination prior to exhibition. The following amendments to the current planning controls would be required:

Table 4 Proposed LEP amendments – Option 1 requested by applicant

Area	Land Zoning Map (Attachment 11)	Minimum Lot Size Map	Floor Space Ratio Map
17.8 ha (the 300 residential lots and roads)	R2 Low Density Residential	449m ²	0.5:1
1.4 ha (the 10 larger lots)	E4 Environmental Living	1000m ²	0.3:1
1.54ha The 2 parks	RE1 Public Recreation	NA	NA
0.23ha The Otford Rd landscape buffer	E3 Environmental Management	NA	NA
4.4 ha The surrounding Asset Protection zone, including the detention basins	E3 Environmental Management	39.99ha	NA
180 ha The remaining bushland area	Retain current E2 Environment Conservation Zone (no change)	39.99ha (no change)	NA (no change)

- Urban Release Area Map – include the site as an urban release area. This will require a Development Control Plan chapter to be prepared and considered by Council;
- Natural Resource Sensitivity – Biodiversity Map – deleting the area proposed to be zoned R2 and E4 and proposed to be developed



No change is required to the Height of Building Map (9m), Riparian Corridors Map or other LEP maps.

As there are currently 100 small lots (~1000m²) each, once the site is rezoned, these lots could be developed without a Development Application for subdivision, relying on the historic subdivision pattern and road layout. The lots would also be able to be subdivided, based on the 450m² minimum lot size, and dual occupancy development occur on each. Theoretically each of the existing lots could contain at least four (4) dwellings. Lots over 600m² could contain a manor home containing 3-4 dwellings. To ensure the existing lot pattern is not relied on, the consolidation of the existing lots should be required prior to the finalisation of the Planning Proposal.

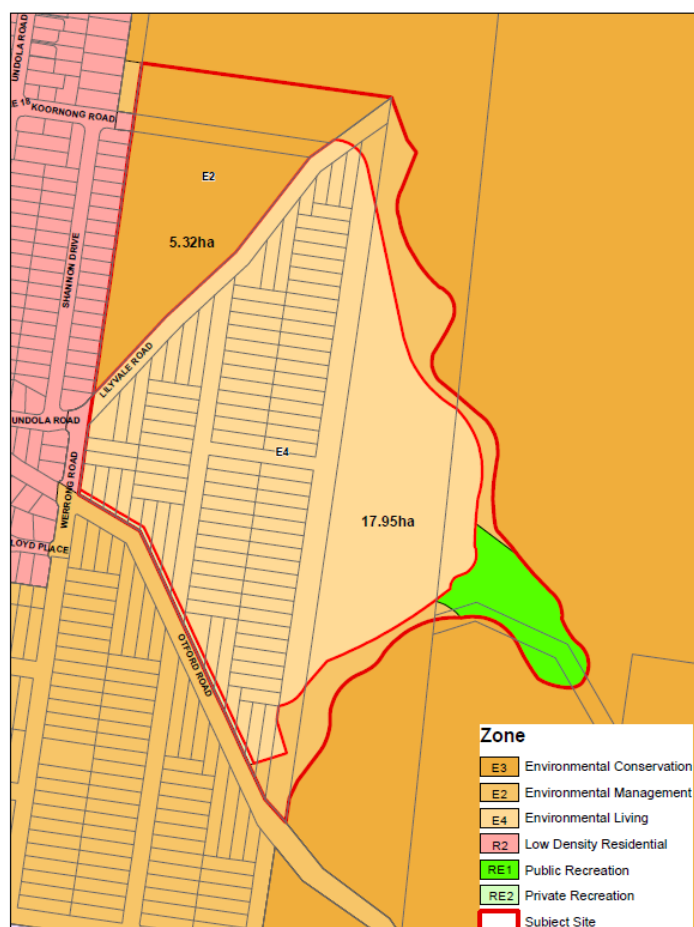
2. Alternate Option – E4 Environmental Living

The E4 Environmental Living Zone could be used to enable subdivision but limit development to one dwelling house per lot, although a secondary dwelling (granny flat) would be permissible but could not be subdivided. Similar to the residential zoning option, once rezoned the small lots (1000m²) could be developed based on the current subdivision pattern, although with only one dwelling house each. To ensure the existing lot pattern is not relied on, the consolidation of the existing lots should be required prior to the finalisation of the Planning Proposal.

A draft resolution to support this alternative option would be:

- 1 A draft Planning Proposal be prepared for the Lady Carrington Estate South precinct and surround land located between Otford Road and Lilyvale Road, Helensburgh, proposing the:
 - a Rezoning of 17.95 hectares to E4 Environmental Living with a Minimum Lot Size of 2000m² and Floor Space Ratio of 0.3:1 (Attachment 12)
 - b Rezoning of 4.44 hectares to E3 Environmental Management with a Minimum Lot Size of 40ha with no Floor Space Ratio

- c Rezoning of 1.68 hectares to RE1 Public Recreation with no Minimum Lot Size and no Floor Space Ratio
 - d Rezoning of 0.23 hectares to RE2 Private Recreation with no Minimum Lot Size and no Floor Space Ratio
 - e Inclusion of the precinct on the Urban Release Area map.
 - f Amending the Natural Resource Sensitivity – Biodiversity Map by deleting the area proposed to be developed
- 2 The draft Planning Proposal be referred to the NSW Department of Planning and Environment for a Gateway determination, and if approved, be exhibited for a minimum period of 60 days.
 - 3 The NSW Department of Planning, Industry and Environment be requested to issue authority to the General Manager to exercise plan-making delegations.
 - 4 The applicant be required to prepare a draft Site Specific DCP chapter to guide the assessment of future development applications. The draft Chapter is to form part of the Wollongong Development Control Plan 2009 and is to be reported to Council prior to exhibition.
 - 5 The 100 existing small lots within Lady Carrington Estate be consolidated into the one title, prior to finalisation of the Planning Proposal.
 - 6 In-principle support be given to the proposed the closure of the part of Lilyvale Road within the site, and it's inclusion in a future subdivision, subject to the receipt and consideration of a road closure application, and the continued connection of the future road network with the balance of Lilyvale Road / Lilyvale track.

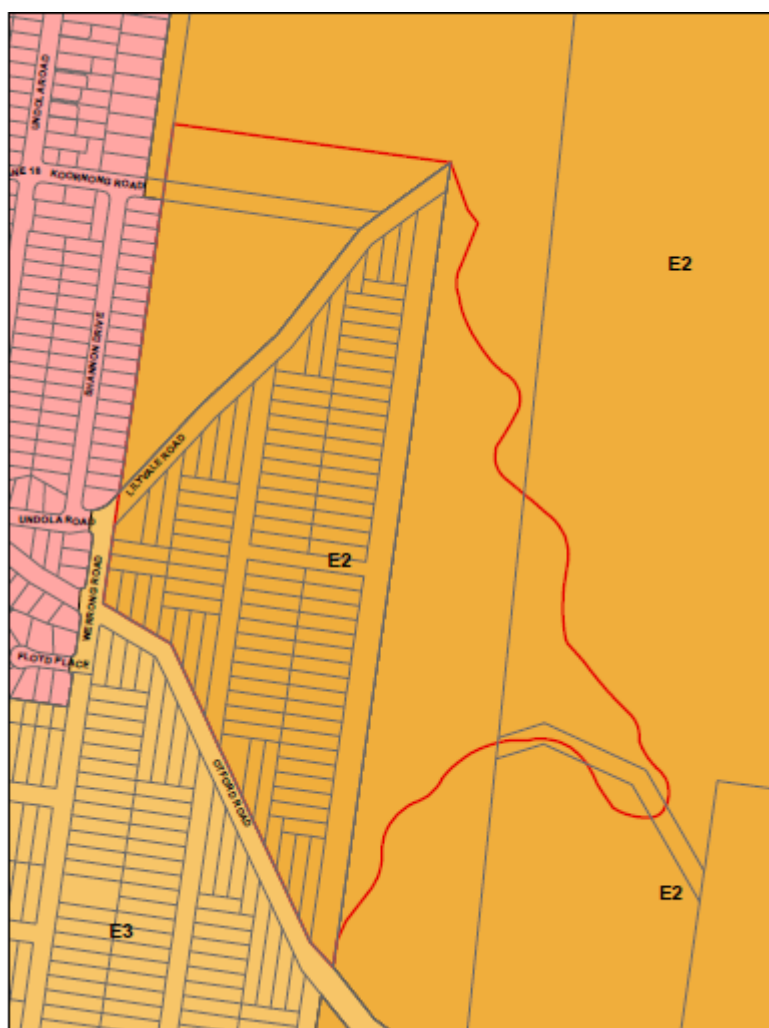


Council also has the option to resolve to vary the standards indicated above in clause 1.

3. Alternate Option – E2 Environmental Conservation

Alternatively, Council could resolve to rezone the site to E2 Environmental Conservation, consistent with its 2011 and 2013 resolutions. A draft resolution would be:

- 1 A draft Planning Proposal be prepared for the Lady Carrington Estate South precinct and surround land located between Otford Road and Lilyvale Road, Helensburgh, proposing the rezoning of the E3 Environment Management land (some 13.7 hectares) to E2 Environmental Conservation with a Minimum Lot Size of 40 hectares
- 2 The draft Planning Proposal be referred to the NSW Department of Planning and Environment for a Gateway determination, and if approved, be exhibited for a minimum period of 60 days.
- 3 The NSW Department of Planning, Industry and Environment be requested to issue authority to the General Manager to exercise plan-making delegations.



If Council resolves not to support the preparation of a draft Planning Proposal as requested, the applicant may request a rezoning review with the NSW Department of Planning, Industry and Environment. As the Department resolved to support the rezoning in 2014, it could decide to become the Relevant Planning Authority, issue the Gateway determination and exhibit the draft Planning Proposal. The decision-making authority would be removed from Council.

The Department could alternatively agree that a draft Planning Proposal should not be prepared.

The applicant could also lodge a new draft Planning Proposal request which would require further assessment.

CONCLUSION

In 2013 a draft Planning Proposal was lodged and not supported by Council, for the rezoning of Lady Carrington Estate South. The applicant subsequently lodged a pre-Gateway appeal to the NSW Department of Planning and Environment. The Southern Joint Regional Planning Panel (JRPP) recommended that further studies be undertaken for the Lady Carrington Estate South precinct to guide the preparation of a Planning Proposal to permit residential development. The Department accepted the recommendations of the JRPP and determined that an amended proposal for the Lady Carrington Estate South precinct should proceed to Gateway determination.

In 2016 and 2018 the applicant lodged the additional studies to support the rezoning and subsequent development of the land into 310 lots. These reports have been assessed.

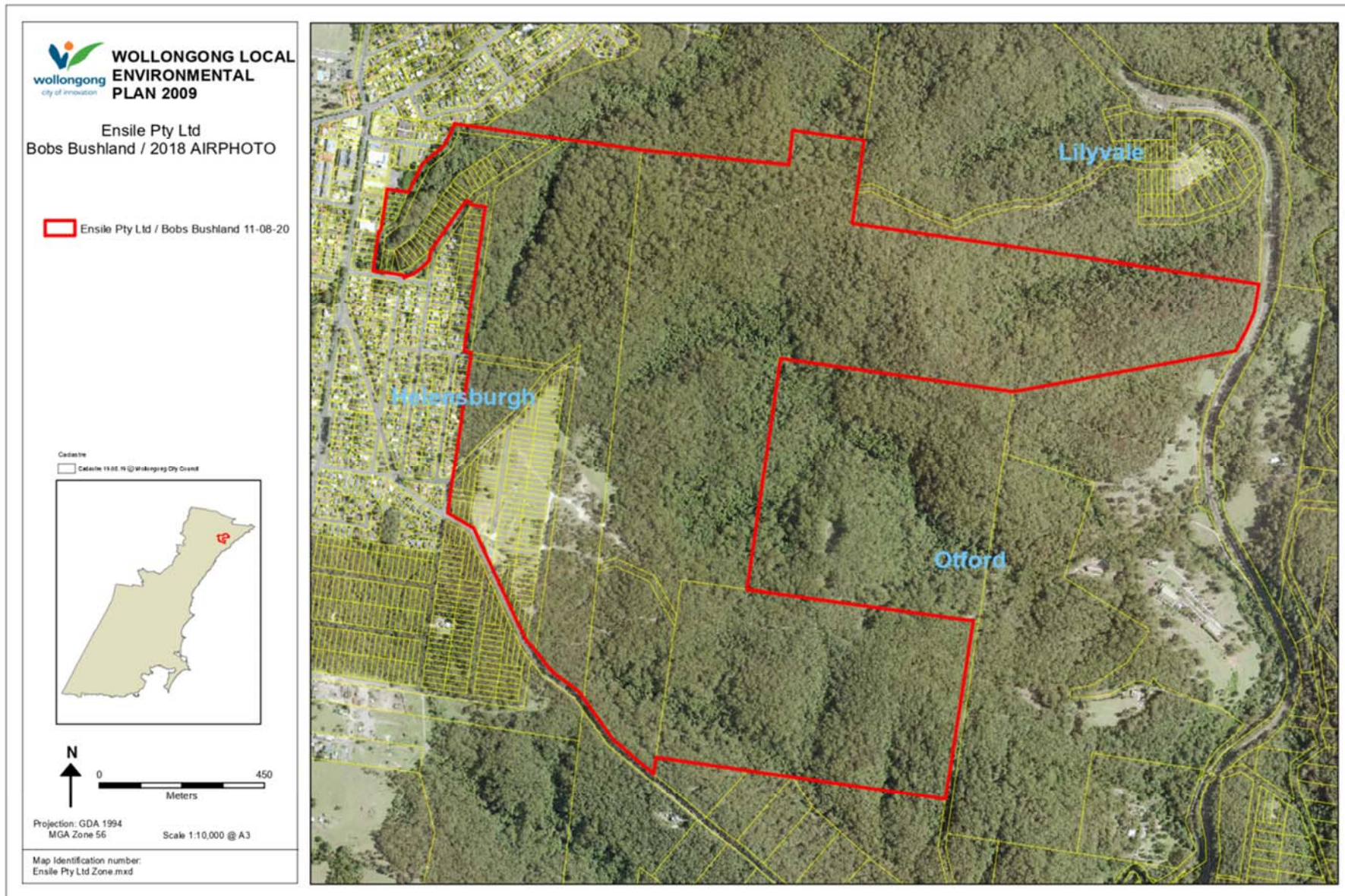
The Wollongong Local Planning Panel has advised that a draft Planning Proposal should be prepared and progressed to exhibition. Following the Panel's review, the proposal was amended to cover a larger area.

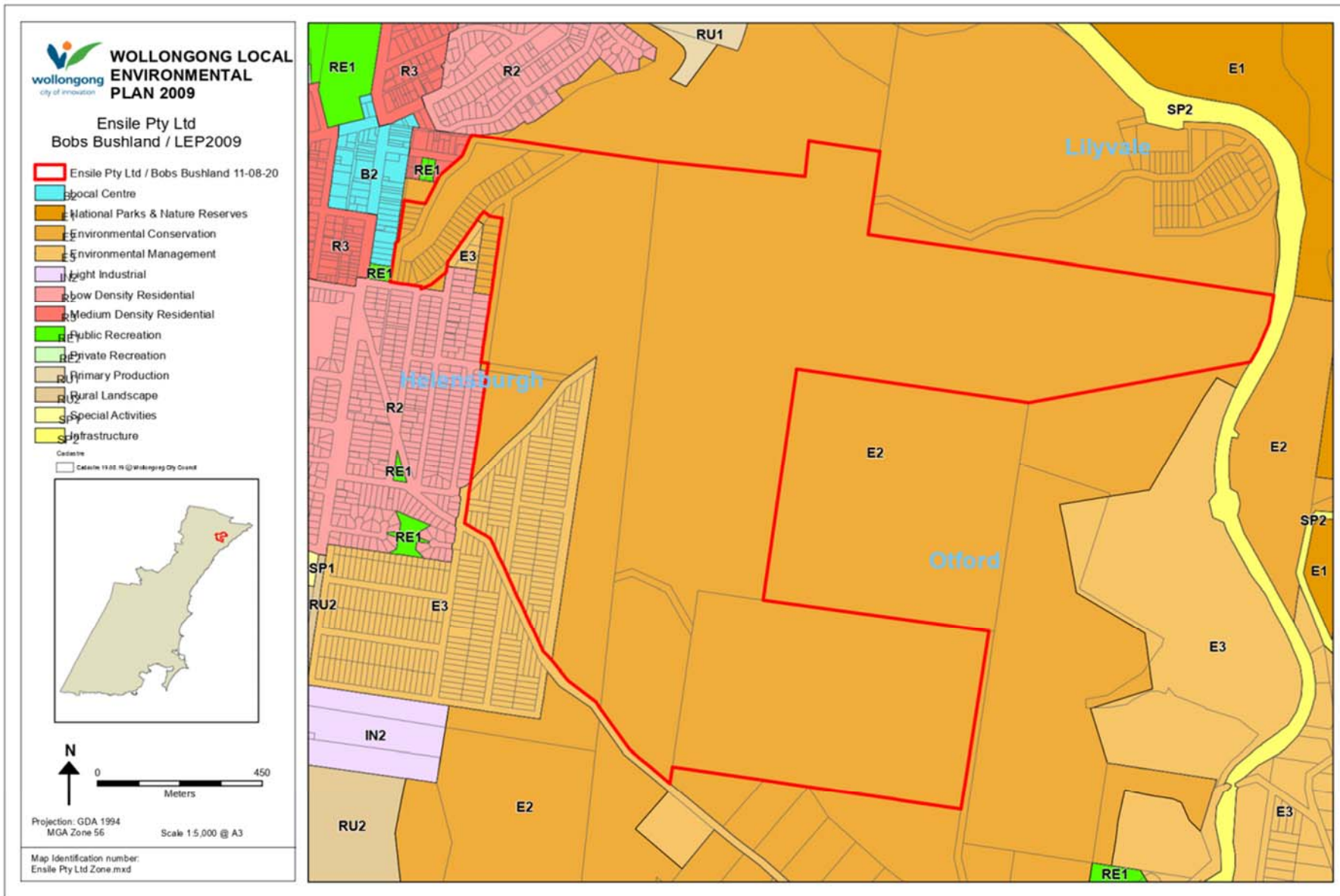
The revised Planning Proposal request was exhibited for preliminary consultation between 12 December 2019 and 31 January 2020. 236 written submissions were received, of which 86% objected to the proposal.

This report assesses the rezoning proposal and recommends that the submitted request not be supported for the following reasons:

1. Helensburgh and the site are not strategically identified in the Illawarra Shoalhaven Regional Plan (2016), previous Council Planning Strategies or Council's recently adopted Wollongong Local Strategic Planning Statement (20202) as an urban release area, or for increased low density housing.
2. Council has consistently considered the site unsuitable for low density residential development since the 1980s.
3. The R2 Low Density Residential zone would support a medium density housing product on the edge of Helensburgh, on the bushland interface, remote from town services and public transport.
4. The R2 Low Density Residential zone would support a medium density housing outcome that would increase hard surfaces runoff into the Hacking River Catchment.
5. The R2 Low Density Residential zone would enable the clearing of vegetation, including some 9.5 ha of native bushland communities.
6. The R2 Low Density Residential zone would enable an increased housing development and population on the bushland interface in a high bush fire prone area. The future ownership and maintenance of the Asset Protection Zone has not been resolved.
7. There is significant community opposition to the Proposal.

This report also considers alternative planning outcomes and a range of options for the future zoning of the site, including the potential for an E4 Environmental Living Zone.

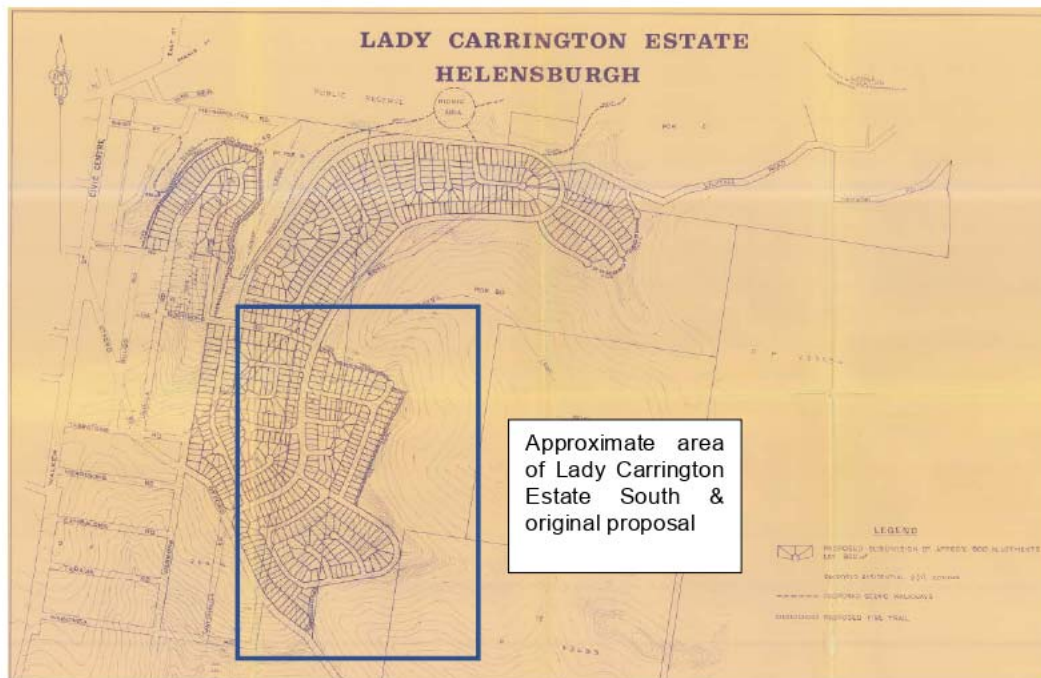




Attachment 3 – Planning and Zoning Site History

- 1891 - the small lots (1000m²) were created as part of the “Lilyvale Township Extension”
- 9 November 1945 - Local Government Act 1919 (Amendment) – Introduction of Part XII - Town and Country Planning (General Interim Development) Ordinance (Ordinance 105) which required development consent to be obtained from Council
- 1951 - County of Cumberland Planning Scheme Ordinance commenced. The land was zoned Rural Area, with a minimum lot size of 0.8 hectares (2 acres) required for a “country dwelling”
- 19 January 1968 - Illawarra Planning Scheme Ordinance gazetted. The land was zoned Non-urban A with a minimum lot size of 2 hectares (5 acres) required for a “country dwelling”
- 30 April 1971 - Minimum lot size for a Country dwelling increased to 20 hectares
- 1979 – Lady Carrington Estate South purchased by Ensile Pty Ltd.
- 15 September 1980 – Council resolved to prepare a Local Environmental Plan for Helensburgh. The supporting study was to evaluate and balance the need for increased environmental protection with the potential for urban expansion of the township. The (then) State Pollution Control Commission (SPCC) prepared a report on water quality issues and the effects on the Hacking River and Royal National Park.
- 2 March 1984 - Wollongong LEP 38 gazetted. Renamed the Non-urban A zone to Rural A with a minimum lot size of 40 hectares for a dwelling house. As the small lots were created before 30 April 1971, a savings provision retained a 10 hectare minimum lot size.
- 1985 – The Department of Planning’s Urban Development Committee resolved to include Helensburgh on the Illawarra Urban Development Program. The State Government requested Council to prepare a Local Environmental Study to investigate the potential for urban expansion in Helensburgh.
- 31 August 1987 – Council resolved to prepare a draft LEP to rezone lands surrounding Helensburgh to 7(h) Environmental Protection – Hacking River zone to identify and protect the conservation values of the Hacking River, including the relatively pristine tributaries, and thereby safeguard the Royal National Park. The draft LEP was exhibited between 23 September and 11 November 1987. The post exhibition report was considered by Council on 18 November 1987.
- 27 May 1988 – Wollongong LEP 126 gazetted, which introduced the 7(h) Environmental Protection – Hacking River zone on lands surrounding Helensburgh and Otford, although did not include the Lady Carrington Estate South site.
- 28 January 1990 - Wollongong LEP 1990 gazetted. Renamed the Rural A zone back to Non-urban A with a minimum lot size of 40 hectares for a dwelling house. As the small lots were created before 30 April 1971, a savings provision retained a 10 hectare minimum lot size. The 7(h) Environmental Protection – Hacking River zone was renamed 7(d) Environmental Protection – Hacking River.
- 27 November 1990 – Council resolved to exhibit the Draft Helensburgh Town Plan prepared by Council. The draft Plan proposed a 7(g) Environmental Protection Living Area zone for the lands draining into the Camp Creek catchment, and deferred a decision on the southern lots and Land Pooling precinct, which drained into the Gilles Creek catchment. The draft Plan was exhibited from 11 July to 31 October 1990 and some 3,500 submissions were received.

- 29 April 1991 – Council considered a report on submissions and resolved to reject the Draft Helensburgh Town Plan, and rezone the subject lands to 7(d) Environmental Protection – Hacking River.
- 20 March 1992 – A rezoning proposal submitted by GHD for Lady Carrington Estate. The rezoning proposal covered a larger area than the Lady Carrington Estate south precinct, extending further north on the eastern side of Helensburgh. Some 800 residential lots were proposed (see image below).



- 21 April 1992 – Council considered a report on the rezoning proposal. The report noted that “the area is environmentally significant and the proposal runs counter to Council’s previous resolutions on urban expansion in Helensburgh”. Council resolved (in part):
 - 1 *That Council defer consideration of this application for rezoning pending receipt of the Section 65 Certificate requested in relation to previous applications for rezoning of land around Helensburgh.*
- 15 June 1992 – Council considered a further report on the proposed rezoning, following the receipt of the Section 65 certificate for the broader rezoning of land around Helensburgh to 7(d) Environmental Protection – Hacking River (the Council resolution from 29 April 1991). Council resolved not to exhibit the rezoning proposal concurrently with the broader rezoning. The draft LEP was exhibited from 22 July to 18 December 1992. Over 7,000 submissions were received, of which 5,346 supported the rezoning.
- 9 November 1992 – Council considered a further request to exhibit the rezoning proposal. Council resolved “*not to exhibit the Lady Carrington Estate proposal concurrently with the extended exhibition period for the Environmental Protection zones around Helensburgh until such time as council has evaluated all submissions received in response to this exhibition.*”
- 13 April 1993 – Council resolved to endorse the Environmental Protection Zoning around Helensburgh to 7(d) Environmental Protection – Hacking River, except for the Gills Creek catchment. Defer consideration of the Gills Creek catchment pending mediation.

- 9 February 1994 – Minister for Planning announced the Helensburgh Commission of Inquiry.
- 1994 Helensburgh Commission of Inquiry. The significant recommendation from the Commission's report was that:

"there be no change in the current Local Environment Plan or current zonings until further studies are undertaken primarily aimed at identifying existing and potential impacts from various land use, then setting of appropriate environmental objectives, followed by identification of a cost-effective strategic catchment management plan to control existing catchment pollution sources and identify land use controls capable of meeting these objectives."

The Inquiry found that the previously disturbed and cleared areas of Gills Creek areas and part of the Lady Carrington Estate South precinct had potential for urban capability, but further studies were required to more accurately define such areas as well as to define the necessary controls, limited (to development), or other requirements.

The report noting that the precinct had gentle to moderate slopes, could be connected to the reticulated sewerage system and large parts had been cleared.

- 31 March 1995 Wollongong LEP 1990 (Amendment No.63) gazetted which rezoned the Lady Carrington Estate South site to 7(d) Hacking River - Environmental Protection and retained the minimum lot size of 40 hectares for a dwelling house. As the small lots were created before 30 April 1971, a savings provision retained a 10 hectare minimum lot size.
- 7 March 2005 – Council considered a report concerning a proposal on behalf of Lakatoi Pty Ltd for the development of various sites within Helensburgh, including 9 lots (8,400m²) within the Lady Carrington Estate South precinct. Council resolved (in part) that:

1 Advise Lakatoi Pty Ltd that it will not give priority to planning for only a partial area within the Helensburgh district and that the proposal submitted on behalf of Ensile Pty Ltd will be considered as an integral part of a Strategic Plan for the Helensburgh district as a whole.

- 3 October 2006 Council endorsed the Helensburgh Land Capacity Report to inform the preparation of the draft Wollongong LEP 2009. The report considered the capacity of the existing residential lands within Helensburgh for additional development. The report noted that there was limited vacant land available for subdivision (78 dwellings). The report noted that there was limited opportunity for dual occupancy and town house development, due to the restrictive controls that precluded these forms of development (88 dwellings). The report recommended the restriction, which had been introduced prior to Helensburgh being connected to the sewerage system. Council considered the recommendations as part of the preparation of the draft Wollongong LEP 2009.
- 24 June 2008 Council report on the draft Wollongong LEP 2009. Council resolved to exhibit the draft LEP. The draft LEP proposed that as an interim measure the 7(d) lands be zoned E2 Environmental Conservation, pending the completion of the review and the preparation of an amending draft Local Environment Plan. A minimum lot size of 40 hectares was proposed to be retained.
- 10 December 2008 – 30 March 2009 – Exhibition of draft Wollongong LEP 2009. Council received over 1,400 submissions, of which 221 commented on Helensburgh issues. A submission on behalf of the landowner requested that this area and other precincts in Helensburgh be considered for urban expansion.

28 July 2009 – Council considered a report on the submissions received on the draft Wollongong LEP 2009 concerning the Helensburgh area. The report also presented

the draft Review of land zoned 7(d) at Helensburgh, Otford and Stanwell Park prepared by Willana Planning Consultants. In terms of the Lady Carrington Estate South precinct, the draft review recommended that the 101 paper subdivision lots, north of Otford Road, be zoned R2 Low Density Residential, including the northern triangular part of Lot 1 DP 616228 adjacent to the Shannon Drive properties. A surrounding asset protection area was proposed to be zoned RE2 Private Recreation (as shown below).



Council resolved (in part) that:

- 1 *The draft Wollongong Local Environmental Plan 2009 be amended by rezoning the 7(d) Hacking River lands from E2 Environmental Conservation to E3 Environmental Management, to better reflect the existing planning controls.*
 - 2 *The "draft Review of land zoned 7(d) at Helensburgh, Otford and Stanwell Park" be exhibited for 2 months to enable public review and input.*
- 10 August to 30 November 2009 – Exhibition of draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops (Willana Review). As a result of the exhibition, 3,447 submissions were received; the majority were form letters opposed to any rezoning and development.
 - 26 February 2010 - Wollongong LEP 2009 notified. Land zoned E3 Environmental Management with a minimum lot size of 40 hectares required for a dwelling house. As the small lots were created before 30 April 1971, a savings provision retained a 10 hectare minimum lot size. The saving provision lapsed on 31 December 2012.
 - 25 May 2010 – Council considered a report on the exhibition of draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops (Willana Review). Of the 3,447 submissions received, some 3038 form letters opposed any rezoning in the Lady Carrington South Precinct.

A submission on behalf of Ensile Pty Ltd proposes that the residential boundary be extended eastwards of the current paper subdivision to beyond the edge of the ridge and a community recreation area be provided around the subdivision. The concept proposes a subdivision of the precinct into two hundred and sixty two (262) lots.



Council resolved that the Lady Carrington Estate South precinct retain an E3 Environmental Management zone. Council resolved (in part) that:

- 1 *The Preliminary Report on submissions to the draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops be made available for land owner and community feedback for a period of six (6) weeks, via Council's website.*
 - 2 *A final report be prepared for Council's consideration, including recommendations for the preparation of a draft planning proposal to amend aspects of the Wollongong Local Environmental Plan 2009.*
- 2 June 2010 to 16 August 2010. Exhibition of The Preliminary Report on submissions to the draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops. As a result of the exhibition, 19,395 submissions were received; the majority were computer generated form letters opposed to any rezoning and development.

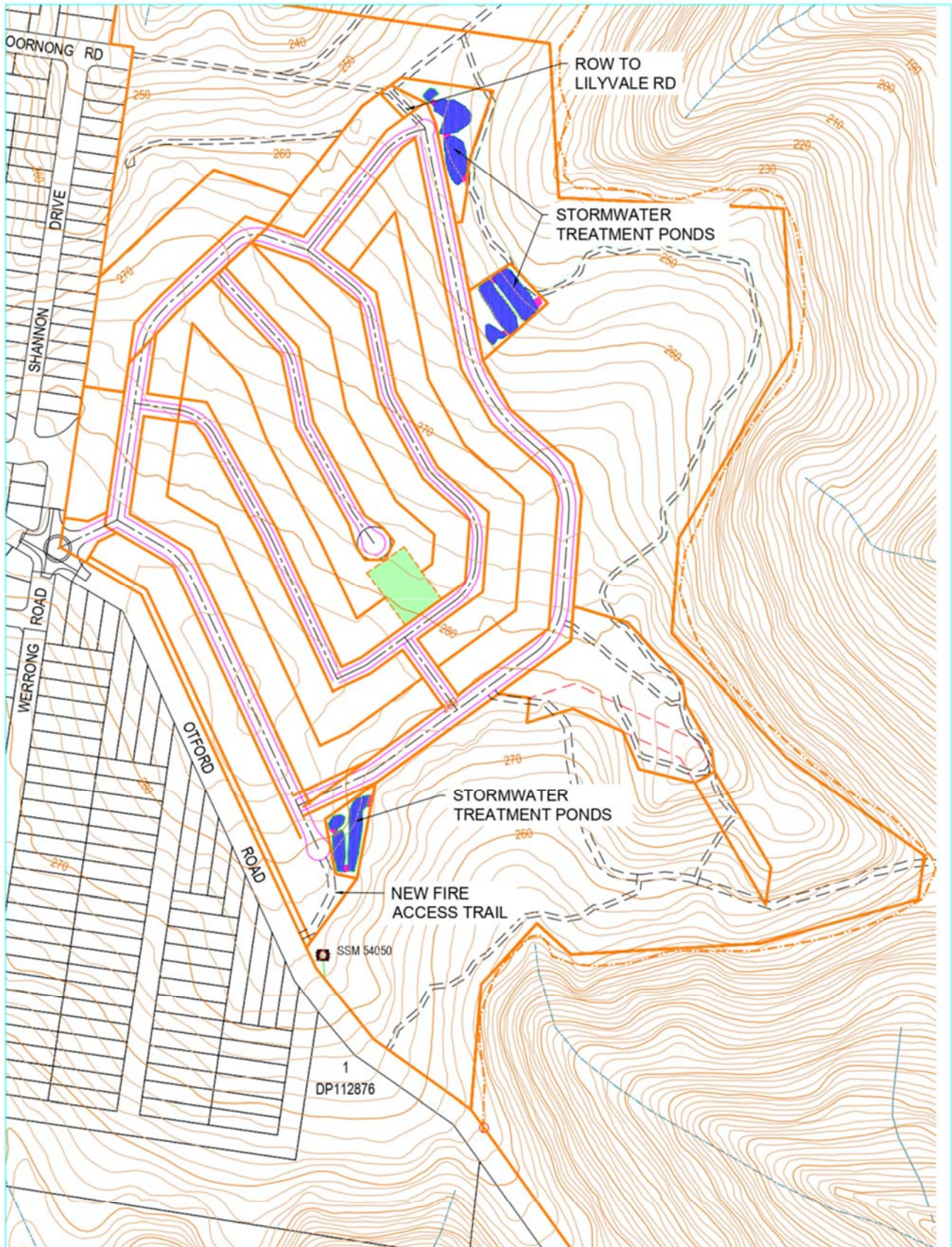
Some 2785 submissions commented on this precinct. Three (3) submissions supported the retention of the E3 Environmental Management zone. Three (3) submissions opposed the E3 Environmental Management zone and supported the rezoning of the precinct to a residential zone to permit urban development. This includes the submission on behalf of Ensile Pty Ltd which proposed the development of the land in exchange for the transfer of the conservation areas to public ownership. 2779 submissions opposed the E3 Environmental Management zone and supported the rezoning of the precinct to E2 Environmental Conservation.
 - 5 July 2011 – Council considered the Final Report on Submissions to the review of 7(d) lands at Helensburgh, Otford and Stanwell Tops. In terms of the Lady Carrington Estate South precinct, Council resolved (in part) that:
 - 5 *The draft Planning Agreement submitted on behalf of Ensile Pty Ltd which proposes the dedication of 321 hectares to Council / National Parks and Wildlife Service, in exchange for urban development within the Land Pooling and Lady Carrington Estate Precincts, and which also proposes an exit strategy for third party land owners in the Lloyd Place, Central Bushland and Lilyvale precincts,*

be exhibited for community comment. The exhibition include information and seek community feedback on the options for the future management of the precincts, including no change, purchase, or transfer.

- 6 *Following the community consultation, a further report be submitted to Council on whether the Planning Agreement should be progressed, the preparation of a draft Planning Proposal, and what studies would be necessary to support the rezoning of the precincts.*

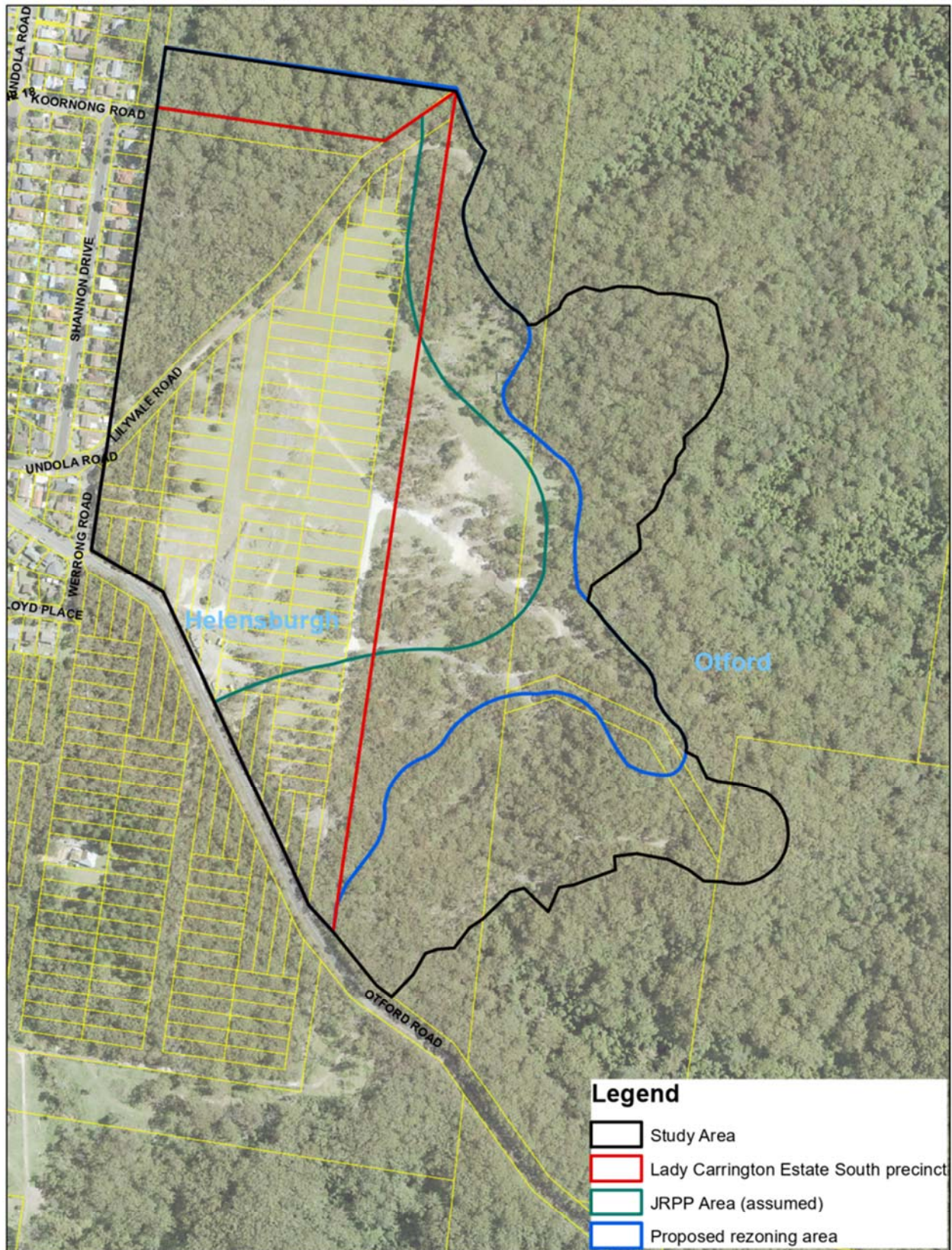
The NSW Department of Planning and Infrastructure subsequently issued a Gateway determination to enable the exhibition of the draft Planning Proposal.

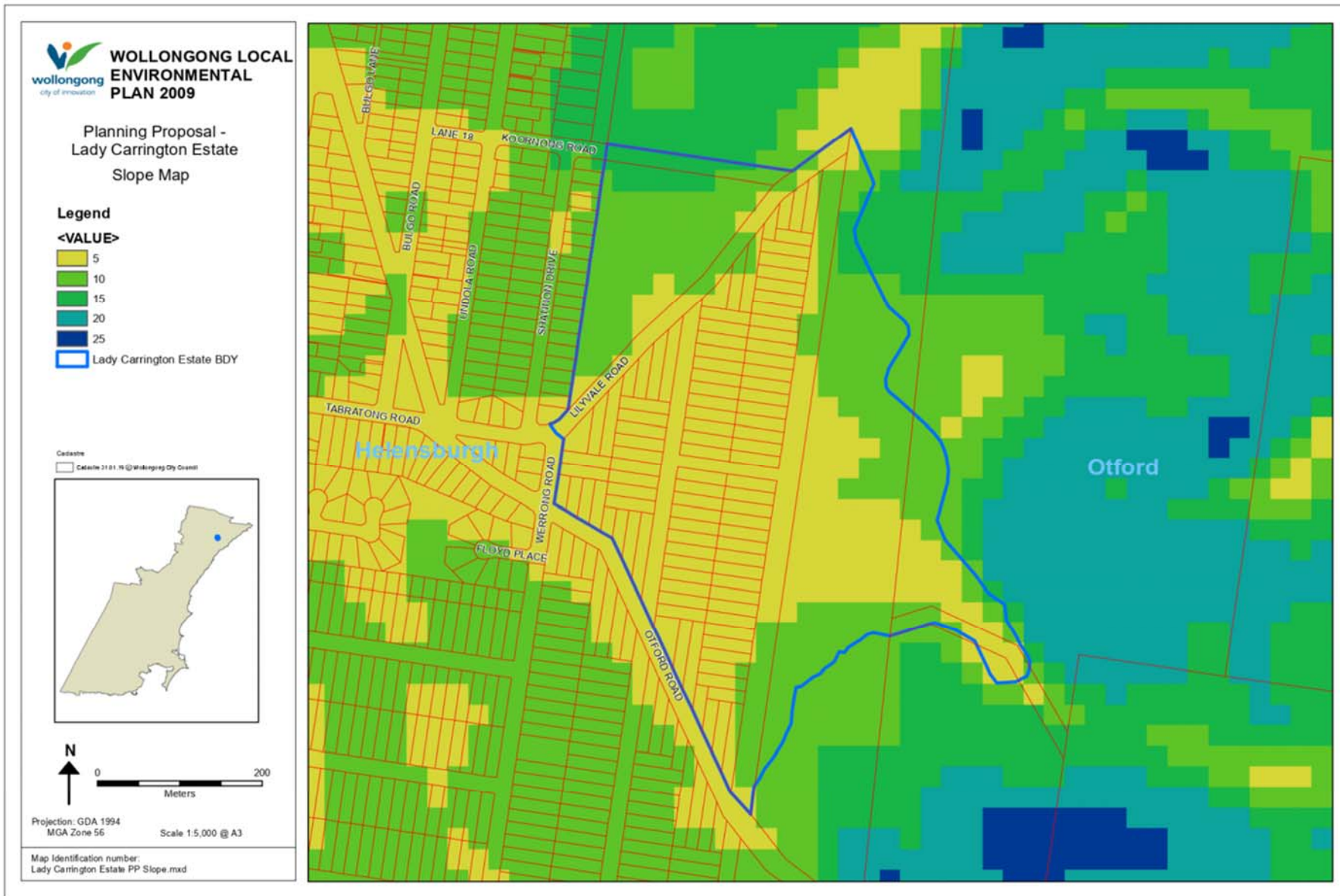
- September 2011 - Council election. Council reviewed the recommendations of the previous Council on the draft Planning Proposal and draft Planning Agreement, and held a public information session on 21 November 2011.
- 28 November 2011 - Council considered 12 reports on the former 7(d) lands and endorsed a draft Planning Proposal for exhibition. Council resolved (in part) that:
 - 1 *A new draft planning proposal be prepared to rezone the ... Lady Carrington Estate South to E2 Environmental Conservation.*
 - 2 *The draft Planning Proposal be forwarded to the NSW Department of Planning and Infrastructure for Gateway determination, and if approved be exhibited for a minimum period of twenty-eight (28) days.*
- 6 August to 26 October 2012 - exhibition of draft Planning Proposal. Council received over 58,000 submissions, the majority of which were form emails generated by various websites of community groups. Some 403 submissions commented on the Lady Carrington South Precinct, apart from the submission on behalf of the land owner, all other submission supported the proposed E2 Environmental Conservation zone. The submission on behalf of the owner objected to all land being zoned E2 Environmental Conservation and requesting residential development. The submission requested deferral of the precincts until Council has done a proper study to identify appropriate zonings.

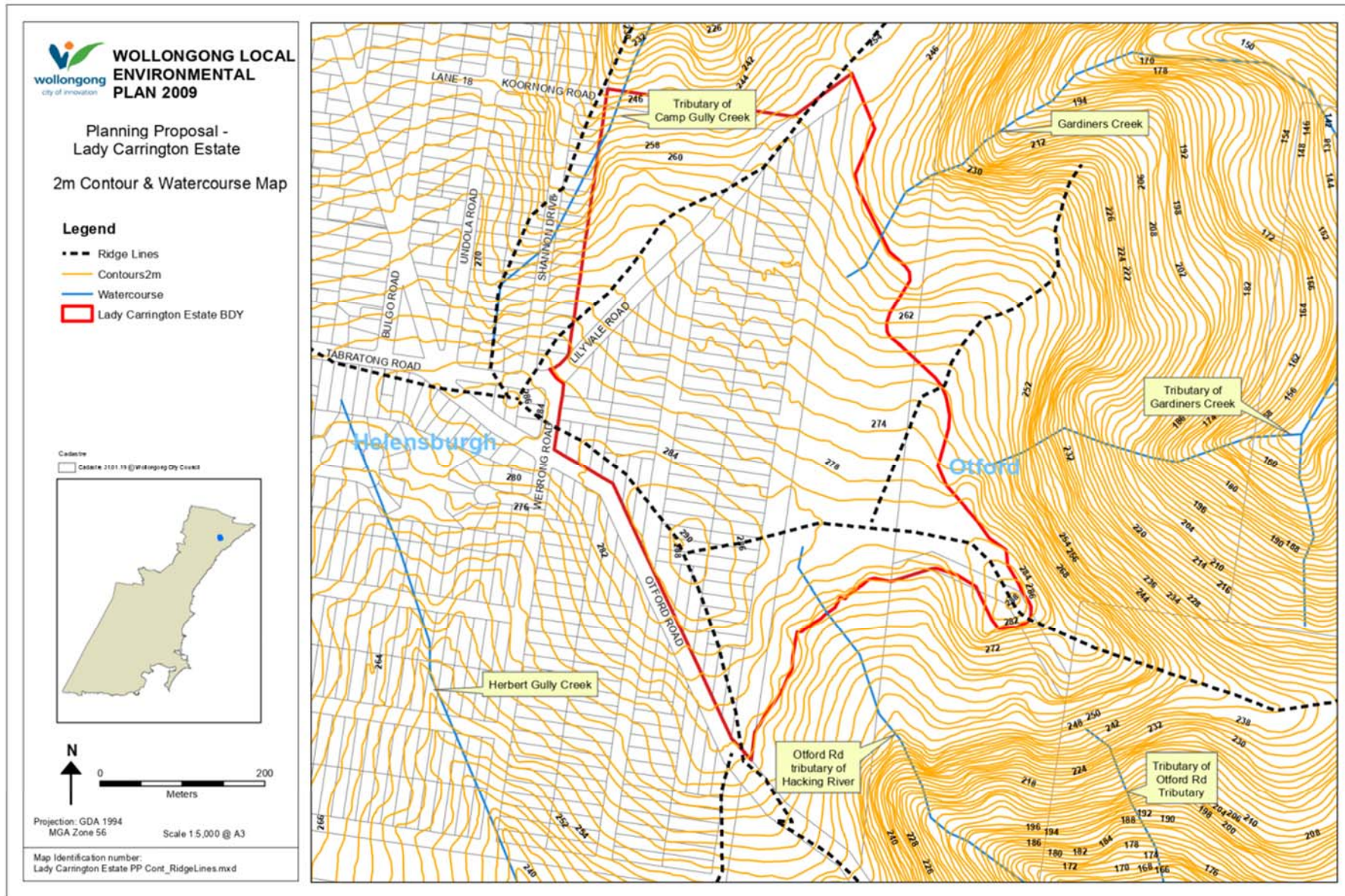


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REVISIONS:	DATE:	CLIENT:	Ensile Pty Ltd Bob's Bushland Pty Ltd	INITIAL:	 G Herman & Associates Consulting Civil & Structural Engineers ABN 78 598 749 837 14 Hornby Avenue, Sutherland NSW 2232 Tel:02 9545 2251 Mob:0447 004 778	PROJECT:	Proposed Rezoning / Subdivision Ensile Site, Otford Road, Helensburg					
		PREPARED BY:	Geoff Herman (B.E., O.Dip. Eng., MEM. CPEng)			DWG TITLE:	SUBDIVISION CONCEPT PLAN FUTURE R2 & E4 LANDS (LOTS 1 & 2)					
		APPROVALS:				DWG SIZE:	DWG SCALE:	PROJECT No.	DRAWN BY:	DATE:	DRAWING No.	REVISION
						A3	1:3000	19104	GH	27/09/19	19104 - LP1 (V2)	V2

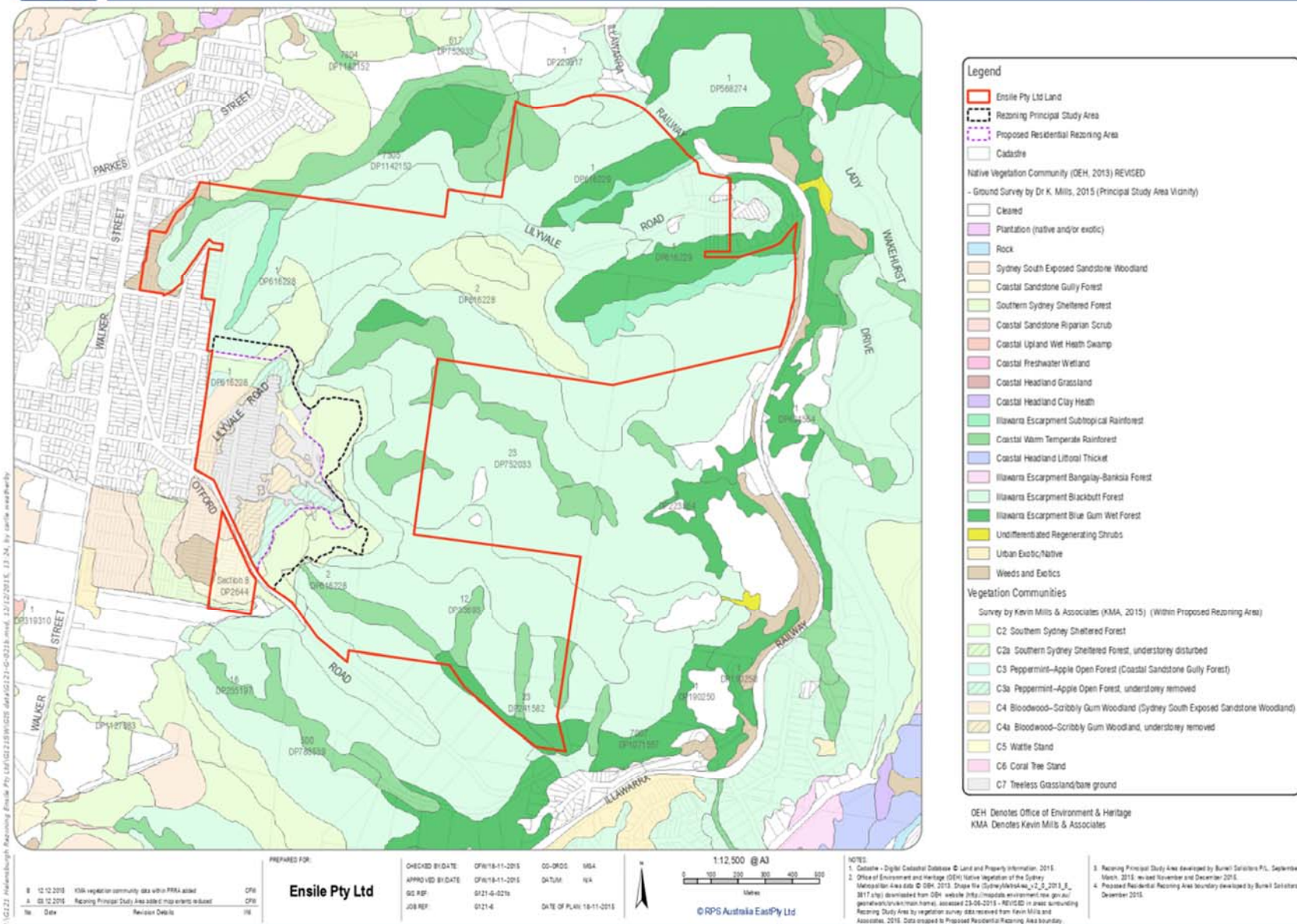






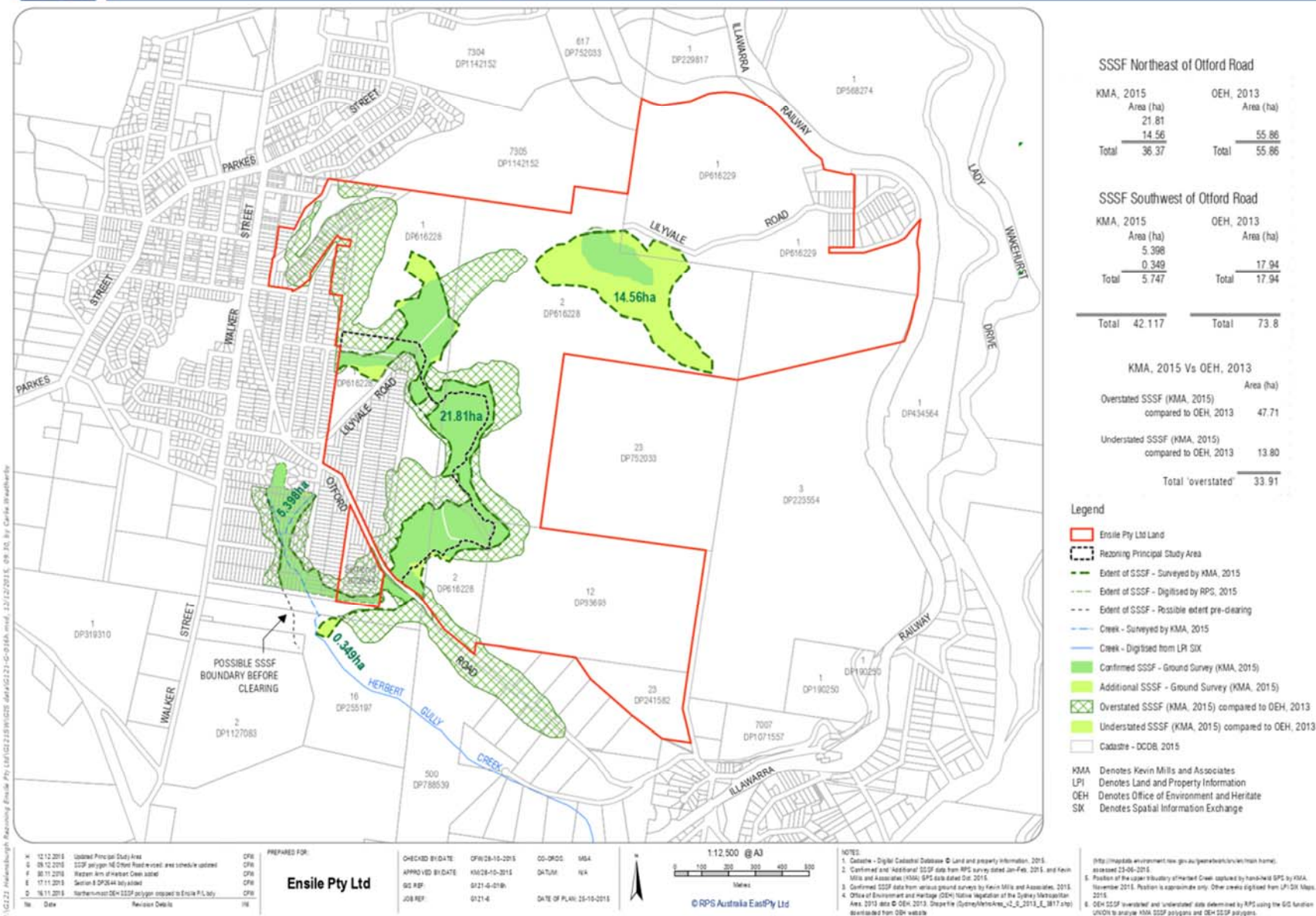
RPS

Native Vegetation Communities in Vicinity of Principal Study Area - Office of Environment & Heritage (OEH), 2013 ADJUSTED - Ground Survey by Dr K. Mills, 2015

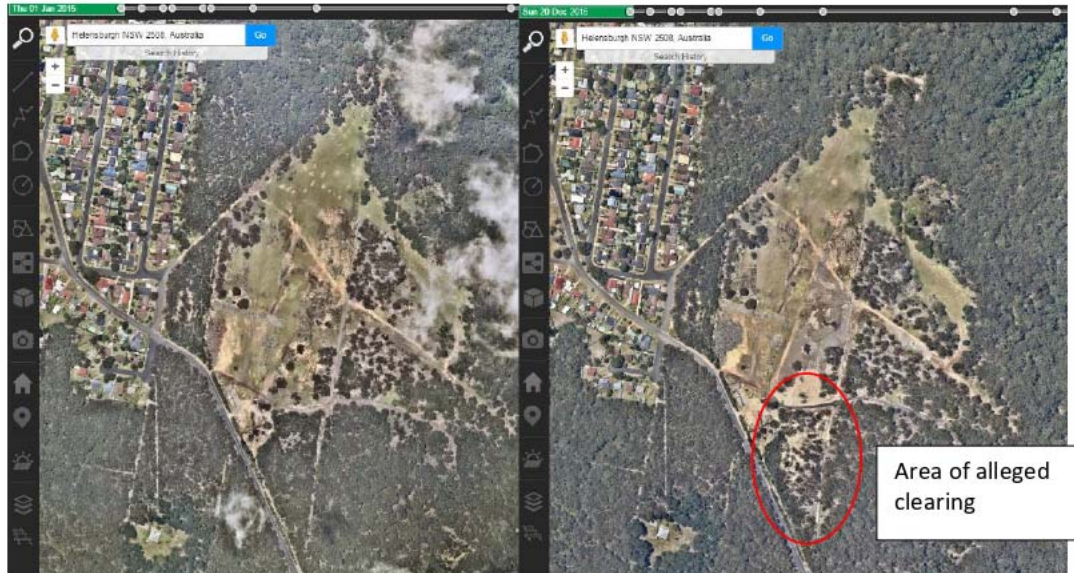


RPS

Southern Sydney Sheltered Forest - Ground Survey by Dr K. Mills, 2015



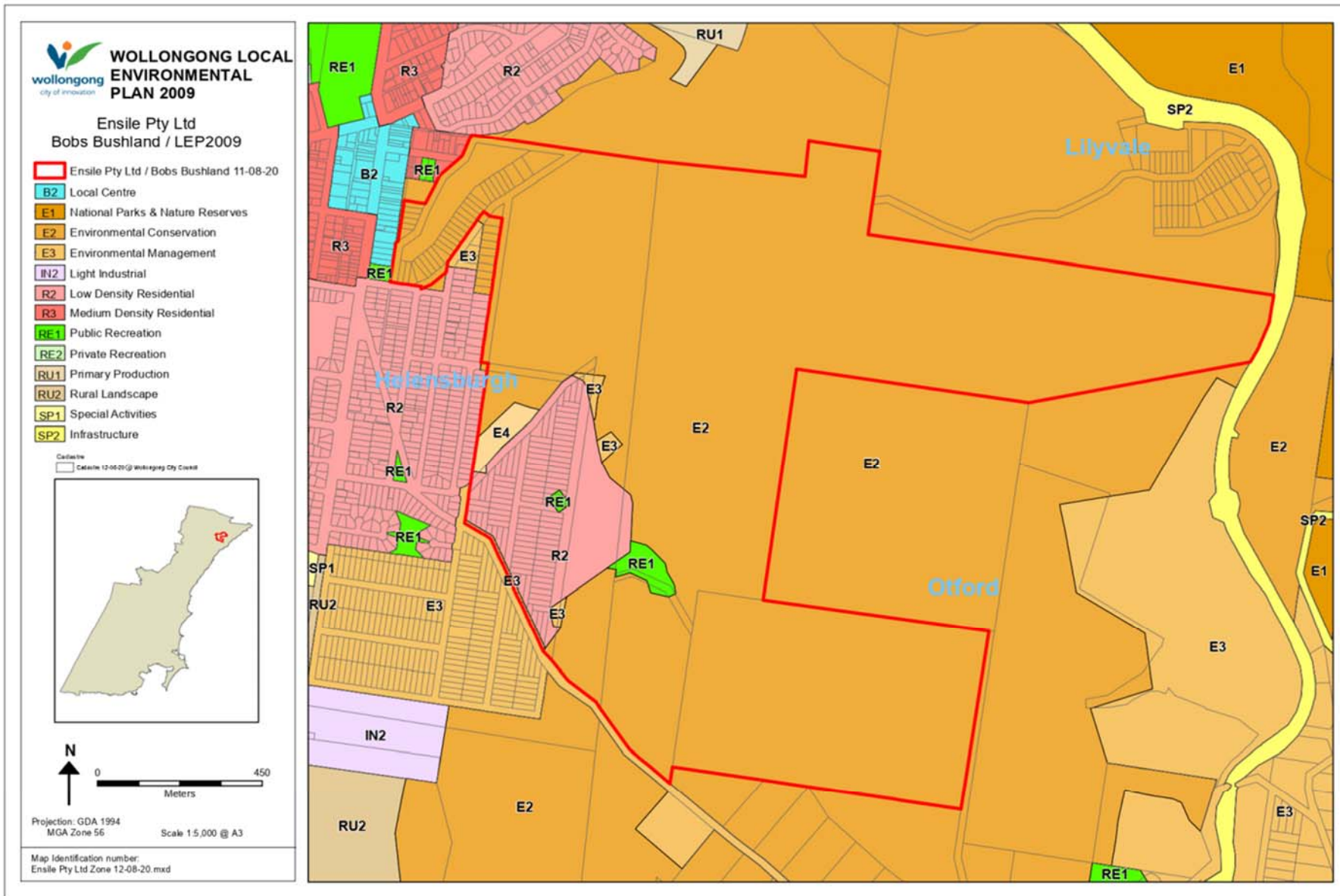
Attachment 10 – Land Clearing southern precinct
January & December 2015 air photos (images provided by OEH)

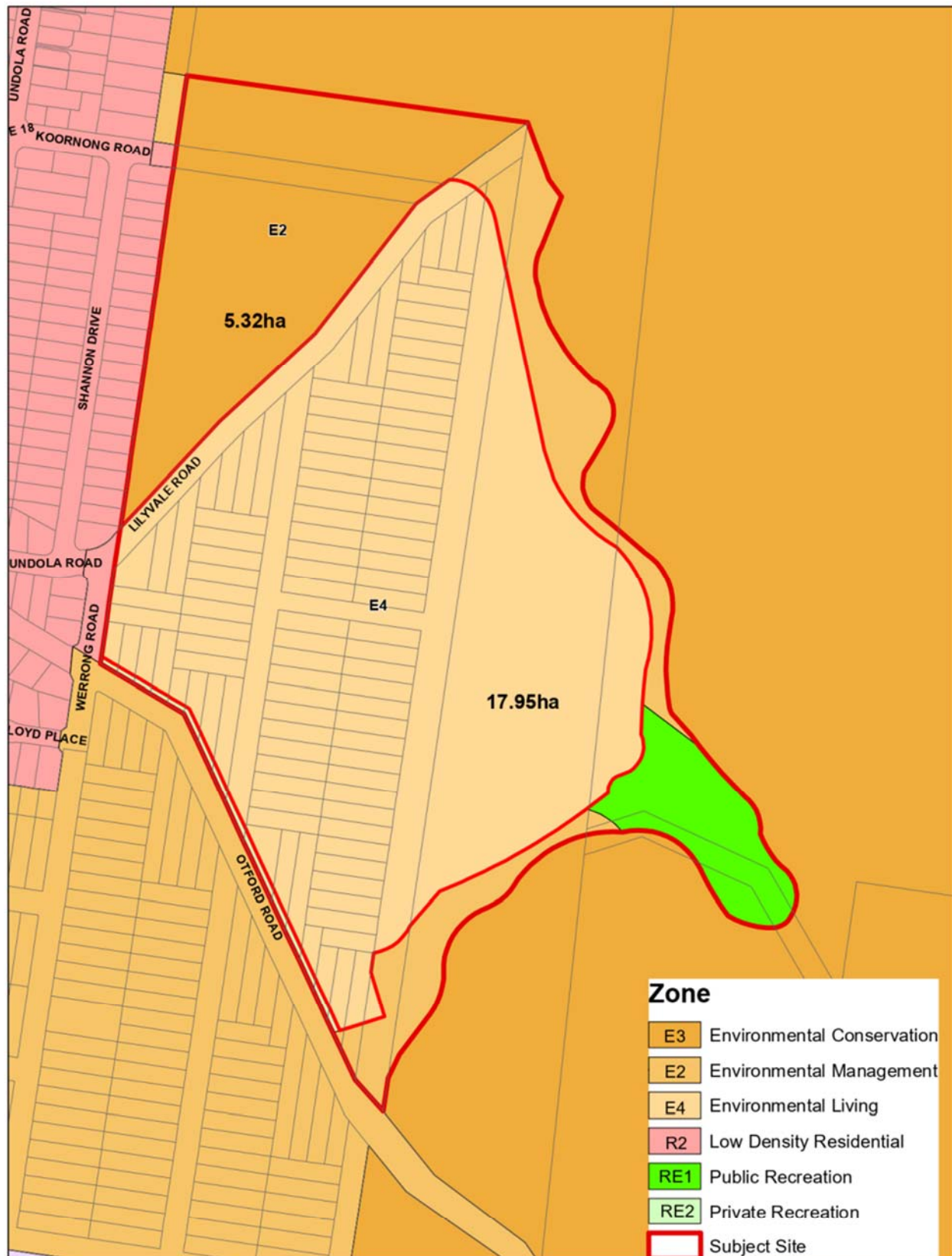


Imagery source – Nearmap - <http://maps.au.nearmap.com/>

2012 and 2018 Air photos – southern area (source Council's Intramaps)







Attachment 13 – State Agency comments (2016)

Agency	Agency Comment	Council Comment
Office of Environment and Heritage (OEH)	<ul style="list-style-type: none"> • OEH conditionally object to the Planning Proposal • Submission draws upon the recommendations of the Joint Regional Panel (JRPP) review of the pre-gateway application. • Existing cleared land and intervening land may be suitable of development. • There is no urban potential recognised for the adjacent Central Bushland precinct that was unsupported by the JRPP. • The proposed rezoning area exceeds the area referenced for investigation by the JRPP and displays similarities to the pre-gateway footprint that was not supported by the JRPP • A joint meeting between OEH, the Department of Planning and Environment and Council is requested to discuss the intent of the JRPP's recommendations. Or, clarity is sought from the JRPP in writing, which includes mapping to define the intent of its recommendations. • The proposed R2 – Low Density Residential exceeds the pre-gateway submission to the JRPP by 3.1 ha and was rejected by the JRPP. • The potential impacts to 2.7 ha of Threatened Ecological Community Southern Sydney Sheltered Forest which is proposed to be removed have not been addressed sufficiently. • Probable land clearing has taken place in the southeast of the study area. Council has been notified of this and it is under investigation. • The submitted biodiversity offset assessment does not comply with the BioBanking Assessment Methodology (BBAM), or the JRPP recommendations. The submitted assessment assumes 12.1 ha of vegetation will be lost however the intervening land only accounts for approximately 3.5 ha. • Offset siting does not demonstrate how it meets the credit requirement using the BBAM. • The assessment needs to better consider BioBanking 'red flags' (Section 8.8 of BBAM). • Proposed clearing and development may result in downstream water quality issues for the Hacking River. • Council has the ability to initially assess whether 	<ul style="list-style-type: none"> • Objection noted <p>Study area boundary clarified by DPIE and discussed in report</p> <p>See Attachment</p>

Agency	Agency Comment	Council Comment
	<p>the proposal achieves compliance with water quality standards detailed in the Illawarra Regional Strategy.</p> <ul style="list-style-type: none"> • Four proposed water treatment areas proposed by the Rezone Base Plan conflicts the JRPP recommendations that all water treatment areas are to be contained within existing cleared land. • Bushfire Studies and NSW RFS advice on proposed Asset Protection Zones are required to confirm Planning for Bushfire requirements are met. • Helensburgh is not identified within the Illawarra Regional Strategy or Urban Development Program as an urban release area and therefore the proposal does not demonstrate a strategic need. • 12.1 ha of land proposed to be cleared are mapped within the Wollongong Local Environmental Plan 2009 as Natural Resource Biodiversity and therefore the proposal is inconsistent with the WLEP 2009. • An Aboriginal Heritage Management Plan is required to record and formalise Aboriginal heritage sites and potential archaeological sites. Additionally, further information is required about the potential disturbances to these sites. • If the Planning Proposal is to proceed, a submission is to be made addressing all outstanding information. • It is recommended agreed footprints of impacts should be determined prior to revisiting studies or offset calculations. • The threatened flora surveys do not adequately fulfil the BBAM or DECC Threatened Biodiversity Survey Guidelines. • The proposal incorrectly identifies itself as being located outside of the Illawarra Biodiversity Strategy Corridor of Council's clause 7.2 Natural Areas Sensitivity Mapping. • The fauna survey is considered to have been undertaken adequately. • The BioBanking Credit calculator and supporting GIS shape files are required to enable a thorough assessment of credit offsets. • Suitable BioBanking offset sites are required to be identified. Additionally, the security of these sites is required under the BBAM. 	

Agency	Agency Comment	Council Comment
	<ul style="list-style-type: none"> • Assessment is to utilise the BBAM correctly to generate credit requirements. This includes the finding of an Eastern Pygmy Possum habitat in accordance with Section 6.5 of the BBAM. • The Aboriginal Cultural Heritage Assessment Report, the Archaeological Assessment and the Anthropological reports are inadequate. • Archaeological sites are inadequately recorded and are to include survey of site contents, context and/or photographs. • Locations and bounds of certain sites are inadequately illustrated and described this results in the inability to determine potential impacts. • There are discrepancies between site cards and information presented on maps generated by AHIMS. This applies to the site described at the western extent of Gardiners Creek. • An Aboriginal Heritage Management Plan must document how certain identified sites will be protected. • Measures to prevent harm to Aboriginal objects whilst revegetation and proposed park facility works are being undertaken are required. • Grid references to shell materials need to be corrected and included in the Archaeological Technical Report. • The ceremonial area west of Helensburgh ovals should be recorded and listed on AHIMS in consultation with knowledge holders identified by SDDECS (2016). • Support is given to the closing of the fire trail to non-emergency vehicles. Further consideration should be given to s87A of the <i>National Parks and Wildlife Act 1974</i>. • The proponent is to amend the description of the area indicated by Figure 5.9 of the archaeology report to accurately reflect the landscape on site. • Recommendation 3 of the SDDECS (2016) report is to be updated to correct procedures if Aboriginal objects are identified during construction. • Anthropological report by SDDECS (2016) should be incorporated into the development design. • An Aboriginal Heritage Management Plan should be developed to control works within the proposed open space and bushland revegetation 	<p>Revised study prepared and submitted</p>

Agency	Agency Comment	Council Comment
	areas at recorded and potential site locations.	
New South Wales Rural Fire Service (NSWRFS)	<ul style="list-style-type: none"> No objection to the proposal In accordance with Planning for Bush Fire Protection 2006 (PBP 2006) the current conceptual through roads between Otford Road and Werrong Road and north at Koornong road are critical in providing alternative access and evacuation routes. Removal of vegetation identified as 'intervening bushland' and areas identified as Public Open Space (footway) are considered pertinent in maintaining Asset Protection Zones. Without these items the planning proposal cannot be supported. It is recommended the paper subdivisions be consolidated prior to rezoning and the issuing of dwelling entitlements. This is to limit dwelling entitlements existing within the Flame Zone. Ensure the concept plan incorporates perimeter roads designed in accordance with 4.1.3 of PBP 2006. 	<ul style="list-style-type: none"> Noted <p>Intervening bushland no longer proposed to be cleared which will maintain existing bush fire risk</p> <p>Consolidation of existing lots included in recommendation</p>
NSW Environment Protection Authority	<ul style="list-style-type: none"> The site has a history of legacy waste issues which is the result of asbestos contaminated landfill and other unknown possible contaminants. The EPA has previously advised the Joint Regional Panel in a letter dated 5 May 2014 of potential contamination risks. The Proponent is unable to sufficiently justify why a site auditor statement is not required as part of the Planning Proposal. As the land is being offered to others parties it is required potential contamination issues and options and cost for management be evaluated and disclosed. Under State Environment Planning Policy 55 (SEPP 55) when preparing an environmental planning policy, land contamination possibilities, suitable land uses and if remediation works are required must be considered. The planning authority must be satisfied that the land is suitable for the intended change of use or determine if remediation works are required in accordance with SEPP 55. Due to rezoning for residential uses the EPA recommends Council involve an EPA-accredited 	<ul style="list-style-type: none"> Additional information requested and submitted in 2019 <p>Noted</p> <p>EPA-accredited Site Auditor engaged by applicant and audit undertaken and</p>

Agency	Agency Comment	Council Comment
	<p>Site Auditor during the contamination assessment and management process. This should include the audit of Remediation Action Plan (RAP) and the provision of a Site Audit Statement certifying the land can be made suitable for the proposed uses if this RAP is implements.</p> <ul style="list-style-type: none"> • The EPA intends to provide further comments regarding water quality matters. 	<p>submitted in 2018</p>
<p>Endeavour Energy</p>	<ul style="list-style-type: none"> • No objection to the Planning Proposal subject to conditions. • Electricity easements currently traverse the site of the proposal. • No detailed load study has been conducted. However due to the size of the proposal, high voltage electricity will be provided by Endeavour Energy's Substation located at Cemetery Road, Helensburgh. Additionally, further development may require augmentation or extensions of the network in order to connect the load, this infrastructure may require considerable lead in times. • In due course the applicant will be required to submit an application for the connection of load for the future proposed development of the site via Endeavour Energy's Network Connections Branch. • Safety Clearances must comply with the minimum safe distances / clearances for voltages up to and including 132,000 volts (132kV) as specified in AS/NZS 7000:2010 'Overhead line design - Detailed procedures' and the 'Service and Installation Rules of NSW'. • Earthing of structures must comply with AS/NZS 3000:2007 • Noise must be considered where development is proposed. • Electric and Magnetic Fields (EMF) must be considered where development is proposed. • Vegetation management must consider Endeavour Energy's Vegetation Management program and/or the provisions of the <u>Electricity Supply Act 1995</u> (NSW) Section 48 'Interference with electricity works by trees'. • Public safety advice involving working near electricity infrastructure is available from Endeavour Energy's website. 	<ul style="list-style-type: none"> • Noted

Agency	Agency Comment	Council Comment
Roads and Maritime Services (RMS)	<ul style="list-style-type: none"> • The planning proposal is to consider potential impacts upon the existing road network including the intersections of Walker Street and Lawrence Hargrave Drive. • A traffic impact study is required to identify any infrastructure upgrades required and is to identify pedestrian, cyclist and public infrastructure. • Council is to consider relevant contributions that may be required for infrastructure upgrades (Section 94 Contribution Plan or a Voluntary Planning Agreement). • The LEP should consider the aims and objectives of the State Government policies to increase sustainable transport modes and reduce car dependency • Suggest Council consider the NSW Government – Premiers Council for Active Living, which advises on key urban guidelines, when drafting a new LEP or major rezoning. 	<ul style="list-style-type: none"> • Additional information requested and submitted in 2019
Sydney Water	<ul style="list-style-type: none"> • Current drinking water main has sufficient capacity to serve the proposed yield - drinking water main extensions will be required. • Current wastewater system has sufficient capacity to serve the proposed yield - connection upgrades may be required. • Wastewater main extensions would be required to service the proposed lots. • Detailed requirements will be provided at the Section 73 application stage 	<ul style="list-style-type: none"> • Noted