

ITEM 13**REVIEW OF 7(D) LANDS - LAND POOLING, LADY CARRINGTON ESTATE SOUTH PRECINCTS**

Council at its meeting on 28 November 2011, resolved to prepare a draft Planning Proposal for a number of precincts formerly zoned 7(d) Hacking River Environmental Protection at Helensburgh, Otford and Stanwell Tops. The draft Planning Proposal has been exhibited. This report is one of a series of reports addressing the submissions received during the exhibition and addresses the Land Pooling and Lady Carrington Estate South precincts. These precincts are the most controversial in the review of the 7(d) lands.

It is recommended that the proposed rezoning for the majority of the land pooling precinct proceed and that part of the rezoning for the Lady Carrington Estate South precinct proceed.

On 21 June 2013, a new rezoning submission for these precincts and other land was lodged by Smyth Planning. It is recommended that the proposal not be supported.

Recommendation

- 1 The majority of the Planning Proposal for the Land Pooling 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, except for Lots 12-13 Section 5 DP 2644 which contain the dwelling house, Lots 1-2 Section 4 DP 2644 which contain the bus depot and Lot 42 Section 4 DP 2644 which contains the landscaping business, which are to retain a E3 Environmental Management zone.
- 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 partially progressed to finalisation, by rezoning of the bushland parts to the E2 Environmental Conservation zone, and retaining the E3 Environmental Management zone on the cleared lands.
- 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.

Attachments

There are no attachments for this report.

Report Authorisations

Report of: David Green, Land Use Planning Manager
Authorised by: Andrew Carfield, Director Planning and Environment – Future, City and Neighbourhoods

Background

The separate report Review of 7(d) lands Background Summary Report, provides the history of the 7(d) lands, the background of the review, and the community consultation undertaken to date.

As part of Council's review of the issues associated with the lands formerly zoned 7(d) Hacking River Environmental Protection, at Helensburgh, Otford and Stanwell Tops. This report addresses the Land Pooling and Lady Carrington Estate South precincts.

Council at its meeting on 28 November 2011 considered a report which recommended that the Land pooling and Lady Carrington Estate South precincts retain an E3 Environmental Management zone. Council resolved that:

- 1 *A new draft planning proposal be prepared to rezone the Land Pooling area and 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.*

The draft Planning Proposal was exhibited from 6 August to 26 October 2012. This report addresses the issues raised in the submissions for these precincts.

Proposal

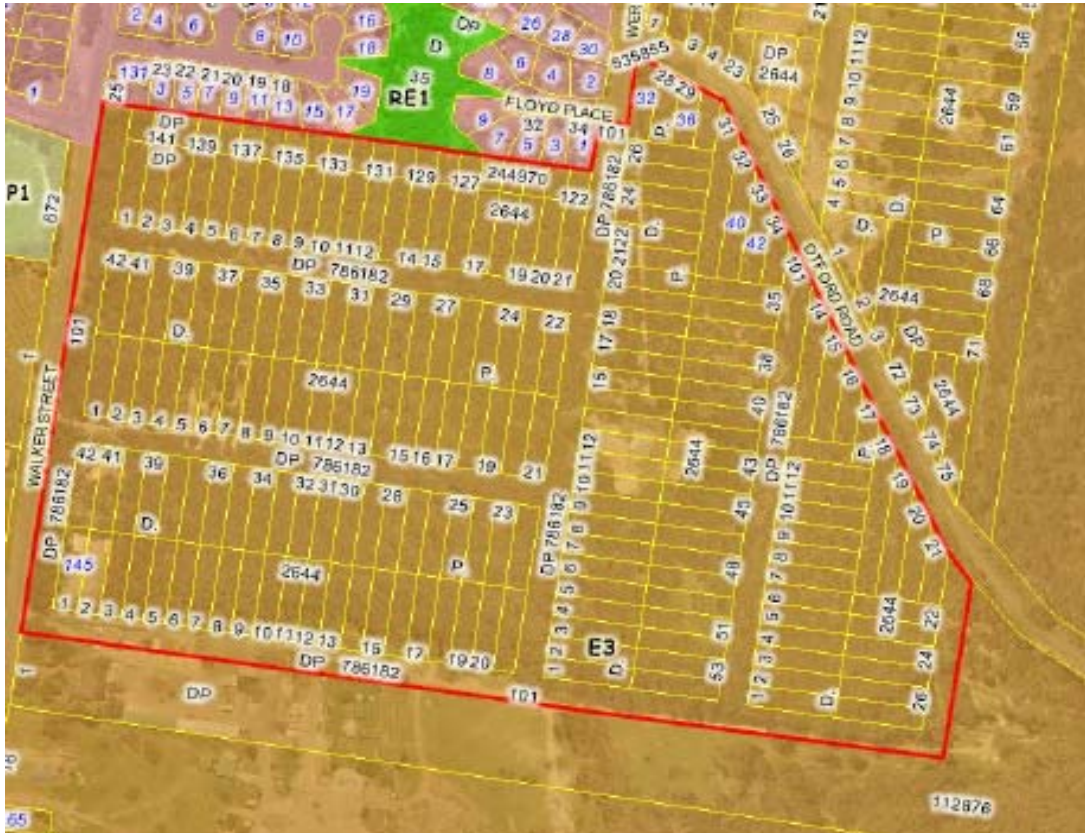
Land Pooling

The Land Pooling area consists of an area of 23.2 hectares which contains 207 lots subdivided in the 1890's paper subdivision into ¼ acre (800-1,000m²) lots as part of the Helensburgh suburb, on the southern side of Otford Road. The lots are owned by 94 persons/companies, many of whom own more than one lot. There is one dwelling house, and two businesses (landscape supplies and bus depot) in the precinct.

On 11 and 12 July, 2013, Council was advised that roadworks were occurring on Werrong Road, south of Floyd Place. This section of Werrong Road, within the Land Pooling precinct, is part of Lot 101 DP 786182 and is owned by Ensile Pty Ltd. The land

owner advised that they were unaware of the works and did not authorise the works. Investigations are on-going, and are separate to the draft Planning Proposal.

Land Pooling precinct location map 1

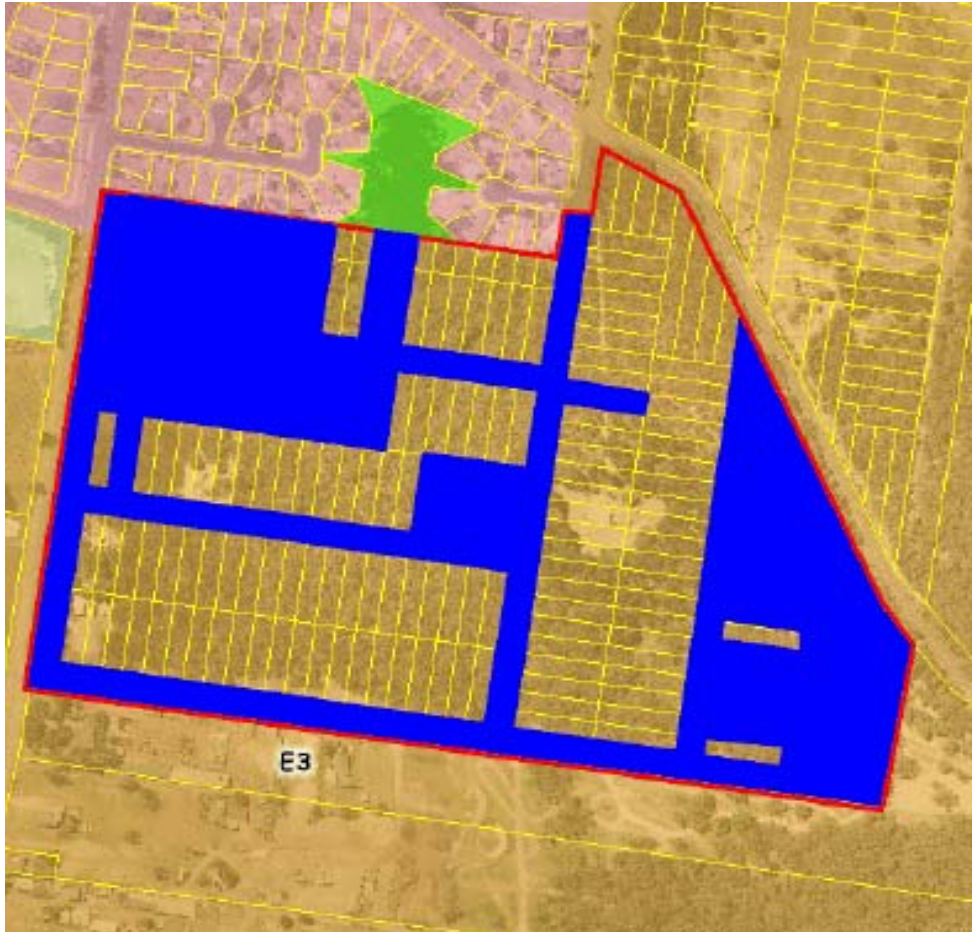


The combined holdings of Ensile Pty Ltd and Cambalong Pty Ltd own 70 of the lots in the precinct (see map 2). Ensile Pty Ltd owns 25 lots and the paper roads in the Land Pooling Precinct (south of Otford Road). A separate company, Cambalong Pty Ltd owns an additional 45 lots in the precinct.

The lots in the precinct were purchased by individual owners in the late 1970's and 1980's. At that time the land was zoned Rural and a dwelling house was not permitted to be constructed on the land. A dwelling house has not been permissible on the land since 1951 when the County of Cumberland Planning Scheme introduced the minimum "country dwelling" dwelling standard of 0.8 hectares (2 acres). The existing dwelling in the precinct dates to the 1930s, and is visible on Council's 1949 air photo.

The lots in the precinct were purchased without a dwelling entitlement, in the hope that the land would be rezoned to a residential zone to enable dwelling houses to be constructed. It is likely that at the time they would have received advice from Council that the precinct would be the next area considered for rezoning. It is noted that the adjoining Merrigong Place and Floyd Place were rezoned and re-subdivided in 1984 to permit residential development. This may have increased owner expectations that Helensburgh would continue to expand southwards.

Land pooling precinct – Ensile Pty Ltd and Cambalong Pty Ltd Holdings map2



Like any investment, the landowners expect a return on their investment. However, the landowners took a risk purchasing land that was not zoned for urban development, in the hope that the planning controls would change.

Pressures for development within the precinct are a direct result of the historical paper subdivision and the divided land ownership pattern. The majority of the landowners are members of the Helensburgh Land Pooling Group which was established in 1986 with Council encouragement. It was envisaged that the land owners would pool their land, develop an alternate subdivision layout that better reflected the environmental attributes of the precinct and then build a house on one of the new lots. Council initially actively supported the land pooling/rezoning proposal.

The majority of the precinct is covered by bushland which separates urban and rural properties along Walker Street. The bushland creates a bushfire risk for the existing residential properties to the north.

This precinct is perhaps the most debated area in the 7(d) Review. The two basic options for the future of the precinct have not changed in the last 30 years; that is, either permit residential development or continue to not permit residential development. On

the one hand there are the owners of the properties who want the area rezoned to permit residential development. The stated benefits include:

- The resolution of a long standing issue, by allowing dwellings to be constructed;
- The provision of additional housing opportunities in Helensburgh;
- It provides a logical extension to the existing urban area to the immediate north;
- The residential development would support retail activities in Helensburgh;
- The residential development would remove a bushfire risk to adjoining residential development, and bushfire risks can be managed in the precinct;
- Water quality can be managed and the installation of treatment devices would improve runoff from existing urban development in Merrigong Place and Floyd Place; and
- The residential development would remove a maintenance liability for the owners.

This view is opposed in many submissions from the community, who argue that the development of the precinct will:

- Result in a loss of bushland and biodiversity;
- Adversely impact on the headwaters of Herbert Creek;
- Be visible from Bald Hill, one of the City's main tourist attractions;
- The lots have never had a dwelling entitlement, and owners have speculated that the planning rules will change; and
- Development would exacerbate Helensburgh traffic and infrastructure problems.

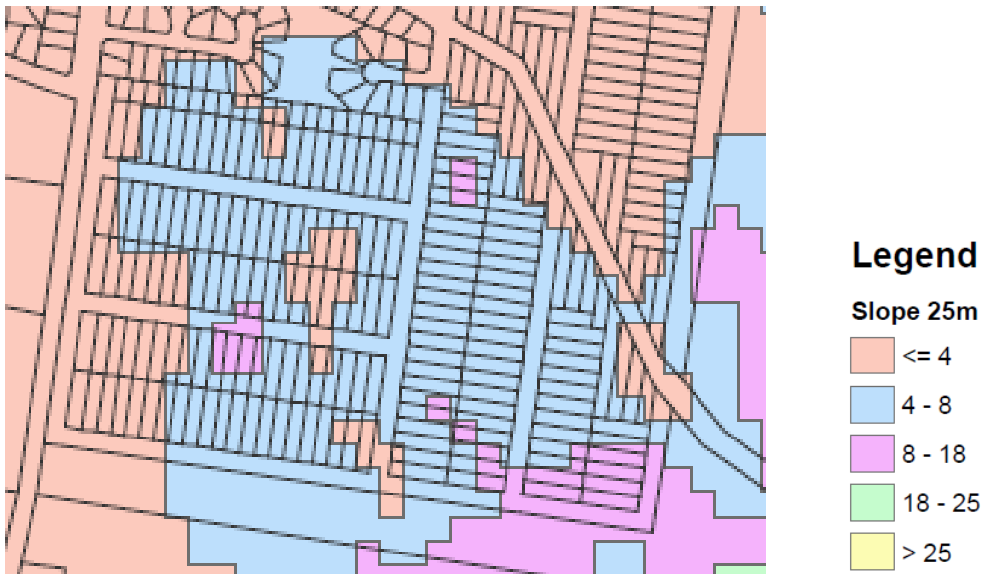
Development of the precinct presents significant challenges to overcome existing environmental constraints, including bushfire hazards; contiguous high quality bushland habitat; and a sensitive water catchment upstream of the Royal National Park.

In summary:

- The lots were created in the 1890s;
- The precinct has gentle slopes, with the majority <8% (see Slope Analysis below);
- Part of the precinct contains the endangered ecological community "Southern Sydney sheltered forest";
- The precinct is within the area mapped as Illawarra Moist Forest Corridor;
- The precinct is not identified as being a suitable addition to the State Reserve (National Park) system;

- The precinct is mapped as containing the Bundeena Soil Landscape (similar to the majority of Helensburgh) which is identified as not being suitable for urban development;
- The lots were purchased in the 1970s and 1980s when they were zoned Rural and did not have a dwelling entitlement;
- The Helensburgh Commission of Inquiry found that the precinct had limited urban capability;
- The draft 7(d) Review (Willana, 2009) proposed that the land be rezoned to R2 Low Density Residential;
- The Preliminary Review of Submissions (2010) proposed that the land retain an E3 Environmental Management zone; and
- The Final Review of Submissions (2011) proposed that the precinct retain an E3 Environmental Management zone and further community consultation occur on the rezoning and land exchange Planning Agreement proposal.

Land Pooling Precinct Slope Analysis (% slope) (map 3)



Council at its meeting on 28 November 2011 considered a report which recommended that the Land Pooling Precinct retain their E3 Environmental Management zone and a Voluntary Planning Agreement be exhibited. Council resolved that:

- 1 *A new draft planning proposal be prepared to rezone the Land Pooling area to E2 Environmental Conservation.*

The draft Planning Proposal was exhibited from 6 August to 26 October 2012.

As a consequence of the exhibition the following registered submissions were received commenting on the draft Planning Proposal for the precinct:

Landowner submissions:

Property	Submission	Comment
Lot 34 Sec 4 DP 2644	Object to E2 Environmental Conservation. Land should be zoned E4 Environmental Living to enable a dwelling house to be built.	Objection noted
Lot 27 Sec 4 DP 2644 Tarawa Road	Object to E2 Environmental Conservation. Supports the rezoning of the precinct to permit residential to improve water quality, bushfire hazard, economic growth, environmental protection, resolve the issue. Infrastructure is available to service the lots. Council may have to purchase the land if sterilised by an E2 Environmental Conservation zoning.	Objection noted
Lot 16 Sec 5 DP 2644. (2 submissions)	Object to E2 Environmental Conservation. Purchased land in 1981. Council has allowed the lots to be landlocked through the roads being privately owned. Request Public Hearing.	Objection noted
Lot 44 Sec 5 DP 2644. (5 submissions)	Object to E2 Environmental Conservation. Will not reduce weeds, illegal rubbish dumping, bushfire hazard. Not a wildlife corridor. Should be zoned R2 Low Density Residential.	Objection noted
Lot 6 Sec 5 DP 2644 (2 submissions)	Oppose rezoning to E2 Environmental Conservation. Land should be zoned R2 like the Landcom Estate. Unless land developed, the bushfire and water pollution will continue. E2 Environmental Conservation will prevent landowners caring for their land.	Objection noted
Lots 25-28 Sec 3 DP 2644 (2 submissions)	Object to E2 Environmental Conservation. Should be zoned R2 Rural Landscape. On purchase Council advised that it would be rezoned. Rezoning would remove maintenance liability and provide a logical extension to Helensburgh.	Objection noted
Lot 42 Sec 4 DP 2644 Tarawa Road (David Sidebottom Landscaping Pty Ltd)	Business has been trading on-site for 25 years with Council consent. Request a zoning that will recognise the business use, for example IN2 Light Industrial like the adjacent Blackwell's site, or RU2 Rural Landscape. Don't want a house just continue to operate the business. Object to	Objection noted. The 2 businesses (landscaping supplies and bus depot), have been operating with existing use rights

Property	Submission	Comment
	E2 Environmental Conservation.	since 1995. The options available are to proceed with the E2 Environmental Conservation, retain the E3 Environmental Management or resolve to prepare a new planning proposal to rezone the site to another zone.
Lots 12 & 16 Sec 3 DP 2644 and Lots 11 and 32 Sec 4 DP 2644. (4 lots) (2 submissions)	Support the rezoning of the land to R2 Low Density Residential.	Noted
Lots 48, 50-51, 54 Sec 5 DP 2644. (4 lots) (2 submissions)	The decision to rezone the land to E2 Environmental Conservation has shattered my plans to return to the Illawarra. It is unfair that I have to pay rates on land which is virtually a National Park. What compensation will I get?	Objection noted
Lot 53 Sec 3 DP 2644	Council encourage the establishment of the Land Pooling Group. Object to the rezoning to E2 Environmental Conservation and continue to charge rates. If you want it, buy it and refund the rates. At present it is a dumping ground and fire hazard.	Objection noted
Lot 33 Sec 5 DP 2644 (44 Otford Road)	Object to E2 Environmental Conservation. Purchased land in 1979 on Otford Road. Electricity, water and sewerage is available. Has been forced to live and raise family in another location, rather than being a citizen of Helensburgh. The "anti" rezoning leaflets contain many false assertions and statistics.	Objection noted
Lots 15-21 Sec 2 DP 2644, lots 22-24 Sec 3 DP 2644 and lots 122-128 DP 244979 (17 lots)	Object to land being rezoned anything but Residential. The sewer line runs through the property. Land backs on to the adjoining housing development. Attaches extracts from the Willana report (2009) and draft Helensburgh Town Plan (1991).	Objection noted
Lot 11 Sec 5 DP 2644,	Object to E2 Environmental Conservation.	Objection noted

Property	Submission	Comment
11 Werrong Road	<p>Council has failed the Helensburgh Land Pooling request to rezone for 30 years. Council should delegate the planning process to the State Government.</p> <p>The proposed E2 Environmental Conservation zone has no study to confirm its value. Previous reports suggest the land is capable of development.</p>	
Ensile Pty Ltd / Cambalong Pty Ltd holdings	<p>Consultant submission objecting to all land being zoned E2 Environmental Conservation and requesting residential development with the Land Pooling and Lady Carrington Estate South precincts. Request deferral of the precincts until Council has done a proper study to identify appropriate zonings. Attach copy of Helensburgh Land Capacity Council report 2006 and Ecological review.</p>	Objection noted

Other submissions:

Submitter	Submission
Resident Helensburgh	Land Pooling precinct – support E2 Environmental Conservation.
Resident Helensburgh	Support the rezoning of Land Pooling to E2 Environmental Conservation.
Resident Helensburgh	Land Pooling - support E2 Environmental Conservation.
Email Suburb unknown	Oppose residential development in the Land Pooling, Lady Carrington Estate South precincts – maintain E2 Environmental Conservation or E3 Environmental Management zonings and if possible bring into public ownership.
Email Suburb unknown	Land pooling – support E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Helensburgh Land Pooling Group	<p>13 form letters submitted by 743-843 persons (total 10,783) opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation, and requesting a residential zone to enable development.</p> <p>(refer Attachment 5 of Background report)</p>
Otford Protection Society	<p>One form letter submitted by 9 persons supporting the proposed rezoning of the precinct to E2 Environmental Conservation.</p> <p>(refer Attachment 5 of Background report).</p>

Group / property	Submission
OtfordEco	<ul style="list-style-type: none"> One form letter submitted by 42 persons supporting the proposed rezoning of the precinct to E2 Environmental Conservation; One form letter submitted by 136, persons making a conservation based submission on all precincts; Two form letters submitted by 79 and 123 persons supporting E2 Environmental Conservation for all 23/24 precincts, respectively; and One form letter submitted by 10 persons supporting E2 Environmental Conservation for all bushland precincts. <p>(refer Attachment 5 of Background report)</p>
Helensburgh Business Owner Group	<ul style="list-style-type: none"> Six form letters submitted by 179-184 persons (total 1,094) supporting the local businesses in the precinct; and One form letter submitted by 185 persons supporting the comments in all 56 letters. <p>(refer Attachment 5 of Background report)</p>

Review of issues

As noted, the Land Pooling area consists of 207 lots within an area of 23.2 hectares. The lots are owned by 94 persons/companies, many of whom own more than one lot. Ensile Pty Ltd/Cambalong Pty Ltd owns 70 of the lots including the paper roads. Within the precinct there is one dwelling house, and two businesses (landscape supplies and bus depot).

As noted by the Helensburgh Commission of Inquiry, the precinct has limited urban capability. Urban development, or large lot development, would result in the clearing of the vegetation and potential downstream water quality impacts. If the historic subdivision and ownership pattern is ignored, the land constraints would mean that it would not be recommended to be rezoned for residential use or development. The paper subdivision and ownership pattern add layers of complexity. However, the landowners took a risk purchasing land that was not zoned for urban development, in the hope that the planning controls would change. Like any investment, the landowners expect a return on their investment, or the opportunity to build a dwelling house. It is not Council role to rezone land to resolve an investment decision.

It is considered that the land is consistent with the objectives of the E2 Environmental Conservation zone. The E2 Environmental Conservation zone is the highest conservation zone, outside the E1 National Park and Nature Reserves zone, and is used on land that has significant bushland or conservation value. It is generally not appropriate for cleared lots containing dwelling houses, unless there is another overriding strategy, such as the land being incorporated into a reserve system. Two of the E2 Environmental Conservation zone objectives are:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values; and
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Council does need to be mindful that the E2 Environmental Conservation zone is not so restrictive that no land use is permissible, which would be similar to Council making the land a public reserve. If this was the case, Council may be forced to acquire the land. In addition to the uses permitted in the zone Land Use table, various SEPPs allow other uses. The E2 Environmental Conservation zone has been in place throughout the City since 2010 without challenge.

It is considered that the E2 Environmental Conservation zone is not appropriate for the three existing uses within precinct (dwelling house, bus depot and landscaping business), and these five lots should retain the current E3 Environmental Management zone.

In 2012, the Environmental Planning and Assessment Act 1979 and Regulations 2000, were amended to introduce new provisions for Paper Subdivisions, and the Department of Planning and Infrastructure have published guidelines. The provisions apply to paper subdivision which are zoned for residential use, but have been unable to be developed due to high infrastructure costs or the land owners being unable to resolve differences. The provisions allow the State, to assist the development of the precinct by taking a share and funding the infrastructure provision. The provisions do not apply to precincts, such as the Helensburgh Land Pooling area, which are not zoned for residential use. However, if the land was rezoned, the provisions could be used to assist the development of the precinct.

Options

- 1 Proceed with the rezoning of the precinct to E2 Environmental Conservation as exhibited in the draft Planning Proposal.
- 2 Not proceed with the rezoning to E2 Environmental Conservation and retain the current E3 Environmental Management zone.
- 3 Resolve to prepare a new Planning Proposal to rezone the precinct to another zone, for example Residential as requested in the new rezoning proposal (discussed below), and undertake further community consultation.

Recommendation: *It is recommended that the rezoning of the Land Pooling precinct to the E2 Environmental Conservation zone be progressed as part of the final Planning Proposal, except for:*

- Lots 12-13 Section 5 DP 2644 which contain the dwelling house;
- Lots 1-2 Section 4 DP 2644 which contain the bus depot; and
- Lot 42 Section 4 DP 2644 which contains the landscaping business.

which are to retain the E3 Environmental Management zone.

Lady Carrington Estate South

This precinct extends south of the Camp Creek precinct to Otford Road, and includes 107 paper subdivision lots which have an area of 10.3 hectares. The triangular Lot 1 DP 616228 south of Koornong Road has an area of 3.3 hectares. The precinct is entirely owned by Ensile Pty Ltd. A large portion of the precinct has been historically cleared, and it has been used for agriculture.

The Helensburgh Commission of Inquiry (1994) found that this precinct was the second most capable of urban development (after land in the Gills Creek precinct). The precinct has gentle to moderate slopes, can be connected to the reticulated sewerage system and large parts have been cleared.

The Lady Carrington Estate South precinct is one of the most controversial precincts in the former 7(d) area. Whether this precinct should be rezoned for urban development has been debated for many years.

Although part of this precinct has been cleared, development of the area presents significant challenges to overcome existing environmental constraints, including impacts on the water catchment and disturbance of significant vegetation.

Development of this land is likely to lead to negative impacts on the Hacking catchment due to the close proximity to the headwaters of two of its tributaries, Gardiners Creek and another unnamed creek. This would be the first development in these two sub-catchments.

The site is surrounded by significant vegetation and any development would lead to future disturbance of the surrounding high quality bushland habitat.

A Development Application seeking to subdivide part of this precinct has been lodged and is under assessment. The application is discussed later in this report.

In summary:

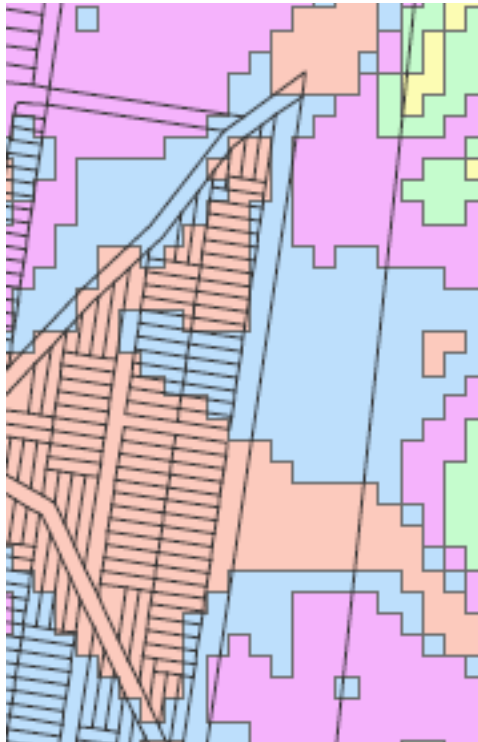
- The lots were created in the 1890s;
- The Helensburgh Commission of Inquiry found that the cleared parts of the precinct had limited urban capability;
- The precinct has gentle slopes (<8%) (see Slope Analysis below);
- The precinct does not contain any endangered ecological communities;
- The precinct is within the area mapped as Illawarra Moist Forest Corridor;
- The precinct is not identified as being a suitable addition to the State Reserve system;
- The precinct is mapped as containing the Bundeena Soil Landscape (similar to the majority of Helensburgh) which is identified as not being suitable for urban development;

- The draft 7(d) Review (Willana, 2009) proposed that the land be rezoned to R2 Low Density Residential;
- The Preliminary Review of Submissions (2010) proposed that the land retain an E3 Environmental Management zone; and
- The Final Review of Submissions (2011) proposed that the precinct retain an E3 Environmental Management zone and further community consultation occur on the rezoning and land exchange Planning Agreement proposal.

Lady Carrington Estate South precinct location map 4

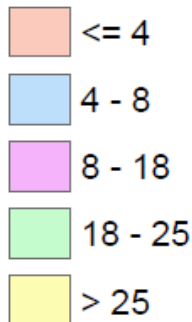


Lady Carrington Estate South Precinct Slope Analysis (% slope) (map 5)



Legend

Slope 25m



Council at its meeting on 28 November 2011 considered a report which recommended that Lady Carrington Estate South precinct retain an E3 Environmental Management zone. Council resolved that

- 1 *A new draft planning proposal be prepared to rezone the ... Lady Carrington Estate South to E2 Environmental Conservation.*

As a consequence of the exhibition the following registered submissions were received commenting on the draft Planning Proposal for the precinct:

Landowner submissions:

Property	Submission	Comment
Ensile Pty Ltd holdings	Consultant submission objecting to all land being zoned E2 Environmental Conservation and requesting residential development with the Land Pooling and Lady Carrington Estate South precincts. Request deferral of the precincts until Council has done a proper study to identify appropriate zonings. Attach copy of Helensburgh Land Capacity Council report 2006 and Ecological review	Objection noted

Other submissions:

Submitter	Submission
Resident Helensburgh	Lady Carrington Estate South - support E2 Environmental Conservation.
Resident Helensburgh	Lady Carrington Estate South - support E2 Environmental Conservation.
Email Suburb unknown	<ul style="list-style-type: none"> • Oppose residential development in the Land Pooling, Lady Carrington Estate South precincts – maintain E2 Environmental Conservation or E3 Environmental Management zonings and if possible bring into public ownership; and • Not opposed to a high school – smaller environmental impact.
Email Suburb unknown	Lady Carrington Estate South - should be zoned E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Otford Protection Society	<p>One form letter submitted by 8 persons supporting the proposed rezoning of the precinct.</p> <p>(refer Attachment 5 of Background report)</p>
OtfordEco	<ul style="list-style-type: none"> • One form letter submitted by 42 persons supporting the proposed rezoning of the precinct; • One form letter submitted by 136, persons making a conservation based submission on all precincts; • Two form letters submitted by 79 and 123 persons supporting E2 Environmental Conservation for all 23/24 precincts, respectively; and • One form letter submitted by 10 persons supporting E2 Environmental Conservation for all bushland precincts. <p>(refer Attachment 5 of Background report)</p>

Review of issues

As noted, the Lady Carrington Estate South precinct area consists of 107 paper subdivision lots within an area of 10.3 hectares. The triangular Lot 1 DP 616228 south of Koornong Road has an area of 3.3 hectares. These lots have a single ownership. A large portion of the precinct has been historically cleared, and has been used for agriculture.

The Helensburgh Commission of Inquiry (1994) found that this precinct was the second most capable of urban development (after land in the Gills Creek precinct). The precinct

has gentle to moderate slopes, can be connected to the reticulated sewerage system and large parts have been cleared.

Urban development, or large lot development, within the cleared areas would result in minimal clearing of additional vegetation. If urban development was permitted beyond the cleared area, vegetation would be required to be removed for the development and Asset Protection Zones. Any development has the potential to adversely impact on downstream water quality.

As the land is cleared and has been used for agriculture there are less constraints than the Land Pooling Precinct, but more constraints than development in the Gateway and parts of the Gills Creek and Walker Street precincts. If the historic subdivision pattern is ignored, the land constraints would mean that it would not be recommended to be rezoned for residential use or development.

It is considered that the cleared parts of the precinct are consistent with the objectives of the E3 Environmental Management zone, and the former 7(d) Hacking River Environmental Protection zone, recognise the environmental values, but also enable a limited range of development opportunities, including dwelling houses. The zone objectives of the E3 Environmental Management zone are:

- To protect, manage and restore areas with special ecological, scientific, cultural or aesthetic values; and
- To provide for a limited range of development that does not have an adverse effect on those values.

Whereas the bushland in Lot 1 DP 616228, and the southern part of the precinct land, is consistent with the objectives of the E2 Environmental Conservation zone. The E2 Environmental Conservation zone is the highest conservation zone, outside the E1 National Park and Nature Reserves zone, and is used on land that has significant bushland or conservation value. Two of the E2 Environmental Conservation zone objectives are:

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values; and
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

A split zoning is proposed for this precinct, wherein the cleared land is zoned E3 Environmental Management zone (map 5 outlined in red), while the significant bushland areas is zoned E2 Environmental Conservation (map 5 outlined in blue).

Split zoning of precinct map 5



Options

- 1 Proceed with the rezoning of the precinct to E2 Environmental Conservation as exhibited in the draft Planning Proposal.
- 2 Not proceed with the rezoning to E2 Environmental Conservation and retain the current E3 Environmental Management zone.
- 3 Proceed with the rezoning of the bushland part of the precinct to E2 Environmental Conservation as exhibited in the draft Planning Proposal, and retain the E3 Environmental Management zone on the cleared lands.
- 4 Resolve to prepare a new Planning Proposal to rezone the precinct to another zone, for example Residential as requested in the new rezoning proposal (discussed below), and undertake further community consultation.

Recommendation: *It is recommended that the rezoning of the bushland parts of Lady Carrington Estate South precinct to the E2 Environmental Conservation zone be*

progressed as part of the final Planning Proposal, and the cleared lands retain the E3 Environmental Management zone.

Development Application No. 2012/1480

On 23 December 2012, consultants for the Ensile Pty Ltd lodged development application No. DA-2012/1480 which proposes the consolidation of 91 lots and the re-subdivision into 8 lots of 40 ha, two of which contain existing dwellings.

The 91 lots to be consolidated include those with Lady Carrington Estate precinct, Lilyvale precinct (excluding the lot owned by another party), part of Camp Gully Creek precinct, Central bushland precinct (excluding the lot owned by another party), Otford Valley Farm precinct (containing 2 existing dwellings), and part of Lady Carrington Estate South precinct (see map 6 below). Note, not all lots within the Lady Carrington Estate South precinct are included, which retains the opportunity for residential development. The application proposes a cluster of six new house locations on the eastern side of Lady Carrington Estate South (see map 7).

Land subject to development application map 6



Proposed cluster of “home lots” map 7



Proposed lots 3–8 include a nominated dwelling site (as indicated in the plan above) and are made up a number of part lots to create lots of 40 hectares in area (for example the above plan shows four of the eight part lots that make up proposed lot 8).

The application is being assessed separately to the draft Planning Proposal and may be referred to the Independent Hearing and Assessment Panel (IHAP) for determination.

New rezoning proposal

On 21 June 2013, a new rezoning submission was lodged by Smyth Planning on behalf of Ensile Pty Ltd and a number of owners within the Helensburgh Land Pooling precinct. The submission re-presented previous submissions and requests that a draft Planning Proposal be prepared to:

- Rezone the Lady Carrington Estate South precinct to permit low-medium density residential development;
- Rezone the Helensburgh Land Pooling precinct to permit low-medium density residential development;
- Retain an E3 Environmental Management zone on Otford Valley Farm;
- Rezone the balance of the Ensile Pty Ltd holdings in the Lady Carrington Estate, Lilyvale, Camp Gully Creek, Central Bushland precincts to E2 Environmental Conservation;
- Endorse a Voluntary Planning Agreement, prepared by Minter Ellison Solicitors, to facilitate the transfer of the E2 Environmental Conservation holdings within the Lady Carrington Estate, Lilyvale, Camp Gully Creek, Central Bushland precincts to the National Parks and Wildlife Service; and
- Resolve the Lloyd Place precinct by enabling owners transfer their lot for a new entitlement to within one of the new residential estates.

The rezoning proposal contained a copy of the 2009 rezoning request and concept plans previously considered by Council. It does not contain any new environmental, social or economic studies or information. It is anticipated that the proponents have lodged the rezoning request to trigger the “gateway appeal” provisions if Council does not support or determine the request within 90 days. The Gateway appeal enables the proponent to bypass Council and seek the Department of Planning and Infrastructure’s support for the rezoning.

Recommendation: *It is recommended that Council not resolve to prepare a new draft Planning Proposal to progress the submission.*

Conclusion

This report is one of a series of reports to assist Council in reviewing the issues raised in submissions following the exhibition of a draft Planning Proposal on the lands formerly zoned 7(d) Hacking River Environmental Protection. It is recommended that the majority of the Land Pooling precinct be zoned E2 Environmental Conservation, and the lots containing the dwelling house, bus depot and landscaping business retain the E3 Environmental Management zone. It is recommended that the bushland parts of the Lady Carrington Estate South precincts be zoned E2 Environmental Conservation, while the cleared land retain the E3 Environmental Management zone.