

COUNCIL RESOLUTION EXTRACT FROM MINUTES 28 NOVEMBER 2011

DISCLOSURE OF INTEREST

Councillor Petty earlier in the meeting declared a non-significant non-pecuniary interest in respect to Item 2 and participated in discussion and voting.

ITEM 2 - Review of 7(d) Lands - Background Summary Report

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RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Kershaw that the report be noted.

ITEM 2 REVIEW OF 7(D) LANDS - BACKGROUND SUMMARY REPORT

Council at its meeting on 5 July 2011, considered a report on the review of land formerly zoned 7(d) Hacking River – Environmental Protection at Helensburgh, Otford and Stanwell Tops. Council resolved to prepare a Planning Proposal to rezone land within sixteen (16) precincts, not rezone land in three (3) precincts and seek further community input on a draft Planning Agreement which affected seven (7) precincts.

The NSW Department of Planning and Infrastructure have issued a Gateway determination to allow the Planning Proposal to be exhibited. Prior to exhibition, Council has undertaken a review of the former Council decisions. The review has included a briefing, site tour and public information session on 21 November 2011

This report provides a summary of the background and history of the review to assist Council's consideration of whether to progress the recommendations of the previous Council for individual precincts, which are subject to separate reports.

Recommendation

The report be noted.

Attachments

- 1 Land Use Table Comparison.
- 2 Summary of Precinct and Proposed Zone Areas Tables.

Report Authorisations

Report of: Renee Campbell, Manager Environmental Strategy & Planning
Authorised by: Andrew Carfield, Director Planning & Environment

Background

The lands formerly zoned 7(d) Hacking River – Environmental Protection under the Wollongong Local Environmental Plan 1990 covered 1,556 hectares, surrounding Helensburgh, Otford and Stanwell Tops, within the Hacking River Catchment (see map below). There were seven hundred and seventy seven (777) lots zoned 7(d) Hacking River Environmental Protection, which are owned by three hundred and three (303) persons, companies and Statutory Authorities. Council owns eighteen (18) lots or 34.5 hectares. The properties are now zoned E3 Environmental Management. One hundred and seven (107) of the properties contain a dwelling house.

The 7(d) lands contain significant bushland which is connected to the Woronora Catchment area, Royal National Park and Illawarra Escarpment. The area is also the head waters of the Hacking River. The extensive bushland results in a high bushfire risk. Conversely, some of the 7(d) lands have been historically cleared for farming, tourism, coal mining, industrial uses and housing.



The future of the 7(d) lands surrounding Helensburgh, Otford and Stanwell Park has been subject to debate for over 30 years.

In 1988, the 7(h) Hacking River – Environmental Protection zone was introduced to protect land in the Hacking River catchment. The zone was renamed to 7(d) Hacking

River – Environmental Protection in 1990. The protection of the catchment and National Park remain important values.

In 1994, the Helensburgh Commission of Inquiry examined a number of urban expansion proposals, including land in the Land Pooling precinct, Gills Creek catchment and the Lady Carrington Estates. Instead of being released for housing, the Inquiry recommended the rezoning of some precincts to Environmental Protection zones and the zone was extended in 1995 and 1997.

The conflicting issues of the 1980s and 1990s remain relevant, including:

- The need to protect/improve the water quality of the Hacking River;
- The need to provide a buffer to the Royal National Park and Garrawarra State Conservation Area, to protect their values;
- The need to conserve endangered ecological communities, significant bushland, habitats and linkages;
- The need to manage bushfire impacts;
- Resolving the final development footprint of the Helensburgh suburb area, and its population level;
- Whether there is future population growth within and/or surrounding Helensburgh;
- Whether there should be additional local employment opportunities within Helensburgh;
- Whether significant bushland areas should remain in private ownership or be brought into public ownership; and
- Whether landowners can build a dwelling house on vacant lots.

Historic minimum lots size standards for a dwelling house

The minimum lot size requirement for a dwelling house dates back to 1951, and has increased over time to the current 40 hectares for a dwelling house to be permissible:

- the County of Cumberland Planning Scheme Ordinance (1951), introduced a requirement for “country dwellings” to be permissible on a lot larger than 0.8 hectares (2 acres);
- the Illawarra Planning Scheme Ordinance (1968) increased the standard to 2 hectares (5 acres);
- on 30 April 1971, the standard was increased to 20 hectares (50 acres); and
- the Wollongong Local Environmental Plan No. 38 (1984) increased the standard to 40 hectares (100 acres), which has remained until present and is part of the Wollongong Local Environmental Plan 2009.

The recent Local Environmental Plans, including the current Wollongong Local Environmental Plan 2009, included a savings provision which allows dwelling houses to be built on lots:

- larger than 10 hectares, if the lot was created prior to 30 April 1971;
- between 10-20 hectares, if the lot was created between 1971 and 1984; and
- larger than 20 hectares, if the lot was created after 2 March 1984.

It is estimated that there are some fourteen (14) privately owned vacant lots that satisfy these standards and could have a dwelling house erected, subject to the granting of development consent. If the planning rules are changed, the development potential will also change.

Draft Wollongong Local Environmental Plan 2009

The draft Wollongong Local Environmental Plan 2009 was exhibited from 10 December 2008 to 30 March 2009. The draft Wollongong Local Environmental Plan 2009 proposed that the land zoned 7(d) Hacking River Environmental Protection be zoned E2 Environmental Conservation as an interim measure pending the completion of the review and subsequent amendment of the draft Local Environmental Plan.

As a consequence of the exhibition two hundred and twenty one (221) submissions were received commenting on the 7(d) Hacking River Environmental Protection / E2 Environmental Conservation proposal at Helensburgh, Otford and Stanwell Tops:

- Eighty nine (89) submissions (the majority of which were a form letter) supported the E2 Environmental Conservation zone and the conservation of the bushland as exhibited; and
- One hundred and thirty two (132) submissions opposed the E2 Environmental Conservation zone, the majority of which wanted to build or maintain a dwelling house on their land. Some submissions also proposed subdivision, tourism and commercial development.

Council at its meeting on 28 July 2009, considered a report on the draft 7(d) Review and submissions received during the exhibition of the draft Wollongong Local Environmental Plan 2009. Rather than rezoning the 7(d) land to a higher conservation zone, Council resolved to translate the 7(d) zone to the equivalent zone, namely E3 Environmental Management. (Attachment 1 provides a comparison of the land use tables for the zones). By making this decision Council effectively chose not to rezone the land at that time. Council also had regard to the submissions received, the existing character of the land, and granting of existing use rights for the existing dwelling houses and development.

Council also resolved to exhibit the “draft Review of land zoned 7(d) at Helensburgh, Otford and Stanwell Tops” (Willana Report) for two (2) months to enable public review and input, and to commence the preparation of a draft Planning Proposal to review the zoning.

The Wollongong Local Environmental Plan 2009 was approved by the Minister for Planning on 26 February 2010, at which time the 7(d) Hacking River Environmental Protection zone was replaced with the E3 Environmental Management zone.

Review process

To examine the issue, Council has undertaken a review of the lands formerly zoned 7(d) Hacking River – Environmental Protection at Helensburgh, Otford and Stanwell Tops. The review has included the following stages:

- Draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops (Willana, 2009) [also known as the Willana Report], considered by Council on 28 July 2009;
- Exhibition of the Draft Review Report (first community consultation period) from 10 August to 9 October 2010, which resulted in 3,447 submissions;
- A Preliminary report on submissions, considered by Council on 25 May 2010;
- Exhibition of the Preliminary Report on submissions (second community consultation period) from 2 June to 16 August 2010, which resulted in 19,395 submissions; and
- A final report on submissions considered by Council on 5 July 2011 (copy of report previously provided to Councillors). Council resolved to progress the review of the 7(d) lands, by dividing the precincts into three (3) parts:
 - (1) Prepare a draft Planning Proposal to rezone land or amend the planning controls within sixteen (16) precincts. The report proposed that some precincts be rezoned to either a higher environmental conservation zone, or a zone that better reflects existing development or will allow some minor additional development (see Tables 1 and 3 in Attachment 2).

The report proposed that 830 hectares of the former 7(d) lands, now zoned E3 Environmental Management be rezoned as part of the Planning Proposal. If the draft Planning Proposal is progressed, the recommendations would enable an additional twenty six (26) dwelling houses.

- (2) Undertake further community consultation on a draft Planning Agreement which proposed the dedication of 435 hectares of private land to the public, in exchange for urban development in the Lady Carrington Estate South and Land Pooling Precincts. The draft Planning Agreement may also provide an exit strategy for owners in other precincts (see Tables 2 and 3 in Attachment 2).

If the draft Planning Agreement progresses, a further draft Planning Proposal would be required to amend the planning controls and rezone the land. Additional studies would be required for the land proposed to be

rezoned to allow residential development to review various constraints and determine development potential.

- (3) No change to the current planning controls within the Kelly Falls precinct; Old Farm Road precinct and Govinda precinct.

Proposal

Following Council's resolution on 5 July 2011, the draft Planning Proposal was referred to the NSW Department of Planning and Infrastructure for Gateway determination prior to exhibition. The Department issued a Gateway determination on 30 September 2011, endorsing the exhibition of the draft Planning Proposal, provided that the proposed use of Schedule 1 Additional Uses to permit dwelling houses or the restaurant not be used and Council amend the Zoning or Minimum Lot Size Maps instead.

The exhibition of the draft Planning Agreement was deferred pending the exhibition of the draft Planning Proposal and the review of the issues by the new Council.

A review of the recommendations made by the previous Council on the issues associated with the former 7(d) lands has been undertaken. On 7 November 2011, Councillors undertook a site tour and received a briefing from Council Officers. On 21 November 2011, Councillors revisited some sites and precincts. On 21 November 2011, Council held a Public Information Session at Helensburgh Public School and received representations from land owners, community members and other stakeholders. The meeting was attended by 248 registered persons. This report was prepared prior to the Public Information Session. Copies of the presentations and the Feedback forms completed at the meeting have been circulated separately to Councillors.

The issues and recommendations associated with the former 7(d) precincts will be addressed in a series of Council reports, to allow separate consideration at the Council meeting:

1. Background report (this report);
2. Lady Carrington Estate North, Garrawarra and Isolated Lots in the Royal National Park precincts;
3. North Otford, Central Otford, South Otford and Govinda precincts;
4. Gills Creek and F6 West precincts;
5. Wilsons Creek precinct;
6. Gateway precinct;
7. Walker Street, Frew Avenue and Kellys Falls precincts;
8. Old Farm Road, Metropolitan Colliery and Lukin Street precincts;
9. Camp Gully Creek precinct - including Walker Lane and Undola Road sub-precincts;

10. Lady Carrington Estate, Lilyvale, Central Bushland, and Otford Valley Farm precincts,
11. Lloyd Place precinct;
12. Land Pooling and Lady Carrington Estate South precincts and Draft Planning Agreement.

Conclusion

This report provides a background summary to the review of the lands formerly zoned 7(d) Hacking River – Environmental Protection at Helensburgh, Otford and Stanwell Tops. Separate reports have been prepared addressing issues associated with individual precincts.

LAND USE TABLE COMPARISON

	7(d) zone WLEP 1990	E2 zone WLEP 2009	E3 zone WLEP 2009
Uses permissible without consent	Exempt development (Listed in the Exempt DCP).	Exempt development permitted by clause 3.1.	Home occupations Exempt development permitted by clause 3.1.
Uses permissible with consent	Advertisements; Dwelling houses (subject to lot size requirements – see below); Home employment; Leisure areas; Utility installations.	Environmental facilities; Environment protection works; Extensive agriculture; Recreation areas.	Animal boarding and training establishments; Bed and breakfast accommodation; Building identification signs; Business identification signs; Community facilities; Dwelling houses (subject to lot size requirements – see below); Environment facilities; Environment protection works; Extensive agriculture; Farm buildings; Farm stay accommodation; Forestry; Recreation areas; Roads; Secondary dwellings.
Uses permissible with consent subject to advertising and clause 11 assessment	Agriculture; Buildings used in conjunction with agriculture; Child care centres; Education establishments; Mines; Recreation areas; Restaurants.	Nil.	Nil.
Prohibited uses	All other uses.	Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors Housing; Service Stations; Warehouse or distribution centres; All other uses.	Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors Housing; Service Stations; Warehouse or distribution centres; All other uses.

	7(d) zone WLEP 1990	E2 zone WLEP 2009	E3 zone WLEP 2009
Subdivision standard	Subdivision generally not permitted, except if there are existing dwelling houses.	Refer to Minimum Lot Size map (generally 40 hectares).	Refer to Minimum Lot Size map (generally 40 hectares).
Minimum lot size required for a dwelling house	<ul style="list-style-type: none"> • 10ha if lot created prior to 1971; • 20ha if lot created between 1971 and 1984; • 40ha if lot created after 1984. 	Dwelling houses not permitted.	<ul style="list-style-type: none"> • 10ha if lot created prior to 1971; • 20ha if lot created between 1971 and 1984; • 40ha if lot created after 1984.
Replacement dwellings on undersized lots	Yes – clause 14(2A).	No – except under existing use rights.	Yes – clause 4.2A.

Table 1 – Summary of Precincts proposed to be subject to a draft Planning Proposal (as at 5 July 2011)

Precinct	Recommendation	Existing dwellings	Additional dwellings
Garrawarra precinct	Rezone to E2 Environmental Conservation. Retain the SP2 - Infrastructure zone for Garrawarra Centre.	Hospital	0
Lady Carrington Estate North	Rezone to E1 National Parks, as the land is now part of Garrawarra State Conservation Area.	0	0
Gateway precinct, Princes Highway	Rezone to: B6 Enterprise Corridor zone; RU2 Rural Landscape zone; RE2 Private Recreation zone; and SP3 Tourist zone – Symbio.	10	0
Princes Highway – west of F6 precinct	Rezone the public land to E2 Environmental Conservation. Rezone the private land to RU2 Rural Landscapes, E3 Environmental Management and E2 Environmental Conservation.	2	0
Gills Creek precinct	Rezone to: RU2 Rural Landscapes; and E2 Environmental Conservation. The additional use of a “restaurant or café” be permitted on the corner of Baines Place and Lawrence Hargrave Drive.	19	0
Wilson's Creek precinct	Retain some E3 Environmental Management and allow a dwelling house on vacant lots.	12	5
	----- Require the eight (8) Rajani Road small lots to be consolidated into one (1) lot, and a dwelling house be permitted. -----	0	1
	Rezone remainder to E2 Environmental Conservation zone.	-----	-----
Walker Lane precinct	Rezone part of the precinct to R2 Low Density Residential, and the remainder to E2 Environmental Conservation.	0	4-10
Undola Road precinct	Rezone 5, 7, 9 and 11 Undola Road to the E4 Environmental Living zone. Rezone 3 Undola Road to E2 Environmental Conservation.	4	0
Walker Street precinct	Rezone to RU2 Rural Landscape.	12	0

Precinct	Recommendation	Existing dwellings	Additional dwellings
Lukin Street precinct	Rezone the Crown land to E2 Environmental Conservation. Rezone the 48-54 Parkes Street to E4 Environmental Living.	3	0
Oxford North precinct	Rezone to E2 Environmental Conservation.	4	0
Oxford Central precinct	Rezone to E4 Environmental Living. Rezone five (5) lots in Station Road to E2 Environmental Conservation.	21	6
Oxford south precinct	Rezone part of the precinct to E2 Environmental Conservation and allow an additional dwelling on Lot 2 DP 512270, Oxford Road.	7	1
Isolated lots in the Royal National Park	Rezone to E2 Environmental Conservation and not permit any additional dwelling houses.	4	0
Metropolitan Colliery	Rezone the Crown Land bushland to E2 Environmental Conservation.	1	0
Frew Avenue precinct	Retain E3 Environmental Management zone and reduce minimum lot size requirements (to permit 3 additional dwellings).	1	3

Table 2 – Summary of precincts subject to draft Planning Agreement and then possibly a draft Planning Proposal (as at 5 July 2011)

Precinct	Recommendation	Existing dwellings	Additional dwellings
Lady Carrington Estate	Rezone to E2 Environmental Conservation.	0	0
Lady Carrington Estate South	Rezone some to R2 Low Density Residential and buffer to RE2 Private Recreation. Rezone remainder to E2 Environmental Conservation.	0	150-200*
Lilyvale	Rezone to E2 Environmental Conservation.	1	0
Camp Gully Creek	Rezone to E2 Environmental Conservation.	0	0
Central Bushland	Rezone to E2 Environmental Conservation.	0	0

Precinct	Recommendation	Existing dwellings	Additional dwellings
Lloyd Place	Rezone to E2 Environmental Conservation.	0	0
Land Pooling	Rezone some to R2 Low Density Residential. Rezone remainder to E2 Environmental Conservation.	1	150-200*
Oxford Valley Farm	Retain E3 Environmental Management and rezone some to E2 Environmental Conservation.	2	0

* subject to further studies and investigations to determine number of dwellings.

Table 3 - Proposed zone areas and additional dwellings (as at 5 July 2011)

Zone	Land subject to draft Planning Proposal		Land subject to Draft Planning Agreement	
	Area (ha)	Est. Additional dwellings	Area (ha)	Est. Additional dwellings
E1 National Parks	33.37	0	--	--
E2 Environmental Conservation	671.96	0	388.73	--
E3 Environmental Management	281.29	10	37.35	0
E4 Environmental Living	16.05	6	--	--
RU2 Rural Landscapes	85.53	0	--	--
R2 Low Density Residential	0.99	4-10	41.19	300-400*
B6 Enterprise Corridor	6.64	0	--	--
RE1 Public Recreation	1.62	0	--	--
RE2 Private Recreation	7.22	0	5.37	--
SP3 Tourist	6.63	0	--	--
Totals	1111.3	20-26	472.64	300-400*

* subject to further studies and investigations to determine number of dwellings.