

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 11 and participated in discussion and voting.

ITEM 11 - Review of 7(d) Lands - Lloyd Place Precinct

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RESOLVED UNANIMOUSLY on the motion of Councillor Brown seconded Councillor Kershaw that -

- 1 A new draft Planning Proposal be prepared to rezone the enlarged Lloyd Place precinct from E3 Environmental Management to E2 Environmental Conservation.
- 2 The draft Planning Proposal be referred to the NSW Department of Planning and Infrastructure for review, and if approved be exhibited for a minimum period of twenty eight (28) days.
- 3 Council Officers prepare a further report exploring Options (a), (e) and (f) of this report following consultation with the landowners.

ITEM 11 REVIEW OF 7(D) LANDS - LLOYD PLACE PRECINCT

Council at its meeting on 5 July 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 and to consider a draft Planning Agreement. Council included the Lloyd Place precinct in the draft Planning Agreement and resolved to seek further community input prior to determining the future zoning of the precinct. Council is reviewing both the draft Planning Proposal and draft Planning Agreement and held a public information session on 21 November 2011. This report is one of a series of reports on the review and addresses the Lloyd Place precinct.

It is recommended that a new draft Planning Proposal be prepared for this precinct, and if endorsed by the NSW Department of Planning and Infrastructure, be exhibited for community input. The draft Planning Agreement is subject to a separate report, which includes the Land Pooling and Lady Carrington Estate South precincts.

Recommendation

- 1 A new draft Planning Proposal be prepared to rezone the enlarged Lloyd Place precinct from E3 Environmental Management to E2 Environmental Conservation.
- 2 The draft Planning Proposal be referred to the NSW Department of Planning and Infrastructure for review, and if approved be exhibited for a minimum period of twenty eight (28) days.

Attachments

There are no attachments for this report.

Report Authorisations

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

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,

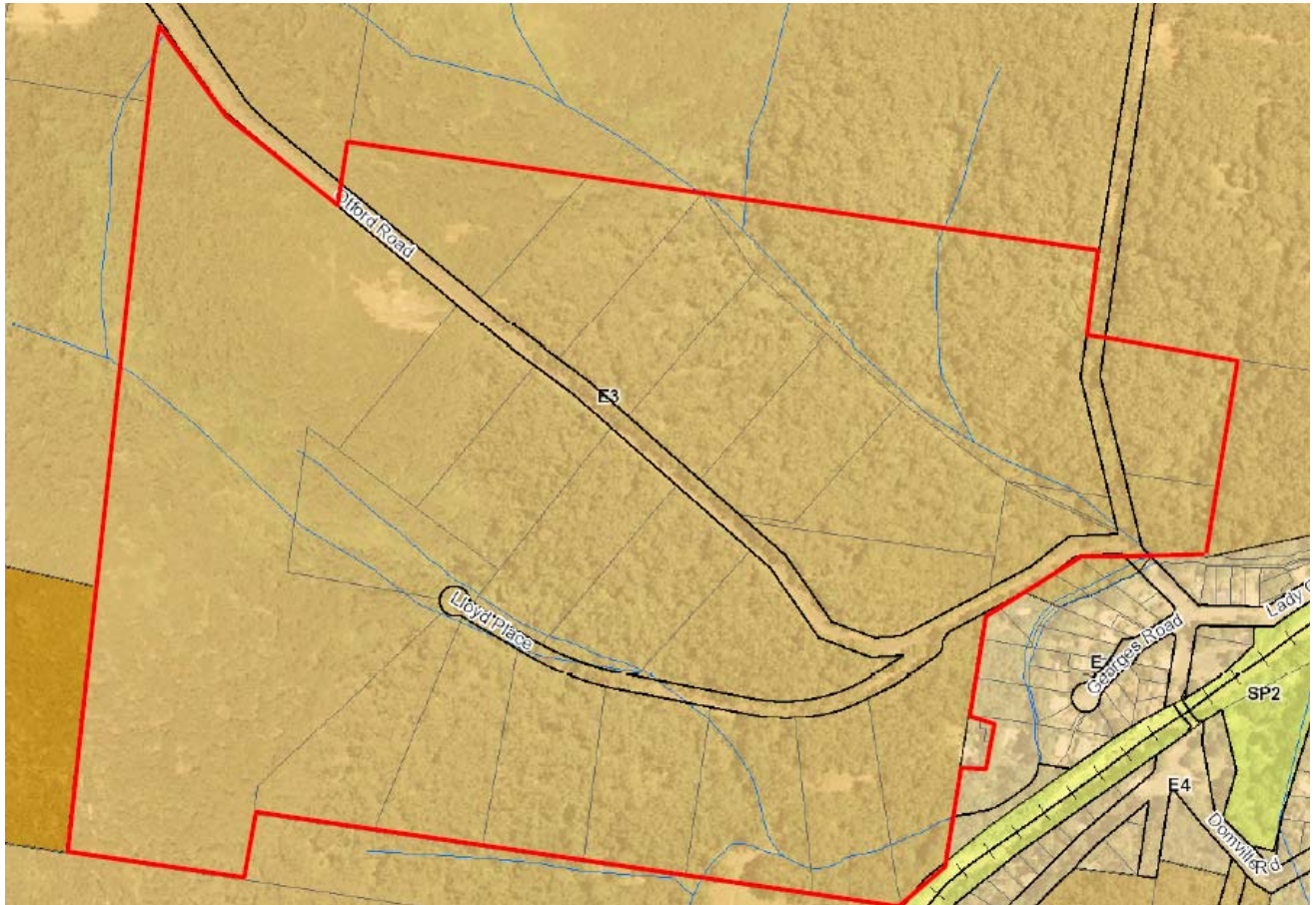
this report addresses the Lloyd Place precinct. Council at its meeting on 5 July 2011, did not resolve to prepare a draft Planning Proposal (rezoning) for this precinct, but included the Lloyd Place precinct in the draft Planning Agreement with the Ensile Pty Ltd holding, and resolved to seek further community input. The exhibition of the draft Planning Agreement was delayed pending the approval of the draft Planning Proposal for exhibition.

Proposal

The twenty (20) lots in Lloyd Place / Otford Road 2 hectare subdivision were created in two (2) 1970 subdivisions which complied with the 2 hectare “county dwelling” standard. The lots were sold with a dwelling entitlement and some owners have a certificate from Council indicating that they can build a dwelling. In 1971, the “county dwelling” standard was increased by the State Government to 20 hectares which meant that dwellings were no longer permissible. Landowners and Council made representations over the years seeking a change to the standard, all of which were unsuccessful.

The precinct has been expanded to include Lot 500 DP 788539 to the west, which is a 19.86 hectare property and contains a dwelling house. Part of this property was included in the original subdivision, as a 2 hectare lot. In 1987 Council approved the consolidation of three (3) parcels to create a lot large enough to satisfy the minimum dwelling standard, and approved a dwelling house. A new dwelling house was approved in 1997. The final report on submissions proposed that the majority of the property be zoned E2 Environmental Conservation with land occupied by the dwelling house and a surrounding buffer being zoned E3 Environmental Management.

Lloyd Place Precinct location



The lots contain steep bushland and the construction of dwellings would require extensive clearing or the dwelling to be built at the bottom of the valleys. The area also forms part of the important north-south habitat linkage. The draft Review recommended that the lands retain the E2 Environmental Conservation zone.

As a consequence of the first exhibition (2009), twenty (20) submissions were received from the landowners of thirteen (13) properties in the Otford Road / Lloyd Place Precinct. All of the submissions opposed the proposed E2 Environmental Conservation zone, and sought the opportunity to build a dwelling house on their land.

Submissions from other members of the community supported the conservation of the precinct. Some submissions acknowledged the differences between the Lloyd Place precinct, where dwelling entitlements have been removed, and other precincts where land was purchased without a dwelling entitlement.

As a consequence of the second exhibition (2010), 1,239 submissions commented on the precinct. 1,225 submissions supported the E2 Environmental Conservation zone. Four (4) submissions supporting the E2 Environmental Conservation zone, proposed

that Council should acquire the land, as the owners had a dwelling entitlement that was removed.

Fourteen (14) submissions on behalf of the land owners objected to the proposed E2 Environmental Conservation zone, and wanted a zoning that would allow them to build a house. Four (4) submissions proposed an E4 Environmental Living zone. The submissions noted that they purchased the land in 1970/71 and at that time they were able to build a house on their land. Two (2) submissions suggested that they would be prepared to give Council 4 acres (1.6 ha) of their 5 acre (2ha) lot, if they were able to build a house on the front 1 acre (0.4 ha) portion.

The submission on behalf of Ensile Pty Ltd proposed that as part of the proposed land transfer / planning agreement, the owners could be provided with an alternate lot within the Lady Carrington Estate.

The submission on behalf of the owners of Otford Farm, who also own five (5) of the Lloyd Place lots, included a biophysical assessment of the land capability. The assessment and submission acknowledged that Lots 6 and 8 DP 242135 are extremely constrained by ecological factors and have limited (if no) development potential for dwellings and other uses. The submission proposed that the lots be zoned E2 Environmental Conservation. The submission considered that Lots 1, 2 and 3 DP 242135 adjacent to Otford Farm were capable of limited development and could accommodate a dwelling house or eco-tourism. The submission noted that access to the horse riding school was off Lloyd Place through Lot 2 DP 242135.

The owners of Lot 500 DP 788539 supported the retention of an E3 Environmental Management zone of their land.

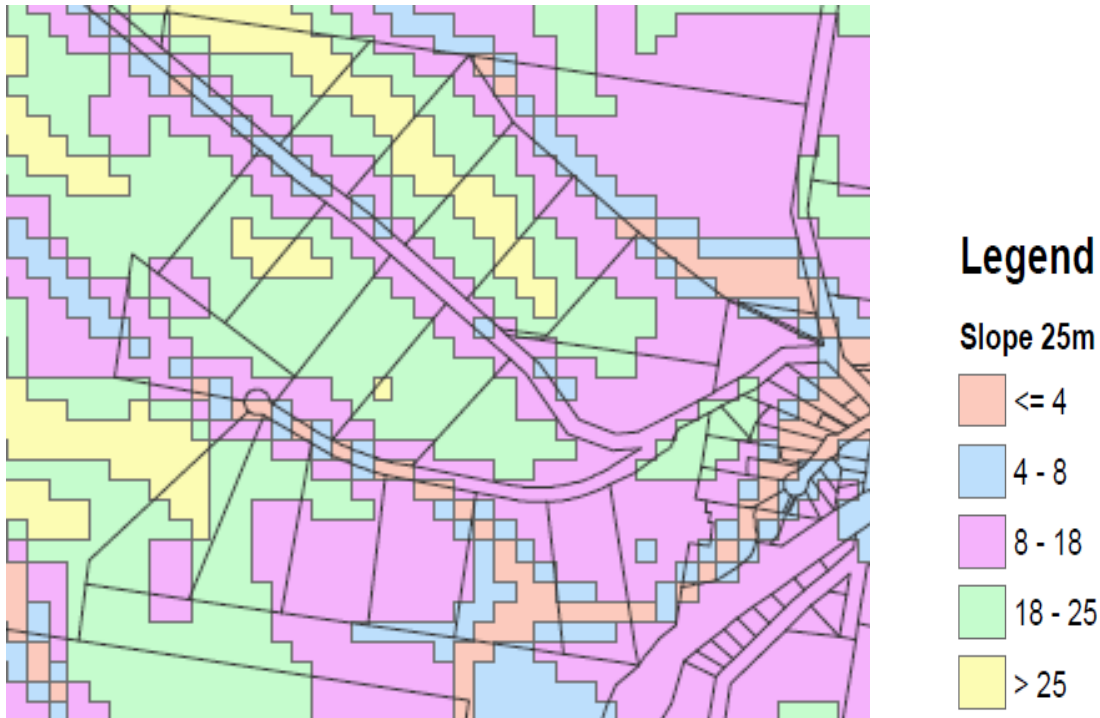
Review of submissions

As noted, the land was subdivided in 1970 based on the country dwelling (subdivision) standard of the day and the lots sold on that basis. The standard changed in April 1971 which has prevented the erection of dwelling houses. While some properties have changed owners since 1970, it appears that at least five (5) lots are still in the same ownership.

As development has not been allowed to occur on the Otford Road / Lloyd Place lots, the bushland has been conserved and it has remained an important part of the Moist Forest Corridor and linkage between the Royal National Park – Illawarra Escarpment – Drinking Water Catchment Area. While the change has been good for conservation outcomes, it has been a concern for the landowners.

The majority of the precinct has slopes of 18-25%, with some areas having slopes of >25% and other areas with slopes of 8-18%. Land with slopes greater than 18% is constrained and generally not recommended for urban development.

Lloyd Place Precinct Slope Analysis



The majority of lots are not suitable for development and should be retained as bushland.

The submission on behalf of one (1) of the owners, confirmed that the western end of Lloyd Place is not capable of development, whereas limited development may be possible at the eastern end.

Options

There are six (6) options for this precinct:

- a. Retain the current E3 Environmental Management zone and current planning controls (no change). The retention of a minimum lot size of 40 hectares per dwelling would not permit the erection of any new dwelling houses.
- b. Retain the current E3 Environmental Management zone and permit a dwelling house on each lot. While this option is supported by the landowners it is not supported in submissions from other members of the community. The precinct forms an important part of the vegetated corridor that links the Illawarra Escarpment and Royal National Park. The steep bushland nature of the precinct would require extensive clearing to accommodate a dwelling house and Bushfire Asset Protection Zone. The precinct is unlikely to be able to be serviced by reticulated water and sewerage systems. This option is not supported.

- c. Rezone the precinct to E2 Environmental Conservation, and not permit a dwelling house on the land and leave it in private ownership. As noted in the draft 7(d) Review this precinct is not capable of supporting dwelling houses due to its topographical, bushland, regional fauna corridor and bushfire constraints.
- d. Rezone the precinct to E2 Environmental Conservation, not permit a dwelling house and transfer the dwelling entitlement to another precinct. This option would allow the owners to own an alternate site in another precinct on which a dwelling house could be built, in exchange for transferring their Lloyd Place lot into public ownership. It has been suggested that land in either Lady Carrington Estate South or the Land Pooling precinct may be suitable. The replacement lot would be a residential sized lot (450 – 600 m²) rather than the current 2 hectare lot. While the size is different, it would provide the owners with an opportunity to build a dwelling house or sell land with a residential value. This option would require residential development to be permitted in either Lady Carrington Estate South or the Land Pooling precinct.

The draft Planning Agreement submitted on behalf of Ensile Pty Ltd offers the owners an alternate dwelling entitlement in the Lady Carrington Estate precinct, in exchange for their lots being transferred to public ownership. Some owners suggested that a 1 for 1 trade was insufficient due to the 2 hectare size of their lot.

- e. Rezone the majority of the precinct to E2 Environmental Conservation and permit a cluster of dwelling houses on the eastern side adjacent to Otford. This option proposes that the owners be permitted to “pool” their land and re-subdivide to create twenty (20) small lots on the western edge of Otford near the intersection with Lloyd Place. The larger balance of the land would be transferred to public ownership. This option would preserve the balance of the bushland in the precinct, but allow the owners to build a dwelling house in close proximity to their current holding. It would require the co-operation of all landowners and the identification of a suitable area. Given the topography of the area, the identification of a suitable area is difficult.
- f. Rezone the precinct to E2 Environmental Conservation, and not permit a dwelling house on the land and transfer the lots into public ownership. To estimate possible acquisition costs, in 2010 Council engaged a Valuer to review the land values within the Lloyd Place precinct. The Valuer estimated the land to be worth \$30,000 per lot based on its unimproved standard and dwelling houses not being allowed. If dwellings were allowed the value would increase substantially. The Valuer also researched the purchase price (where available) and calculated the likely return if that money was invested in a bank. The calculated returns were less than the estimated land values. A number of the owners indicated that they would be prepared for the land to be acquired, but also wanted their rates repaid.

The rezoning of the enlarged precinct (including Lot 500 DP 788539) to E2 Environmental Conservation remains the preferred outcome. It is recommended that a draft Planning Proposal be prepared to rezone the Lloyd Place precinct from E3 Environmental Management to E2 Environmental Conservation.

If the draft Planning Agreement is not supported or progressed, then it is recommended that the lots in the Lloyd Place precinct, still owned by the original owners (or their descendents) be considered for public acquisition.

Conclusion

This report is one of a series of reports to assist Council in reviewing the previous decisions on the lands formerly zoned 7(d) Hacking River – Environmental Protection. It is recommended that a new draft Planning Proposal be prepared to rezone land within the Lloyd Place precinct. This new draft Planning Proposal will require referral to the NSW Department of Planning and Infrastructure for Gateway approval, prior to exhibition.