

ITEM 9

REVIEW OF 7(D) LANDS - LUKIN STREET, OLD FARM ROAD AND METROPOLITAN COLLIERY 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 on the review and addresses the Lukin Street, Old Farm Road and Metropolitan Colliery precincts.

It is recommended that the draft Planning Proposal for the Lukin Street and Metropolitan Colliery precincts be progressed to finalisation and the draft Planning Proposal for the Old farm Road precinct be amended.

Recommendation

- 1 The part of the Planning Proposal for the Lukin Street precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:
 - a rezoning 48-54 Parkes Street, the three privately owned lots, to E4 Environmental Living, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m²; and
 - b rezoning the Crown land (three lots) to E2 Environmental Conservation.be progressed to finalisation.
- 2 The part of the Planning Proposal for the Old Farm Road precinct, which seeks to amend the Wollongong Local Environmental Plan 2009 by rezoning the precinct to E2 Environmental Conservation not proceed, and the lots retain their existing E3 Environmental Management and R2 Low Density Residential (access way) zones, by removing the precinct from the Planning Proposal.
- 3 The part of the Planning Proposal for the Metropolitan Colliery precinct, to rezone the bushland areas surrounding the Colliery (zoned RU1 Primary Production) to E2 Environmental Conservation be progressed to finalisation.

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 Lukin Street, Old Farm Road and Metropolitan Colliery precincts.

Council at its meeting on 28 November 2011 resolved that:

- 1 *Council endorse the existing draft Planning Proposal for the Lukin Street precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:*
 - a *Rezoning 48-54 Parkes Street, the three (3) privately owned lots, to E4 Environmental Living, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m²; and*
 - b *Rezoning the Crown land (three (3) lots) to E2 Environmental Conservation.*
- 2 *The existing draft Planning Proposal for Lukin Street precinct be exhibited for community comment for a minimum period of twenty eight (28) days.*
- 3 *Council resolve to prepare a new draft Planning Proposal for the Old Farm Road precinct, to rezone:*
 - a *Lot 999 DP 854372 (No17), Lot C DP 409182 (No 19-21) and Lot 8 DP 241707 (No 23) Old Farm Road, entirely to E2 Environmental Conservation; and*
 - b *Lot 1000 DP 854372 (No 15) Old Farm Road to E2 Environmental Conservation.*
- 4 *Council resolve to prepare a new draft Planning Proposal for the Metropolitan Colliery precinct, to rezone the following properties (or part) to E2 Environmental Conservation:*
 - a *Lot 703 DP 752033;*
 - b *Reserve 79561 (excluding the access road) (to the south);*
 - c *Lot 1 DP 815356, including the land zoned RE1 Public Recreation);*
 - d *Lot 2 DP 815356;*
 - e *Part of Lot 2 DP 229817;*
 - f *Part of Lot 617 DP 752033;*
 - g *Lot 7064 Crown ID 96787 (including the land zoned RE1 Public Recreation);*

- h Lot 7313 Crown ID 1157068;*
- i The eastern part of Lot 7314 Crown ID 1160101; and*
- j Lot 7312 Crown ID 115706.*

In addition, the balance of Lot 7314 Crown ID 1160101 currently zoned RE1 Public Recreation, adjacent to Proud Park, be zoned E3 Environmental Management.

- 5 *The draft Planning Proposal for the Old Farm Road precinct and Metropolitan Colliery be forwarded to the NSW Department of Planning and Infrastructure for Gateway determination, and if approved 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

Lukin Street

The precinct consists of six lots. Three lots are Crown Land managed by the Land and Property Management Authority (map 1 outlined in blue), have a total area of 6.74 hectares and are covered in bushland. The other three lots fronting Parkes Street (map 1 outlined in red) are privately owned, are between 540m² and 1,030m² in area, and each lot contains a dwelling house.

The Council report proposed that the three privately owned small lots that contain a dwelling house be zoned E4 Environmental Living. This zone will reflect the environmental setting, and limit residential development to one house per lot.

The report proposed that the three lots (6.74 hectares) owned by the Crown be zoned E2 Environmental Conservation. The report noted that the Authority objected to the Environmental Conservation zone, as it was:

- Incongruous with surrounding residential zoning;
- There were no heritage items;
- Stormwater would flow into street drainage system;
- The R1 General Residential zoning would be more appropriate, and would allow for future residential expansion within town boundary;
- Existing services available to support development; and
- Development would decrease the area of Bushfire Prone land.

Lukin Street precinct location map 1



The report noted that the Lukin Street precinct is adjacent to Parkes Street and surrounded by existing residential development on three sides. The site can be connected to the sewerage system along Parkes Street. The zoning history for the site indicates that the precinct has been zoned Rural/Non-Urban, and was zoned Open Space under the Illawarra Planning Scheme Ordinance. The Helensburgh Commission of Inquiry found that the precinct was not capable of urban development.

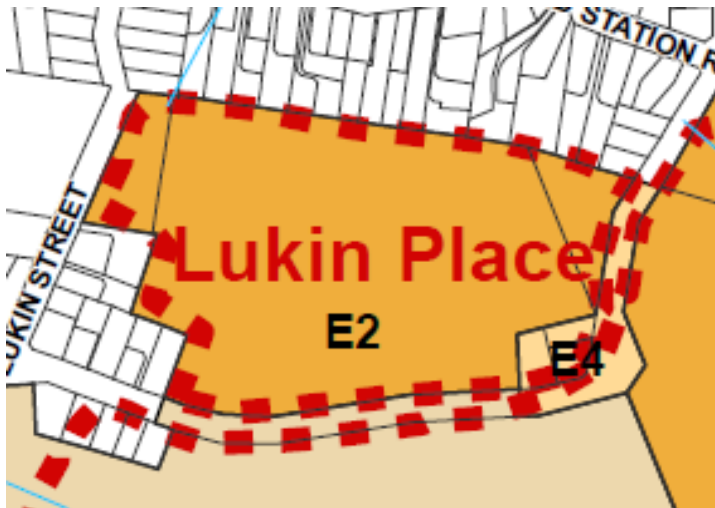
The report noted that residential development would provide additional housing opportunities (possibly up to 60 lots), but would also result in the loss of bushland and habitat, increased traffic, and water quality impacts. The bushland on the site does provide a bushfire risk to adjacent properties. It is the Authority's responsibility as land owner to manage the bush fire risk. Development of the land would remove the bushfire risk, through the clearing of the vegetation, however the loss of vegetation could have a greater impact on the local environment.

The report recommended that Council proceed with the rezoning of the Crown Land to E2 Environmental Conservation and noted that if the Crown wishes to pursue a rezoning of the site, it could prepare and submit the necessary environmental and infrastructure reports to justify an amendment.

Council at its meeting on 28 November 2011 resolved that:

- 1 Council endorse the existing draft Planning Proposal for the Lukin Street precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:
 - a Rezoning 48-54 Parkes Street, the three privately owned lots, to E4 Environmental Living, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m²; and
 - b Rezoning the Crown land (three lots) to E2 Environmental Conservation.

Lukin Street draft zoning map 2



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
NSW Department of Primary Industries – Catchment and Lands (Crown Lands)	Advised that it accepted the E2 Environmental Conservation zoning for its land in the precinct.	Noted.
Submissions from the owners of the privately owned land were not received		

Other submissions:

Submitter	Submission
Resident Helensburgh	Lukin St precinct – agree.
Resident Helensburgh	Lukin St– should be zoned E2 Environmental Conservation.
Email suburb unknown	Lukin St – should be zoned E2 Environmental Conservation.

Form letter/email submissions:

Group/property	Submission
Otford Protection Society	One form letter submitted by 243 persons supporting the proposed rezoning of the precinct. (refer Attachment 5 of Background report)
OtfordEco	<ul style="list-style-type: none"> One form letter submitted by 40 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. (refer Attachment 5 of Background report)
Helensburgh Business Owner Group	<ul style="list-style-type: none"> One form letter submitted by 188 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation; and One form letter submitted by 185 persons supporting the comments in all 56 letters. (refer Attachment 5 of Background report)
Helensburgh Land Pooling Group	One letter submitted by 837 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation. (refer Attachment 5 of Background report)

There are no substantive issues with this precinct and it is recommended that the rezoning be progressed.

Options

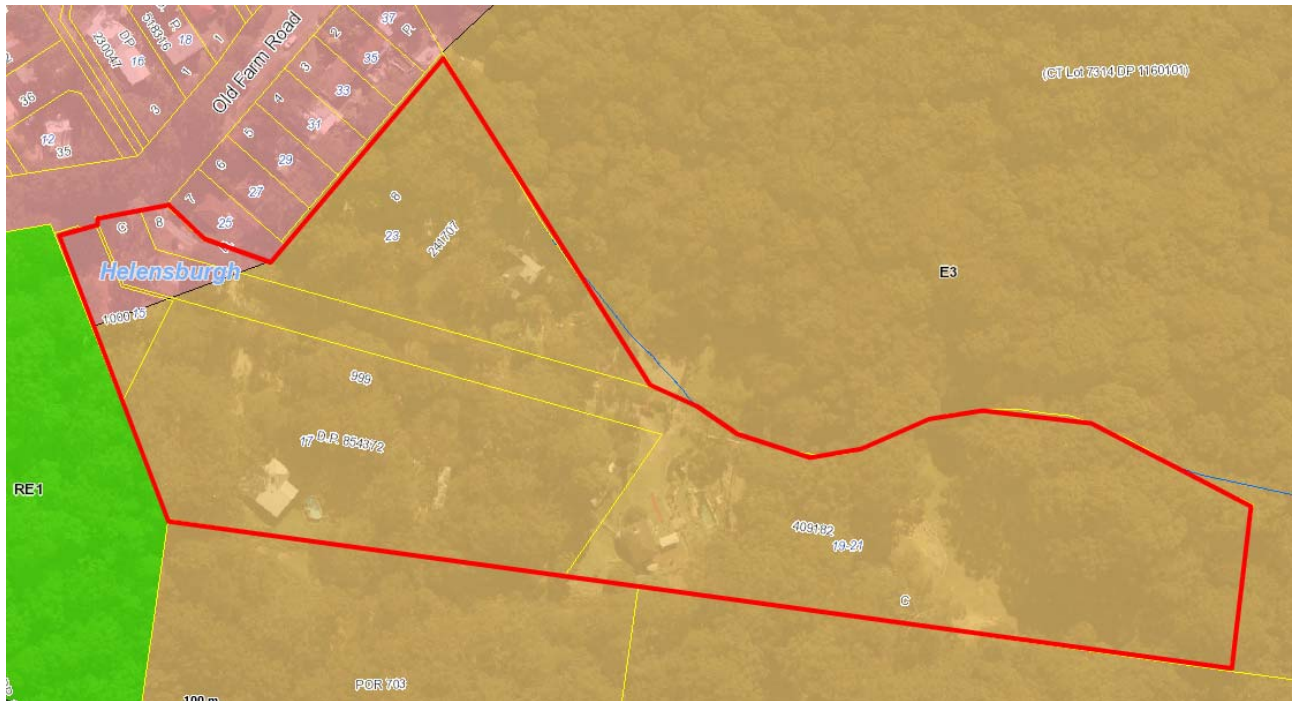
- 1 Proceed with the rezoning of the lots to E4 Environmental Living and E2 Environmental Conservation as exhibited in the draft Planning Proposal; and
- 2 Not proceed with the rezoning and retain the current E3 Environmental Management zone.

Recommendation: *It is recommended that the rezoning of the Lukin Street precinct to E4 Environmental Living (three privately owned lots) and E2 Environmental Conservation (3 Crown lots) be progressed as part of the final Planning Proposal.*

Old Farm Road

This precinct consists of four lots, each of which contains a dwelling house. Each lot is partially zoned E3 Environmental Management and part R2 Low Density Residential. Lot 999 DP 854372 (No. 17), Lot C DP 409182 (Nos. 19-21) and Lot 8 DP 241707 (No. 23) Old Farm Road which were zoned 7(d) (now E3) and each lot contains a dwelling house. Part of the driveway of each lot, adjacent to the road reserve, is zoned R2 Low Density Residential. Lot 1000 DP 854372 (No. 15) Old Farm Road which is zoned part R2 Low Density Residential (551m² approximately) and part E3 Environmental Management (426m² approximately). The dwelling house on this lot is partially located in both zones.

Old Farm Road precinct location and current zoning map 3



Options that were considered were zoning the properties entirely either E3 Environmental Management, R2 Low Density Residential (by extending either of the two existing zones), or zoning the property E4 Environmental Living. The rezoning of the property to entirely R2 Low Density Residential would increase the development potential and could lead to a future development application to subdivide the lot for two dwellings. The E3 Environmental Management and E4 Environmental Living zones would limit the development potential to one dwelling house.

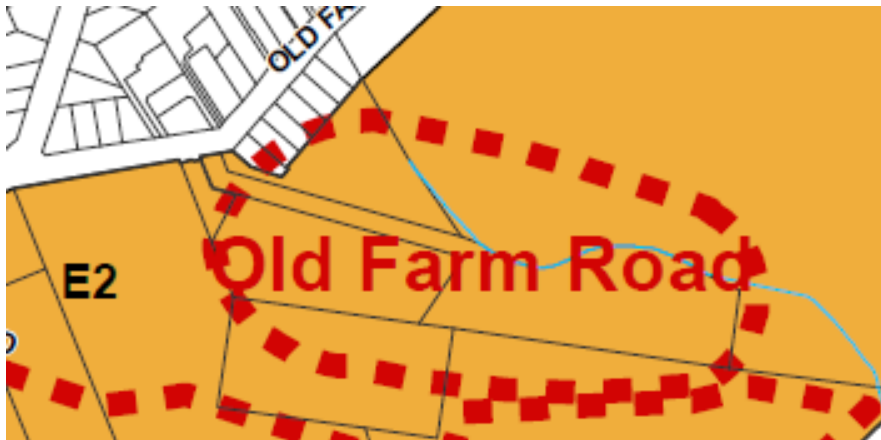
Council at its meeting on 28 November 2011 considered a report that recommended:

- Lot 999 DP 854372 (No. 17), Lot C DP 409182 (Nos. 19-21) and Lot 8 DP 241707 (No. 23) Old Farm Road be zoned entirely E3 Environmental Management zone by rezoning the front part of the lots from R2 Low Density Residential to E3 Environmental Management; and
- Lot 1000 DP 854372 (No. 15) Old Farm Road be rezoned to E4 Environmental Living.

Council resolved (in part) that:

- 3 Council resolve to prepare a new draft Planning Proposal for the Old Farm Road precinct, to rezone:
 - a Lot 999 DP 854372 (No17), Lot C DP 409182 (No 19-21) and Lot 8 DP 241707 (No 23) Old Farm Road, entirely to E2 Environmental Conservation; and
 - b Lot 1000 DP 854372 (No 15) Old Farm Road to E2 Environmental Conservation.

Old Farm Road draft zoning map 4



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

No submissions from the landowners were received.

Other submissions:

Submitter	Submission
Resident Helensburgh	Old Farm Road precinct – agree.
Resident Helensburgh	Old Farm Rd – should be zoned E2 Environmental Conservation.
Email suburb unknown	Old Farm Road - should be zoned E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Otford Protection Society	One form letter submitted by 237 persons supporting the proposed rezoning of the precinct. (refer Attachment 5 of Background report)
OtfordEco	<ul style="list-style-type: none"> One form letter submitted by 40 persons supporting the proposed rezoning of the precinct; One form letter submitted by 136, persons making a conservation based submission on all precincts; and Two form letters submitted by 79 and 123 persons supporting E2 Environmental Conservation for all 23/24 precincts, respectively. (refer Attachment 5 of Background report)
Helensburgh Business Owner Group	<ul style="list-style-type: none"> One form letter submitted by 188 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation; and One form letter submitted by 185 persons supporting the comments in all 56 letters. (refer Attachment 5 of Background report)
Helensburgh Land Pooling Group	One letter submitted by 837 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation. (refer Attachment 5 of Background report)

Review of issues

As a result of the exhibition, the main issue to consider with this precinct is whether to proceed with the rezoning of the lots that contain a dwelling house to E2 Environmental Conservation.

The existing dwellings were approved under a previous planning regime, when they complied with the zonings and standards of the day. The lots are substantially cleared of native vegetation and contain a dwelling house, outbuildings and pools. A rezoning to E2 Environmental Conservation would remove the permissibility of a dwelling house, and require the owners to rely on existing use rights for any alternations, additions, rebuilding of the dwelling or outbuildings. Whilst this is possible, it is a more complex process.

It is unrealistic to expect that the dwellings and improvements on these lots will be removed and the land returned to bushland, unless they are purchased by Council and the dwellings are demolished. They are unlikely to be acquired by the State, as the Office of Environment and Heritage (OEH) (formerly Department of Environment

Climate Change and Water) have not identified this area as being suitable for inclusion in the State reserve system.

The E2 Environmental Conservation zone is the highest conservation zone (outside the E1 National Park 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 over-riding strategy, such as the land being incorporated into a reserve system. Broadening the character of land uses within the zone undermines the significance of the zone. Two of the 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.

Whereas, 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.

It is recommended that the rezoning to E2 Environmental Conservation not proceed, and the land retain the existing E3 Environmental Management and R2 Low Density Residential zones. This can be achieved by deleting the precinct from the Planning Proposal.

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 and R2 Low Density Residential zones.
- 3 Resolve to prepare a new Planning Proposal to rezone the precinct to another zone, and undertake further community consultation.

Recommendation: *It is recommended that the rezoning of Old Farm Road precinct not be progressed as part of the final Planning Proposal and the lots retain their existing zones.*

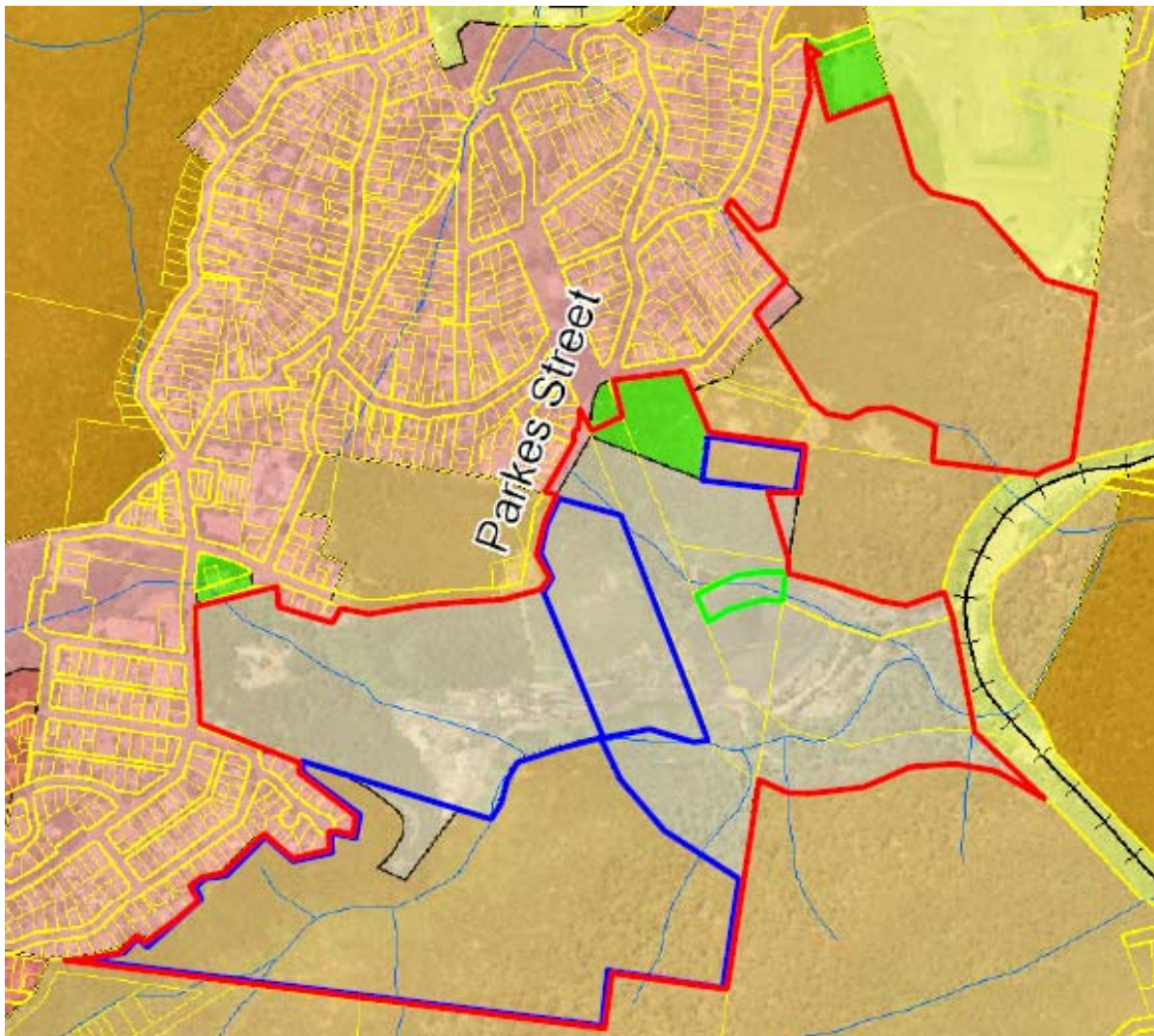
Metropolitan Colliery

The Metropolitan Colliery has been operating for over 100 years and is a key economic driver for Helensburgh. The site contains a number of heritage items which are listed in the Wollongong Local Environmental Plan 2009.

Part of the land occupied by the Colliery is Crown Land (map 1-outlined in blue), which the Colliery occupies through mining leases.

The Colliery was zoned 7(d) Environmental Protection Hacking River under Wollongong Local Environmental Plan 1990, but was rezoned to RU1 Primary Production by Wollongong Local Environmental Plan 2009. The RU1 Primary Production zone is consistent with other mines in the City, as this zone permits mining and extractive industries. Within Wollongong City the RU1 Primary Production zone has only been used for mine sites. Part of the Colliery holdings is also zoned RE1 Public Recreation (in the north) and E3 Environmental Management.

Metropolitan Colliery location and current zoning map 5



In 2010, the Minister for Planning granted consent under Part 3A of the Act for an expansion of underground mining activities under the Woronora Catchment area.

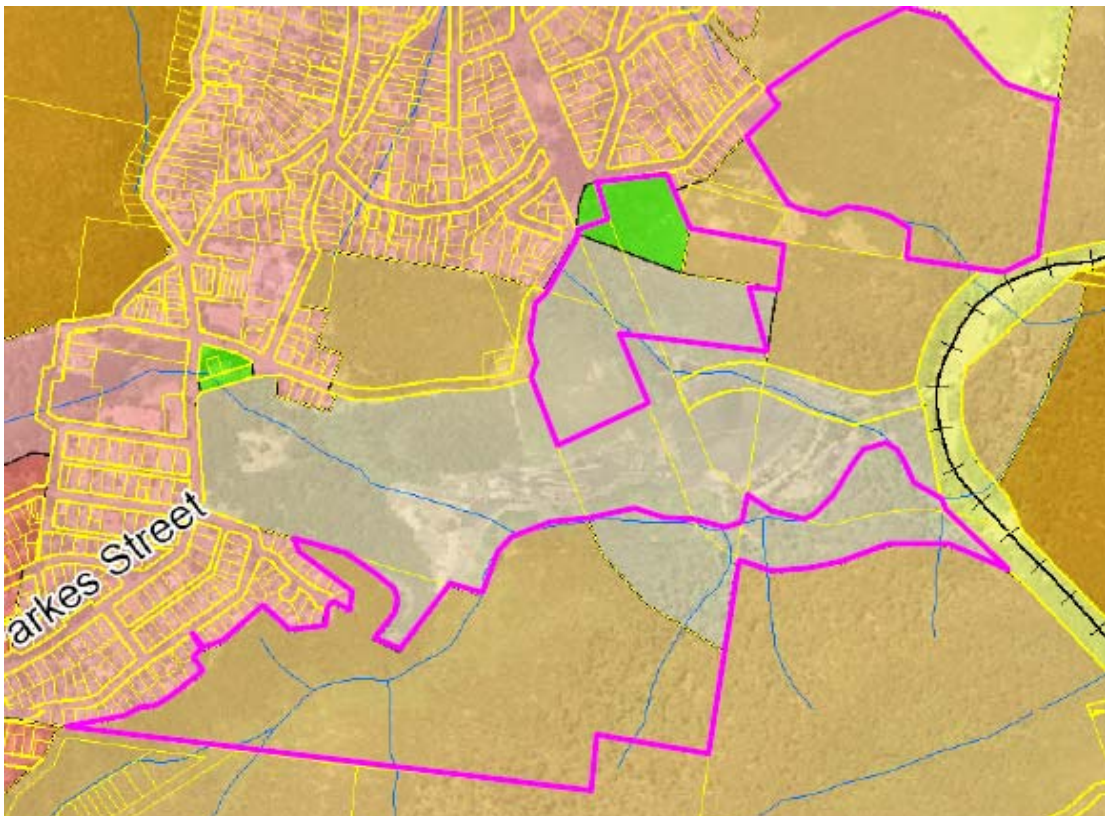
Crown Land to the north and south of the colliery area (map 5 outlined in blue) contains significant bushland, which is proposed to be zoned E2 Environmental Conservation, including Lot 703 DP 752033. One lot within the precinct is owned by the State Rail Authority (map 1 outlined in green).

The precinct includes land between Old Farm Road and the Helensburgh Waste Depot, known as Lot 7314 Crown ID 1160101 and Mining Lease 29. This lot is also Crown Land over which the Colliery has a lease. The majority of this lot is zoned E3 Environmental Management (formerly 7(d)), part of the lot adjacent to Old Farm Road is zoned R2 Low Density Residential and part of the lot, adjacent to Proud Park, is zoned RE1 Public Recreation. There is a bushfire Asset Protection Zone behind properties fronting Hall Road, which is utilised by the properties for secondary access.

Part of the adjoining Lot 1 DP 616229 (Lady Carrington Estate) is incorrectly zoned RU1 Primary Production. A separate report recommends that this land be zoned E2 Environmental Conservation, similar to the surrounding land.

The report recommended that the bushland that surrounds the Metropolitan Colliery (map 6 outlined in pink) in the diagram below be rezoned to E2 Environmental Conservation.

Metropolitan Colliery Crown land map 6

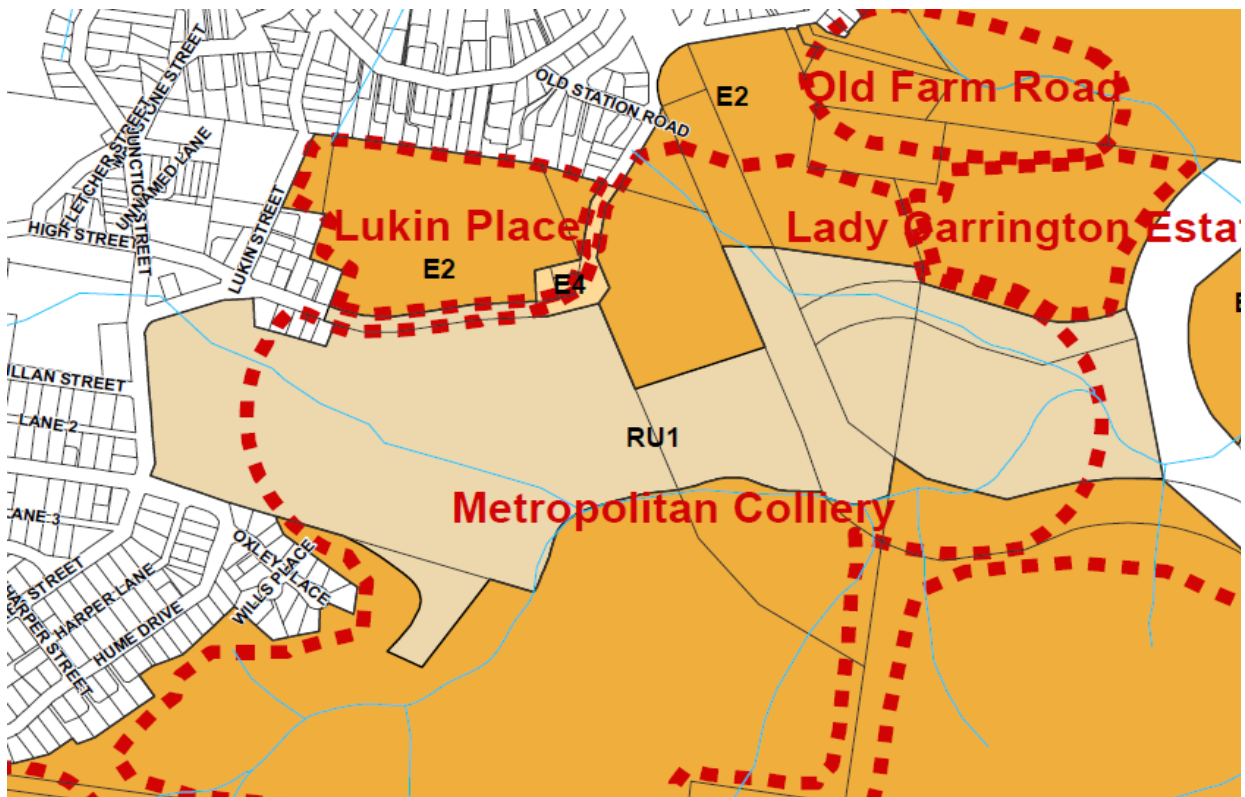


Council at its meeting on 28 November 2011 resolved (in part) that:

- 4 Council resolve to prepare a new draft Planning Proposal for the Metropolitan Colliery precinct, to rezone the following properties (or part) to E2 Environmental Conservation:
 - a Lot 703 DP 752033;
 - b Reserve 79561 (excluding the access road) (to the south);
 - c Lot 1 DP 815356, including the land zoned RE1 Public Recreation);
 - d Lot 2 DP 815356;
 - e Part of Lot 2 DP 229817;
 - f Part of Lot 617 DP 752033;
 - g Lot 7064 Crown ID 96787 (including the land zoned RE1 Public Recreation);
 - h Lot 7313 Crown ID 1157068;
 - i The eastern part of Lot 7314 Crown ID 1160101; and
 - j Lot 7312 Crown ID 115706.

In addition, the balance of Lot 7314 Crown ID 1160101 currently zoned RE1 Public Recreation, adjacent to Proud Park, be zoned E3 Environmental Management.

Metropolitan Colliery draft zoning map 3



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
NSW Department of Primary Industries – Catchment and Lands (Crown Lands)	Advised that it accepted the E2 Environmental Conservation zoning for its land in the precinct.	Noted.
A submission from the Colliery owners was not received		

Other submissions:

Submitter	Submission
Resident Thirroul	Mining proposals from the Colliery will impact Cataract Creek, so we need the Hacking River even more.
Resident Helensburgh	Metropolitan Colliery precinct – agree.
Resident Helensburgh	Metropolitan Colliery – support RU1 Primary Production.
Email suburb unknown	Metropolitan Colliery – can be zoned RU1 Primary Production, remainder E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Offord Protection Society	One form letter submitted by 250 persons objecting to the proposed rezoning of the precinct, wanting it all E2 Environmental Conservation. (refer Attachment 5 of Background report)
OffordEco	<ul style="list-style-type: none"> One form letter submitted by 40 persons objecting to the proposed rezoning of the precinct, wanting it all 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. (refer Attachment 5 of Background report)

Group / property	Submission
Helensburgh Business Owner Group	<ul style="list-style-type: none"> One form letter submitted by 188 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation; and One form letter submitted by 185 persons supporting the comments in all 56 letters. <p>(refer Attachment 5 of Background report)</p>

The RU1 Primary Production zone remains appropriate for the colliery operations, it is currently zoned RU1. Any development at the Colliery is likely to be assessed under the provisions of State Environmental Planning Policy (SEPP) Mining, Extractive Industries and Petroleum Production 2007 and SEPP State and Regional Development 2011, as State Significant Development.

The surrounding bushland is part of the larger bushland corridor and should be zoned E2 Environmental Conservation.

The Crown did not object to the Crown Land outside the Colliery being zoned E2 Environmental Conservation.

Options

- 1 Proceed with the rezoning of the bushland surrounding the Metropolitan Colliery 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, and undertake further community consultation.

Recommendation: *It is recommended that the rezoning of the bushland surrounding the Metropolitan Colliery to E2 Environmental Conservation zone be progressed as part of the final Planning Proposal.*

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 draft Planning Proposal for the rezoning of Lukin Street, and Metropolitan Colliery precincts be progressed to finalisation. It is recommended that the draft Planning Proposal for the rezoning of Old Farm Road not proceed and the precinct retain its current E3 Environmental Management and R2 Low Density Residential zones, by removing the precinct from the Planning Proposal.