

## 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 4 and participated in discussion and voting.

### ITEM 4 - Review of 7(d) Lands - Otford North, Otford Central, Otford South and Govinda Precincts

252

**MOVED** on the motion of Councillor Brown seconded Councillor Martin that -

- 1 Council endorse the existing draft Planning Proposal for the Otford North precinct, which seeks to rezone the land to E2 Environmental Conservation and not permit any dwelling houses.
- 2 Council amend the existing draft Planning Proposal for the Otford Central precinct, which seeks to:
  - a Rezone the majority of the precinct to E4 Environmental Living and permit and allow a dwelling house on six (6) vacant lots, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 10,000m<sup>2</sup> (1 hectare); and
  - b Rezone Lots 14, 15 and 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road and Lots 1 and 2 SP 1037008 (2A Domville Road and 24 Lady Wakehurst Drive) to E2 Environmental Conservation and not permit any dwelling houses.
- 3 Council endorse the existing draft Planning Proposal for the Otford South precinct, which seeks to:
  - a Rezone the bushland areas in part of the precinct to E2 Environmental Conservation; and
  - b Retain an E3 Environmental Management zone on Lot 2 DP 512270 Otford Road and amending the Minimum Lot Size Map to permit a dwelling house (as identified on page 32 of the report).

- 4 The draft Planning Proposal be exhibited for community comment for a minimum period of twenty eight (28) days.
- 5 No amendment be made to the planning controls for the Govinda precinct and the property retain an E3 Environmental Management zone.

An AMENDMENT was MOVED by Councillor Petty seconded Councillor Merrin that –

- 1 Council endorse the existing draft Planning Proposal for the Otford North precinct, which seeks to rezone the land to E2 Environmental Conservation and not permit any dwelling houses.
- 2 Council amend the existing draft Planning Proposal for the Otford Central precinct, which seeks to:
  - a Rezone the majority of the precinct to E3 Environmental Management and permit and allow a dwelling on six (6) vacant lots; and
  - b Rezone Lots 14, 15 and 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road and Lots 1 and 2 SP 1037008 (2A Domville Road and 24 Lady Wakehurst Drive) to E2 Environmental Conservation and not permit any dwelling houses.
- 3 Council amend the existing draft planning proposal for the Otford South Precinct to:
  - a Rezone the Precinct to E2 Environmental Conservation; and
  - b Retain an E3 Environmental Management zone on Lot 2 DP 512270 Otford Road and amending the Minimum Lot Size Map to permit a dwelling house.
- 4 A draft Planning Proposal be prepared by Council and 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.
- 5 Council amend the existing draft Planning Proposal for Govinda precinct to E2 Environmental Conservation zone.

The AMENDMENT on being PUT to the VOTE was LOST.

**In favour** Councillors Petty, Curran, Takacs and Merrin

**Against** Councillors Kershaw, Connor, Brown, Martin, Blicavs, Dorahy, Colacino, Crasnick, Bradbery

The MOTION was PUT and CARRIED.

**In favour** Councillors Kershaw, Connor, Brown, Martin, Blicavs, Dorahy, Colacino, Crasnick, Bradbery

**Against** Councillors Petty, Curran, Takacs and Merrin

**ITEM 4****REVIEW OF 7(D) LANDS - OTFORD NORTH, OTFORD CENTRAL, OTFORD SOUTH AND GOVINDA PRECINCTS**

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. The draft Planning Proposal has been approved for exhibition by the NSW Department of Planning and Infrastructure. Prior to exhibition, Council is reviewing the draft Planning Proposal 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 Otford North, Otford Central, Otford South and Govinda precincts.

It is recommended that the draft Planning Proposal for the Otford North, Otford Central and Otford South precincts be progressed to exhibition for further community input. It is recommended that the Govinda precinct retain the E3 Environmental Management zone.

**Recommendation**

- 1 Council endorse the existing draft Planning Proposal for the Otford North precinct, which seeks to rezone the land to E2 Environmental Conservation and not permit any dwelling houses.
- 2 Council amend the existing draft Planning Proposal for the Otford Central precinct, which seeks to:
  - a Rezone the majority of the precinct to E4 Environmental Living and permit and allow a dwelling house on six (6) vacant lots, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 10,000m<sup>2</sup> (1 hectare); and
  - b Rezone Lots 14, 15 and 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road and Lots 1 and 2 SP 1037008 (2A Domville Road and 24 Lady Wakehurst Drive) to E2 Environmental Conservation and not permit any dwelling houses.
- 3 Council endorse the existing draft Planning Proposal for the Otford South precinct, which seeks to:
  - a Rezone the bushland areas in part of the precinct to E2 Environmental Conservation, retaining an E3 Environmental Management zone in other areas; and
  - b Retain an E3 Environmental Management zone on Lot 2 DP 512270 Otford Road and amending the Minimum Lot Size Map to permit a dwelling house.
- 4 The draft Planning Proposal be exhibited for community comment for a minimum period of twenty eight (28) days.
- 5 No amendment be made to the planning controls for the Govinda precinct and

the property retain an E3 Environmental Management zone.

---

## 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 Otford North, Otford Central, Otford South and Govinda precincts.

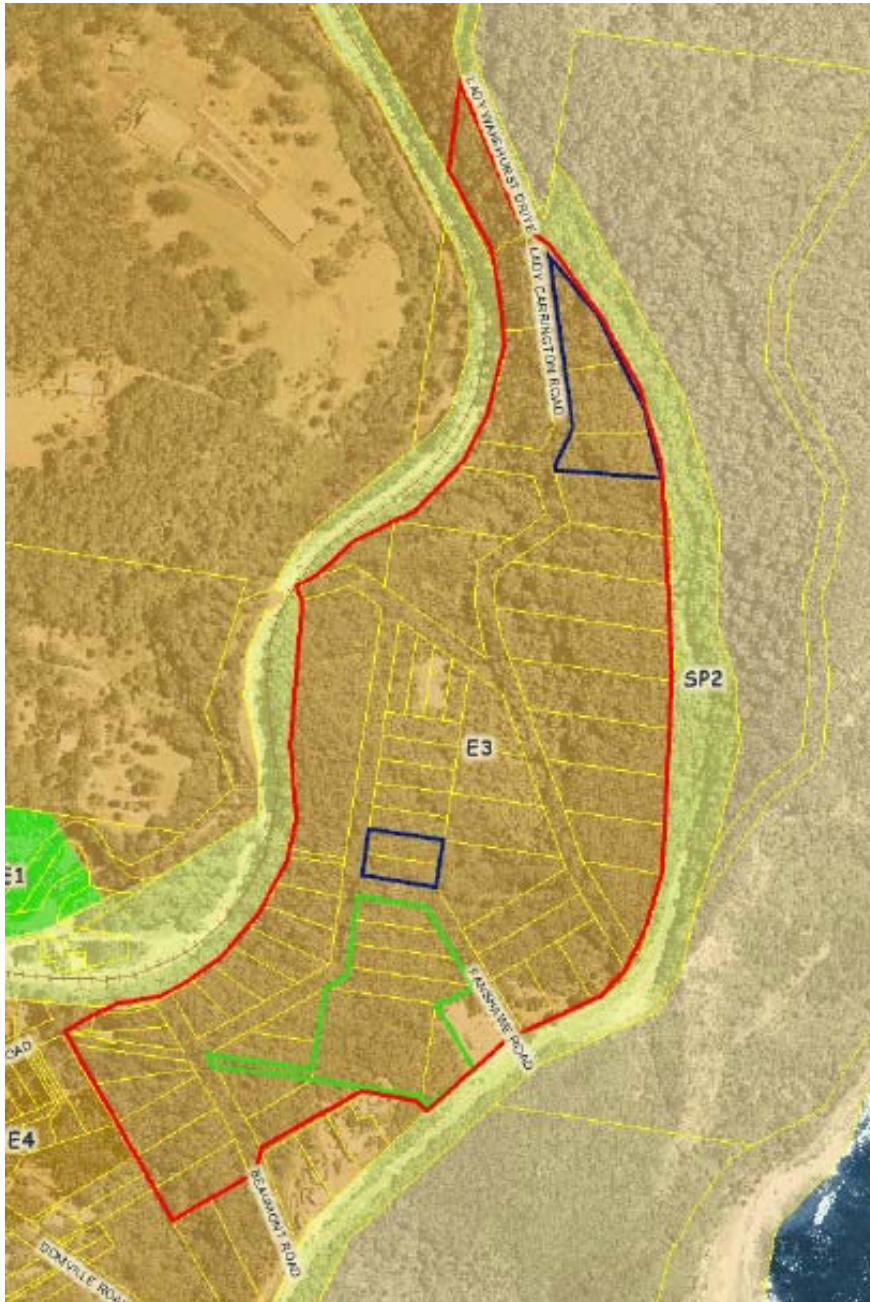
---

## Proposal

### **Otford North**

The Otford North precinct contains fifty four (54) lots which are covered in steep bushland and four (4) existing dwellings. The precinct is located between the Royal National Park, the railway and Otford Village. Council owns five (5) lots at the northern end of the precinct (outlined in blue). The six (6) sites are Crown Land (outlined in green). The draft Review recommended that this area retain an E2 Environmental Conservation zone and that no additional residential development be permitted.

## Otford North Precinct location



The precinct, along with the rest of Otford was subdivided in 1905, into lots from 1,037m<sup>2</sup> to 1.3ha in area. In the late 1960's and 1970's, the lots were sold to individual owners. Between 1951 and 1968 lots had to be larger than 0.8 hectares (2 acres) under the County of Cumberland Planning Scheme Ordinance for a "country dwelling" to be permissible. In 1968, with the introduction of the Illawarra Planning Scheme Ordinance, the country dwelling standard increased to lots larger than 2 hectares (5 acres). In 1971, the minimum lot size for a dwelling house increased to 20 hectares



(50 acres). In 1984 the land was zoned 7(h) Environmental Protection Scenic and was rezoned to 7(d) Hacking River Environmental Protection in 1988.

Based on Council's ownership transfer data, three (3) lots were last transferred between 1960 and 1969, whereas ten (10) were last transferred between 1970 and 1979. None of these lots transferred in the 1960s were larger than 0.8 hectares. Only four (4) lots in the Otford North precinct have an area greater than 0.8 hectares (2 acres). None of which contain a dwelling house. Council's ownership records indicate that these lots were last transferred after 1971, at which time the 2 hectare standard applied. Accordingly, it does not appear that any vacant lot had a dwelling entitlement upon purchase. However, some land owners indicate that when they purchased their land, Council officers advised that they could build and other dwellings were being built in the area, under the same planning controls.

Because of the lack of development, the land has remained covered in bushland which forms an important habitat link between the bushland in the Royal National Park, Illawarra Escarpment and Sydney Drinking Water Catchment area. The steep bushland of the precinct makes it unsuitable for residential development. The bushland within the precinct, along with the rest of Otford, is part of the Illawarra Escarpment Moist Forest Fauna Corridor, which has been identified as being of regional significance. The precinct is identified as being of high conservation value and is identified for potential inclusion in the State reserve system.

All lots (and the rest of Otford) are within the Watagan Soil Landscape which is listed as generally not suitable for urban development.

As a consequence of the first exhibition (2009):

- Twenty nine (29) submissions on behalf of twenty four (24) land owners, and the East Otford Land Owners Group objected to the proposed E2 Environmental Conservation zone and sought an E4 Environmental Living zone that would allow a dwelling house to be built on the land; and
- Submissions from other members of the community supported the conservation of the precinct and opposed any residential development.

As a consequence of the second exhibition (2010), 2,431 submissions commented on the precinct:

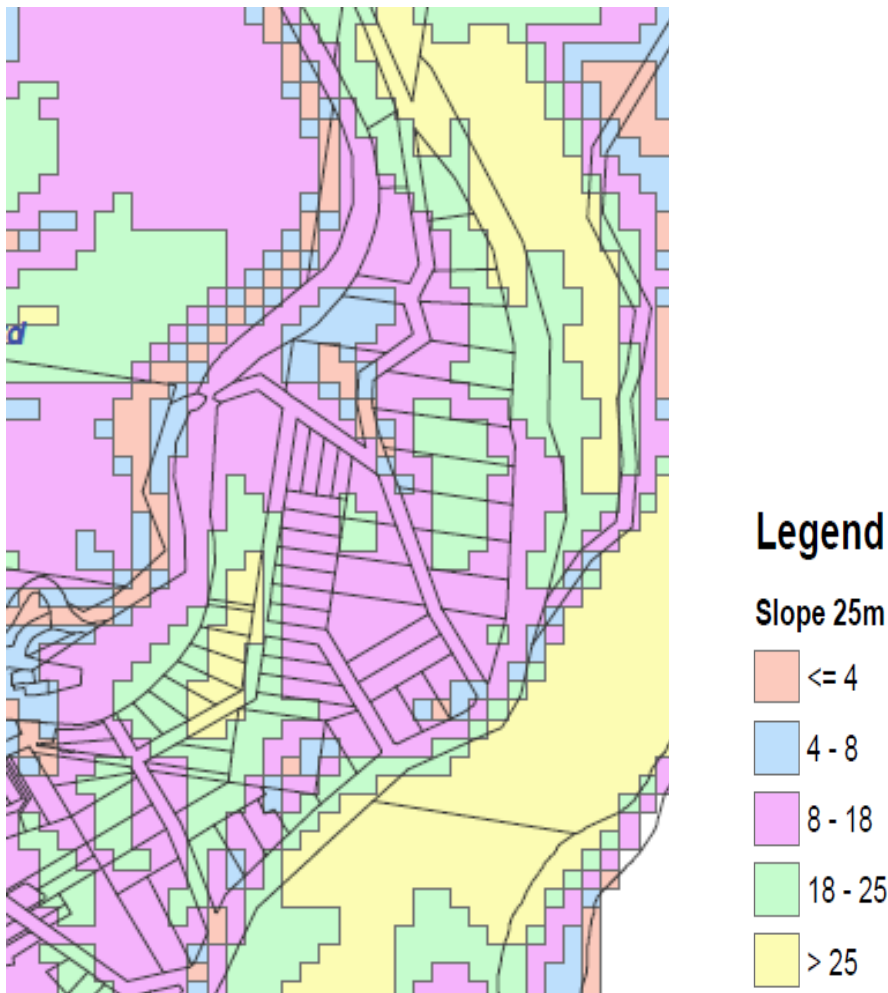
- 2,417 submissions supported the rezoning to E2 Environmental Conservation; and
- Fourteen (14) submissions from the land owners opposed the rezoning to E2 Environmental Conservation.



The submissions from the land owners, noted other dwellings were built in the area, argue their lot is not steep, and that a dwelling house was permissible on their land when they purchased the property.

It is acknowledged that not all blocks are steep. However, the precinct is steep as the land drops 80-100m in elevation from Lady Carrington Drive to the railway line over a distance of 305m, or 26%. The majority of the precinct has slopes of 8-18%, with some areas of 18-25% and other areas having slopes greater than 25%. Land with slopes greater than 18% is constrained and generally not recommended for urban development.

### Otford North Precinct Slope Analysis (% slope)



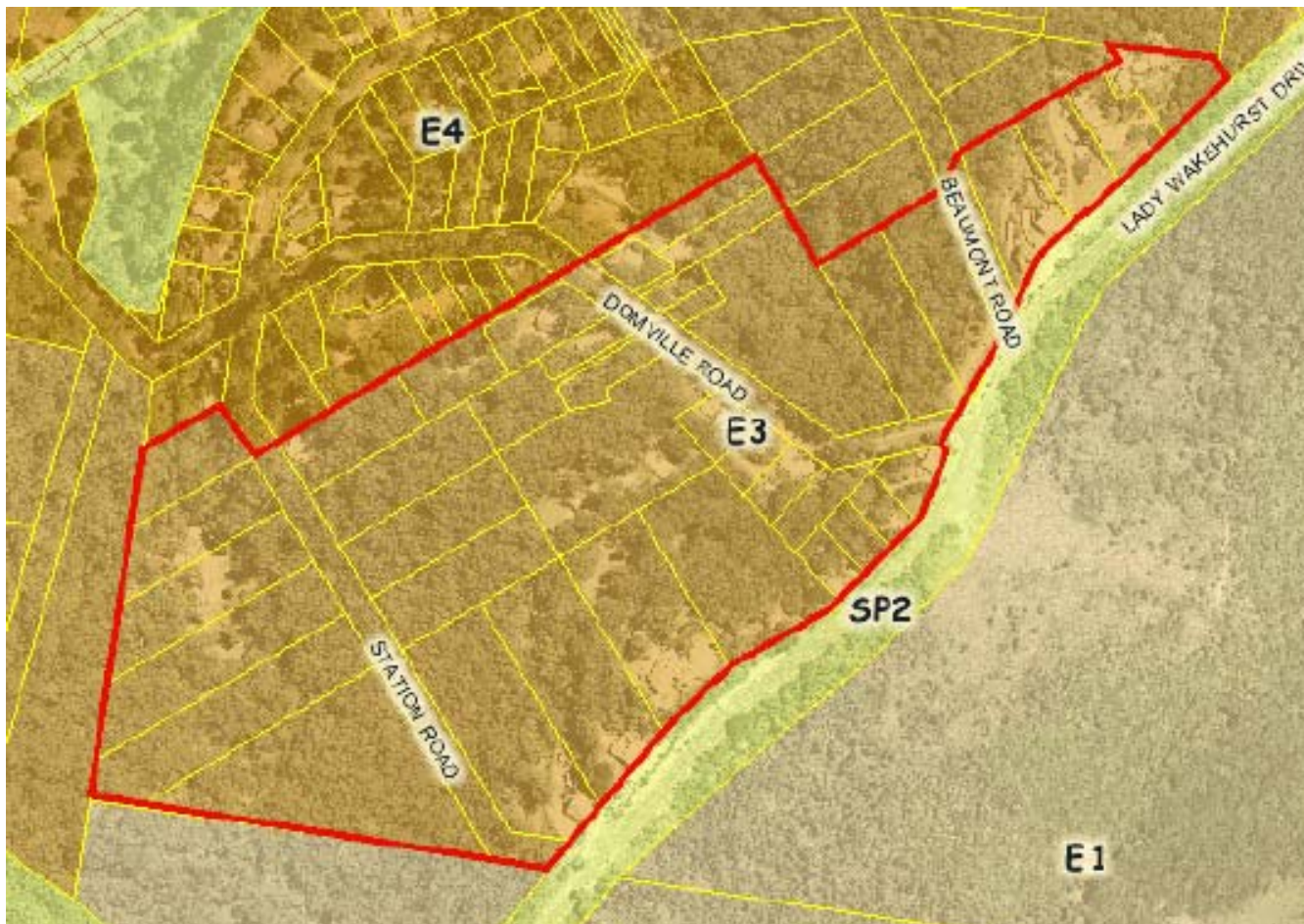
It is recommended that the draft Planning Proposal which proposes to rezone the Otford North lots to E2 Environmental Conservation be exhibited.

## **Otford Central Precinct**

The Otford Central area which includes Domville Road and the houses along Lady Wakehurst Drive contains thirty six (36) lots of which twenty five (25) lots contain dwelling houses and eleven (11) lots are vacant.

There are currently ninety four (94) properties in Otford Village zoned or partially zoned E4 Environmental Living. There is little difference in the character of these properties with the adjoining properties zoned E3 Environmental Management (formerly zoned 7(d)), in Domville and Station Roads, although the E3 Environmental Management properties are larger.

## **Otford Central Precinct location**



The precinct, along with the rest of Otford was subdivided in 1905, into lots 1,037m<sup>2</sup> – 1.3 hectares in area. In the late 1960's – 1970's, the lots were sold to individual owners. Between 1951 and 1968 lots had to be larger than 0.8 hectares (2 acres) under the County of Cumberland Planning Scheme Ordinance for a "country dwelling" to be permissible. In 1968, with the introduction of the Illawarra Planning Scheme Ordinance, the country dwelling standard increased to lots larger than 2 hectares (5 acres). In

1971, the minimum lot size for a dwelling house increased to 20 hectares (50 acres). In 1984 the land was zoned 7(h) Environmental Protection Scenic and was rezoned to 7(d) Hacking River Environmental Protection in 1988.

Six (6) lots in the Otford Central precinct have an area greater than 0.8 hectares (2 acres), all fronting Lady Wakehurst Drive. Five (5) of the lots contain a dwelling house. Only Lot 7 Section 9 DP 4591, located on the south west corner of Station Road, and which has an area of 1.3 hectares does not contain a dwelling house. Council's ownership records indicate that this lot was last transferred in 1986, at which time the 20 hectare dwelling standard applied.

As a consequence of the first exhibition:

- Ten (10) submissions on behalf of the land owners supported the proposed E4 Environmental Living zone and sought a zone that would allow a dwelling house to be built on the land;
- Five (5) submissions on behalf of the land owners opposed the E4 Environmental Living zone and proposed that the land should retain either an E3 Environmental Management zone or be zoned E2 Environmental Conservation and that no additional dwellings be permitted; and
- Submissions from other members of the community supported the conservation of the precinct and opposed any residential development.

A number of residents in Otford were concerned that the proposal would “double” the size of Otford and change its character. While the proposal would double the extent of land zoned E4 Environmental Living at Otford, allowing a dwelling house on each of the vacant lots would only increase the number of dwelling by 11 or 8%. The uses permissible in the E4 Environmental Living zone are limited to residential accommodation, whereas the E3 Environmental Management zone also permits agricultural, forestry and animal boarding and training uses, which are not appropriate in the area.

No further subdivision in the precinct is proposed and the number of additional dwellings can be controlled through the lot size map.

The Preliminary Review of Submissions report proposed that the precinct could be zoned E4 Environmental Living and that one dwelling be permitted on each lot.

As a consequence of the second exhibition, 2,435 submissions commented on the precinct:

- Eleven (11) submissions supported the rezoning. Two (2) submissions indicated that they want to build a house on their land; and

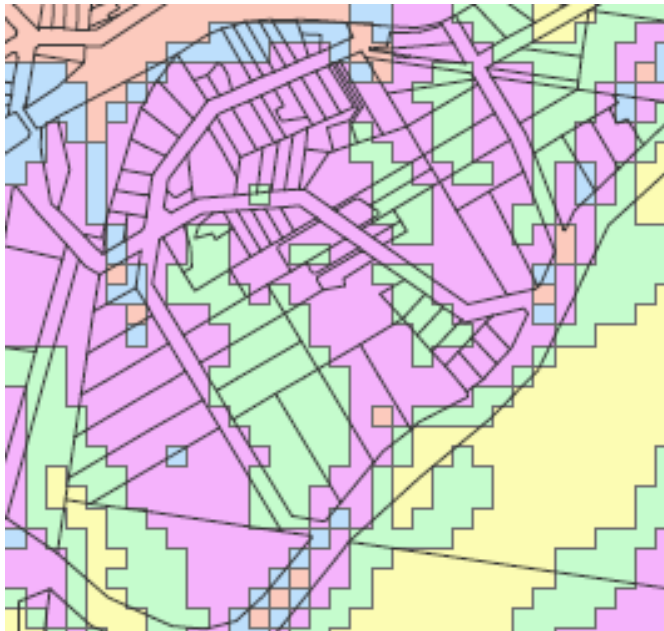
- 2,424 opposed the rezoning to E4 Environmental Living. The majority of the submissions opposed suggested that the land should be rezoned E2 Environmental Conservation.

The land capability of the vacant lots has been reviewed. All lots (and the rest of Otford) are within the Watagan Soil Landscape which is generally not suitable for urban development.

The bushland within the precinct, along with the rest of Otford, is part of the Illawarra Escarpment Moist Forest Fauna Corridor, which has been identified as being of regional significance. The precinct is not identified as being of high conservation value and is not identified for potential inclusion in the State reserve system.






The majority of the precinct has slopes of 8-18% (including the existing Otford village), with some areas having slopes of 18-25%. Land with slopes greater than 18% is constrained and generally not recommended for urban development. Lots 14, 15, 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road have slopes of 18-25% and are tree covered. The lots are not suitable for development, and should be zoned E2 Environmental Conservation.

### Otford Central Precinct Slope Analysis (% slope)



### Legend

#### Slope 25m

	<= 4
	4 - 8
	8 - 18
	18 - 25
	> 25

### Options:

The following options are available for the Otford Central precinct:

- Retain the E3 Environmental Management zone and dwelling house standards and not permit any further residential development;



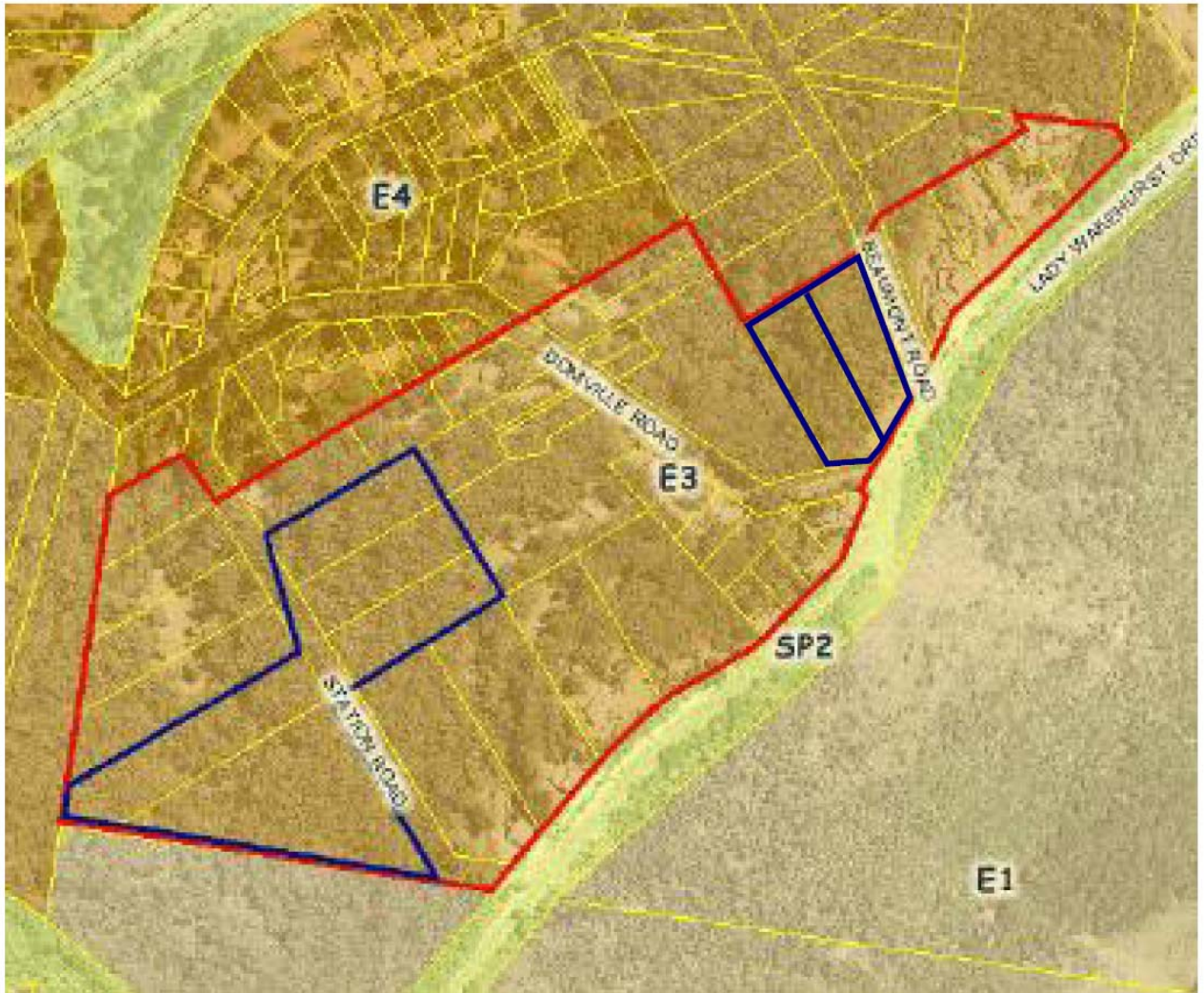
- b. Rezone the precinct to E2 Environmental Conservation. This will not reflect the character of the land and would make existing dwelling houses, non-conforming land uses; and
- c. Allow a dwelling house on some of the vacant lots by zoning the precinct either E4 Environmental Living or retaining the E3 Environmental Management zone and reducing the minimum lot size.

The report considered by Council on 5 July 2011, proposed that Lots 14, 15, 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road to the E2 Environmental Conservation zone, and not permit any residential development. On the 7(d) bus tour on 7 and 21 November 2011, Lots 1 and 2 DP 1037008 (2A Domville Road and 24 Lady Wakehurst Drive) were inspected and the difficulties in constructing dwellings on these lots, due to their steep nature and existing vegetation cover were noted.

It is recommended that the draft Planning Proposal for the Otford Central Precinct be amended and exhibited, which seeks to:

- Zone lots with existing dwelling houses to the E4 Environmental Living zone with a minimum lot size of 2 hectares to preclude further subdivision, and allow a dwelling house on 6 vacant lots; and
- Zone Lots 14, 15, 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road and Lots 1 and 2 DP 1037008 (2A Domville Road and 24 Lake Wakehurst Drive) to the E2 Environmental Conservation zone, and not permit any residential development (outlined in blue).

## Otford Central Precinct – land proposed to be zoned E2

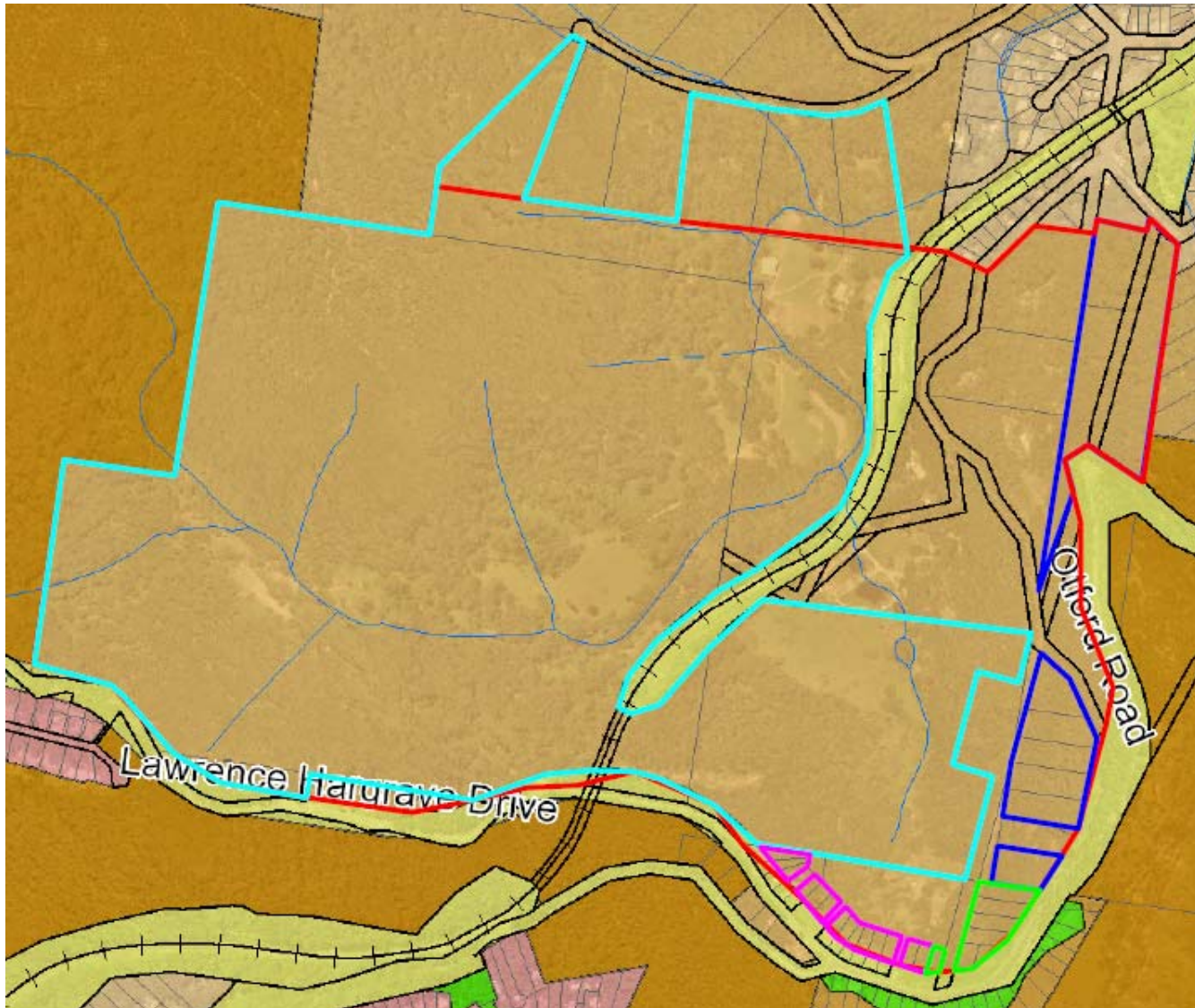


## Otford South Precinct

The southern Otford precinct contains a mix of steep bushland and cleared valley lands. The majority of the precinct is Otford Farm (outlined in light blue), including four (4) lots in the Lloyd Place precinct. Council owns seven (7) lots at Bald Hill (outlined in green). The Crown owns seven (7) lots along Otford Road (outlined in blue). The RTA owns fourteen (14) lots at Bald Hill for road widening (outlined in pink). The RailCorp owns the land above the old and current Otford Rail tunnels. Other properties are in private ownership, the majority of which contain a dwelling house.



## Otford South Precinct location



As a consequence of the first exhibition, the submission on behalf of Otford Farm (Lots 1 and 2 DP 1106860, Lot 1 DP 945016 and Lot 2 DP 719756), requested that the boundaries of the E3 Environmental Management zone be extended to reflect the extent of the cleared lands and recognise the existing approved uses, including:

- Animal boarding and training establishment – including equestrian centre and horse trail rides. In 1982, Council approved DA-1981/1380 for horse riding, associated access and car parking;
- Recreation facility (outdoor) – in 1992 Council approved DA-1991/520 for paintball skirmish on part of the property; and
- Tourist and visitor accommodation – in 1982, Council approved DA-1981/407 for a fifteen (15) room motel, manager's residence, restaurant and car parking on the southern part of the site adjacent to Lawrence Hargrave Drive. The submission



notes that construction commenced in 1985 with earthworks undertaken and footings constructed. The submission indicates that due to “substantial commencement” the consent has not lapsed.

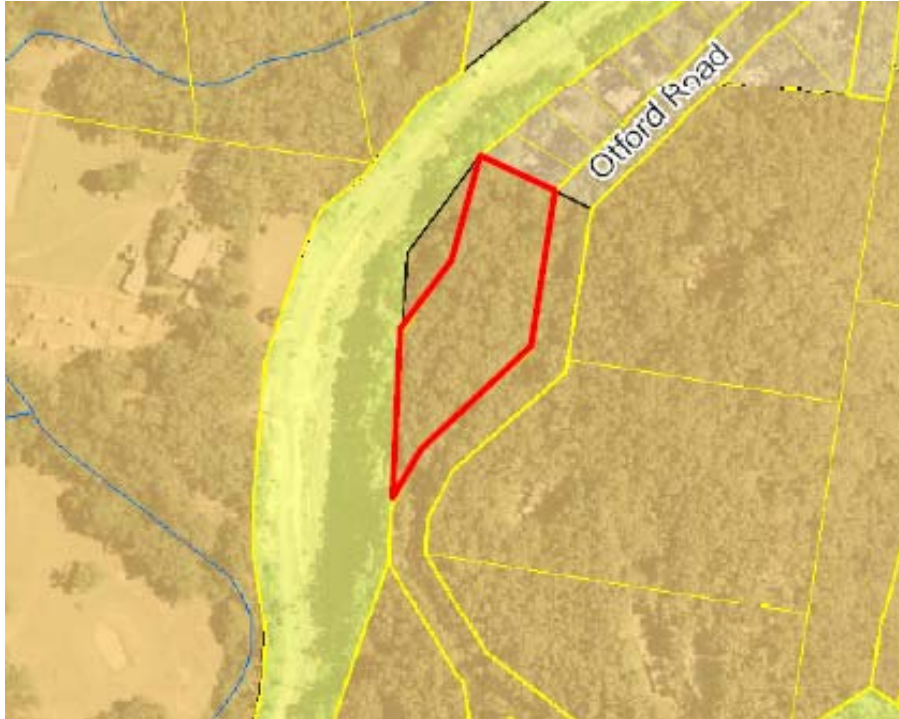
While the 1982 approval of the motel may remain valid, due to substantial commencement, it is likely that an amendment would be required to enable compliance with current legislation, in terms of effluent disposal, access, disabled access, food regulations, bushfire protection and fire safety. The Wollongong Local Environmental Plan 2009 does not need to be amended to reflect the approval of the motel or paintball activity.

The submission indicates that the steep bushland areas could retain an E2 Environmental Conservation zone.

As a consequence of the second exhibition, 3,039 submissions commented on the precinct. Three (3) submissions supported the rezoning and 3,036 opposed the rezoning to E3 Environmental Management and E2 Environmental Conservation. The submissions opposed suggested that the entire precinct should be rezoned E2 Environmental Conservation.

The owner of Lot 2 DP 512270 Otford Road (located between Otford Road and the railway line) objected to the E3 Environmental Management zone, as they have owned the land for thirty nine (39) years and when they purchased the land a house was permissible until Council changed the rules. The submission indicates that they still want to build a house on their land.

Lot 2 DP 512270 Otford Road was created in 1964, when 1,094m<sup>2</sup> was resumed for the adjoining railway line. The lot has an area of 0.731 hectares and if it was purchased prior to 1968, a country dwelling would have been permissible on the land (if the additional area that was resumed was taken into account). If purchased after 1968, then the lot would have to be a minimum of 2 hectares in area for a country dwelling. Council does not have ownership transfer information for this lot. The lot is covered in bushland, as a consequence of not being developed, however it is similar in nature to the adjoining E4 Environmental Living lots to the north, and does not have any other major constraints. As all other lots in the vicinity have a dwelling house, it is proposed that a dwelling house be permitted on this lot.

**Location of Lot 2 DP 512270 Otford Road**

A further submission on behalf of Otford Farm objected to the proposed E2 Environmental Conservation /E3 Environmental Management zone boundaries and requested that they be reviewed. The submission also included a study of the biophysical constraints and opportunities on the property. The study and submission acknowledge that parts of the property should be zoned E2 Environmental Conservation, and were not suitable or capable of development due to tree cover, slope and bushfire risk. However, the report found that the cleared valley floors were suitable for the present equestrian and other activities. The submission requested that an alternate E2 Environmental Conservation /E3 Environmental Management zoning be applied to the properties and reiterated that the following additional uses should be permitted on the property “animal boarding or training establishment”, tourist and visitor accommodation” and “recreation facility (outdoor)” to allow the existing uses to improve and expand.

## Otford South Precinct Otford farm alternate zoning proposal

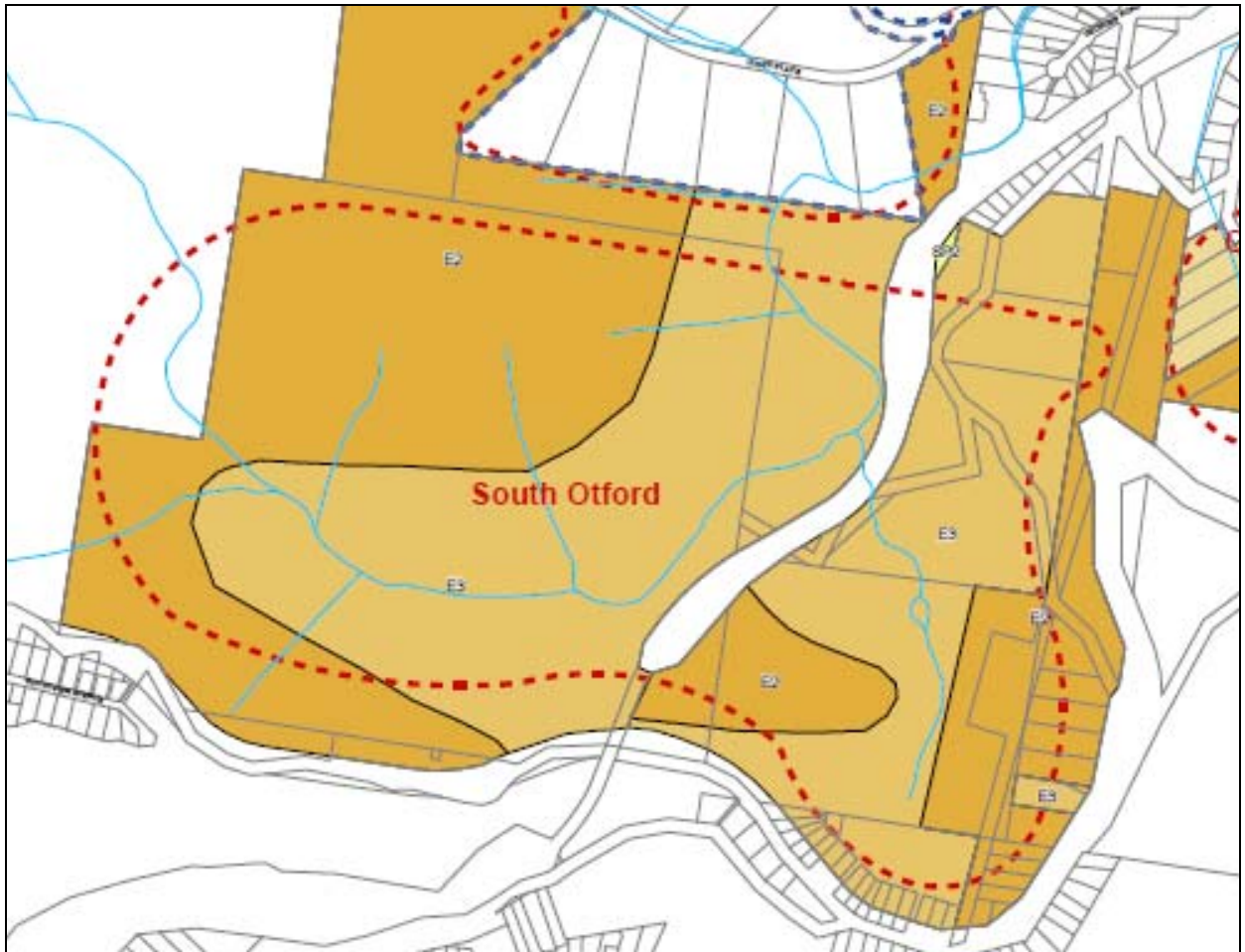


Otford Farm is used for horse riding, paint ball recreation, grazing and other activities. The property contains a mixture of steep bushland and flat cleared valleys used as farm land. The proposed zoning submitted on behalf of the property is supported (excluding the Lloyd Place lots – discussed separately). The E3 Environmental Management zone does permit “animal boarding or training establishments”. As the paintball use has already been approved through a Development Application, it does not need to be listed as an additional permissible use.

The bushland is part of the Illawarra Escarpment Moist Forest Corridor. The precinct is identified as being of high conservation value and is identified for potential inclusion in the State reserve system.

It is recommended that the draft Planning Proposal for the Otford South precinct be exhibited, which seeks to rezone part of the precinct to E2 Environmental Conservation, retain an E3 Environmental Management zone on part of the precinct and amend the Minimum Lot Size Map for Lot 2 DP 512270 Otford Road to permit a dwelling house.





### **Otford West - Govinda Retreat**

The Otford West precinct consists of one (1) property, Lot 1 DP 190250 Lady Carrington Drive that does not fit into any other precinct. The property is located north of Otford Station and is accessed via a causeway over the Hacking River. The site was previously used as a church camp and is now used as the Govinda Retreat, Cooking and Education centre, with accommodation for up to sixty four (64) guests.

## Govinda Retreat location



A submission was received on behalf of the owners requesting that the retreat use be recognised and that the additional uses of “educational establishment / training facilities”, “function centre”, “community facilities”, “tourist and visitor accommodation” and “information and education facilities” be permitted on the site. The submission also suggested that the zoning boundary in the draft 7(d) Review be reviewed to zone the whole site E3 Environmental Management.

The retreat currently operates under existing use rights. It is understood that a church camp was first approved on the site in 1939. The facility would currently be defined under the Wollongong Local Environmental Plan 2009 as “hotel or motel accommodation”, with the training activities undertaken by guests being ancillary to the accommodation. As the facility is operating with a current approval under the existing use rights, there is no need to include an additional land use which could expand the current operation. A more intense tourist development would be inappropriate in this location.

As a consequence of the second exhibition, 1,219 submissions commented on the precinct. Three (3) other submissions supported the site being zoned E3 Environmental Management, while 1,216 submissions objected and requested that the site be zoned E2 Environmental Conservation. The submission on behalf of the owner reiterated that the site has been used for education / training, a function centre and accommodation for many years and requested that the current uses be listed as permissible additional uses, to avoid the need to rely on existing use rights. Alternatively, the site be rezoned to a zone that permits the current uses as permissible.

It is recommended that no change be made to the planning controls for the Govinda Retreat precinct and the E3 Environmental Management zone be retained.

---

## 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 the draft Planning Proposal for the rezoning of the Otford North, Otford Central and Otford South precincts be progressed to exhibition. It is recommended that the Govinda Retreat precinct retain the E3 Environmental Management zone.