

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 13 and participated in discussion and voting.

ITEM 13 - Review of 7(d) Lands - Land Pooling, Lady Carrington Estate South and Draft Planning Agreement

MOVED on the motion of Councillor Blicavs seconded Councillor Colacino that -

- 1 The Land Pooling and Lady Carrington Estate South precincts retain their current E3 Environmental Management zone, pending further review.
- 2 Council officers prepare a draft project brief to scope the completion of studies to investigate the capability of the Lady Carrington Estate South and Land Pooling precincts for development, that consider:
 - a Biodiversity;
 - b Land capability;
 - c Bushfire risk;
 - d Infrastructure requirements / servicing;
 - e Archaeology;
 - f Water quality;
 - g Traffic and transport;
 - h Visual impact; and
 - i Economic and social issues.
- 3 Council negotiate a revised draft planning agreement with the Lady Carrington Estate South to consider residential options in the cleared area and to seek community feedback on a possible land transfer option.

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An **AMENDMENT** was **MOVED** by Councillor Kershaw seconded Councillor Takacs 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 AMENDMENT on being PUT to the VOTE was CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Merrin, Colacino, Crasnick, Curran, Petty and Bradbery

Against Councillors Blicavs and Dorahy

The AMENDMENT then BECAME the MOTION.

The MOTION was PUT and CARRIED.

In favour Councillors Kershaw, Connor, Brown, Martin, Takacs, Merrin, Colacino, Crasnick, Curran, Petty and Bradbery

Against Councillors Blicavs and Dorahy

ITEM 13**REVIEW OF 7(D) LANDS - LAND POOLING, LADY CARRINGTON ESTATE SOUTH AND DRAFT PLANNING AGREEMENT**

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. 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 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 Land Pooling and Lady Carrington Estate South precincts and the draft Planning Agreement. These precincts are the most controversial in the review of the 7(d) lands.

It is recommended that the Land Pooling and Lady Carrington Estate South precincts retain the E3 Environmental Management zone and that further studies be undertaken into the precincts to determine capability of the precincts to support development. Following the completion of the studies, a further report be presented to Council on possible future land zoning options. It is also recommended that the draft Planning Agreement be exhibited for community comment as an option to bring significant bushland areas into public ownership.

Recommendation

- 1 The Land Pooling and Lady Carrington Estate South precincts retain their current E3 Environmental Management zone, pending further review.
- 2 Council officers prepare a draft project brief to scope the completion of studies to investigate the capability of the Lady Carrington Estate South and Land Pooling precincts for development, that consider:
 - a Biodiversity;
 - b Land capability;
 - c Bushfire risk;
 - d Infrastructure requirements / servicing;
 - e Archaeology;
 - f Water quality;
 - g Traffic and transport;
 - h Visual impact; and
 - i Economic and social issues.
- 3 The draft Planning Agreement be exhibited to seek community feedback on a possible land transfer option.

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 Lady Carrington Estate South precinct, owned by Ensile Pty Ltd and the Land Pooling Precinct. Properties within the Land Pooling precinct are owned by Ensile Pty Ltd as well as other owners. Council at its meeting on 5 July 2011, did not resolve to prepare a draft Planning Proposal (rezoning) for these precincts, but included the precincts in a draft Planning Agreement, and resolved to seek further community input on this Agreement. The exhibition of the draft Planning Agreement was delayed pending the approval of the draft Planning Proposal for exhibition.

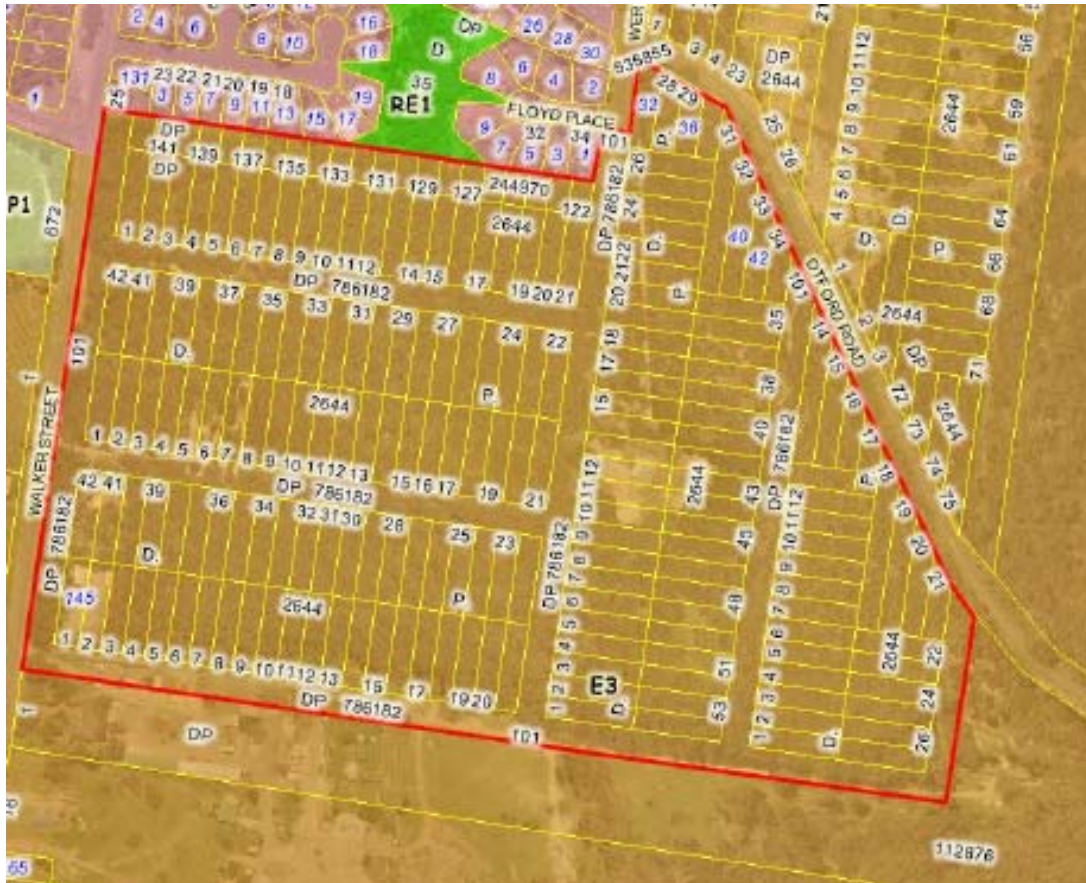
The other Ensile holdings in the Camp Gully Creek, Lady Carrington Estate, Lilyvale, Central Bushland and Otford Farm precincts are addressed in separate reports.

Proposal

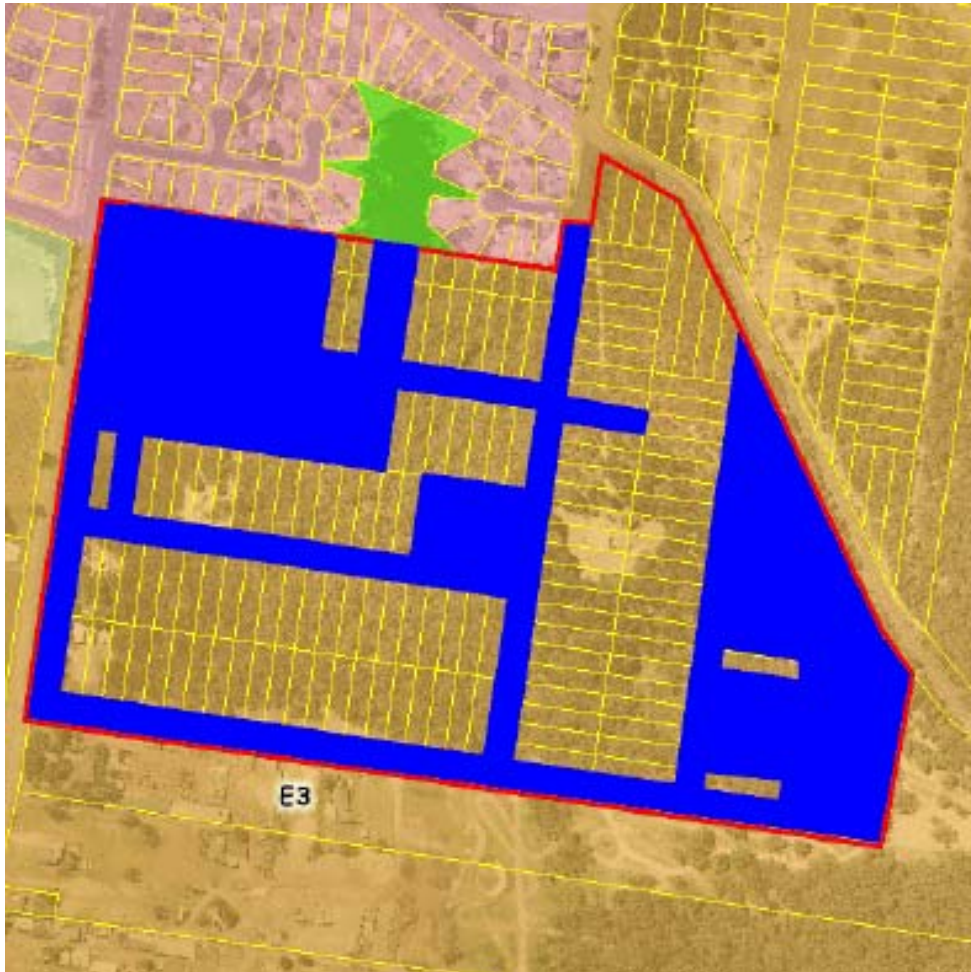
Land Pooling precinct

The Land Pooling area consists of an area of 23.2 hectares which contains two hundred and seven (207) lots subdivided in the 1890's paper subdivision into ¼ acre (1,000m²) lots as part of the Helensburgh suburb, on the southern side of Otford Road. The lots are owned by ninety four (94) persons / companies, many of whom own more than one (1) lot. There is one (1) dwelling house and two (2) businesses (landscape supplies and bus depot) in the precinct.

Land Pooling Precinct location



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

Land pooling Precinct – Ensile Pty Ltd and Cambalong Pty Ltd Holdings

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 back to the 1930s, and is visible on Council's 1949 air photo.

The owners brought the land 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 expectations that Helensburgh would continue to expand southwards.

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. Council and the community are not responsible for investment outcomes.

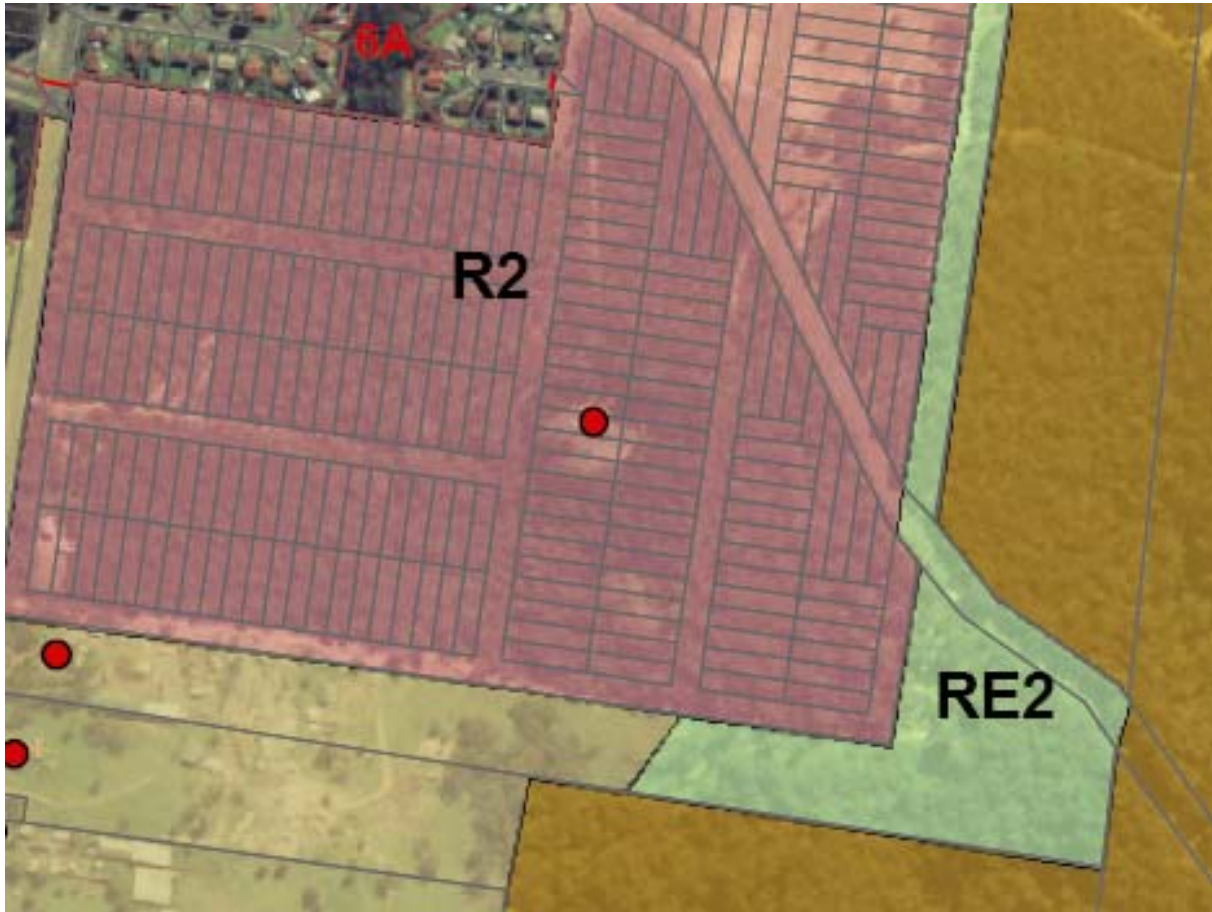
Pressures for development within the precinct are a direct result of the historical paper subdivision and the divided land ownership pattern.

The majority of the 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.

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.

The draft 7(d) Review proposed that the precinct be zoned R2 Low Density Residential and part RE2 Private Recreation. The existing subdivision pattern does not reflect topographical land constraints and the Review noted the paper subdivision would need to be redesigned. The draft 7(d) Review envisaged that the members of the Helensburgh Land Pooling Group would continue to work together to redesign and develop the precinct. The new subdivision design would require water quality treatment measures and bush fire mitigation measures to be incorporated within the area (the land proposed to be zoned RE2 Private Recreation), not in surrounding lands.

Land Pooling Precinct Draft Review Zoning Option



As a consequence of the first exhibition:

- Eighty (80) submissions from land owners covering forty seven (47) holdings or one hundred and twenty four (124) lots, supporting the rezoning of the precinct to R2 Low Density Residential. Many of the submissions in support from landowners indicate how they have owned the land since the 1970 – 1980's and have been waiting for the opportunity to build a dwelling house;
- The submissions of support included a submission on behalf of Ensile Pty Ltd and Cambalong Pty Ltd which included a suggested alternative subdivision layout that maintains a buffer around Herbert Creek and provides for two hundred and forty three (243) lots (depicted below);
- Eighteen (18) form letters were received in support of the rezoning of this precinct to R2 Low Density Residential;
- 3,038 form letters opposed any rezoning of the precinct; and
- A submission from Sutherland Shire Council and other letters opposed any rezoning of the precinct.

Land Pooling Precinct submitted alternate subdivision pattern



The Preliminary Review of Submissions report proposed that residential development of the precinct not be supported and that no amendment be made to the Wollongong Local Environmental Plan 2009, so the precinct would retain an E3 Environmental Management zone.

As a consequence of the second exhibition, 3,220 submissions commented on the precinct:

- One (1) submission supported the E3 Environmental Management zone;
- 2,779 submissions objected to the proposed E3 Environmental Management zone, and considered that the precinct should be zoned E2 Environmental Conservation due to its bushland location, in the head waters of Herbert Creek; and
- 433 submissions (mainly from landowners) objected to the proposed E3 Environmental Management zone, and considered that the precinct should be zoned R2 Low Density Residential to allow urban development. 413 of these

submissions were five (5) form letters which claimed the precinct is not steep, can manage bushfire and water quality issues and can be developed.

The submission on behalf of Ensile Pty Ltd proposed that this area be included in the draft Planning Agreement.

This precinct is perhaps the most debated area in the 7(d) Review. The two (2) basic options for the future of this precinct have not changed in the last thirty (30) years; 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.

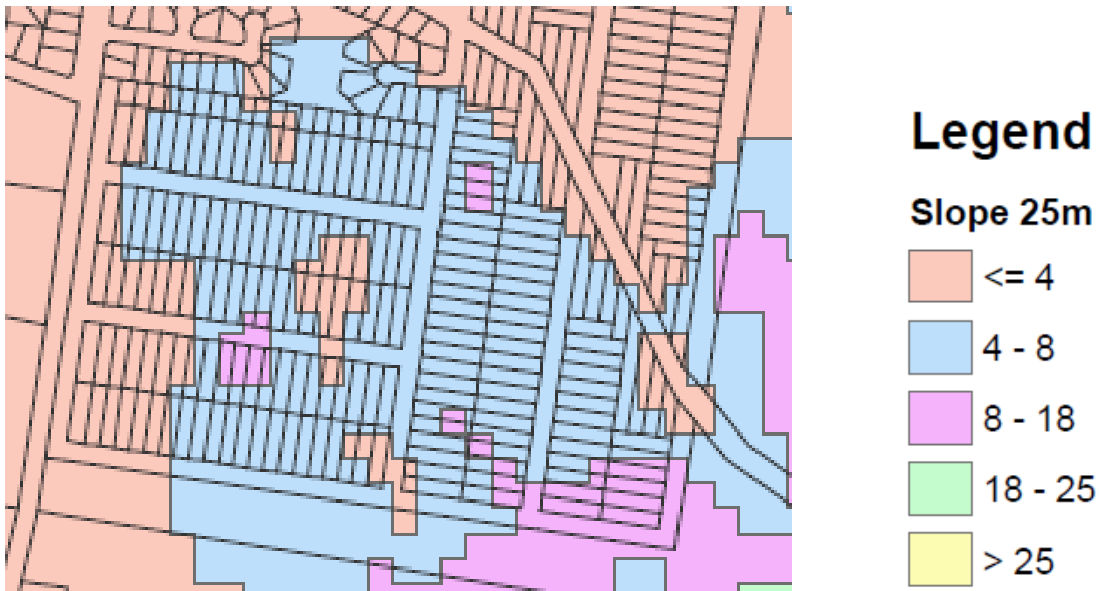
Development of the precinct presents significant challenges to overcome existing environmental constraints, including bushfire hazards; contiguous high quality bushland habitat; and a sensitive water catchment upstream of the Royal National Park.

In summary:

- The lots were created in the 1890s;
- The Helensburgh Commission of Inquiry found that the precinct had limited urban capability;
- The draft 7(d) Review (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;
- 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 system; and
- 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.

Land Pooling Precinct Slope Analysis (% slope)



Options

The following options are available:

- 1 Retain the E3 Environmental Management zone with no amendment. This will not permit any residential development in the precinct.
- 2 Rezone to E2 Environmental Conservation. This will limit the opportunity for any development in the precinct.
- 3 Rezone to R2 Low Density Residential. This would result in the clearing of bushland and the development of the land for housing. Any rezoning to permit residential development, would require the following studies and criteria to be completed or addressed:

- Flora and fauna;
- Bushfire risk;
- Archaeology;
- Water quality;
- Traffic and transport;
- Visual impact;
- Illawarra Regional Plan – Sustainability Criteria;
- Infrastructure servicing; and
- A Site Specific Development Control Plan chapter.

- 4 Rezone to E4 Environmental Living and allow some limited development on larger blocks (through the amalgamation of existing lots). This would require the same studies as the R2 Low Density Residential zone option.

Council needs to be careful 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.

It is recommended that the E3 Environmental Management zone be retained, and Council undertake additional investigations into the capability of the land to support development. Following the completion of the studies the future zoning of the precinct be determined.

Lady Carrington Estate South

This precinct extends south of the Camp Creek precinct to Otford Road, and includes one hundred and seven (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.

Lady Carrington Estate South Precinct location



The draft 7(d) Review recommended that the paper subdivision area north of Otford Road be zoned R2 Low Density Residential, including the triangular lot to Koornong

Road. The current subdivision pattern is not endorsed and would have to be redesigned to comply with current standards. The development of this area would reduce the existing bushfire hazard on the eastern side of Helensburgh where mitigation measures have not been established. The Asset Protection Zones would be required to be included within the development area and not in the adjoining steep bushland. The Asset Protection Zone (APZ) area is proposed to be zoned RE2 Private Recreation.

As a consequence of the first exhibition, the submission on behalf of Ensile Pty Ltd proposes that the residential boundary be extended eastwards of the current paper subdivision to beyond the edge of the ridge and a community recreation area be provided around the subdivision. The concept proposes a subdivision of the precinct into two hundred and sixty two (262) lots.

Submissions from the community opposed any residential development in this precinct. The submissions note that this development would be the first development in the Gardiners Creek catchment, including:

- 3,038 form letters opposed to any rezoning of the precinct; and
- A submission from Sutherland Shire Council and other letters opposed to any rezoning of the precinct.

Lady Carrington Estate South Precinct – Submitted alternate subdivision option



The Preliminary Review of Submissions report proposed that no residential development occur in the precinct and the precinct retain an E3 Environmental Management zone.

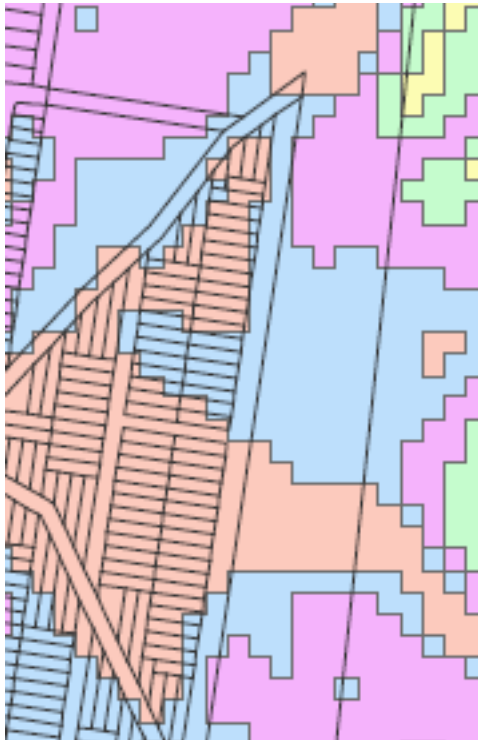
- As a consequence of the second exhibition, 2,785 submissions commented on this precinct. Three (3) submissions supported the retention of the E3 Environmental Management zone;

- Three (3) submissions opposed the E3 Environmental Management zone and supported the rezoning of the precinct to a residential zone to permit urban development. This includes the submission on behalf of Ensile Pty Ltd which proposed the development of the land in exchange for the transfer of conservation areas to public ownership; and
- 2,779 submissions opposed the E3 Environmental Management zone and supported the rezoning of the precinct to E2 Environmental Conservation.

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. In summary:

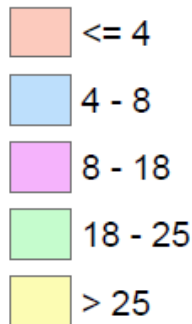
- The lots were created in the 1890s;
- The Helensburgh Commission of Inquiry found that the cleared parts of the precinct had limited urban capability;
- The draft 7(d) Review proposed that the land be rezoned to R2 Low Density Residential;
- The Preliminary Review of Submissions proposed that the land retain an E3 Environmental Management zone;
- 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.

Lady Carrington Estate South Precinct Slope Analysis (% slope)



Legend

Slope 25m



Preliminary review of submissions

Seven (7) options for this precinct have been considered:

- 1 Retain the E3 Environmental Management zone with no amendment. This will not permit any residential development in the precinct.
- 2 Rezone to E2 Environmental Conservation. This will not permit any development in the precinct.
- 3 Rezone the precinct (small lots) to R2 Low Density Residential and permit the residential development of the precinct. Similar to the Land Pooling Precinct, any rezoning to permit residential development would require the following studies and criteria to be completed or addressed:
 - Flora and fauna;
 - Bushfire risk;
 - Archaeology;
 - Water quality;
 - Traffic and transport;
 - Visual impact;
 - Illawarra Regional Plan – Sustainability Criteria;

- Infrastructure servicing; and
 - A Site Specific Development Control Plan chapter.
- 4 Rezone an expanded area to R2 Low Density Residential and permit the residential development of the precinct (as suggested by the submission on behalf of the owner). This would require the same studies as the R2 Low Density Residential zone option.
 - 5 Rezone a smaller area to R2 Low Density Residential, for example only the cleared land. This would require the same studies as the R2 Low Density Residential zone option.
 - 6 Rezone part of the site to E4 Environmental Living and allow some limited development on larger blocks (through the amalgamation of existing lots). This would require the same studies as the R2 Low Density Residential zone option.
 - 7 Rezone to permit another use for the precinct. If residential development is not supported, then the precinct may have value for another use, for example as a private high school. During the exhibition, a number of residents highlighted the fact that children leave the district each day to go to high school. Additionally, different groups have approached Council seeking the identification of land for possible private schools; however this site has not been identified in any discussions. Given the large flat nature of the site, it could be suitable for use as a private high school. An Asset Protection Zone would be required for bushfire protection, which could include the school ovals.

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 (2) of its tributaries, Gardiners Creek and another unnamed creek. This would be the first development in these two (2) sub-catchments.

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

It is recommended that the site retain an E3 Environmental Management zone for the time being and that further studies be undertaken to determine the land capability, prior to Council determining the future zoning of the precinct.

Exit strategy / Draft Planning Agreement

The review of land formerly zoned 7(d) Hacking River – Environmental Protection recommends that further development not be permitted in many precincts, and some limited development be permitted in other precincts.

Whilst ever the bushland areas remain in private ownership there will be pressure from the landowners to allow development, and from the community not to permit development and place the lands in public ownership.

There are two (2) basic options for the future ownership of the land:

- 1 Remain in private ownership – no change, or
- 2 Consider mechanisms to transfer land to public ownership, including:
 - Purchase (with possible funding from special rate levy or Section 94);
 - Planning Agreement / transferrable development rights;
 - Cluster housing - allow development in part of the precincts; or
 - Through unpaid rates - if land owners don't pay rates, there are mechanisms to bring the land into Council ownership.

a Purchase / acquisition

Ideally, the significant bushland areas should form part of the Royal National Park or Garrawarra State Conservation Area. Discussions with the (then) Department of Environment, Climate Change and Water and the National Parks and Wildlife Service indicate that many of the areas would make suitable additions to the National Park estate. However, the Agencies have not agreed to the transfer or purchase. The purchase of lands is dependent upon the land being offered for sale, the availability of funds and State wide acquisition priorities.

In 2010, the (then) Department of Environment, Climate Change and Water purchased Lot 1 DP 616230 (Lady Carrington Estate North – 32.46 hectares) at auction for a reported \$1.2 million. The Office of Environment and Heritage has confirmed that this land can now be zoned E1 National Parks.

To estimate possible acquisition costs, in 2010 Council engaged a Valuer to review the land values within the Lloyd Place and North Otford precincts. 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.

The following table provides the beginnings of an estimate of the possible cost of bringing the lots proposed to be zoned E2 Environmental Conservation, (that don't have existing dwellings), into public ownership, based on the 2010 valuation of some precincts. Additional valuations would need to be obtained to complete the table. If properties are to be acquired by Council they could be identified on the Land Reservation Acquisition Map which forms part of the Wollongong Local Environmental Plan 2009. A draft Planning Proposal would have to be adopted, exhibited and finalised to make the amendment.

Summary of possible E2 land acquisition costs

Precinct	No. lots	Estimated value	Priority
A. Precincts not subject to the draft Planning Agreement			
Undola Road precinct	1	\$30,000*	High
Wilsons Creek	7	Unknown	Medium
Central Otford	5	Unknown	Low
North Otford	45	\$1,350,000*	High
B. Land subject to the draft Planning Agreement			
Lloyd Place	20	\$600,000*	High
Camp Creek precinct	42	\$1,260,000*	Low
Land Pooling	204	\$6,120,000*	Medium
Lady Carrington Estate South	107	\$3,120,000*	Low
Ensile and Thompson central bushland area	4	Unknown	High
Lilyvale	49	Unknown	High
Total	482	\$12,480,000+	

* Estimates based on unimproved land value and dwelling houses not being permitted on the land

Some owners will be unwilling to sell. A number of landowners indicated that if their land was identified for acquisition, they would also seek for their rates paid over the past

30-40 years to be reimbursed. This indicates that acquisition based on limited development potential may face resistance from numerous owners, for either emotional reasons or they still believe that the land would be rezoned to allow a dwelling house.

Council cannot afford to purchase all the land. Funding for the acquisition, should initially be sought from the Government. As noted previously, State funding, through the Office of Environment and Heritage, is dependent on land being offered for sale, availability of funds and State-wide priorities for acquisition.

If Government funding is unsuccessful, a Special Rates Levy could be considered over a period of five (5) years to assist with funding the acquisition. The introduction of a levy would require Council to justify the benefit to the community, review by IPART, approval by the Minister for Local Government and community support. The community view could be considered as part of the development of the Community Strategic Plan, currently being prepared.

A Special Rate could be applied to all 80,000 residentially rated properties in the City. Given the substantial objection to any development of these lands from residents in Helensburgh, Otford and Stanwell Tops, and the benefit they will derive from the conservation, a higher Special Rate could be applied to the 2,000 residential properties in these areas. A Special Rate could also be applied to the 7(d) lands, including properties identified for acquisition. The following table provides an example of a possible Special Rate for discussion purposes:

Possible Special Rate example

Location	No. of properties	Example Special Rate	Estimated funds generated
7(d) lands (privately owned)	697	\$100 per year for 5 years	\$0.35 million
Residential properties in Helensburgh and Otford	2000	\$100 per year for 5 years	\$1 million
Residential properties in the rest of Wollongong LGA	78,000	\$30 per year for 3 years	\$7.02 million
Total			\$8.37 million

The levy would be reduced if State Government funding or funding from other sources is made available.

A Section 94 levy has not been proposed as this report does not propose significant residential development at Helensburgh which could fund the acquisition. It is noted that Lady Carrington Estate South and the Land Pooling precinct are already subdivided into over three hundred (300) lots. These lots would be given a credit and any levy for subdivision would only apply to any additional lots created. No further subdivision and only limited development in the area is proposed, and would not generate sufficient funds for the acquisition.

Section 94A Development Contributions will provide some additional income based on 0.5% of development costs over \$100,000 and 1% of development costs over \$200,000 per application. The contributions collected would be used towards the upgrading of local infrastructure and services.

Alternatively, persons could seek to enter into a Planning Agreement with Council, where instead of paying the Section 94A contribution; they could undertake works or provide a land contribution in lieu or in addition to a financial contribution. The following section of this report provides an example of a draft Planning Agreement.

Once in Council ownership the lots could be offered to the NSW Office of Environment and Heritage to form part of the Royal National Park or Garrawarra State Conservation Area. It is anticipated that current owners would require Council to enter into an agreement not to on-sell the lots (except to State agencies) or try to rezone / develop the acquired lots.

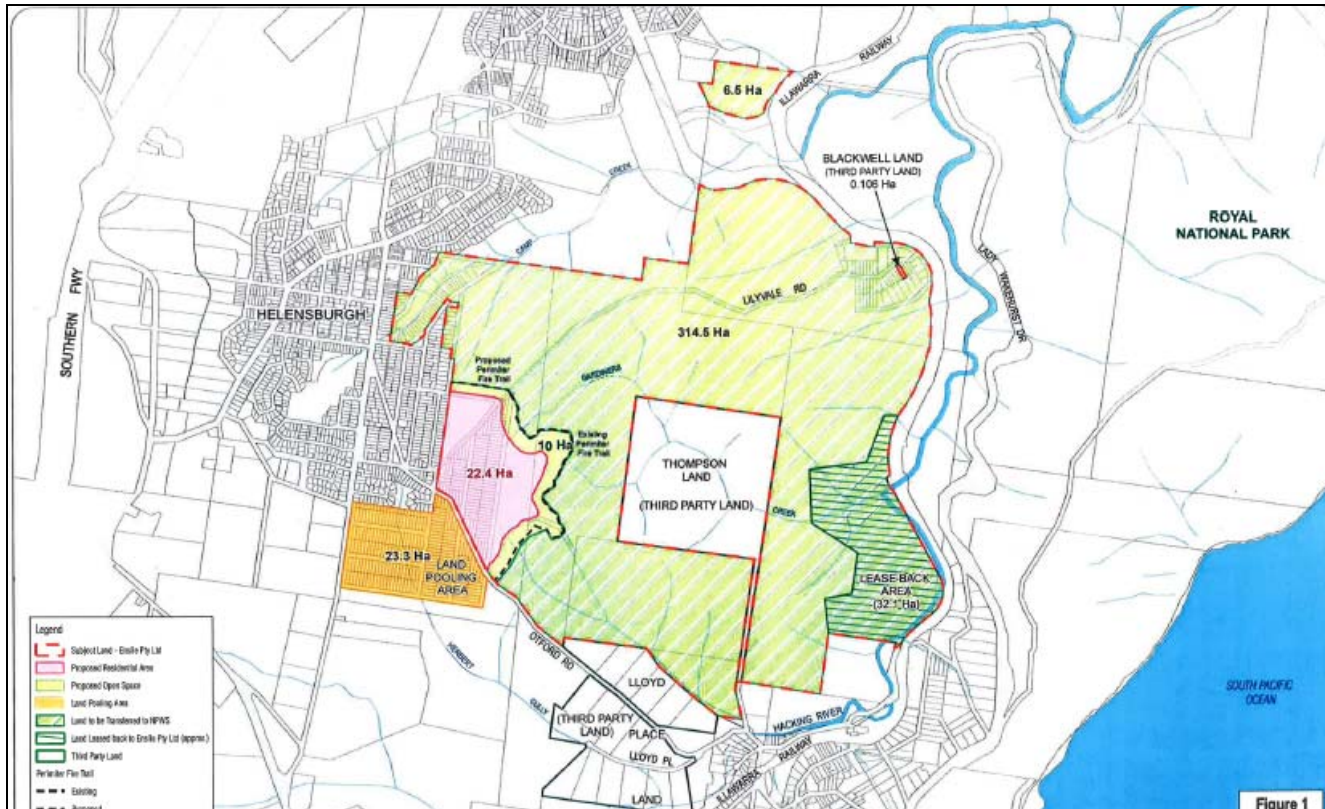
b Transfer / draft Planning Agreement

Since at least 1989, there have been proposals for the majority of the Ensile Pty Ltd holdings to be transferred into public ownership, in exchange for the rezoning of the Lady Carrington Estate South precinct to allow residential development.

During the second exhibition, consultants for Ensile Pty Ltd lodged a draft Planning Agreement with Council, which proposes:

- The dedication of 321 hectares to the State Government for incorporation into the Royal National Park, comprising land in the Lady Carrington Estate North (6.5 hectares), Camp Creek, Lilyvale and Central Bushland precincts (314.5 hectares);
- The leaseback of Otford Valley Farm (32.1 hectares) for twenty five (25) years, to enable its continued operation for that period;
- The development of the Land Pooling (23.3 hectares) and Lady Carrington Estate South (22.4 hectares, plus 10 hectares for Asset Protection Zone) precincts for urban development;
- A possible exit strategy for the Lloyd Place and other third party landholders, by allowing them to trade their holdings for sites in Lady Carrington Estate South.

Draft Planning Agreement



The proposed dedication / transfer of land is reliant on the urban development of the Land Pooling and Land Carrington Estate South precincts. The Preliminary Review of Submissions (2010) report did not support urban development in these precincts.

The draft Planning Agreement offers a solution for all precincts except the North Otford precinct, and the few lots in the Wilsons Creek, Undola Road and Central Otford precinct where development is not supported.

Council has held discussions with the (then) Department of Environment, Climate Change and Water, and the National Parks and Wildlife Service on the proposal. The Agencies' confirmed that the majority of the land proposed to be transferred is of high conservation value and would make worthy additions to the Reserve system. The Agencies' indicated that some of the land in the Camp Creek and Otford Valley Farm precincts is not suitable for reservation. The agencies did not indicate support or oppose the draft Planning Agreement, noting that any rezoning was initially a decision for Council.

Whilst ever the bushland areas remain in private ownership there will be pressure from the landowners to allow development, and from the community not to permit development and place the lands in public ownership. Additionally, the lots within the

Lady Carrington Estate South and Land Pooling precincts have separate title and could be sold as individual lots.

The proposed Planning Agreement also suggests a solution for the owners in the Land Pooling precinct, Lloyd Place and two (2) other third party landholders.

To allow the community to consider the merits of the proposal, Council on 5 July 2011 resolved to exhibit the draft Planning Agreement for community input. The exhibition was postponed pending the exhibition of the draft Planning Proposal for the other precincts and Council's current review.

The options for the Ensile Pty Ltd holdings are:

- Allow the holdings to remain in private ownership, with no additional development potential;
- Purchase the majority of the holdings at say \$10-20 million (subject to valuation and negotiation);
- Allow urban development in the Land Pooling and Lady Carrington Estate South precincts, in exchange for the high conservation areas to be transferred to the public reserve system, as proposed by the draft Planning Agreement; or
- A combination of the above options.

The following table provides a comparison of the first three (3) options. The draft Planning Agreement has not been reviewed or negotiated. Council could commence negotiations to develop a revised draft Planning Agreement

Options for the Ensile Pty Ltd Holdings

	Option 1 No change	Option 2 Acquisition	Option 3 Draft Planning Agreement
Lady Carrington Estate south	E3 - Remain in private ownership – no development.	E3 - No development. Acquired by public (est. \$3.21m*).	Rezone to R2 (some E3) to permit residential development – some 262 dwellings.
Land Pooling	E3 - Remain in private ownership – no development.	E3 - No development. Acquired by public (Ensile est. \$2.1m*). (Others est. \$4.11m*).	Rezone to R2 (some E3) to permit residential development – some 243 dwellings.

	Option 1 No change	Option 2 Acquisition	Option 3 Draft Planning Agreement
Lloyd Place	E2 - Remain in private ownership – no development.	E2 - No development. Acquired by public (est. \$0.66m*).	E2 – No development. Transferred to public ownership (44 ha).
Lady Carrington Estate Lilyvale Camp Creek	E2 - Remain in private ownership – no development.	E2 - No development. Acquired by public (est. \$unknown).	E2 – No development. Transferred to public ownership (321 ha).
Otford Farm (existing equestrian centre) (32.1 ha)	E3 - Remain in private ownership – no development.	E3 - Remain in private ownership – no development. (est. \$unknown)	Leaseback of Otford Valley Farm (32.1 hectares) for 25 years.
Total acquisition cost	\$nil	Min \$7.98m*	\$nil
Benefits	Status quo.	Brings the conservation areas into public ownership. No development means no clearing or water quality impacts. Resolves ownership debate.	Brings the conservation areas into public ownership. Allows residential development to support the town. Resolves ownership debate.
Disadvantages	Status quo. No change to the E3 zone. Allows ownership debate to continue.	Acquisition cost to community / government.	Clearing of bushland. Water quality impacts.

* Estimates based on unimproved land value and dwelling houses not being permitted on the land

It is recommended that Council exhibit the draft Planning Agreement to allow the community to consider the option as a mechanism to bring the areas of bushland with high conservation value into public ownership.

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 Land Pooling and Lady Carrington Estate South precincts retain the E3 Environmental Management zone and that a project brief be prepared to review the capability of the precinct to support development.

It is recommended that the draft Planning Agreement be exhibited to enable the community to consider the option as a mechanism to bring the bushland areas into public ownership.