

ITEM 10**REVIEW OF 7(D) LANDS - CAMP GULLY PRECINCT, INCLUDING UNDOLA ROAD AND WALKER LANE SUB-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 Camp Gully Creek precinct, including the Undola Road and Walker Lane sub-precincts.

It is recommended that the Planning Proposal for the Camp Gully Creek precinct, including the Walker Lane sub-precincts be progressed to finalisation. It is recommended that the Planning Proposal for Undola Road sub-precinct be amended and 5, 7, 9 and 11 Undola Road retain the current E3 Environmental Management zone. It is also recommended that 3 Undola Road be identified on the land Reservation Acquisition Map for acquisition by Council for local open space purposes, through the preparation of a new Planning Proposal.

Recommendation

- 1 The part of the Planning Proposal the Undola Road sub-precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:
 - a Rezoning 3 Undola Road to E2 Environmental Conservation;
 - b Rezoning Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation; and
 - c Rezoning Whitty Road reserve and Undola Road reserve to R2 Low Density Residential to be consistent with the adjoining zone.be progressed to finalisation.
- 2 The part of the Planning Proposal the Undola Road sub-precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by rezoning 5, 7, 9 and 11 Undola Road to the E4 Environmental Living zone, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m²; not proceed and the land retain current E3 Environmental Management zone.
- 3 The part of the Planning Proposal the Walker Lane sub-precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by rezoning Lots 28-31 Section B DP 2644 Walker Lane, to E2 Environmental Conservation, be progressed to finalisation.
- 4 The part of the Planning Proposal for the balance of the Camp Gully precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by rezoning the land to E2 Environmental Conservation, be progressed to finalisation.

- 5 A new draft Planning Proposal be prepared to identify 3 Undola Road, Helensburgh for acquisition, by identifying the lots on the Land Reservation/Acquisition Map as being required Local Open Space purposes. The draft Planning Proposal be submitted to the NSW Department of Planning and Infrastructure for a Gateway determination and requesting authorisation for the General Manager to exercise plan making delegations in accordance with Council's resolution of 26 November 2012. If approved, the draft Planning Proposal be placed on public exhibition for a minimum period of 28 days.
- 6 As part of the draft Annual Plan / Budget process for 2014-15, consideration be given to a land purchase scheme for 3 Undola Road, Helensburgh.

Attachments

There are no attachments for this report.

Report Authorisations

Report of: David Green, Land Use Planning Manager
Authorised by: Andrew Carfield, Director Environment and Planning – 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 Camp Gully Creek precinct, including the Undola Road and Walker Lane sub-precincts.

Council at its meeting on 28 November 2011 resolved that:

- 1 *Council amend the existing draft Planning Proposal for the Undola Road sub-precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:*
 - a *Rezone 5, 7, 9 and 11 Undola Road to the E3 Environmental Management zone;*
 - b *Rezone 3 Undola Road to E2 Environmental Conservation;*
 - c *Rezone Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation; and*
 - d *Rezone Whitty Road reserve and Undola Road reserve to be consistent with the adjoining zone.*

- 2 Council amend the existing draft Planning Proposal for the Walker Lane sub-precinct by rezoning Lots 28-31 Sec B DP 2644 Walker Lane to E2 Environmental Conservation.
- 3 Council amend the existing draft planning proposal for the Camp Gully Creek precinct to rezone the Ensile Pty Ltd holdings to E2 Environmental Conservation.
- 4 The draft Planning Proposal for the Camp Gully Creek precinct including the Undola Road sub precinct and Walker Lane sub precinct 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

Camp Gully Creek Precinct

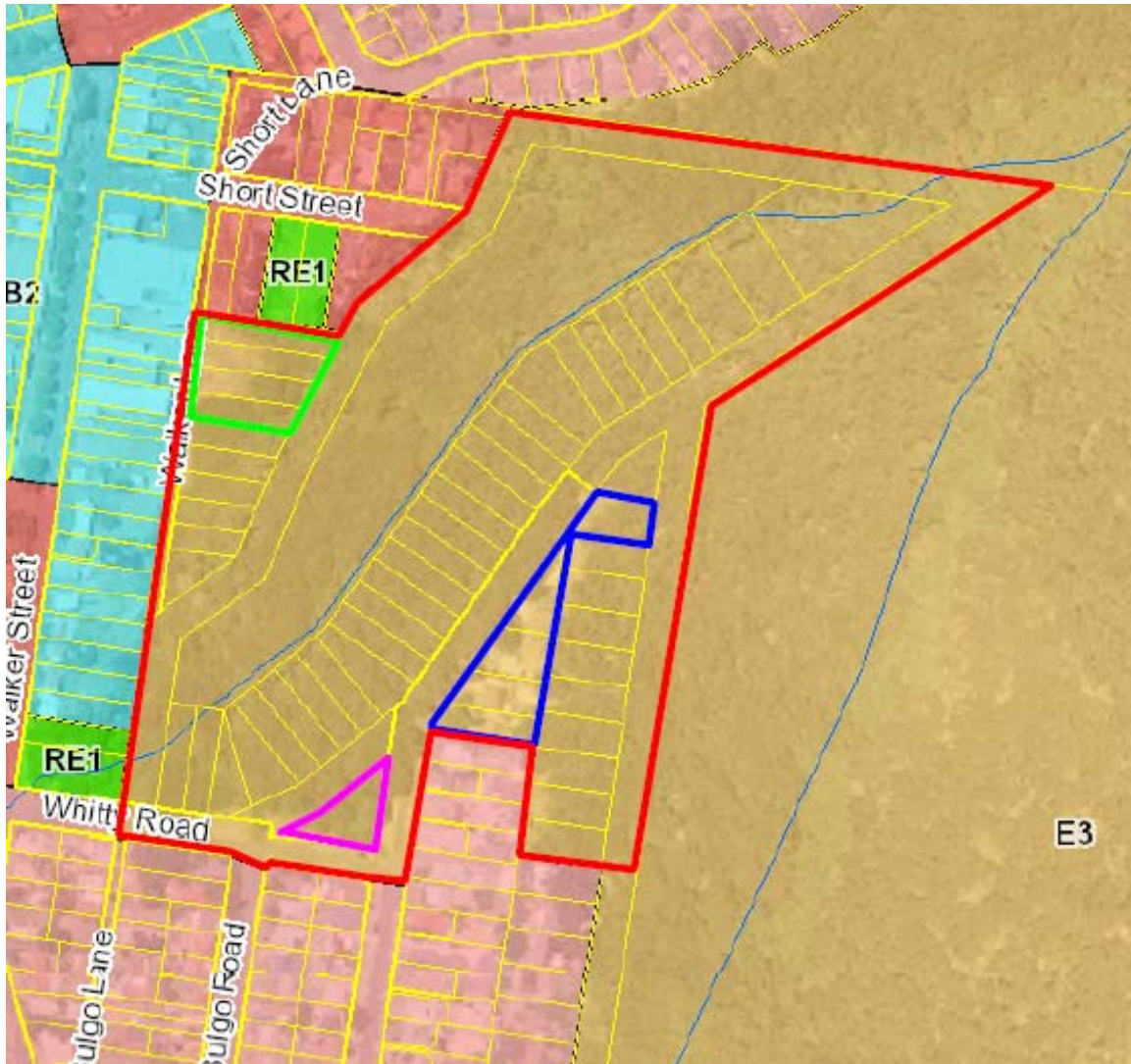
The Camp Gully Precinct consists of 50 small lots, of which 45 are owned by Ensile Pty Ltd and form the majority of the precinct. Consultants on behalf of Ensile Pty Ltd have lodged a draft Planning Agreement which includes the Ensile Pty Ltd holding in this precinct. The draft Planning Agreement is discussed in a separate report. Numbers 3, 5, 7, 9 and 11 Undola Road (outlined in blue) are owned by other parties and form the Undola Road sub-precinct, discussed later.

Lots 28-31 Section B DP 2644 Walker Lane (outlined in green) were sold by the Helensburgh Workers, Sport and Social Club Limited and is now owned by ECTO Services Pty Ltd and forms the Walker Lane sub-precinct, discussed later. In November 2012 Development Application No. DA-2012/1332 for a dwelling house was lodged on the property. In March 2013 the application was refused.

One lot on the corner of Undola Road and Whitty Road is owned by Council (outlined in pink). The precinct is bisected by Camp Gully Creek which drains stormwater from Helensburgh retail and suburb areas.

The majority of the precinct is steep and covered in bushland. The lots on the northern side of Undola Road, which adjoin Camp Gully Creek, are not suitable for development and were proposed to be zoned E2 Environmental Conservation. It is noted that the sewer line does follow Camp Gully Creek and these lots could be connected to the existing sewerage system.

Camp Gully Creek precinct and current zoning map 1



A previous submission on behalf of Ensile Pty Ltd notes that runoff and pollution from Helensburgh is impacting on the property and Camp Gully Creek. The submission indicates that they have tried for many years for Council to fix the drainage problems. The submission proposes that either:

- a Council fix the drainage and stormwater pollution, by acquiring an easement and undertaking the works; or
- b the land be rezoned for residential development and the stormwater and pollution issues are addressed as part of the subdivision.

Camp Gully Creek drains a large portion of the existing Helensburgh Urban Area. Apart from the Landcom pond, there are no water quality treatment devices in the catchment. Council should investigate options to improve the water quality leaving the urban area and going into the bushland. Water quality treatment devices could be installed in the

existing urban area, Council land on the corner of Walker Street/Whitty Road or in Ensile Pty Ltd holdings (subject to easement, or purchase).

A previous submission from the (then) Department of Environment, Climate Change and Water (DECCW) indicated that only part of this precinct had values that would make it potentially suitable for incorporation into the Garrawarra State Conservation Area, noting that the Authority has not agreed to the transfer or acquisition of the precinct.

Council at its meeting on 28 November 2011 considered a report which recommended that the Camp Gully Creek precinct (excluding the two sub-precincts) be zoned E2 Environmental Conservation. Council resolved (in part) that:

- 3 *Council amend the existing draft planning proposal for the Camp Gully Creek precinct to rezone the Ensile Pty Ltd holdings to E2 Environmental Conservation.*

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

No submissions were received from the landowner within the precinct. The submission from Ensile Pty Ltd did not comment on this precinct.

Other submissions:

Submitter	Submission
Resident Helensburgh	Camp Creek precinct – strongly agree.
Resident Helensburgh	Camp Gully Creek - should be zoned E2 Environmental Conservation.
Email Suburb unknown	Camp Gully Creek – support E2 Environmental Conservation, excluding 5, 7, 9, 11 Undola Road.
Resident Helensburgh	Support the rezoning of Camp Gully Creek to E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Otford Protection Society	One form letter submitted by 256 persons supporting the proposed rezoning of the Camp Gully Creek precinct to E2 Environmental Conservation. (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 to 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

Group / property	Submission
	<p>precincts, respectively.</p> <ul style="list-style-type: none"> One form letter submitted by 10 persons supporting E2 for all bushland precincts. <p>(refer Attachment 5 of Background report)</p>
Helensburgh Business Owner Group	<ul style="list-style-type: none"> One form letter submitted by 190 persons supporting Councils knowledge and ability to correctly deal with the rezoning without being swayed by lobbyist groups, but should rely on the experience and the recommendations of qualified experts such as the Willana Report and Council staff. One form letter submitted by 185 persons supporting the comments in all 56 letters <p>(refer Attachment 5 of Background report)</p>

Review of issues

There are no significant issues with this precinct. The land is constrained and is not suitable for development. The majority of the precinct (especially the lots north of Undola Road, adjacent to the creek) has been identified for conservation by the owner as part of past draft Planning Agreement and development proposals.

A new rezoning proposal submitted on behalf of Ensile Pty Ltd includes part of its holdings in this precinct, namely the lots to the north of Undola Road. While the lots to the east of the existing Undola Road dwellings were not included. The rezoning proposal is discussed in the separate reports on the Lady Carrington Estate, Lilyvale, Central Bushland and Otford Valley Farm precincts and Land Pooling and Lady Carrington Estate South precincts. The rezoning proposal is not recommended to be supported.

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

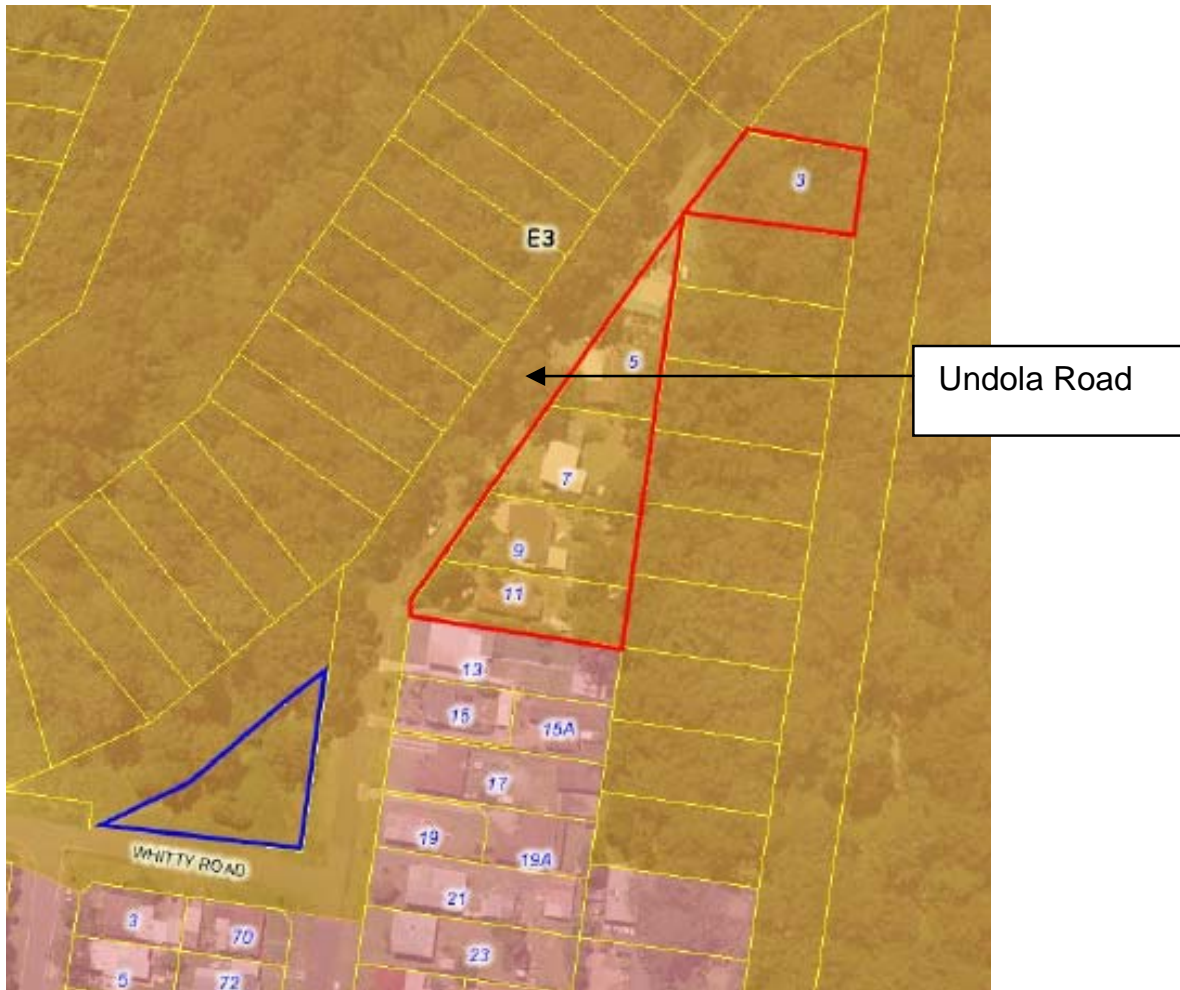
Recommendation: *It is recommended that the rezoning of Camp Gully Creek to the E2 Environmental Conservation zone be progressed as part of the final Planning Proposal.*

Undola Road sub-precinct

This sub-precinct is part of the larger Camp Gully precinct, but was separated based on the ownership pattern. There are six lots in this precinct. Numbers 5, 7, 9 and 11 Undola Road are privately owned and each lot contains a dwelling house. Number 3 Undola Road is also privately owned and does not contain a dwelling house.

Lot 1 Section E DP 2205 (map 2 outlined in blue) on the northern side of Whitty Road is owned by Council.

Undola Road sub-precinct location and current zoning map 2



Numbers 5, 7, 9 and 11 Undola Road each contain an existing dwelling house and are used for residential purposes. The lots have the same character and constraints as the adjoining Nos. 13, 15 and 17 Undola Road which are zoned R2 Low Density Residential. No additional dwellings are proposed in this precinct.

The owner of No. 3 Undola Road (Lot 38 Section G DP 2644) previously advised that the land was purchased in 1965 at auction from Council (one of a number of sites sold as surplus Council land). The sale notice indicates that the lot was zoned Non-Urban A,

and “building only permitted with planning approval”. The owner acknowledges that the lot did not have a dwelling entitlement at the time, although Council indicated that a dwelling may be possible once the road was extended.

Council at its meeting on 28 November 2011 considered a report which recommended that 5, 7, 9 and 11 Undola Road be rezoned to the E4 Environmental Living zone; 3 Undola Road be rezoned to E2 Environmental Conservation; the Council owned Lot 1 Section E DP 2205 be rezoned to E2 Environmental Conservation; and the Whitty Road reserve and Undola Road reserve be rezoned to R2 Low Density Residential to be consistent with the adjoining zone.

Council resolved (in part) that:

- 1 *Council amend the existing draft Planning Proposal for the Undola Road sub-precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:*
 - a *Rezone 5, 7, 9 and 11 Undola Road to the E3 Environmental Management zone;*
 - b *Rezone 3 Undola Road to E2 Environmental Conservation;*
 - c *Rezone Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation; and*
 - d *Rezone Whitty Road reserve and Undola Road reserve to be consistent with the adjoining zone.*

As 5, 7, 9 and 11 Undola Road are already zoned E3 Environmental Management zone, part 1 of the resolution did not change the existing zoning. However, the draft Zoning Map contained in the Planning Proposal incorrectly exhibited 5, 7, 9 and 11 Undola Road as the E4 Environmental Living zone. The written documentation indicated Council’s resolution as E3 Environmental Management.

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

No submissions were received from the landowners. No general comments were received on the precinct, apart from those that commenting on Camp Gully precinct, as noted in the previous section.

Form letter/email submissions:

Group / property	Submission
Otford Protection Society	One form letter submitted by 256 persons requesting that the Camp Gully precinct, including the sub-precinct, be zoned E2 Environmental Conservation. (refer Attachment 5 of Background report)
OtfordEco	<ul style="list-style-type: none"> One form letter submitted by 40 persons requesting that the Camp Gully precinct, including the sub-precinct, be zoned E2 Environmental Conservation; One form letter submitted by 136, persons making a conservation based submission on all precincts;

Group / property	Submission
	<ul style="list-style-type: none"> 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 for all bushland precincts. <p>(refer Attachment 5 of Background report)</p>

Review of issues

Numbers 5, 7, 9 and 11 Undola Road each contain a dwelling house and are used for residential purposes, the same as the adjoining residential lots. The proposed E4 Environmental Living zone was to recognise the residential use in an environmental setting but not enable intensification or subdivision. The retention of the existing E3 Environmental Management zone (as resolved by Council) will achieve similar outcomes.

As noted, the No. 3 Undola Road was sold by Council in 1965 at auction. The sale notice indicates that the lot was zoned Non-Urban A, and “building only permitted with planning approval”. The owner acknowledges that the lot did not have a dwelling entitlement at the time, although Council indicated that a dwelling may be possible once the road was extended.

The NSW Environmental Planning and Assessment Act 1979, does not provide for compensation if planning controls are made more restrictive, nor require the payment of a betterment tax if planning controls up-zone land. Consequently, there is no statutory obligation for Council to compensate the owner for not being able to build on the land after 48 years. However, it could be argued that Council has a moral obligation to compensate the owner as the lot was sold by Council. As this isolated lot was sold by Council, and is proposed to be zoned E2 Environmental Conservation, it is recommended that this lot be identified for acquisition through an amendment to the Land Reservation Acquisition Map.

Options

5, 7, 9 and 11 Undola Road

- 1 Proceed with the rezoning of 5, 7, 9 and 11 Undola Road to E4 Environmental Living as exhibited in the draft Zoning Map of the Planning Proposal.
- 2 Not proceed with the rezoning to E4 Environmental Living and retain the current E3 Environmental Management zone (as resolved on 28 November 2011).
- 3 Resolve to prepare a new Planning Proposal to rezone the precinct to another zone, and undertake further community consultation.

Option 2, the retention of the current E3 Environmental Management zone and controls, is recommended due to the error in the exhibition material.

3 Undola Road, Lot 1 Section E DP 2205 (Council owned)

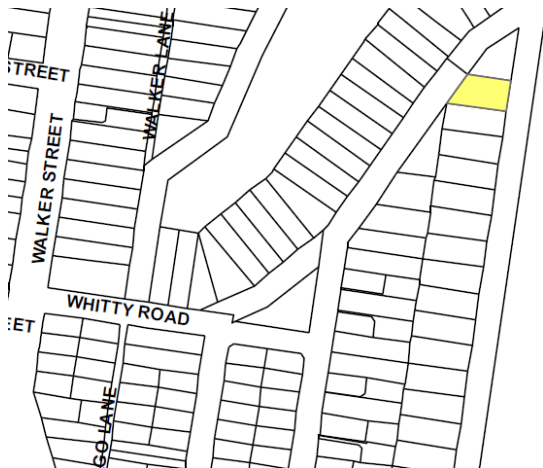
- 1a Proceed with the rezoning of 3 Undola Road and Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation as exhibited in the draft Planning Proposal.
- 1b Identify 3 Undola Road for acquisition through an amendment to the Land Reservation Acquisition Map for Local Open Space purposes.
- 2 Not proceed with the rezoning of 3 Undola Road and Lot 1 Section E DP 2205 (Council owned) 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 Undola Road sub precinct to the E4 Environmental Living zone not be progressed as part of the final Planning Proposal and the land retain an E3 Environmental Management zone.*

It is recommended that the rezoning of 3 Undola Road and Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation, be progressed.

It is recommended that 3 Undola Road be identified for acquisition through an amendment to the Land Reservation Acquisition Map for Local Open Space purposes.

Land Reservation Acquisition Map for 3 Undola Road map 3



Walker Lane sub-precinct

Walker Lane extends from Short Street south behind the commercial properties fronting Walker Street. The first four lots (Lots 28-31 Section B DP 2644 – outlined in red on map 3) are owned by the ECTO Services Pty Ltd and have an area of 4,214m². The remaining six lots and the paper road along the eastern boundary are owned by Ensile Pty Ltd and were discussed previously.

In November 2012 Development Application No. DA-2012/1332 for a dwelling house was lodged. In March 2013 the application was refused.

Walker Lane is 6 metres wide and is unsuitable for high traffic volumes.

Part of the lots, have been filled and are used for informal parking. The type of fill material and its stability is unknown. The eastern part of the lots are steep, have been made steeper by filling, and are covered in bushland and weeds.

The lots can be serviced by reticulated water and sewerage systems. The sewer line goes along Walker Lane, and water can be accessed from Walker Street or Short Street.

A variety of zones were been considered for this sub-precinct given its location adjacent to the Helensburgh Town centre, including B2 Local Centre, B4 Mixed Use, IN2 Light Industry, R2 Low Density Residential, R3 Medium Density Residential and E2 Environmental Conservation.

Walker Lane precinct location map 4



The Council report of 28 November 2011, proposed that the front portion of the lots be zoned R2 Low Density Residential and the rear portion be zoned E2 Environmental Conservation. Council resolved (in part) that:

- 2 Council amend the existing draft Planning Proposal for the Walker Lane sub-precinct by rezoning Lots 28-31 Sec B DP 2644 Walker Lane to E2 Environmental Conservation.

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

No submission was received from the landowner. It can be assumed that the owners object to the proposed zoning, as they lodged a DA for a dwelling house which is not permitted under the current or proposed zone.

Other submissions:

Submitter	Submission
Resident Helensburgh	Walker Lane – should be zoned E2 Environmental Conservation.

Form letter/email submissions:

Group / property	Submission
Oxford Protection Society	One form letter submitted by 245 persons supporting the proposed rezoning of the Walker lane sub-precinct to E2 Environmental Conservation. (refer Attachment 5 of Background report)
OxfordEco	<ul style="list-style-type: none"> One form letter submitted by 40 persons supporting the proposed rezoning of the overall Camp Gully Creek precinct to 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)

There are no significant issues with this sub-precinct. The site has been filled in the past, and is used for an informal car park/turning area. Being located adjacent to the Town Centre, the western part of the site was considered to have some value to support the centre for either residential or business use, whereas the steeper eastern part was considered to have conservation values.

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 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 Walker Street sub-precinct to the 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 Planning Proposal for the Camp Gully Creek precinct, including the Walker Lane sub-precincts be progressed to finalisation. It is recommended that the Planning Proposal for Undola Road sub-precinct be amended and 5, 7, 9 and 11 Undola Road retain the current E3 Environmental Management zone. It is also recommended that 3 Undola Road be identified on the land Reservation Acquisition Map for acquisition by Council for local open space purposes, through the preparation of a new Planning Proposal.