

## ITEM 5 REVIEW OF 7(D) LANDS - WILSONS CREEK PRECINCT

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 addressing the submissions received during the exhibition and addresses the Wilsons Creek precinct.

It is recommended that the Planning Proposal for this precinct be amended to retain an E3 Environmental Management zone on properties with existing development, and then progressed to finalisation.

### Recommendation

- 1 The part of the Planning Proposal for the Wilsons Creek precinct be amended to retain an E3 Environmental Management zone (excluding the Wilsons Creek riparian corridor which is proposed to be zoned E2 Environmental Conservation) over the following properties which contain existing development, namely 43-49 (2 lots), 70 (2 lots), 87, 95, 100 (2 lots), 104, 133 (approved dwelling) and 137 Princes Highway, 194-198 Parkes Street (2 lots), 74 Rajani Road, 16 and 17 (2 lots) Sawan Street, Helensburgh.
- 2 The part of the Planning Proposal for the Wilsons Creek precinct which seeks to amend the Wollongong Local Environmental Plan 2009 by:
  - a Zoning the Wilsons Creek riparian corridor to the E2 Environmental Conservation zone;
  - b Zoning the Crown Land to the E2 Environmental Conservation zone; and
  - c Zoning the lots which do not contain an existing development to the E2 Environmental Conservation zone.

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 Wilsons Creek precinct.

The Wilsons Creek precinct includes the lots on both sides of the Princes Highway north of Parkes Street and contains 46 lots. The precinct is the headwaters of Wilsons Creek which flows into Garrawarra State Conservation Area. Six lots are Crown Land (map 1 outlined in blue), which adjoin the Garrawarra State Conservation Area. Excluding the Crown land, the 40 privately owned lots range in size from 550m<sup>2</sup> to 5 hectares and contain 12 dwellings, including one approved dual occupancy dwelling. In 2007, Council approved a DA for a shop and replacement dwelling on 133 Princes Highway, Helensburgh which has not been constructed, and the consent may have lapsed.

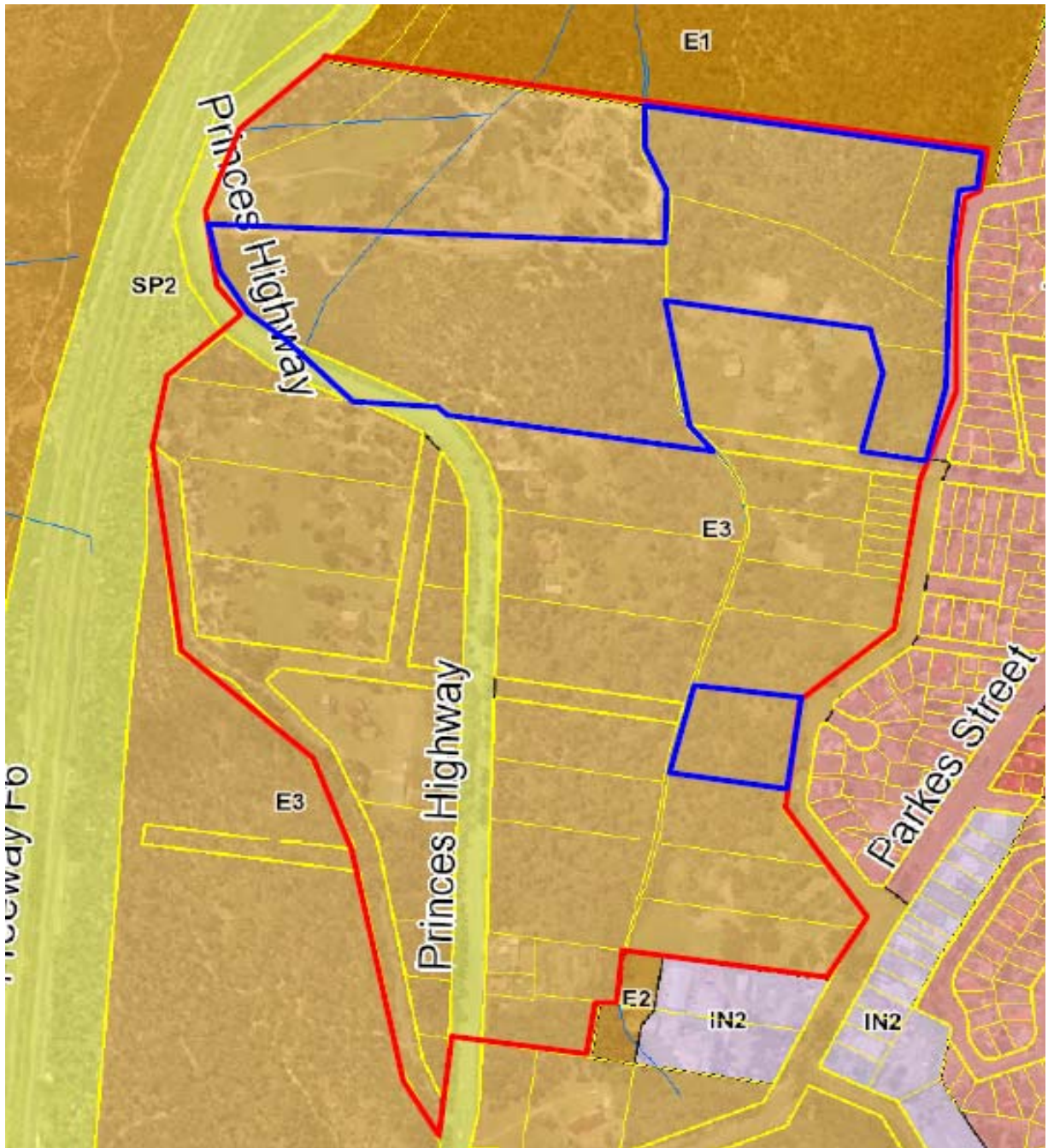
The precinct contains a mixture of bush covered lots and lots used for agriculture, landscape supplies or residential uses.

### **Wilsons Creek Precinct location**

The four small lots at the southern end of Old Illawarra Road and the three small lots located on the western side of the Princes Highway (north of Alma Road) are parts of larger lots which straddle the Princes Highway. In 1969 and 1970 the lots were subdivided to create separate lots on either side of the Princes Highway. The lots were then sold. In 1970 the minimum lot size required for a country dwelling was 2 hectares (5 acres). Only one of the lots on the eastern side of the Highway was larger than 2 hectares, and this lot contains a dwelling house. None of the small residue lots on the western side of the Princes Highway were large enough for a dwelling. One owner purchased two lots to create a sufficient area for a dwelling house, which was subsequently constructed in the 1970s.

The eight small lots on Rajani Road (566-574m<sup>2</sup> each) were part of the original Helensburgh subdivision. They have not had a dwelling entitlement since the introduction of planning controls in 1951. It is assumed that Rajani Road was considered to be the boundary separating suburban Helensburgh on the east, and the rural/bushland Wilsons Creek precinct. While the sewer main follows Rajani Road, effluent from the lots would be required to be pumped to the main. The Council report proposed that the eight (Rajani Road lots) be consolidated into one larger (4,600m<sup>2</sup> approximately) lot and a dwelling house be permitted on the consolidated lot.

## Wilsons Creek location and existing zoning map 1



The precinct has a high bushfire risk from fires travelling east from the Drinking Water Catchment Area. For dwelling houses to be constructed extensive clearing will have to occur. The erection of a dwelling house and associated Asset Protection Zone would require the clearing of the Endangered Ecological Community the “Southern Sydney Sheltered Forest”. The precinct has not been identified as a potential addition to the State reserve system.

The clearing and residential development could have an adverse impact on downstream water quality. Any additional residential development should be connected to the sewerage system to prevent effluent pollution. On-site disposal of effluent should not be permitted.

Council at its meeting on 28 November 2011 considered a report which recommended that a dwelling house be permitted on 13 of the larger lots (retain E3 Environmental Management zone but reduce minimum lot size), one dwelling house be permitted on the consolidated eight Rajani Road lots, and no dwellings be permitted on the seven small Princes Highway lots (to be zoned E2 Environmental Conservation) or the Crown land (to be zoned E2 Environmental Conservation).

Council resolved that:

- 1 *Council amend the draft planning proposal for the Wilsons Creek Precinct by zoning the Wilsons Creek Precinct to E2 Environmental Conservation zone.*
- 2 *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.*

The draft Planning Proposal was exhibited from 6 August to 26 October 2012. This report addresses the issues raised in the submissions for this precinct.

## Proposal

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
194-198 Parkes Street, Helensburgh (submissions from family members and a consultant)	Opposed the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house, two lots.
70 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house, two lots.
86 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house.

Property	Submission	Comment
100 Princes Highway, Helensburgh (a submission from family members)	Opposed the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house, two lots.
101 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house.
104 Princes Highway, Helensburgh	Support the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house
111 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house.
125 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house.
128 Princes Highway, Helensburgh (2 submissions)	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation. Want to build.	No dwelling house.
137 Princes Highway, Helensburgh (4 submissions)	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house.
138 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house.
141 Princes Highway, Helensburgh (2 submissions)	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental	No dwelling house.



Property	Submission	Comment
	Conservation.	
16-23 Rajani Road, Helensburgh, and 120 Princes Highway, Helensburgh	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	No dwelling house, eight lots.  No dwelling house.
74 Rajani Road, Helensburgh (6 submissions)	Object to the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.	Existing dwelling house.
16 Sawan Street, Helensburgh (2 submissions)	Object to the proposed E2 Environmental Conservation zone and requesting a rezoning to B6 Enterprise Corridor.	Existing dwelling house and landscape supply business.  A rezoning to B6 cannot be included in this Planning Proposal and a separate rezoning proposal would be required.
Sydney Catchment Authority	Supported their land being zoned E2 Environmental Conservation.	Noted.
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.

### Other submissions:

Submitter	Submission
Two submissions submitted by three persons (total 6)	Support the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation. Supporting the rezoning of Sydney Catchment Authority (SCA) land to E2 Environmental Conservation. Noting the bushfire concerns, wildlife corridor, no water or sewerage system.
Roads and Maritime Services (RMS)	Maintains its position in previous correspondence, namely it objected to direct access to the Princes Highway, from individual properties.
Sydney Water	The precinct is not proposed to be serviced and any servicing will be at the landowners/developers expense. Additional dwelling houses should not be developed without the necessary infrastructure.
Resident Helensburgh	Wilsons Creek precinct – agree in principle, but further

	investigations should occur to determine the level of development that could be supported without detrimental impacts. Should be a minimum 40m buffer either side of Wilsons Creek which should be zoned E2 Environmental Management.
Resident Helensburgh	Wilsons Creek – support recommendation.
Email suburb unknown	Wilsons Creek – support E2 Environmental Management.

**Form letter/email submissions:**

<b>Group/property</b>	<b>Submission</b>
194-198 Parkes Street, Helensburgh	757 submissions opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.
100 Princes Highway, Helensburgh	213 submissions opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.
Otford Protection Society	One form letter submitted by 242 persons supporting the proposed rezoning of the precinct. (refer Attachment 5 of Background report)
OtfordEco	<ul style="list-style-type: none"> <li>One form letter submitted by 39 persons supporting the proposed rezoning of the precinct.</li> <li>One form letter submitted by 136 persons making a conservation-based submission on all precincts.</li> <li>Two form letters submitted by 79 and 123 persons supporting E2 for all 23/24 precincts respectively.</li> <li>One form letter submitted by 10 persons supporting E2 Environmental Conservation for all bushland precincts.</li> </ul> (refer Attachment 5 of Background report)
Helensburgh Business Owner Group	<ul style="list-style-type: none"> <li>Six form letters submitted by 183-191 persons (total 1,117) opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.</li> <li>One form letter submitted by 185 persons supporting the comments in all 56 letters.</li> </ul>
Helensburgh Land Pooling Group	<ul style="list-style-type: none"> <li>One letter submitted by 839 persons opposing the proposed rezoning from E3 Environmental Management to E2 Environmental Conservation.</li> </ul>

On 21 June 2013, Council was advised of clearing occurring on 125 Princes Highway, Helensburgh. On 6 July 2013, Council was advised that further work had occurred. A development consent had not been issued for a land use to occur and this matter is being separately investigated.

## **Review of issues**

As a result of the exhibition, a key issue to consider within this precinct is whether to proceed with the rezoning of the lots that contain a dwelling house to E2 Environmental Conservation. Secondly, whether a new Planning Proposal should be prepared to enable a dwelling house to be permitted on the 26 lots in private ownership that do not contain a dwelling house, and the associated environmental impacts.

The existing dwellings were approved under a previous planning regime when they complied with the zonings and standards of the day. Some of the lots are substantially cleared of native vegetation and contain a dwelling house, outbuildings, pools and farm animals. One lot contains an approved dual occupancy, and one lot a landscape supply business. 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. The landowner submissions opposed to the change, note that the rezoning could remove their entitlements create uncertainty and devalue their land.

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 DECCW) 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.

In some precincts a split zoning has been proposed for the precinct or lots within a precinct, wherein the cleared land containing the dwelling house is zoned E3 Environmental Management zone, while the significant bushland areas is zoned E2 Environmental Conservation. This strategy is proposed for this precinct, and it is recommended that the lots containing an existing dwelling not be rezoned to E2 Environmental Conservation and the land retain the E3 Environmental Management zone. It is proposed that the rezoning of the Wilsons Creek riparian corridor to E2 Environmental Conservation proceed.

In terms of the lots that do not contain a dwelling house, the current Planning Proposal cannot be amended to enable a dwelling house to be permitted. These lots tend to be covered in bushland. If the controls are amended to permit a dwelling house, the lots will be substantially cleared for the dwelling and bushfire mitigation purposes. Additionally, the lots would need to be connected to a reticulated sewerage system. It is noted that the existing dwellings rely on on-site effluent disposal as a consequence of their approval when Helensburgh was not sewered, and the sewer lines were not extended to those lots. Some of the lots are not large enough for on-site effluent disposal.

The rezoning of these lots (which do not contain existing dwellings) to E2 Environmental Conservation would recognise their bushland character, and not impact on existing development. It would not permit a dwelling house and reduce the permitted land uses even further. The Council may be required to acquire the land, if it is found that the land use table is too restrictive. Council has the option of proceeding with the rezoning or retaining the current E3 Environmental Management zone (which only permits dwellings on sites greater than 40ha). A new draft Planning Proposal would be required to be prepared to enable a dwelling house to be permitted on the lots that do not contain a dwelling.

### 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 over the entire precinct.
3. Not proceed with the rezoning to E2 Environmental Conservation on the lots that contain an existing development and retain the current E3 Environmental Management zone, and proceed with the E2 Environmental Conservation zoning on the other lots.

4. Resolve to prepare a new Planning Proposal to rezone the precinct or specific lots to another zone and undertake further community consultation.

Option 3 is recommended, wherein the lots that contain existing development retain the E3 Environmental Management zone, and the E2 Environmental Conservation zoning be progressed on the other lots.

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## 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 the Wilsons Creek precinct be amended to retain an E3 Environmental Management zone on the lots that contain a dwelling house, and the remainder of the precinct be progressed as an E2 Environmental Conservation zoning.