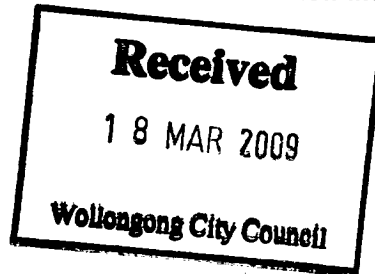




NSW DEPARTMENT OF
PRIMARY INDUSTRIES

GOULBURN
159 Auburn St (PO Box 389), Goulburn NSW 2580
www.dpi.nsw.gov.au
Tel: (02) 4828 6600; Fax: (02) 4822 3261

Now incorporating NSW Agriculture
ABN 51 734 124 190-004



2003/06665
OUT09/3440

The General Manager
Wollongong City Council
Locked Bag 8821
WOLLONGONG NSW 2500

Attention: David Green
9 February 2009

Dear David,

Draft Wollongong City Council Local Environmental Plan

Thank you for your letter dated 16 December 2008 notifying NSW DPI of Council's Draft Local Environmental Plan (LEP) for the Wollongong City Council LGA. NSW DPI welcomes the opportunity to comment on the Draft LEP.

NSW DPI is pleased to see the inclusion of many of the suggested amendments and provisions from NSW DPI's previous response to the Draft LEP dated 14 December and 16 March 2007. It is clear that primary resource industries are important to the Wollongong City Council. However there are a number of suggested amendments previously provided that NSW DPI believes should be included in the final LEP, particularly the amendments relating to mineral resources.

Attachments A to C provide specific comments on the Draft LEP regarding NSW DPI's main areas of interest including agriculture, minerals and fisheries matters. In this instance there are no forestry issues.

These comments are included to assist in providing greater clarity of intent in relation to the management of primary resources within the shire.

For general enquiries please contact Wendy Goodburn on ph 4828 6600 or by email at wendy.goodburn@dpi.nsw.gov.au. For specific enquiries related to other areas of interest please contact the person in the relevant section.

Yours sincerely,

WENDY GOODBURN

Resource Management Officer (Land Use Planning)
South East Region

ATTACHMENT

NSW DPI DETAILED COMMENTS ON THE DRAFT WOLLONGONG CITY LOCAL ENVIRONMENTAL PLAN 2009

Agriculture Comments

Part 1 Preliminary

Aims 1.2(2) (e)

The objectives of the plan should include a reference to protecting primary industry resources to be consistent with the remainder of the plan that recognises their importance. Suggested wording to include within the aims is: "to provide access to rural resources for primary industries."

Contacts

For clarification of any issues related to Agriculture management please contact Wendy Goodburn on 4828 6635 or by email at wendy.goodburn@dpi.nsw.gov.au.

Mineral Resource Comments

The Department has on previous occasions stressed the importance of the coal resources in Wollongong LGA and that the new draft LEP should continue to allow mining where coal resources are known to exist.

In the draft LEP mining is specifically only permitted with consent in the Primary Industry (RU1) zone. Through the requirement of the Mining, Petroleum and Extractive Industries SEPP (Mining SEPP), underground mining is permissible in all zones and mining is permissible with consent where agriculture and industry are permitted.

The western half of the Wollongong LGA is covered by existing coal titles. A review of the draft LEP maps shows that proposed RU1 zoned areas cover the following mines:

- Metropolitan
- Coal Cliff
- Bulli
- NRE No 1, Russell Vale site
- Dendrobium (both the pit top and Kemira Valley sites)
- NRE Wongawilli
- Huntley
- Avondale

The following existing mine sites are not within areas of proposed RU1 zoning:

- Cordeaux – this is under Care and Maintenance but may re-open in the future.
- Kemira – this is closed but still covered by an active mining lease,
- NRE No 1, No 4 shaft – this site is part of an operating mine

- Any of the various shaft sites on top of the escarpment (eg, Corrimal No 3 shaft)

The draft LEP indicates that large areas of the LGA will be zoned E2 (Environmental Conservation), in particular, areas west of the escarpment. The Department is concerned about the potential impacts of proposed E2 zoning on current and future mining operations and their associated infrastructure.

The Department notes that in the Wollongong LEP 1990, zone 7(a) which is being converted to a proposed E2 zoning, allowed “development for the purpose of advertisements; leisure areas, **mines**, utility installations with development consent” and also “development for the purpose of **agriculture**, with development consent granted after advertising and satisfying clause 11”. The proposed E2 zoning in these areas would prohibit both of these activities.

Much of the area to be zoned E2 in the draft LEP is also covered by current exploration titles for coal seam methane and geothermal energy, both of which are considered to have high potential for discovery in this region. Coal seam methane production and the harnessing of geothermal energy would not be permissible activities under the proposed zoning which would effectively sterilize potential sources of cleaner energy in Wollongong LGA.

The Department requests that the proposed broad use of E2 zoning throughout the local government area be modified. It is the Department’s understanding that under the provisions of the Department of Planning’s Standard Instrument, local government areas will generally have limited areas displaying the characteristics suitable for the application of the E2 zone. Areas where a broader range of uses is required (whilst retaining environmental protection), may be more appropriately zoned E3 Environmental Management. The Department’s preferred position is that areas west of the escarpment (SCA lands) be zoned E3 to allow for this broader range of uses.

Comments relating to the Land Use Matrix:

- a black c should be used for extractive industries and mining in the RU1 column, these are mandated uses
- a red M should be used for extractive industries and mining in the IN1, IN2, IN3 and IN4 zones because these activities are permissible under the Mining, Petroleum Production & Extractive Industry SEPP 2007 through the permissibility of industry in these zones
- a red M should be used for extractive industries and mining in the E3 zone because these activities are permissible under the Mining, Petroleum Production & Extractive Industry SEPP 2007 through the permissibility of extensive agriculture in this zone

Contacts

For clarification of any issues related to Mineral Resources please contact Cressida Gilmore on 4931 6537 or by email at Cressida.gilmore@dpi.nsw.gov.au.

Fisheries/Aquaculture comments

General

Support the inclusion of Aims 1.2(2) (e) "To conserve and enhance remnant aquatic and riparian habitats, native vegetation and fauna species".

Zoning of the Coastline

It is noted that a large proportion of the coastline is included in Zone RE1. This zoning permits a wide range of developments, quite a few of which have no requirement to be in close proximity to the coast (e.g. child care facilities, markets, recreation facilities (major)). The coastline has high environmental, scenic and recreational value and the LEP should aim to minimise the development that occurs there. DPI recommends that Council modify the draft LEP in one of three possible ways (in order of preference):

1. Rezone the coastline so that areas dominated by natural features (coastal vegetation, cliff lines, rock platforms, dunes, beaches etc) are zoned as E2 and only those areas already dominated by existing development be retained in Zone RE1, or,
2. Retain the RE1 zoning depicted in the draft LEP but strengthen the objectives of the zone to indicate that protection of natural features, scenic and recreational values is the primary objective and that new development cannot take place on sites with significant natural features, or
3. Delete those types of developments that have no requirement to be located close to the coast from the RE1 zone.

Waterways Zoning

DPI does not support the inclusion of "recreation areas", "water recreation structures" or "moorings" as permissible developments within Zone W1 Natural Waterways. These types of development are not consistent with the objectives of the zone and are more appropriately included within Zone W2 Recreational Waterway.

DPI does not support the inclusion of "restaurant" or "take away food and drink premises" as permissible developments within Zone W2 Recreational Waterways. Neither of these types of development requires an association with a waterway and should not be included.

Exempt Development

Clause 3.1 Exempt Development Subclause 4A. DPI recommends that this subclause be extended to include Category 2 & 3 Riparian Land as well. The constraints that apply to Category 1 waterways apply just as much to Category 2 & 3 waterways. It is not appropriate to allow development within Category 2 & 3 waterways without careful consideration of the potential consequences for water quality, bank stability, aquatic & riparian habitats etc.

Management of Riparian Lands

With regard to Clause 6.4 (2), DPI notes that the application of the clause relies on the Riparian mapping. However the Riparian Mapping only depicts "Riparian Land" as a narrow lines (sometimes single lines, sometimes two more or less parallel lines). These often do not match the actual feature (stream, lake or estuary edge) as mapped on the underlying topographic map. The consequence will be that:

1. the Clause only applies to the land covered by the width of the line and
2. will often apply to land somewhat removed from the actual waterway.

The clause needs to be modified to make it clear that it applies to the waterway feature and its associated riparian zone out to a specified distance (usually 40m) from the bank of the waterway. Alternatively, the mapping needs to be modified so that it truly depicts the full width of the waterway plus riparian zones on both sides.

Aquaculture

The draft LEP currently only allows aquaculture within 3 zones – IN2, W2, and W3. DPI believes that modern aquaculture methods can be successfully adopted in a much wider range of zones with little risk of adverse social or environmental impacts. DPI recommends that aquaculture be included as "development with consent" in those zones indicated in the attached table.

LEP Aquaculture zoning table

(LEP zones for aquaculture based on new LEP template)

LEP ZONES AQUACULTURE TYPE	
Rural	
RU1 Primary Production	Pond/Tank
RU2 Rural Landscape	Pond/Tank
RU3 Rural Small Holdings	Pond/Tank
RU4 Forestry	Pond/Tank
RU5 Village	Tank
RU6 Transition	Tank
Business	
B5 Business Development	Tank
B6 Business Park	Tank
B7 Enterprise Corridor	Tank
Industrial	
IN1 General Industrial	Tank
IN2 Light Industrial	Tank
IN3 Heavy Industrial	Tank
IN4 Working Waterfront	Pond/Tank
Special Area	
SP3 Tourist	Pond/Tank
Recreation	
RE1 Public Recreation	Pond/Tank
RE2 Private Recreation	Pond/Tank
Waterway	
W1 Natural Waterways	Pond/Tank (1)
W2 Working Waterways	Pond/Tank (1)
W3 Recreational Waterways	Pond/Tank (1)
Residential	
R1 General Residential	Pond/Tank (2)
R2 Low Density Residential	Pond/Tank (2)
R3 Medium Density Residential	Tank (2)
R4 High Density Residential	Prohibited
R5 Large Lot Residential	Pond/Tank (2)
Business	
B1 Neighbourhood Centre	Tank
B2 Local Centre	Tank
B3 Commercial Core	Tank
Special Area	
SP1 Special Activities	Pond/Tank
SP2 Infrastructure	Pond/Tank
Environment Protection	
E1 National Parks and Nature Reserves	Prohibited
E2 Environmental Conservation	Pond/Tank
E3 Environmental Management	Pond/Tank
E4 Environmental Living	Pond/Tank

Note 1 Utilising waterways to source water.

Note 2 Small scale aquarium fish production.