

REF: CM101/11

**REVIEW OF 7(D) LANDS AT HELENSBURGH, OTFORD AND STANWELL TOPS -  
FINAL REPORT ON SUBMISSIONS**

Report of Manager Environmental Strategy and Planning [Acting] (DG) 23/06/11

SU26444

**PRECIS**

In 2009, Council exhibited the draft Review of the land zoned 7(d) Hacking River Environmental Protection at Helensburgh, Otford and Stanwell Tops. The draft Review proposed a new vision for the area that sought to conserve significant bushland as well as resolving historic dwelling entitlement issues. As a result of the exhibition, 3,447 submissions were received.

In May 2010, Council considered the issues raised in the submissions, made changes to the options in the draft Review and exhibited the Preliminary Report on Submissions. A further 19,405 submissions were received.

This report presents a Final Report on submissions to assist Council in determining whether a draft planning proposal should be prepared to rezone parts of the area. It is recommended that a Planning Proposal be prepared to rezone certain precincts, to retain the current provisions for some precincts, and further consultation occur on other precincts.

**RECOMMENDATION**

- 1 A draft Planning Proposal be prepared to amend the Wollongong Local Environmental Plan 2009 for the following precincts:
  - a Garrawarra precinct:
    - Amending the description of the Garrawarra Centre on the Zoning Map from SP2 Infrastructure Hospital to SP2 Infrastructure Health Service facility and Seniors Housing;
    - Rezoning the balance of the Crown Land to E2 Environmental Conservation;
    - Rezoning the Sydney Catchment Authority land to E2 Environmental Conservation; and
    - Amending the Minimum Lot Size Map by removing the subdivision standard for the part of Garrawarra Centre zoned SP2 Infrastructure Health Service facility and Seniors Housing.
  - b Lady Carrington Estate north:
    - Rezone to E1 National Parks, as the land is now part of Garrawarra State Conservation Area.
  - c Gateway precinct, Princes Highway:
    - Zoning 151 and 177 Princes Highway, and 200-206, 208-216, 218-222 Parkes Street, to the B6 Enterprise Corridor zone, with a floor space ratio of 0.5:1, maximum building height of 11m and minimum lot size of 2,000m<sup>2</sup>;
    - Zoning Nos. 187-193 Princes Highway to the RU2 Rural Landscape zone;
    - Zoning 2 Lawrence Hargrave Drive to the RE2 Private Recreation zone;
    - Zoning 1-5 Lawrence Hargrave Drive and 227 Princes Highway to the RU2 Rural Landscape zone; and
    - Zoning Symbio Wildlife Gardens to the SP3 Tourist zone, including the dwelling houses in the same ownership – Nos.7-15 Lawrence Hargrave Drive.
  - d Princes Highway – west of F6 precinct:
    - Rezone the Crown Land and Sydney Catchment Authority land to E2 Environmental Conservation; and
    - Rezone the private land to RU2 Rural Landscapes and E2 Environmental Conservation.

**ITEM 1**

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- e Gills Creek precinct:
- Nos. 237-261 Princes Highway be zoned RU2 Rural Landscapes;
  - The Crown Land, and the Gills Creek corridor be zoned E2 Environmental Conservation;
  - The additional use of a “restaurant or café” be permitted on the corner of Baines Place and Lawrence Hargrave Drive, on part of Lot 4 DP 259401; and
  - The properties at Stanwell Tops be zoned part E3 Environmental Management and part E2 Environmental Conservation, with a minor modification to the exhibited zoning option.
- f Wilsons Creek precinct:
- Zoning the Wilsons Creek riparian corridor to the E2 Environmental Conservation zone;
  - Zoning the Crown Land to the E2 Environmental Conservation zone;
  - Zoning the seven (7) small residue lots on the western side of the Princes Highway (Nos 86, 90, 96, 120, 128, 134, 138) to the E2 Environmental Conservation zone;
  - Retaining an E3 Environmental Management zone over the remainder of the Precinct, and allowing a dwelling house on the larger lots, provided that the following can be addressed:
    - Retention of bushland – especially the Endangered Ecological Community the “Southern Sydney Sheltered Forest”;
    - Bushfire mitigation;
    - Access arrangements;
    - Provision of waste water services.
  - Requiring lots 16 to 23 DP8203 (8 lots) Rajani Road to be consolidated into one lot, and a dwelling house be permitted on that lot, by amending the Minimum Lot Size Map to 4,000m<sup>2</sup> and a floor space ratio of 0.3:1.
- g Walker Lane precinct:
- Rezone part of the precinct to R2 Low Density Residential, and the remainder to E2 Environmental Conservation.
- h Undola Road precinct:
- Rezone 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 1,000m<sup>2</sup>;
  - Rezone 3 Undola Road to E2 Environmental;
  - Rezone Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation; and
  - Rezone Whitty Road Reserve and Undola Road Reserve to be consistent with the adjoining zone.
- i Walker Street precinct:
- Rezone to the RU2 Rural Landscape zone.
- j Lukin Street precinct:
- Rezone the Crown Land to E2 Environmental Conservation; and
  - Rezone the 48-54 Parkes Street to E4 Environmental Living, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m<sup>2</sup>.
- k Otford north precinct:
- Rezone to E2 Environmental Conservation and not permit dwelling houses.
- l Otford central precinct:
- Rezone to E4 Environmental Living and allow a dwelling house on any vacant lots, with a floor space ratio of 0.5:1, maximum building height of 9m and
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- minimum lot size of 10,000m<sup>2</sup>; and
  - Rezone Lots 14, 15 and 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road to E2 Environmental Conservation.
- m Otford south precinct:
- Retaining an E3 Environmental Management zone on Lot 2 DP 512270 Otford Road and amending the Minimum Lot Size Map to permit a dwelling house; and
  - Zoning Otford Farm as indicated in Figure 5.13.2.
- n Isolated lots in the Royal National Park:
- Rezone to E2 Environmental Conservation and not permit any additional dwelling houses.
- o Metropolitan Colliery:
- Rezone the Crown Land bushland to E2 Environmental Conservation.
- p Frew Avenue precinct:
- Retain E3 Environmental Management zone, and allow a dwelling house on the vacant lots.
- 2 The draft Planning Proposal be submitted to the NSW Department of Planning and Infrastructure for review and approval prior to public exhibition.
- 3 Following the Department's approval, the draft Planning Proposal be exhibited in accordance with the Department's guidelines "LEPs and Council Land" and be exhibited for a minimum period of two (2) months.
- 4 No change to the planning controls for the following precincts be made, which will retain the E3 Environmental Management zone:
- a Kelly Falls precinct;
  - b Govinda precinct; and
  - c Old Farm Road precinct.
- 5 The draft Planning Agreement submitted on behalf of Ensilie Pty Ltd which proposes the dedication of 321 hectares to Council / National Parks and Wildlife Service, in exchange for urban development within the Land Pooling and Lady Carrington Estate Precincts, and which also proposes an exit strategy for third party land owners in the Lloyd Place, Central Bushland and Lilyvale precincts, be exhibited for community comment. The exhibition include information and seek community feedback on the options for the future management of the precincts, including no change, purchase, or transfer.
- 6 Following the community consultation, a further report be submitted to Council on whether the Planning Agreement should be progressed, the preparation of a draft Planning Proposal, and what studies would be necessary to support the rezoning of the precincts.
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## BACKGROUND

The 7(d) Hacking River Environmental Protection zone was introduced in the 1980s and 1990s as a means of limiting development to protect the water quality of the Royal National Park and Hacking River. The zone has resulted in inequities between adjoining landowners, those with and without dwelling houses, and has prevented many land owners from building a dwelling house on their land.

The 7(d) lands contain significant bushland which is connected to the Woronora Catchment area, Royal National Park and Illawarra Escarpment. The area is also the head waters of the Hacking River. The extensive bushland results in a high bushfire risk. Conversely, some of the 7(d) lands have been historically cleared for farming, tourism, coal mining, industrial uses and housing. There

were 777 lots zoned 7(d) Hacking River Environmental Protection under the Wollongong Local Environmental Plan 1990. The lots are owned by 303 persons and / or companies. The lots range in size from 42m<sup>2</sup> to 133 hectares. The majority of the lots (58% or 457 lots) are between 500m<sup>2</sup> and 2,000m<sup>2</sup> in size. Only 108 of these lots contain dwelling houses.

There has been a long history associated with the conservation and possible development of the 7(d) lands, including the Helensburgh Commission of Inquiry (1994). One of the main issues is the permissibility of dwelling houses. Some owners have owned land since 1965, in the hope that planning controls may change to enable a house to be built. In other instances, planning controls have changed which has prevented a dwelling house being built where it was previously permissible.

The 7(d) lots are now zoned E3 Environmental Management under the Wollongong Local Environmental Plan 2009. The E3 Environmental Management zone retains the previous restriction on the construction of new dwelling houses, where the area of the land needs to be greater than 10, 20 or 40 hectares depending on the date of subdivision. Currently 108 lots contain a dwelling house. To avoid confusion this report will continue to refer to the area as 7(d) lands.

In September 2007, Council resolved to commence a review of 7(d) lands at Helensburgh, Otford and Stanwell Park. The draft report was completed with the assistance of Willana Associates Pty Ltd in mid 2009. The report is a desktop review of the issues associated with the 7(d) lands and presents a set of recommendations for the amendment of the planning controls. More detailed investigations would have to occur into some proposals if they are to proceed through a rezoning process.

The 7(d) Review considered regional issues and divided the study area into a number of precincts. The recommendations were based on a number of principles including:

- retention of significant bushland;
- retention of water quality of the Hacking River;
- improving bushfire mitigation for existing residential areas;
- considering future development options; and
- reviewing the dwelling entitlement issue.

Council at its meeting on 28 July 2009, considered a report on the draft Review and submissions received during the exhibition of the draft Wollongong Local Environmental Plan 2009. Council resolved that:

- 1 *The draft Wollongong Local Environmental Plan 2009 be amended by rezoning the 7(d) Hacking River lands from E2 Environmental Conservation to E3 Environmental Management, to better reflect the existing planning controls.*
- 2 *The “draft Review of land zoned 7(d) at Helensburgh, Otford and Stanwell Park” be exhibited for 2 months to enable public review and input.*
- 3 *In accordance with Section 55 of the Environmental Planning and Assessment Act 1979, a “planning proposal” (formerly known as a draft Local Environmental Plan) be prepared for the Helensburgh, Otford, Stanwell Tops area for the land zoned 7(d) Hacking River Environmental Protection and submitted to the Department of Planning.*
- 4 *Following the exhibition period, a report on submissions, the requirements of the Department of Planning and the land valuations be prepared for Council’s consideration.*
- 5 *Council hold a public forum, or forums, as part of the community engagement process on this matter.*

The draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops was exhibited from 10 August to 30 November 2009 (three (3) months). A community information session and public

forum was held at Helensburgh Workers, Sport and Social Club on 16 September 2009 and was attended by over 200 persons.

As a result of the exhibition, 3,447 submissions were received; the majority were form letters opposed to any rezoning and development.

Council considered the submissions at its meeting on 25 May 2010. Council resolved that:

- 1 *The Preliminary Report on submissions to the draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops (Attachment 1) be made available for land owner and community feedback for a period of six (6) weeks, via Council's website.*
- 2 *A final report be prepared for Council's consideration, including recommendations for the preparation of a draft planning proposal to amend aspects of the Wollongong Local Environmental Plan 2009.*
- 3 *Further discussions occur with:*
  - a *Sydney Water to define the capacity and ability of the water and sewerage networks to accommodate any additional development.*
  - b *The Department of Environment, Climate Change and Water, to determine whether the authority is interested in any of the study area being incorporated into the Royal National Park or Garrawarra State Conservation Area or other reserve.*
  - c *The Department of Planning, to scope the requirements for a draft planning proposal should Council resolve to commence the preparation of a draft planning proposal to amend the Wollongong Local Environmental Plan 2009, and the requirements of the Illawarra Regional Strategy.*
- 4 *Letters and emails be sent to persons who made submissions advising of Council's resolution and the further consultation period.*

The Preliminary Review of Submissions report was exhibited from 2 June 2010 to 16 August 2010 (2.5 months). A community information session was held at the Helensburgh Community Centre on 17 June 2010.

As a result of the exhibition, 19,395 submissions were received; the majority were computer generated form letters opposed to any rezoning and development.

## PROPOSAL

The submissions received during both exhibitions are summarised in the attached "Final Report on Submissions to the review of 7(d) lands at Helensburgh, Otford and Stanwell Tops" (Attachment 1).

The report outlines the submissions received, the issues raised in submissions, discusses regional issues, provides an analysis of land ownership and makes recommendations for individual precincts within the 7(d) area.

The key issues raised in submissions include:

- Strong opposition to any further development in the area, due to the impacts on water quality and loss of bushland;
- The potential impact of development on bushland, habitat and fauna movement;
- The potential impact of development on the water quality of the Hacking River, its tributaries and the Royal National Park;
- The desire by landowners to build a dwelling on land that has been owned for many years (up to 45 years);
- Inconsistencies with the recommendations of the Helensburgh Commission of Inquiry (1994); and
- Adequacy of infrastructure to serve any additional development.

After consideration of these submissions and reviewing all information to hand, the final report on submissions makes the following recommendations:

1. A draft Planning Proposal be prepared to amend the planning controls for the following precincts:

<b>Precinct</b>	<b>Recommendation</b>
Garrawarra precinct	<ul style="list-style-type: none"> <li>• Amending the description of the Garrawarra Centre on the Zoning Map from SP2 Infrastructure Hospital to SP2 Infrastructure Health Service facility and Seniors Housing;</li> <li>• Rezoning the balance of the Crown Land to E2 Environmental Conservation;</li> <li>• Rezoning the Sydney Catchment Authority land to E2 Environmental Conservation; and</li> <li>• Amending the Minimum Lot Size Map by removing the subdivision standard for the part of Garrawarra Centre zoned SP2 Infrastructure Health Service facility and Seniors Housing.</li> </ul>
Lady Carrington Estate North	<ul style="list-style-type: none"> <li>• Rezone to E1 National Parks, as the land is now part of Garrawarra State Conservation Area.</li> </ul>
Gateway precinct, Princes Highway	<ul style="list-style-type: none"> <li>• Zoning 151 and 177 Princes Highway, and 200-206, 208-216, 218-222 Parkes Street, to the B6 Enterprise Corridor zone, with a floor space ratio of 0.5:1, maximum building height of 11m and minimum lot size of 2,000m<sup>2</sup>;</li> <li>• Zoning the Nos 187-193 Princes Highway to the RU2 Rural Landscape zone;</li> <li>• Zoning 2 Lawrence Hargrave Drive to the RE2 Private Recreation zone;</li> <li>• Zoning 1-5 Lawrence Hargrave Drive and 227 Princes Highway, to the RU2 Rural Landscape zone; and</li> <li>• Zoning Symbio Wildlife Gardens to the SP3 Tourist zone, including the dwelling houses in the same ownership – Nos. 7-15 Lawrence Hargrave Drive.</li> </ul>
Princes Highway – west of F6 precinct	<ul style="list-style-type: none"> <li>• Rezone the Crown Land and Sydney Catchment Authority land to E2 Environmental Conservation; and</li> <li>• Rezone the private land to RU2 Rural Landscapes and E2 Environmental Conservation.</li> </ul>
Gills Creek precinct	<ul style="list-style-type: none"> <li>• Nos. 237-261 Princes Highway be zoned RU2 Rural Landscapes;</li> <li>• The Crown Land, and the Gills Creek corridor be zoned E2 Environmental Conservation;</li> <li>• The additional use of a “restaurant or café” be permitted on the corner of Baines Place and Lawrence Hargrave Drive, on part of Lot 4 DP 259401; and</li> </ul>

Precinct	Recommendation
	<ul style="list-style-type: none"> <li>• The properties at Stanwell Tops be zoned part E3 Environmental Management and part E2 Environmental Conservation, with a minor modification to the exhibited zoning option.</li> </ul>
Wilsons Creek precinct	<ul style="list-style-type: none"> <li>• Zoning the Wilsons Creek riparian corridor to the E2 Environmental Conservation zone;</li> <li>• Zoning the Crown land to the E2 Environmental Conservation zone;</li> <li>• Zoning the seven small residue lots on the western side of the Princes Highway (Nos 86, 90, 96, 120, 128, 134, 138) to the E2 Environmental Conservation zone;</li> <li>• Retaining an E3 Environmental Management zone over the remainder of the Precinct, and allowing a dwelling house on the larger lots, provided that the following can be addressed:               <ul style="list-style-type: none"> <li>○ Retention of bushland – especially the Endangered Ecological Community the “Southern Sydney Sheltered Forest”;</li> <li>○ Bushfire mitigation;</li> <li>○ Access arrangements; and</li> <li>○ Provision of waste water services;</li> </ul> </li> <li>• Requiring lots 16 to 23 DP8203 (8 lots) Rajani Road to be consolidated into one (1) lot, and a dwelling house be permitted on that lot, by amending the Minimum Lot Size Map to 4,000m<sup>2</sup> and a floor space ratio of 0.3:1.</li> </ul>
Walker Lane precinct	<ul style="list-style-type: none"> <li>• Rezone part of the precinct to R2 Low Density Residential, and the remainder to E2 Environmental Conservation.</li> </ul>
Undola Road precinct	<ul style="list-style-type: none"> <li>• Rezone 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 1000m<sup>2</sup>;</li> <li>• Rezone 3 Undola Road to E2 Environmental Conservation;</li> <li>• Rezone Lot 1 Section E DP 2205 (Council owned) to E2 Environmental Conservation; and</li> <li>• Rezone Whitty Road reserve and Undola Road reserve to be consistent with the adjoining zone.</li> </ul>
Walker Street precinct	<ul style="list-style-type: none"> <li>• Rezone to the RU2 Rural Landscape zone.</li> </ul>
Lukin Street precinct	<ul style="list-style-type: none"> <li>• Rezone the Crown land to E2 Environmental Conservation; and</li> <li>• Rezone the 48-54 Parkes Street to E4 Environmental Living, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 1,000m<sup>2</sup>.</li> </ul>

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<b>Precinct</b>	<b>Recommendation</b>
Otford North precinct	<ul style="list-style-type: none"> <li>• Rezone to E2 Environmental Conservation and not permit dwelling houses.</li> </ul>
Otford Central precinct	<ul style="list-style-type: none"> <li>• Rezone to E4 Environmental Living and allow a dwelling house on any vacant lots, with a floor space ratio of 0.5:1, maximum building height of 9m and minimum lot size of 10,000m<sup>2</sup>; and</li> <li>• Rezone Lots 14, 15, 16 Section 8 DP 4591 and Lots 6 and 7 Section 9 DP 4591 Station Road to E2 Environmental Conservation.</li> </ul>
Otford South precinct	<ul style="list-style-type: none"> <li>• Retaining an E3 Environmental Management zone on Lot 2 DP 512270 Otford Road and amending the Minimum Lot Size Map to permit a dwelling house; and</li> <li>• Zoning Otford Farm as indicated in Figure 5.13.2.</li> </ul>
Isolated lots in the Royal National Park	<ul style="list-style-type: none"> <li>• Rezone to E2 Environmental Conservation and not permit any additional dwelling houses.</li> </ul>
Metropolitan Colliery	<ul style="list-style-type: none"> <li>• Rezone the Crown land bushland to E2 Environmental Conservation.</li> </ul>
Frew Avenue precinct	<ul style="list-style-type: none"> <li>• Retain E3 Environmental Management zone, and allow a dwelling house on the vacant lots.</li> </ul>

2. The following precincts retain the current E3 Environmental Management zone with no amendment (no planning proposal required):
  - Kellys Falls precinct;
  - Old Farm Road precinct; and
  - Govinda precinct.
3. The draft Planning Agreement submitted on behalf of Ensile Pty Ltd which proposes the dedication of 321 hectares to Council / National Parks and Wildlife Service, in exchange for urban development within the Land Pooling and Lady Carrington Estate Precincts, and which also proposes an exit strategy for third party land owners in the Lloyd Place, Central Bushland and Lilyvale precincts, be exhibited for community comment. This exhibition can occur separately to the draft Planning Proposal for the precincts proposing to be rezoned.

Following the community consultation, a further report be submitted to Council on whether the Planning Agreement should be progressed, the preparation of a draft Planning Proposal, and what studies would be necessary to support the rezoning of the precincts.

## CONCLUSION

The area formerly zoned 7(d) Hacking River Environmental Protection has a long, complex and controversial history. The extent of public participation during two (2) community consultation processes highlights that the future of this area remains complex. This report provides a final review of the issues raised in submissions following the exhibition of the draft Review of 7(d) lands at Helensburgh, Otford and Stanwell Tops and the Preliminary Review of Submissions, and provides

recommendations for future zoning controls. It is recommended that Council resolve to prepare a draft Planning Proposal to amend the Wollongong Local Environmental Plan 2009 for some of the precincts, make no change to other precincts and seek further community input on a draft Planning Agreement. The draft Planning Proposal is required to be endorsed by the NSW Department of Planning and Infrastructure prior to the commencement of a two (2) month public exhibition period. The exhibition of the draft Planning Agreement can occur separately.

Name	Position Title
<b>Author:</b>	
David Green	Land Use Planning Manager
<b>Authorised by:</b>	
Andrew Carfield	Director Planning and Environment
David Farmer	General Manager

#### ATTACHMENTS

1. Review of land zoned 7(d) lands at Helensburgh, Otford and Stanwell Tops - final report on submissions (Separate Attachment).