

Planning Proposal

LOCAL GOVERNMENT AREA: WOLLONGONG

NAME OF DRAFT LEP: REVIEW OF FORMER 7(D) LANDS

ADDRESS OF LAND: HELENSBURGH, OTFORD AND STANWELL TOPS

MAPS:

- **Location map** (attached)
- **Existing zoning map** (attached) – land is currently zoned E3 Environmental Management
- **Proposed zoning map amendments** (separate attachment)
- **Proposed Floor Space Ratio Map amendments** (separate attachment)
- **Proposed Lot Size Map amendments** (separate attachment)
- **Proposed Height of Building Map amendments** (separate attachment)

Part 1: OBJECTIVES OR INTENDED OUTCOMES OF PROPOSED LEP:

Concise statement setting out objectives or intended outcomes of the planning proposal.

To introduce new planning controls for land formerly zoned 7(d) Hacking River Environmental Protection at Helensburgh, Otford and Stanwell Tops that better reflects land capability and land use, and seeks to protect sensitive environments in some precincts and allow minor development in other precincts.

Part 2: EXPLANATION OF THE PROVISIONS OF PROPOSED LEP:

Statement of how the objectives or intended outcomes are to be achieved by means of new controls on development imposed via a LEP.

Amendment of Wollongong LEP 2009 by changes to the:

- Zoning Map
- Floor Space Ratio Map
- Lot Size Map
- Height of Building Map

(see attachment proposed amendment maps)

Part 3: JUSTIFICATION OF OBJECTIVES, OUTCOMES AND PROVISIONS AND PROCESSES FOR THEIR IMPLEMENTATION:

Section A – Need for the planning proposal

1. Is the planning proposal a result of any strategic study or report? IF YES: - Briefly explain the nature of the study or report and its key findings in terms of explaining the rationale for the proposal. - Submit a copy of the study or report with the planning proposal.	Yes – Council has undertaken a review of the lands formerly zoned 7(d) Hacking River – Environmental Protection under the Wollongong LEP 1990. These areas are now zoned E3 Environmental Management under the Wollongong LEP 2009. The review commenced prior to the introduction of the new LEP. The 7(d) zone was introduced in the 1980s and 1990s to protect the Hacking River catchment, however the zone did not account for existing development. The appropriateness of the former 7(d) zone and current E3 zone have been reviewed and changes are proposed. The study area is divided into 21 precincts, each with a complex history, different environmental attributes and land use pattern. In some areas a higher conservation zone is proposed (E2 Environmental Conservation). In other areas where land has been cleared and is being used for farming, housing, tourism, recreation, business or other uses, an alternate zone is proposed. In other areas, no change is proposed Council has previously submitted copies of: - Draft Review of 7(d) Lands at Helensburgh, Otford and Stanwell Tops (Willana 2009) - Draft Review of 7(d) Lands at Helensburgh, Otford and Stanwell Tops - Preliminary Review on issues raised in submissions (WCC 2010) - Draft Review of 7(d) Lands at Helensburgh, Otford and Stanwell Tops - Final Report on issues raised in submissions (WCC 5/7/2011) Attached are copies of the 12 Council reports considered by Council on 28/11/11.
2. Is the planning proposal the best means of achieving the objectives or intended outcomes, or is there a better way? (alternatives to changing the controls on development might include community education and new administrative processes such as pre-application meetings)	Yes – to replace the current E3 Environmental Management zone with more suitable zones, a planning proposal is required.
3. Is there a net community benefit? The Net Community Benefit Test: an assessment should be prepared by the proponent to be submitted to council for endorsement prior to submitting to DoP as part of the Gateway test. The level of detail and analysis should be proportionate to the size and likely impact	A net community benefit test has not been prepared. The better protection of bushland through the introduction of the E2 zone will be of community benefit. Affected landowners object to the proposed change. The rationalisation of zonings to reflect land capability and existing development will provide certainty for land

of the rezoning.	owners. However, large sections of the community object to these proposed changes.
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Section B – Relationship to strategic planning framework

4. Is the planning proposal consistent with the objectives and actions contained within the applicable regional or sub-regional strategy (including the Sydney Metropolitan Strategy and exhibited draft strategies)? - Describe regional or sub-regional strategy outcomes or actions directly relevant to the planning proposal. - Where this is the case, include reasons why the proposal is either explicitly consistent with, or explicitly inconsistent with the outcomes or actions contained in the regional or sub-regional strategy - Where the planning proposal is inconsistent consider whether circumstances have changed, or whether a matter relevant to the planning proposal was not considered in the preparation of the strategy. - Sustainability criteria included in regional strategies should be addressed in the planning proposal.	The proposal is not inconsistent with the Illawarra Regional Strategy (2007). The Illawarra Regional Strategy seeks to: - conserve sensitive environments and habitats – the draft Planning Proposal proposes to rezone large areas to E2 Environmental Conservation. - not promote Helensburgh as an urban release areas – the draft Planning Proposal does not propose urban expansion at Helensburgh.
5. Is the planning proposal consistent with the local council's Community Strategic Plan or other local strategic plan?	Council has not yet adopted its draft Community Strategic Plan. Council has exhibited two sets of draft options for the future of the area, resulting in 3,447 submissions and 19,390 submissions, respectively. The majority of submissions want the whole area zoned E2 Environmental Conservation. While the E2 zone is appropriate for large parts of the area, it is not appropriate in other areas which have been cleared and are being used for farmland, housing, tourism or employment uses. See attached reports for details of consultation.
6. Is the planning proposal consistent with applicable state environmental planning policies?	The proposal is not inconsistent with any relevant SEPP See attached summary of SEPPs and section 117 Directions.
7. Is the planning proposal consistent with applicable Ministerial Directions (s.117 directions)? Each planning proposal must	The proposal is consistent with the majority of relevant section 117 Directions. See attached summary of SEPPs and section 117

identify which, if any, section 117 Directions are relevant to the proposal. - Where the planning proposal is inconsistent, those inconsistencies must be specifically justified - Certain directions require consultation with government agencies – if such a direction is relevant, this should be identified however should not take place until the gateway determination is issued, confirming the public authorities to be consulted on the planning proposal.	Directions. The draft Planning Proposal has minor inconsistencies with Section 117 Direction: 1.5 Rural Lands – reduction of minimum lot sizes for 4 properties zoned E3 Environmental Management, to allow a dwelling house, 2.1 Environmental Protection zones - some areas zoned E3 Environmental Management are proposed to be zoned E2, B6, IN2, E4, R2, RE2, SP3, or RU2 to better reflect land capability and existing land use. The inconsistencies are justified in the attached reports.
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Section C – Environmental, social and economic impact

8. Is there any likelihood that critical habitat or threatened species, populations or ecological communities, or their habitats, will be adversely affected as a result of the proposal? IF YES: it will be necessary to carry out an assessment of significance in accordance with section 5A of the EP&A Act and the "Threatened Species Assessment Guidelines" issued by the Department of Environment and Climate Change. Any adverse impact will trigger the requirement under section 34A to consult with the Director General of the Department of Climate Change – such consultation if required does not take place until after the issuing of the initial gateway determination.	The area does contain the EEC Southern Sydney Sheltered Forest. The draft Planning Proposal does not propose large scale development in these areas. Any individual development proposals that affect the EEC will need to undertake their own assessment. Council is not proposing to undertake a flora and fauna study. The draft Planning Proposal seeks to rezone large areas of bushland (non-EECs, but part of an important habitat linkage) to the E2 Environmental Conservation zone.
9. Are there any other likely environmental effects as a result of the planning proposal and how are they proposed to be managed? This might include natural hazards such as flooding, land slip, bushfire hazard etc. If it is necessary to undertake technical studies or investigations to address an identified matter, these should be undertaken following the initial gateway determination.	The area has a high bushfire risk. Bushfire issues were considered as part of the proposal, including consultation with the RFS. Council has considered the impact clearing for bushfire mitigation would have on the sensitive environments, development in these areas has not been supported. Individual development proposals will need to incorporate bushfire mitigation measures. The study area is not subject to flooding. Steep slopes – development on steep slopes has not been supported. Water quality – the area is in the upper catchment of the Hacking River and flows through the Royal National

	Park. The Hacking River has poor water quality, and it is important that it does not become worse. Large areas of bushland are proposed to be zoned E2. Any new development proposals will need to incorporate water quality measures.
10. How has the planning proposal adequately addressed any social and economic effects? This includes effects on items or places of European or aboriginal cultural heritage.	There are no non-Indigenous heritage items affected by the proposal. The area does contain Aboriginal heritage. A study has not been undertaken as no development of undisturbed environments is proposed. Large areas of land are proposed to be zoned E2 Environmental Conservation which will better conserve Aboriginal heritage. Other zones are proposed for existing disturbed and developed land, which are unlikely to still contain indigenous heritage. Council is not proposing to undertake an Aboriginal Heritage Study.

Section D – State and Commonwealth interests

11. Is there adequate public infrastructure for the planning proposal? This applies to planning proposal that may result in residential subdivision in excess of 150 lots, substantial urban renewal, or infill development.	Water & Sewerage – Sydney Water has advised that there is capacity in the system, that they have no plans to expand the network, and any expansion to serve future development will need to be funded by the developers. A sewerage system is available to serve the proposed 6 additional dwellings in Otford, 1 in Otford South (adjoins Otford) and 3 dwellings in Frew Avenue.
12. What are the views of State and Commonwealth public authorities consulted in accordance with the gateway determination? This is completed following consultation with the State and Commonwealth Public Authorities identified in the gateway determination and must summarise and address issues raised not already dealt with in the planning proposal.	Preliminary consultation has occurred with a number of State Authorities (particularly Office of Environment and Heritage, and Sydney Water, and RTA) – see reports for details of submissions received. Council has recently received letters from: • OEH – clarifying its position in relation to a proposed Planning Agreement. Note – Council is not intending to pursue the Planning Agreement. • Lands – supporting some recommendations, opposing others

Part 4: DETAILS OF COMMUNITY CONSULTATION TO BE UNDERTAKEN ON THE PLANNING PROPOSAL:

Outline the community consultation that is to be undertaken in respect of the proposal, having regard to the requirements set out in the guide (refer to the document “**A guide to preparing local environmental plans**” which outlines the consultation required for different types of planning proposals).

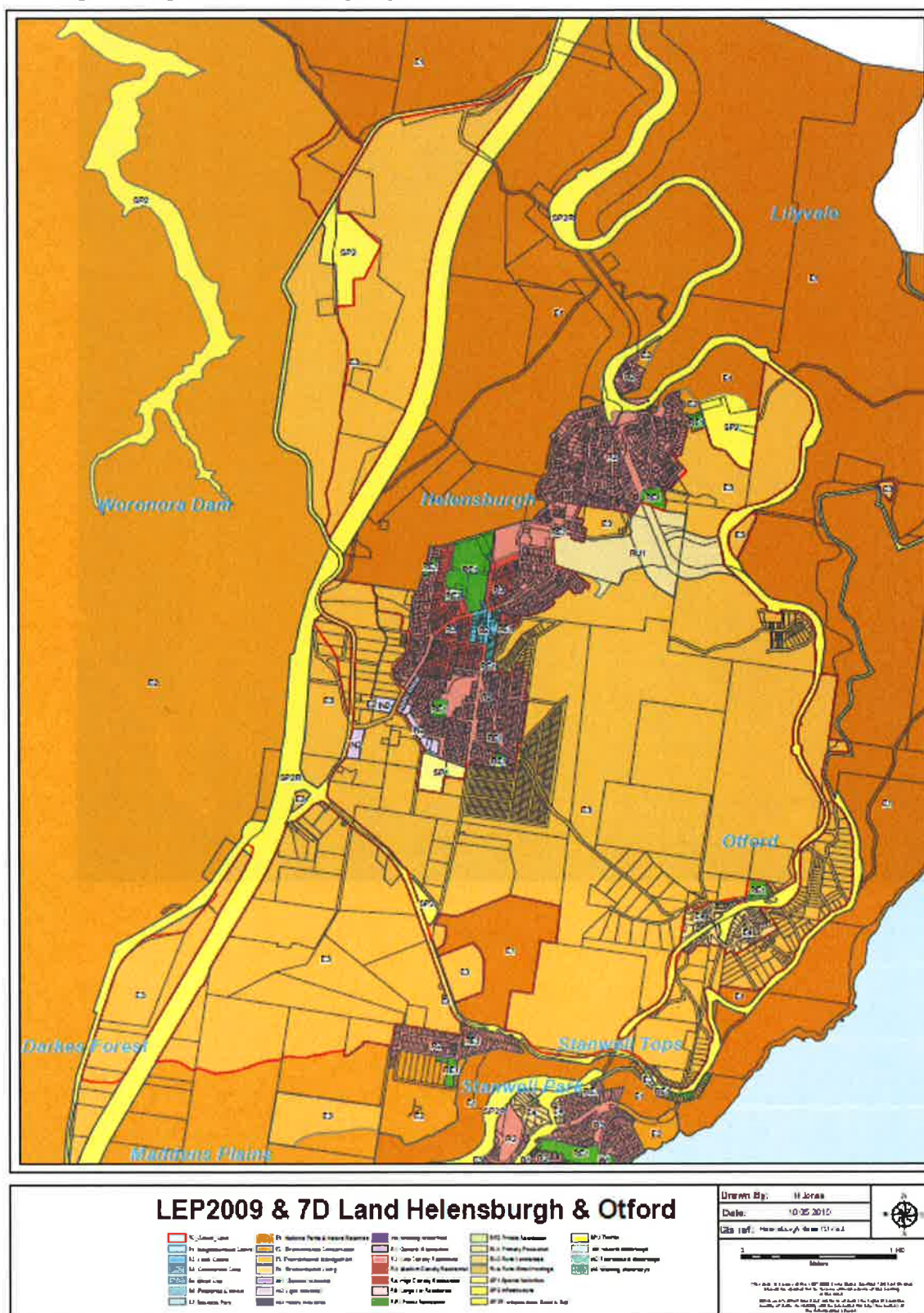
If the planning proposal is supported, the proposal will be exhibited for a minimum period of two months, and include:

- Hard copies at Council’s Administration building and Wollongong and Helensburgh Libraries;
- Electronic copy on Council’s website;
- Notification letters to affected, surrounding and nearby property owners (2508 postcode); and
- Notification letters to:
 - Sutherland Shire Council
 - Roads and Maritime Authority,
 - Origin Energy,
 - Sydney Water,
 - Rural Fire Service,
 - Office of Environment and Heritage,
 - Hacking River Catchment Management Authority
 - Department of Primary Industry, and
 - any other authorities nominated by the Department.

Location Map



Existing Zoning map – Wollongong LEP 2009



**SCHEDULE OF SEPPS, REPS AND SECTION 117 DIRECTIONS
FOR THE REVIEW OF FORMER 7(D) LANDS**

State/Regional Policy		Compliance	Comment
State policies			
SEPP No. 1	Development Standards	Repealed by the Wollongong LEP 2009 for Wollongong	Repealed
SEPP No. 2	Minimum standards for Residential Flat Building	Repealed	
SEPP No. 3	Castlereagh Liquid Waste Depot	Repealed	
SEPP No. 4	Development Without Consent and miscellaneous Exempt and Complying Development	Clause 6 and Parts 3 & 4 repealed by the Wollongong LEP 2009 for Wollongong	Repealed
SEPP No. 5	Housing for Older People or People with a Disability	Repealed	
SEPP No. 6	Number of Storeys in a Building	Consistent	
SEPP No. 7	Port Kembla Coal Loader	Repealed	
SEPP No. 8	Surplus Public Lands	Repealed	
SEPP No. 9	Group Homes	Repealed	
SEPP No. 10	Retention of Low-Cost Rental Accommodation	NA	
SEPP No. 11	Traffic Generating Developments	Repealed	
SEPP No. 12	Public Housing (Dwelling Houses)	Repealed	
SEPP No. 13	Sydney Heliport	Repealed	
SEPP No. 14	Coastal Wetlands	NA	
SEPP No. 15	Rural Landsharing Communities	NA	
SEPP No. 16	Tertiary Institutions	Repealed	
SEPP No. 19	Bushland in Urban Areas	Does not apply to Wollongong	Repealed
SEPP No. 20	Minimum Standards for Residential Flat Development	Repealed	
SEPP No. 21	Caravan Parks	NA	
SEPP No. 22	Shops and Commercial Premises	NA	
SEPP No. 25	Residential Allotment Sizes and Dual Occupancy Subdivision	Repealed	
SEPP No. 26	Littoral Rainforests	NA	
SEPP No. 27	Prison Sites	Repealed	
SEPP No. 28	Town Houses and Villa Homes	Repealed	
SEPP No. 29	Western Sydney Recreational Area	Does not apply to Wollongong	
SEPP No. 30	Intensive Agriculture	N/A	
SEPP No. 31	Sydney (Kingsford Smith) Airport	Repealed	
SEPP No. 32	Urban Consolidation (Redevelopment of Urban Land)	N/A	
SEPP No. 33	Hazardous and Offensive Development	N/A	
SEPP No. 34	Major Employment - Generating Industrial Development	N/A	
SEPP No. 35	Maintenance Dredging of Tidal Waterways	Repealed	

	State/Regional Policy	Compliance	Comment
SEPP No. 36	Manufactured Home Estates	N/A	
SEPP No. 37	Continued Mines and Extractive Industries	N/A	
SEPP No. 38	Olympic Games and Related Projects	N/A	
SEPP No. 39	Spit Island Bird Habitat	Does not apply to Wollongong	
SEPP No. 41	Casino/Entertainment Complex	Does not apply to Wollongong	
SEPP No. 42	Multiple Occupancy and Rural Land	Repealed	
SEPP No. 43	New Southern Railway	Repealed	
SEPP No. 44	Koala Habitat Protection	N/A	
SEPP No. 45	Permissibility of Mining	N/A	
SEPP No. 46	Protection and Management of Native Vegetation	Repealed	
SEPP No. 47	Moore Park Showground	Does not apply to Wollongong	
SEPP No. 48	Major Putrescible Landfill Sites	Repealed	
SEPP No. 50	Canal Estate Development	N/A	
SEPP No. 51	Eastern Distributor	Repealed	
SEPP No. 52	Farm Dams and Other Works in Land and Water Management Plan Areas	N/A	
SEPP No. 53	Metropolitan Residential Development	N/A	
SEPP No. 54	Northside Storage Tunnel	Repealed	
SEPP No. 55	Remediation of Land	N/A	
SEPP No. 56	Sydney Harbour Foreshores and Tributaries	Does not apply to Wollongong	
SEPP No. 58	Protecting Sydney's Water Supply	N/A	
SEPP No. 59	Central Western Sydney Economic and Employment Area	Does not apply to Wollongong	
SEPP No. 60	Exempt and Complying Development	Repealed by the Wollongong LEP 2009 for Wollongong	
SEPP No. 61	Exempt and Complying Development for White Bay and Glebe Island Ports	Repealed	
SEPP No. 62	Sustainable Aquaculture	N/A	
SEPP No. 63	Major Transport Proposals	Repealed	
SEPP No. 64	Advertising and Signage	N/A	
SEPP No. 65	Design quality of residential flat development	N/A	
SEPP No. 67	Macquarie generation industrial development strategy	Repealed	
SEPP No. 69	Major electricity supply projects	Repealed	
SEPP No. 70	Affordable Housing (revised schemes)	N/A	
SEPP No. 71	Coastal Protection	N/A	
SEPP No. 72	Linear Telecommunications Development – Broadband	Repealed	
SEPP No. 73	Kosciuszko ski resorts	Repealed	
SEPP No. 74	Newcastle Port and Employment Lands	N/A	
SEPP	Housing for Seniors or People with a Disability 2004	Not inconsistent	
SEPP	Building Sustainability Index: BASIXs 2004	N/A	
SEPP	ARTC Rail Infrastructure 2004	Repealed	
SEPP	Sydney Metropolitan Water Supply 2004	Repealed	
SEPP	Major Development 2005	N/A	
SEPP	Sydney Region Growth Centres 2006	Does not apply to Wollongong	
SEPP	Mining, Petroleum Production and Extractive Industries 2007	Not inconsistent	SEPP overrides the LEP
SEPP	Development on the Kurnell Peninsular 2005	Does not apply to Wollongong	
SEPP	Kosciuszko National Park – Alpine	Does not apply	

	State/Regional Policy	Compliance	Comment
SEPP	resorts 2007	to Wollongong	
SEPP	Temporary Structures and Places of Public Entertainment 2007	NA	
SEPP	Infrastructure 2007	Not inconsistent	
SEPP	Rural Lands 2008	NA	
SEPP	Affordable Rental Housing 2009	Not inconsistent	
SEPP	Western Sydney Employment Area 2009	Does not apply to Wollongong	
SEPP	Western Sydney Parklands 2009	Does not apply to Wollongong	
SEPP	Urban Renewal 2010	NA	
SEPP	Sydney Drinking Water Catchment 2011	NA	
SEPPs - Former Regional Plans			
Illawarra REP 1	Illawarra	Repealed by the Wollongong LEP 2009 for Wollongong	
Illawarra REP 2	Jamberoo	Does not apply to Wollongong	
REP Greater Metropolitan REP No.2	Sustaining the catchments Georges River catchment	Repealed NA	

Directions issued to Councils under section 117(2) of the Act:

Ministerial Direction		Comment
1. Employment and Resources		
1.1	Business and Industrial Zones	Consistent – the draft planning proposal does not reduce the extent of employment land. Two sites zoned IN2 Light Industry are proposed to be zoned B6 Enterprise Corridor as part of a larger B6 precinct, increasing the extent of employment land. One additional site (4 lots) on Walker St, is proposed to be zoned IN2 Light Industrial. The consultant for the owner has submitted a report justifying a rezoning (attached). This report was submitted after the Council meeting on 28/12/11 and has not been reviewed by Council officers.
1.2	Rural Zones	NA – the planning proposal does not apply to land zoned rural. Some sites on Walker St are proposed to be zoned RU2 Rural Landscapes.
1.3	Mining, Petroleum Production and Extractive Industries	The area contains coal reserves and the Metropolitan Colliery. The Department removed mining as a permitted land use in the E2 and E3 zones during the finalisation of the Wollongong LEP 2009, as mining is controlled under SEPP Mining, Petroleum Production and Extractive Industries 2007. Consultation will occur with the Department of Primary Industry during the exhibition period.
1.4	Oyster Aquaculture	NA
1.5	Rural Lands	The draft planning proposal seeks to amend minimum lot sizes on land zoned E3 Environmental Management on 4 sites, to allow a dwelling house to be permissible. Frew Avenue and Otford South precincts.

2. Environment and Heritage

2.1 Environment Protection Zone

Consistent – large areas of land currently zoned E3 Environmental Management are proposed to be zoned E2 Environmental Conservation to better protect sensitive bushland. One site is proposed to be zoned E1 National Parks, now part of Garrawarra SCA, E1 zone agreed to by OEH.

Inconsistent – some areas zoned E3 Environmental Management are proposed to be zoned E2, B6, IN2, E4, R2, RE2, SP3, or RU2 to better reflect land capability and existing land use.

The changes are justified in the attached reports.

2.2 Coastal Protection

The study area is within the Coastal zone, however the direction is not relevant to the planning proposal.

2.3 Heritage Conservation

There are no non-indigenous heritage items affected by the proposal.

The area contains Aboriginal heritage, but no known sites are affected.

The Wollongong LEP 2009 contains provisions for the protection of heritage.

2.4 Recreation Vehicle Areas

NA

3. Housing, Infrastructure and Urban Development

3.1 Residential Zones

NA – the planning proposal does not apply to land zoned residential or land where significant residential development is currently permitted.

3.2 Caravan Parks and Manufactured Home Estates

NA

3.3 Home Occupations

NA

3.4 Integrating Land Use and Transport

NA

3.5 Development Near Licensed Aerodromes

NA

3.6 Shooting ranges

NA

4. Hazard and Risk

4.1 Acid Sulfate Soils

NA – no ASS

4.2 Mine Subsidence and Unstable Land

NA – there are coal mines under the study area, but it is not a declared mine subsidence area.

Development is not proposed on steep land or unstable land.

4.3 Flood Prone Land

NA – no flood prone land

4.4	Planning for Bushfire Protection	Relevant – the area has high bushfire risk. Preliminary consultation has occurred with the RFS. Consideration has been given to the impact of APZs on significant bushland. Development will need to manage impacts on-site. Further consultation will occur with the RFS during exhibition.
5. Regional Planning		
5.1	Implementation of Regional Strategies	The Illawarra Regional Strategy (2007) – consistent with conservation of sensitive environments strategies. Not inconsistent with other strategies.
5.2	Sydney Drinking Water Catchments	Land owned by the Sydney Catchment Authority is proposed to be zoned E2 Environment Conservation, consistent with the advice of the Authority.
5.3	Farmland of State and Regional Significance on the NSW Far North Coast	Not applicable to Wollongong
5.4	Commercial and Retail Development along the Pacific Highway, North Coast	Not applicable to Wollongong
5.5	Development in the vicinity of Ellalong, Paxton and Millfield (Cessnock LGA)	Not applicable to Wollongong
5.6	Sydney to Canberra Corridor	Not applicable to Wollongong. Revoked 10/7/08
5.7	Central Coast	Not applicable to Wollongong. Revoked 10/7/08
5.8	Second Sydney Airport: Badgerys Creek	Not applicable to Wollongong
6. Local Plan Making		
6.1	Approval and Referral Requirements	No concurrence or referral clauses are proposed.
6.2	Reserving Land for Public Purposes	No land is proposed to be reserved for a public purpose.
6.3	Site Specific Provisions	NA
7. Metropolitan Planning		
7.1	Implementation of the Metropolitan Plan for Sydney 2036	Not applicable to Wollongong