

Review of former 7(d) zone at Helensburgh, Otford and Stanwell Tops

Proposal Title : **Review of former 7(d) zone at Helensburgh, Otford and Stanwell Tops**

Proposal Summary : **To introduce planning controls at Helensburgh, Otford and Stanwell Tops that reflect land capability, existing land uses, protect sensitive environments and allow additional development on certain sites.**

PP Number : **PP_2011_WOLLG_008_00** Dop File No : **11/12893**

Proposal Details

Date Planning Proposal Received : **09-Sep-2011** LGA covered : **Wollongong City**

Region : **Southern** RPA : **Wollongong City Council**

State Electorate : **HEATHCOTE** Section of the Act : **55 - Planning Proposal**

LEP Type : **Precinct**

Location Details

Street : **Princes Highway**

Suburb : **Helensburgh** City : Postcode :

Land Parcel : **The proposal affects several precincts as shown in the maps prepared by Council**

DoP Planning Officer Contact Details

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RPA Contact Details

Contact Name : **David Green**

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DoP Project Manager Contact Details

Contact Name :

Contact Number :

Contact Email :

Land Release Data

Growth Centre : **N/A** Release Area Name :

Regional / Sub Regional Strategy : **Illawarra Regional Strategy** Consistent with Strategy : **Yes**

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MDP Number :	Date of Release :
Area of Release (Ha) :	Type of Release (eg Residential / Employment land) :
No. of Lots : 0	No. of Dwellings (where relevant) : 26
Gross Floor Area : 0	No of Jobs Created : 0
The NSW Government Lobbyists Code of Conduct has been complied with : Yes	
If No, comment :	
Have there been meetings or communications with registered lobbyists? : No	
If Yes, comment :	

Supporting notes

Internal Supporting Notes :

The Planning Proposal is the result of a review of the land within the former 7(d) Hacking River Environmental Protection Zone. This land was largely zoned E3 Environmental Management when the zone was translated into Wollongong LEP 2009. However, Council recognised, at the time, that this zone was not necessarily the most appropriate zone for all of the lands and intended to revisit this matter through a planning proposal. This planning proposal zones a significant amount of land, 672 hectares, to E2 Environmental Conservation. It also zones land E1 National Parks and Nature Reserves to acknowledge land that was previously transferred to the Garrawarra State Conservation Area (33 hectares).

Entitlements for an additional 26 dwellings are proposed, 8 of these through additional uses in Schedule 1 of the LEP. It is also proposed to include a restaurant or cafe on land at the corner of Lawrence Hargrave Drive and Baines Place, Helensburgh as an additional use in Schedule 1.

Council has also resolved to exhibit, at a later date, a draft voluntary planning agreement which proposes the dedication of 321 hectares of land to Council and the urban development of 40 hectares of land at the 'Land Pooling' and 'Lady Carrington Estate (south)' sites. This does not form part of this proposal.

External Supporting Notes :

The Planning Proposal arises out of a review of the land within the former 7(d) Hacking River Environmental Protection Zone. It is proposed to make changes to the Wollongong Local Environmental Plan 2009 that reflect land capability, acknowledge existing land uses, protect sensitive environments and allow additional development on certain sites.

The proposal would result in the potential for up to 26 additional dwellings and will result in 672 hectares of land being zoned E2 Environmental Conservation. The proposal would also allow a restaurant or cafe on land at the corner of Lawrence Hargrave Drive and Baines Place. Land previously transferred to the Garrawarra State Conservation Area will be zoned E1 National Parks and Nature Reserves.

Adequacy Assessment

Statement of the objectives - s55(2)(a)

Is a statement of the objectives provided? Yes

Comment : The statement adequately describes the objective of the proposal. To introduce new

planning controls that reflect land capability, existing land uses and protect sensitive environments.

Explanation of provisions provided - s55(2)(b)

Is an explanation of provisions provided? **Yes**

Comment : **The proposal seeks to identify appropriate development and protect sensitive lands through appropriate zonings, use of the Lot Size and Floor Space Ratio Maps and allow specific development on specific sites through use of Schedule 1 - Additional permitted uses in wollongong LEP 2010. The Council has provided a list of those 8 properties that it proposes to allow an additional dwelling to be erected on using Schedule 1.**

The proposed provisions have been adequately explained.

Justification - s55 (2)(c)

a) Has Council's strategy been agreed to by the Director General? **No**

b) S.117 directions identified by RPA :

* May need the Director General's agreement

**1.1 Business and Industrial Zones
1.3 Mining, Petroleum Production and Extractive Industries
1.5 Rural Lands
2.1 Environment Protection Zones
2.2 Coastal Protection
2.3 Heritage Conservation
4.4 Planning for Bushfire Protection
5.1 Implementation of Regional Strategies
5.2 Sydney Drinking Water Catchments
6.3 Site Specific Provisions**

Is the Director General's agreement required? **Yes**

c) Consistent with Standard Instrument (LEPs) Order 2006 : **Yes**

d) Which SEPPs have the RPA identified?

**SEPP No 70—Affordable Housing (Revised Schemes)
SEPP (Housing for Seniors or People with a Disability) 2004
SEPP (Infrastructure) 2007
SEPP (Mining, Petroleum Production and Extractive Industries) 2007
SEPP (Affordable Rental Housing) 2009**

e) List any other matters that need to be considered :

Have inconsistencies with items a), b) and d) being adequately justified? **Yes**

If No, explain :

The proposal is considered to be consistent with the following section 117 Directions:

1.1 Business and Industrial Zones - the proposal rezones some IN2 Light Industrial land to B2 , but increases the amount of employment land overall.

2.2 Coastal Protection - while part of the land is within the Coastal Zone the Direction is of little relevance as the land is physically separated from the coast, and the proposal is not inconsistent

2.3 Heritage Conservation - heritage items are already protected by Wollongong LEP 2009 and are not affected by the proposal.

5.1 Implementation of Regional Strategies - the proposal would see additional protection for environmentally sensitive land satisfying the natural environment objectives of the strategy and it is not inconsistent with other aspects of the regional strategy.

5.2 Sydney Drinking Water Catchments - Council has consulted with the SCA and its land is being zoned E2 Environmental Conservation consistent with the advice of the

SCA.

The proposal is considered to be justifiably inconsistent with the following 117 Directions:

1.5 Rural Lands - it is proposed to reduce the minimum lot size for some land zoned E3 Environmental Management. These changes are proposed to either reflect the presence of existing dwellings or to allow the erection of dwellings within cleared areas on some lots in order to encourage better management of the environmental attributes of the lots. The inconsistency has been justified by Council and is supported as it is a result of a comprehensive review of the lands by Council and as the proposal is generally consistent with both the Rural Planning Principles and the Rural Subdivision Principles listed in the SEPP (Rural Lands) 2008. Any inconsistencies can also be considered to be of minor significance.

2.1 Environment Protection Zones - The overall impact of the proposal is considered to be consistent with this Direction by rezoning 672 hectares of land from E3 to E2 to better protect the environmental attributes of the land. However, some E3 land will be rezoned B6, E4, R2, RE2, SP3 or RU2. This inconsistency has been justified by Council in its Review of the 7(d) Lands and considered to be worthy of support as it mainly reflects the existing use of land or reflects instances where the land is more appropriate for another land use. In these instances the E3 Zone probably should not have been applied in the first instance in the Principal LEP, however, Council, at the time, considered this to be the most appropriate translation zone and always intended to review this zoning.

To satisfy 1.3 Mining, Petroleum Production and Extractive Industries - Council will need to consult with DPI (Mining), allow 40 days for a response and advise the Regional Director of the Southern Region of any response and actions taken.

To satisfy 4.4 Planning for Bushfire Protection - Council will need to consult with the RFS and take into account any comments prior to exhibiting the Planning Proposal.

It is considered that the proposal is generally consistent with the applicable SEPPs or the SEPPs will prevail to the extent of any inconsistency.

Mapping Provided - s55(2)(d)

Is mapping provided? **Yes**

Comment : The mapping is considered to adequately identify the proposed changes. Maps have been provided for zoning, minimum lot size, height of buildings and FSR.

However, as detailed later in the Assessment section of this report, it is considered that Council should use the Lot Size Map to identify those vacant lots in the Wilsons Creek and Frew Avenue precincts on which it wishes to allow an additional dwelling rather than using Schedule 1 - Additional permitted uses, as proposed.

Community consultation - s55(2)(e)

Has community consultation been proposed? **Yes**

Comment : Council has proposed an exhibition period of 2 months minimum. The proposal will be advertised in local papers, letters will be sent to surrounding owners and a number of Government authorities and adjoining LGAs.

Additional Director General's requirements

Are there any additional Director General's requirements? **No**

If Yes, reasons :

Overall adequacy of the proposal

Does the proposal meet the adequacy criteria? **Yes**

If No, comment :

Proposal Assessment

Principal LEP:

Due Date :

Comments in relation to Principal LEP : **The Wollongong LEP 2009 is in place.**

Assessment Criteria

Need for planning proposal :

This area has a long and complicated planning history, including a Commission of Inquiry (COI) and there remains some uncertainty about the planning controls applying to the area.

The Wollongong LEP 2009 translated the 7(d) Hacking River Environmental Protection Zone into the most appropriate Standard Instrument zones without any major planning review of the area.

It is important that the catchment of the Hacking River which flows through the Royal National Park is protected while also recognising the existing land uses and land capability. The Council's review and the Planning Proposal will provide some certainty for all parties regarding the areas that need to be protected and the areas that may be appropriate for some form of development.

A Planning Proposal is the most appropriate way to make the changes proposed by Council.

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Consistency with strategic planning framework :

The Planning Proposal is consistent with the Illawarra Regional Strategy (IRS) and reflects Council's review of the former 7(d) zone.

The IRS identifies a number of broad environmental corridors including a regional habitat corridor running in a north-south alignment along the Illawarra Escarpment linking with the Royal National Park. The Planning Proposal is strengthens the consistency of the Wollongong LEP 2009 with the IRS through rezoning the most environmentally significant lands within this corridor from E3 to E2.

Additional environmental protection is provided as the range of uses permitted in the E2 zone is more restrictive than those permitted in the E3 zone. For instance 'dwelling houses' are permitted in the E3 zone, but are prohibited in the E2 zone. The lands proposed to be rezoned E2 have been identified as being of high environmental significance by the Office of Environment and Heritage.

The 1994 COI recommendations included the need to prepare certain studies before further urban development should be considered in the area. These included studies into water quality impacts and control mechanisms and flora and fauna.

While these matters have been addressed to an extent in Council's review, the limited scale of development proposed does not warrant more detailed studies being prepared at this time.

The further studies identified as being required in the COI would be appropriate and necessary should Council decide to proceed with a Planning Proposal to allow large scale urban development on the Land Pooling or Lady Carrington Estate sites.

Council's request to allow an additional use for a restaurant or cafe on land at the corner of Lawrence Hargrave Drive and Baines Place, Helensburgh is considered justified. Restaurants were permissible under the previous 7(d) zone, but are not permitted in the E3 zone. The owners of the site have expressed an interest in establishing a restaurant on part of the site. The E3 zone is appropriate for the site, however Council wants to allow 1.9 hectares of a 20 hectare site to be used as a restaurant. The site is located opposite Symbio Wildlife Gardens and a restaurant will add to the tourist attraction in the area. The site is located on the route of a major tourist drive to the Sea Cliff Bridge.

While Council's request to allow an additional 8 dwellings on 8 vacant lots is supported, Council's proposed use of Schedule 1 is not supported and it is considered that the appropriate lot sizes should be identified on the Lot Size Map.

Environmental social economic impacts :

The proposal will recognise several existing commercial uses within the current E3 zone by zoning the land B6 or SP3 Tourism (Symbio Wildlife Gardens) providing certainty for the owners of the land and opportunities for employment. It will allow up to an additional 26 dwellings providing some additional housing opportunities and associated economic benefits. It will allow a new restaurant or cafe to be built.

The proposal will rezone 672 Hectares of land from E3 to E2 providing additional environmental protection for the land with the most environmental significance. Council's review has identified this land as unsuitable for development. It includes Crown land and Sydney Catchment Authority land. It also includes private land that is unsuitable for development, isolated in small lots and in localities where the Department has consistently refused approval for dwellings on undersized lots over a long period of time. It also zones land E1 National Parks and Nature Reserves to acknowledge land that was previously transferred to the Garrawarra State Conservation Area (33 hectares).

The Planning Proposal identifies, based on Council's strategic review that certain lots in suitable locations, or where environmental issues can be managed because of lot size or through lot amalgamations, can support dwellings. The Council is confident that any impacts of these additional 26 dwellings allowed in the proposal (such as habitat impacts, clearing or water quality management) will be able to be appropriately assessed and managed as part of the development assessment process for the individual dwellings.

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Assessment Process

Proposal type : **Precinct** Community Consultation Period : **40 Days**

Timeframe to make LEP : **12 Month** Delegation : **DDG**

Public Authority Consultation - 56(2)(d) : **Catchment Management Authority - Southern Rivers
Office of Environment and Heritage
Department of Primary Industry (Mining)
National Parks and Wildlife Service
NSW Rural Fire Service
Origin Energy
Roads and Traffic Authority
Sydney Water
Adjoining LGAs**

Is Public Hearing by the PAC required? **No**

(2)(a) Should the matter proceed ? **Yes**

If no, provide reasons : **When Wollongong LEP 2009 was brought into place the former 7(d) zone was largely translated into the E3 zone which was considered to be the best fit. Council has carried out a comprehensive review of the former 7(d) Hacking River Zone which has lead to this proposal which fine tunes the zones and controls applying to the former 7(d) lands.**

In proceeding, Council should use the Lot Size Map to identify those vacant lots in the Wilsons Creek and Frew Avenue precincts on which it wishes to allow an additional dwelling to be erected rather than using Schedule 1 - Additional permitted uses.

Resubmission - s56(2)(b) : **No**

If Yes, reasons :

Identify any additional studies, if required. :

If Other, provide reasons :

No further studies are required considering the nature of the proposal and taking into account the work already done to review the controls applying to the land.

The Council will need to consult with the Office of Environment and Heritage to meet its obligations under section 34A of the EP&A Act.

Identify any internal consultations, if required :

No internal consultation required

Is the provision and funding of state infrastructure relevant to this plan? **No**

If Yes, reasons :

Documents

Document File Name	DocumentType Name	Is Public
covering letter.pdf	Proposal Covering Letter	Yes
Planning Proposal aug 11.pdf	Proposal	Yes
Council report Aug 11.pdf	Study	Yes
Council resolution 5 July 11.pdf	Study	Yes
FSR, LZN, HOB, MLS.pdf	Map	Yes
110913 schedule 1 site list.pdf	Proposal	Yes

Planning Team Recommendation

Preparation of the planning proposal supported at this stage : **Recommended with Conditions**

S.117 directions:

- 1.1 Business and Industrial Zones**
- 1.3 Mining, Petroleum Production and Extractive Industries**
- 1.5 Rural Lands**
- 2.1 Environment Protection Zones**
- 2.2 Coastal Protection**
- 2.3 Heritage Conservation**
- 4.4 Planning for Bushfire Protection**
- 5.1 Implementation of Regional Strategies**
- 5.2 Sydney Drinking Water Catchments**
- 6.3 Site Specific Provisions**

Additional Information : It is recommended that the proposal proceeds through the Gateway subject to the following conditions:

- 1) The Planning Proposal is to be exhibited for a minimum of 40 days.
- 2) Council will consult with:
 - Catchment Management Authority - Southern Rivers
 - Office of Environment and Heritage
 - Department of Trade and Investment, Regional Infrastructure and Services (Mineral Resources and Energy)- prior to exhibition
 - NSW Rural Fire Service - prior to exhibition
 - Origin Energy
 - Transport for NSW (Roads and Maritime Services)
 - Sydney Water
 - Adjoining LGAs, particularly Sutherland Shire Council
- 3) Before exhibition of the Planning Proposal Council is to amend the Lot Size Map to identify those 8 vacant lots in the Wilsons Creek and Frew Avenue precincts on which it wishes to allow a dwelling to be erected rather than using Schedule 1 - Additional permitted uses.
- 4) The Time frame to complete the LEP is 12 months
- 5) The proposal is considered to be consistent with the following section 117 Directions:
 - a) 1.1 Business and Industrial Zones - the proposal rezones some IN2 land to B2, but increases the amount of employment land overall.
 - b) 2.2 Coastal Protection - while part of the land is within the Coastal Zone the Direction is of little relevance as it is physically separated from the coast, and the proposal is not inconsistent
 - c) 2.3 Heritage Conservation - heritage items are already protected by the provisions of Wollongong LEP 2009 and are not affected by the proposal.
 - d) 5.1 Implementation of Regional Strategies - the proposal would see additional protection for environmentally sensitive land satisfying the natural environment objectives of the strategy and it is not inconsistent with other aspects of the regional strategy.
 - e) 5.2 Sydney Drinking Water Catchments - Council has consulted with the SCA and its land is being zoned E2, consistent with the advice of the SCA.
- 6) The Director General be satisfied that inconsistencies with the following s117 Directions have been justified by the Council's Review of the 7(d) lands or are of minor significance:
 - a) 1.5 Rural Lands - it is proposed to reduce the minimum lot size for some land zoned

E3. These changes are proposed to either reflect the presence of existing dwellings or to allow the erection of dwellings within cleared areas on some lots in order to encourage better management of the environmental attributes of the lots. The inconsistency has been justified by Council's comprehensive review of the lands and the proposal is generally consistent with both the Rural Planning Principles and the Rural Subdivision Principles listed in the SEPP (Rural Lands) 2008. It is also considered to be of minor significance.

b) 2.1 Environment Protection Zones - The overall impact of the proposal is considered to be consistent with this Direction by rezoning 672 hectares of land from E3 to E2 to better protect the environmental attributes of the land. However, some E3 land will be rezoned B6, E4, R2, RE2, SP3 or RU2. This inconsistency is justified by Council's Review of the 7(d) lands and considered to be worthy of support as it mainly reflects the existing uses of land or reflects instances where the land is more appropriate for another land use. In these instances the E3 zone probably should not have been applied in the first instance in the Principal LEP, however, Council, at the time, considered this to be the most appropriate translation zone and always intended to review this zoning.

7) That, in order to satisfy the following Section 117 Directions, the Council undertake further consultation with:

a) To satisfy 1.3 Mining, Petroleum Production and Extractive Industries - Council will need to consult with Department of Trade and Investment, Regional Infrastructure and Services (Mineral Resources and Energy), prior to exhibition.

b) To satisfy 4.4 Planning for Bushfire Protection - Council will need to consult with the NSW Rural Fire Service and take into account any comments prior to exhibiting the Planning Proposal.

8) Prior to proceeding to public exhibition, an updated Planning Proposal is required to reflect additional information, including revised Lot Size Map and agency submissions and outcomes. This updated Planning Proposal is to be submitted to the Regional Director, Southern Region, for consideration prior to community consultation under section 56(2)(c) and section 57 of the EP&A Act.

Supporting Reasons :

The Planning Proposal will result in additional environmental protection for 672 hectares of land through rezoning from E3 to E2. It also acknowledges land previously transferred to the Garrawarra State Conservation Area by zoning it E1 National Parks and Nature Reserves.

Other proposed changes to the Wollongong Local Environmental Plan 2009 will better reflect land capability and existing land use by allowing additional development on certain sites as identified in Council's Land Use Review.

Signature:

Printed Name:

BRETT WHITWORTH

Date:

15 September 2011