

REF: CM95/08

DRAFT WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2008 AND AMENDMENTS TO WOLLONGONG LOCAL ENVIRONMENTAL PLAN 1990
Report of Manager City Planning (DG) 6/06/08 **SU23594**

PROGRAM City Leadership
FUNCTION Strategic City Planning
STRATEGY Finalise the Wollongong (city wide) LEP

PRECIS

Council at its meeting on 3 March 2008 endorsed the Draft Wollongong Local Environmental Plan 2008 for referral to the NSW Department of Planning for review and certification prior to exhibition. Following the appointment of the Administrators, the Draft Local Environmental Plan was withdrawn from the Department for review by the Administrators.

The review has been completed and a revised Draft Wollongong Local Environmental Plan 2009 has been prepared for Council's consideration. It is recommended that Council endorse the Draft Plan for referral to the Department of Planning for certification prior to exhibition.

RECOMMENDATION

- 1 The Draft Wollongong Local Environmental Plan 2009 be amended and updated in the manner outlined in this report.**
- 2 The Draft Wollongong Local Environmental Plan 2009 be endorsed and referred to the Department of Planning for review and certification under Section 65 of the Environmental Planning and Assessment Act 1979.**
- 3 Following certification, the Draft Wollongong Local Environmental Plan 2009 be exhibited for a minimum period of two (2) months, in accordance with the Department of Planning's guidelines "LEPs and Council Land".**
- 4 The exhibition include community meetings and information sessions.**
- 5 The proposed reclassification of Council land be removed from the Draft Wollongong Local Environmental Plan 2009 and be subject to separate reports and proposed amendments to Wollongong Local Environmental Plan 1990.**

BACKGROUND

The Draft Wollongong Local Environmental Plan 2009 has a long history of preparation with Council first resolving to commence the preparation of a Draft Local Environmental Plan to replace Wollongong Local Environmental Plan 1990 on 5 November 2004.

The Draft Wollongong Local Environmental Plan 2009 has been prepared by:

- 1 Translating the provisions of Wollongong Local Environmental Plan 1990 and Wollongong City Centre LEP 2007 into the required format of the Standard LEP Instrument (December 2007 version).

ITEM 4

- 2 Implementing planning recommendations of a number of planning and other studies, including:
 - Wollongong Housing Study (2005)
 - Wollongong Employment Land Study (2005)
 - Wollongong Retail Centre Study (2004)
 - Planning People Places – Open Space, Recreation and Community Facilities Strategic Framework
 - Illawarra Escarpment Strategic Management Plan (2005) and Illawarra Escarpment Land use Provision (2007)
 - Port of Port Kembla Land use Strategy (2007)
 - Helensburgh Land Capacity Analysis (2006)
 - Darkes Forest Review of Deferred Lands (2007)
 - Kanahooka Road 6(b) Lands study (2007)
 - Illawarra Coal Mines Heritage Study (2006)
 - Various Floodplain Strategies and Estuary Management Plans
- 3 Incorporating rezoning proposals considered by Council and recently reviewed by the Administrators.
- 4 Incorporating suggestions made by Statutory Authorities following consultation under Section 62 of the Environmental Planning and Assessment Act 1979.

On 3 March 2008, Council considered a report on the third version of the Draft Wollongong Local Environmental Plan 2008, (updated to reflect the Standard LEP Instrument – December 2007) and resolved that:

- 1 *The Draft Wollongong Local Environmental Plan 2008 be amended and updated in the manner outlined in this report.*
- 2 *The Draft Wollongong Environmental Plan 2008 be endorsed and referred to the Department of Planning for review and certification under Section 65 of the Environmental Planning and Assessment Act 1979.*
- 3 *Following certification, the Draft Wollongong Local Environmental Plan 2008 be exhibited for a minimum period of two (2) months, in accordance with the Department of Planning's guidelines "LEPs and Council Land".*
- 4 *A further report be submitted to the Environment and Planning Committee outlining the proposed exhibition arrangements and community consultation plan.*

Since 3 March 2008, Council has resolved to amend the Draft Wollongong Local Environmental Plan by:

- Incorporating a rezoning at No. 2 Wyndarra Way, Koonawarra (3 March 2008).

The Draft Wollongong Local Environmental Plan was submitted to the Department of Planning. Following the appointment of the Administrators, the Draft Wollongong Local Environmental Plan 2008 was withdrawn from the Department of Planning for review by the Administrators.

REVIEW BY ADMINISTRATORS

Following is an extract from a memorandum to the General Manager dated 12 June 2008:

In April 2008 the Administrators requested that the previously endorsed Draft City Wide LEP be returned from the Department of Planning for further review prior to public exhibition. A review by the Administrators has now been undertaken with particular attention given to those aspects of the Draft Plan which constitute rezonings. Some important changes to the Draft Plan have subsequently been made, including:

- 1 *Incorporating the Wollongong City Centre LEP 2007;*
- 2 *Removing reclassifications of Council land will be considered separately as amendments to Wollongong LEP 1990; and*
- 3 *Reviewing and modifying certain rezoning proposals to achieve intended planning outcomes.*

The Draft Plan is now ready for formal consideration by the Council. A consultation program will need to be developed with targeted community meetings and wide publicity during the exhibition period.

PROPOSAL

This report outlines several changes and seeks Council's endorsement of a revised Draft Wollongong Local Environmental Plan 2009.

1 Planning Framework

Council currently has four local environmental planning instruments that apply to land within the Local Government area, namely:

- Illawarra Planning Scheme Ordinance (1968) – applies to a few properties which were deferred under Wollongong LEP No. 38 and Wollongong LEP 1990. It is proposed to be repealed by Draft Wollongong Local Environmental Plan 2009.
- Wollongong LEP No. 38 (1984) – applies to a few properties which were deferred under Wollongong LEP 1990. It is proposed to be repealed by Draft Wollongong LEP 2009.
- Wollongong LEP 1990 – is the principal local planning instrument and applies to the majority of the local government area. It is proposed to be repealed by Draft Wollongong LEP 2009.
- Wollongong City Centre LEP 2007 – applies to Wollongong CBD and is now proposed to be incorporated into Draft Wollongong LEP 2009 and repealed. The Wollongong City Centre LEP 2007 was not included in the earlier versions of the Draft Wollongong LEP. However, as it has now been in place for 18 months it is opportune to incorporate it, which will reduce the complexity of planning instruments and to ensure it reflects the latest standard LEP instrument. The two amendments to the Plan have also been included.

Council has also exhibited a separate Draft LEP for the West Dapto Release Area and Dapto Town Centre. Ideally this LEP should also be included in the Draft Wollongong LEP 2009. However, at this time it is not proposed to be incorporated, as it is still being reviewed. The exhibition of a second planning instrument for West Dapto could create additional confusion for the community and stakeholders. It is proposed that the planning controls for West Dapto be included in the Wollongong LEP 2009 at a later time.

As a consequence of incorporating the Wollongong City Centre LEP 2007 into the Draft Wollongong LEP 2009, the LEP objectives, land use tables, heritage item schedule, additional use schedule, local provisions and LEP maps have been reviewed and updated. As the Wollongong City Centre LEP 2007 was proposed specifically for the Wollongong CBD and it was based on an earlier version of the Standard LEP Instrument, there are some minor changes to the land use tables for zones within the CBD.

It is recommended that Council endorse the merger of Draft Wollongong LEP 2008 and Wollongong City Centre LEP 2007 to form Draft Wollongong LEP 2009. A copy of the Draft Wollongong LEP 2009 is attached (Attachment 1).

2 Map book

The Draft Wollongong LEP 2009 is accompanied by the following series of maps:

- 1 Land Application – showing the land to which the LEP applies (ie the LGA excluding the West Dapto Release Area).
- 2 Land zoning.
- 3 Floor Space Ratio.
- 4 Minimum Lot Size.
- 5 Height of Building.
- 6 Heritage.
- 7 Reservations/Acquisitions.
- 8 Flood Prone Lands, Acid Sulphate Soils, Riparian Lands and Foreshore Building Line.
- 9 Significant Vegetation.
- 10 Illawarra Escarpment.
- 11 Sydney Catchment Authority Hydrological Catchment.
- 12 Airport noise (Illawarra Regional Airport).

At the request of the Department of Planning, the number of maps in each map series has been reduced to twenty eight A3 maps at a scale of 1:40,000 (western water catchment area) and 1:20,000 (urban area). The maps are included in a separate A3 size book to this report. As part of the exhibition, larger maps will be produced and they will be available electronically and on Council's website for people to view at larger scales.

3 Rezoning

As part of the review of the Draft LEP by the Administrators, all rezoning proposals considered by the previous Council have been reviewed. As a result of the review the following changes are proposed:

- Deleting the proposed increase in floor space ratio and height limits at the southern end of Wentworth Street, Port Kembla. This matter will be reconsidered following the completion of the Wentworth Street Mainstreet Study.
- Deleting the proposed additional use of two additional dwellings at Lot 61 and part lot 54 DP 751301 Mt Ousley Road, Mt Keira. Significant environmental and access constraints limit further development in this location and creating additional dwelling entitlements is not supported by Council officers.
- Amending the foreshore RE1 Public Recreation zoning at Tallawarra to require an enlarged foreshore reserve of between 70 and 200m in width, especially on the northern Tallawarra Point. The proposed E3 zone near the Mt Brown Water Reservoir has also been enlarged.

- The proposed expansion of the B2 Local Centre zoning at Unanderra has been reduced to reflect the correct 3(a) General Business zoning. The B2 zone is proposed to include 98 Central Road. The zoning of Unanderra will be reviewed as part of the proposed Unanderra Commercial Centre Study.

It is recommended that the changes to the Draft LEP be endorsed.

4 Reclassifications

The previous version of Draft Wollongong LEP 2008 incorporated the reclassification of ninety four (94) Council owned sites from Community Land to Operational Land. The reclassifications can be divided into the following categories:

- Seven sites previously reclassified but interests not removed. Wollongong LEP 1990 (Amendment No. 235) was gazetted on 13 April 2006. The LEP included the reclassification of 12 sites. It was subsequently determined that due to a Department of Planning administrative error the Draft LEP had not been signed by the Governor of NSW prior to the Minister for Planning signing and making the plan.

As a consequence, the sites had been reclassified to operational land, however any real or perceived trusts, caveats or other interests had not been removed from the land. A perceived trust exists if Council purchased the land for a public purpose, eg public car park.

Following enquiries with the Department of Planning and legal advice, it was determined that the only option available was to go through the reclassification process again to remove the trusts and other interests. Four (4) carparks, within the Wollongong CBD, are being reclassified a second time, to remove perceived trusts, through Wollongong City Centre LEP 2007 (Amendment No.1), which is with the Department for gazettal.

The remaining seven (7) sites in the rest of the LGA, need to go through the reclassification process a second time, to remove any trusts or interests.

- Fifteen sites subject to requests to lease or buy Council land. The majority of these sites have been reported individually to Council and Council has resolved to prepare a Draft LEP to reclassify.
- Thirty seven sites containing community buildings. The Community Cultural and Library Services Division proposed the reclassification of thirty seven community centres, child care centres and other buildings to enable more flexible leasing arrangement and maintenance agreements.
- Thirty five sites identified as being land surplus to Council's requirements (pocket parks, reserves and other land). Following Council's endorsement of *Planning People Places Strategy*, the Recreation and Natural Resources and Commercial Projects and Property Divisions have undertaken a review of small pocket parks and other minor reserves in Council's ownership. The *Planning People Places Strategy* recommended the need for 195 small reserves (under 1500m² in size) to be reviewed to determine whether they were recreational assets or maintenance liabilities.

The review identified thirty five sites as not being required for recreation needs and recommend their disposal to enable the resulting funds to be targeted towards projects that enhance the effectiveness and amenity of other parks and reserves. Some of the sites are already classified as operational land but public trusts on the land have been identified which need to be removed through the reclassification process.

It is proposed that the reclassifications be removed from the Draft Wollongong LEP 2009 and progressed separately as four (4) amendments to the existing Wollongong LEP 1990. The four amendments would be:

- (i) Previously reclassified site and externally initiated requests – twenty one sites.
- (ii) Part Darcy Wentworth Park, Warrawong. This proposal was previously exhibited in 2006 and caused considerable objection. The reclassification seeks to enable a car park within Darcy Wentworth Park to be leased to an adjoining commercial premise for staff parking and is linked to a development consent. The previous Draft LEP did not progress as it did not seek to also remove the Trust applying to the land.
- (iii) Community buildings – thirty seven sites.
- (iv) Surplus Lands – thirty five sites.

The Draft LEPs will be reported separately to Council for consideration. It is recommended that Council endorse the removal of the reclassifications from the Draft Wollongong LEP 2009 and that they progress as four separate amendments to Wollongong LEP 1990.

5 Helensburgh 7(d) Lands

Council at its meeting on 2 October 2007 resolved to review the 7(d) Environmental Protection – Hacking River zone at Helensburgh in terms of the appropriateness of the zone for existing commercial and industrial uses and the minimum lot size for a dwelling entitlement.

The Administrators have inspected the 7(d) lands and recognised that there is a need to undertake a further review of the zonings in the Helensburgh area. Council will need to work with the Department of Planning on the scope of this review and consideration should be given to establishing a Community Reference Group to participate in the review.

At this stage, it is proposed to maintain the status quo with the 7 (d) zone by translating it to the E2 Environmental Conservation zone. The zoning will be reviewed following the completion of the Helensburgh review.

6 Other minor amendments

The following additional minor amendments are proposed to the Draft Wollongong LEP that was previously considered by Council:

- Updating the zoning of estuaries. One of the recommendation of the Estuary Management Studies was to update the zoning of the key estuaries from RE1 Recreation to W1 Natural Waterways to reflect the significance of the waterway. The estuaries are public land.

- Rezoning 5, 7 to 11 Bridge Street and 5 and 9 Old Springhill Road from IN1 General Industry to B7 Business Park and removing the proposed additional use provision for business premises. These lots contain existing office buildings at Coniston.
- The Department of Housing has requested that the floor space ratio of its properties at 1 and 3 Lighthorse Drive, 25-35 and 36-54 Pendlebury Parade, Woonona be increased from 0.5:1 to 0.75:1 to enable additional affordable housing for the private and social housing sectors to be provided.
- Updating the schedule for Exempt Development and Complying Development to remove items covered by the Department of Planning Draft Housing Code, Draft Commercial Building Code, State Environmental Planning Policy – Infrastructure (2007).

It is recommended that Council endorse the minor amendments to the Draft LEP.

CONSULTATION AND COMMUNICATION

During its preparation, the Draft Wollongong LEP 2009 has been reviewed and commented upon by various internal Council Divisions.

The Draft LEP has been reviewed by Statutory Authorities and adjoining Councils under Section 62 of the Environmental Planning and Assessment Act 1979, on two occasions.

If Council endorses the revised Draft Wollongong LEP 2009, it will be referred to the Department of Planning for certification prior to exhibition. Council has resolved that the Draft LEP be exhibited for a minimum period of two (2) months. The exhibition period may be extended to three (3) months to ensure that the community has sufficient time to comment on the Draft Plan.

Letters will be sent to affected property owners where rezonings are proposed during the exhibition period advising of the exhibition, proposed changes and seeking comments.





A Vision booklet is being prepared to outline the strategies incorporated into the Draft Plan and to highlight the strategies for different localities within the LGA. The Vision booklet will be distributed during the exhibition and be available on Council's website.

A series of targeted community meetings and briefing sessions will be held during the exhibition period to discuss specific issues with the Draft Plan. Media coverage will also be sought informing the community of the exhibition.

CONCLUSION

Following the appointment of Administrators, the Draft Wollongong LEP 2008 has been reviewed. The principal change is the merging of the Draft Wollongong LEP 2008 with the Wollongong City Centre LEP 2007 to form the Draft Wollongong LEP 2009. The proposed rezonings have been reviewed and some alterations proposed. It is proposed that the reclassifications be deleted and progressed in separate amendments to the Wollongong LEP 1990.

It is recommended that Council endorse the revised Draft Wollongong Local Environmental Plan 2009 to enable it to be referred to the NSW Department of Planning for review and certification for exhibition.

Name	Position Title	Date	Signature
This report provides Administrators with all the relevant information and is correct at the time of writing. This information has been relied upon in preparing the report and its recommendations. Signed by:			
David Green	Land use and Planning Manager	12/6/08	
Andrew Carfield	Manager City Planning	12/6/08	
Peter Kofod	Executive Manager Governance and Planning	12/6/08	
David Farmer	General Manager	16/6/08	

ATTACHMENTS

1. Draft Wollongong LEP 2009 written instrument (Separate Attachment)
2. Draft Wollongong LEP 2009 Mapbook (Separate Attachment)

Minute No.

RESOLUTION OF COUNCIL MEETING HELD ON 24 JUNE 2008

EXTRACT FROM MINUTES

PUBLIC ACCESS FORUM

MS M MCGEE - ITEM 4 - DRAFT WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2008 AND AMENDMENTS TO WOLLONGONG LOCAL ENVIRONMENTAL PLAN 1990

On behalf of Concerned Residents of East Dapto (CRED), Ms McGee expressed concerns with respect to the draft Local Environmental Plan, particularly in relation to the Tallawarra site. She stated that when Councillors considered the Local Environmental Study for the area, they had been assured that residents were supportive of house allotments at Tallawarra Point. She stated that this was incorrect.

Ms McGee also advised of a petition to the New South Wales Parliament containing 2,300 signatures concerning the Tallawarra site.

Ms McGee pointed out deficiencies in the process so far. She requested that various studies and assessments be undertaken and that this information be presented to the Administrators so that they can make an informed decision on the matter.

DECLARATION OF INTEREST - ITEM 4

Administrator Gellatly advised that he is the Chair of Pillar, a State Government organisation which administers superannuation. He stated that there is a parcel of land within the draft LEP which belongs to Sydney Water and Pillar has the option to purchase that property.

ITEM 4 - DRAFT WOLLONGONG LOCAL ENVIRONMENTAL PLAN 2008 AND AMENDMENTS TO WOLLONGONG LOCAL ENVIRONMENTAL PLAN 1990 (SU23594) - REPORT OF MANAGER CITY PLANNING (DG) 6/6/08

128 **RESOLVED UNANIMOUSLY that -**

- 1 **The Draft Wollongong Local Environmental Plan 2009 be amended and updated in the manner outlined in this report.**
- 2 **The Draft Wollongong Local Environmental Plan 2009 be endorsed and referred to the Department of Planning for review and certification under Section 65 of the Environmental Planning and Assessment Act 1979.**

Minute No.

- 3 Following certification, the Draft Wollongong Local Environmental Plan 2009 be exhibited for a minimum period of two (2) months, in accordance with the Department of Planning's guidelines "LEPs and Council Land".**
- 4 The exhibition include community meetings and information sessions.**
- 5 The proposed reclassification of Council land be removed from the Draft Wollongong Local Environmental Plan 2009 and be subject to separate reports and proposed amendments to Wollongong Local Environmental Plan 1990.**

Administrator Kibble expressed thanks to Planning staff who had worked over the past three months to completely review the zonings and she wished to place on record her appreciation for the work they had undertaken.