



Planning &
Infrastructure

Oxford Falls Valley and Belrose North Strategic Review

Submissions Report

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1. Introduction

1.1 Overview

In December 2011, Oxford Falls Valley and Belrose North localities were deferred from the Warringah Local Environmental Plan 2011(WLEP 2011) following a high level of interest from the community regarding the proposed zoning for the area.

To respond to concerns raised by the community, the Minister for Planning and Infrastructure deferred most land in Oxford Falls Valley and Belrose North (refer to Map). The deferral meant the current planning controls remain in place, while a strategic review is undertaken to determine the most appropriate zoning for the area.

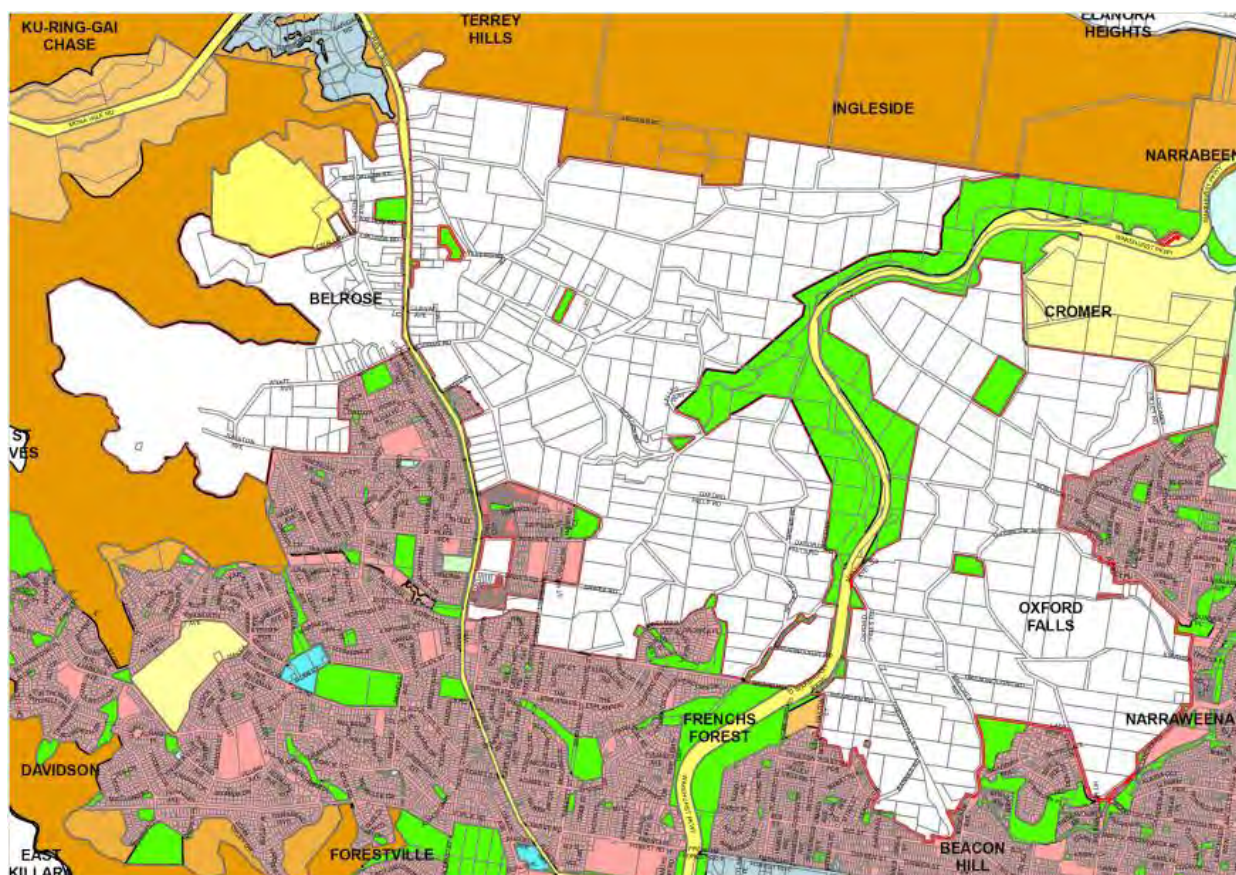


Figure 1 - Deferred Land (study area)

In July 2012, the Department of Planning and Infrastructure and Warringah Council commenced work on the Oxford Falls Valley and Belrose North Strategic Review. The objectives of Stage One of the strategic review, were to:

- determine the appropriate zoning of the deferred land (study area);
- engage the community to ensure that the matters raised by landowners in relation to the proposed E3 zoning under the Draft LEP are considered; and
- translate and incorporate the deferred areas in the study area into WLEP 2011 so as to eliminate unnecessary duplication, reduce management and operational costs for Council.

The draft strategic review recommends the majority of the land be zoned E3 Environmental Management and some small parts of the study area are zoned R5 Large Lot Residential, R2 Low Density Residential, RU4 Primary Production Small Lots and SP2 Infrastructure. Specific sites have also been identified where additional uses should be permitted.

The key objective of this review is to undertake community engagement and recommend planning controls that represent the most appropriate controls for the two localities under the Warringah Local Environmental Plan 2000 (WLEP 2000). The draft Strategic Review package, exhibited between 22 June and 30 August 2013, was a key step towards the introduction of new planning controls for the study area.

The public exhibition period enabled land owners and interested stakeholders to view and provide comment on the draft Strategic Review. This report documents the community engagement process for stage one of the strategic review, summarises the issues raised in submissions and responds to the key issues.

1.2 Community Engagement

The Project Control Group (PCG) which includes representatives from Warringah Council and the Department of Planning and Infrastructure are committed to community engagement and ensuring the community has been consulted and informed of the strategic review process. The specific objectives of the community engagement process were to:

- adequately inform and consult the community and stakeholders on the review process, emphasising in a visible way the collaborative nature of the partnership between Council and the Department;
- ensure consistent information is provided to the community and stakeholders by Council and the Department through a joint approval process;
- provide the community with balanced and objective information to assist them in understanding the reason for undertaking the review process and how the review process is to be undertaken;
- provide opportunities for input from the community and stakeholders to ensure that their views and concerns are identified and heard;
- promote the independence and transparency of the review process;
- provide stakeholders with readily accessible opportunities to provide comment during the review process;
- consider stakeholder submissions and input during the review process; and
- ensure stakeholders are aware of the final outcomes of the strategic review.

A range of tools have been implemented to encourage participation. These have included an information session, written communication, on-line and social media technology.

The PCG hosted an information session on 15 October 2012 to inform the community of the commencement of the project and the scope of the strategic review. Throughout the preparation of the draft strategic review the PCG has accepted submissions from stakeholders.

In addition, the draft strategic review was publicly exhibited from the 22 June to 30 August 2013. The draft strategic review and submissions report will be reviewed by the Warringah Development Assessment Panel who will make an independent recommendation to Council.

The community will have further opportunity to comment when a future planning proposal informed by the outcomes of the strategic review is exhibited as part of the plan making process.

1.3 Probity

The strategic review has been guided by the probity fundamentals identified by Independent Commission Against Crime (ICAC), *Probity and Probity Advising* (2005). The probity fundamentals are:

- maintain impartiality;
- manage conflicts of interest;
- ensure accountability and transparency;
- maintain confidentiality; and
- obtain value for money.

Considering and addressing probity issues are a standard practice for government when working on a significant project, such as the strategic review. A Probity Advisor was engaged upfront to assist with identifying and managing probity risk throughout the course of the project.

1.4 Limitations of Strategic Review

It should be noted that it is not the intention of the initial stage of the Strategic Review to undertake detailed studies to determine future urban development potential and establish any implementing planning controls.

The present stage (Stage one) of the strategic review involves translating the most appropriate controls under Warringah Local Environmental Plan 2000 (WLEP 2000) into the best fit zones and land use controls under the WLEP 2011.

Thereby, the draft Strategic Review and accompanying Submissions Report address stage one of the review process. The next stages of the strategic review are addressed in Section 7 Next steps of this report.

2. Exhibition Details

2.1 Exhibition and Submissions Period

The draft Strategic Review was publicly exhibited from 22 June to 30 August, 2013. The draft Strategic Review and all submissions received by the PCG are included in **Appendix A and B**.

2.2 Exhibition Material

The following documentation was publicly exhibited as part of the Strategic Review package:

- Draft Oxford Falls Valley and Belrose North Strategic Review;
- Map 1 - Study Area;
- Map 2 – Land Ownership;
- Map 3 – Land use Analysis;
- Map 4 – Cumulative Level of Environmental Constraints;
- Map 5 – Outcome of the Primary Environmental Constraints;
- Map 5 – Outcome of the Secondary Environmental Constraint Analysis;
- Map 7 – Land Use Zoning Map;
- Map 8 – Additional Permitted Uses;
- Frequently Asked Questions;
- Zoning Comparison Table; and
- Director General letter of endorsement to commence public exhibition.

Additional information was made available on the Department’s website during the exhibition period. This includes background information outlining the scoring for secondary constraints and individual site analysis forms for land within the study area. The following maps were also made available:

- Acid sulphate soils constraints land map;
- Bushfire constraints land map;
- Core habitat constraints land map;
- Flood planning level constraints land map;
- Proximity to public transport infrastructure map;
- Riparian constraints land map;
- Significantly vegetation constraints land map;
- Slope constraints land map;
- Threatened species habitat constraints land map; and
- Wetland buffers constraints land map.

2.3 Exhibition Venues

The draft Strategic Review was available to the public at the following locations:

- Department of Planning and Infrastructure, Information Centre, 22-33 Bridge Street, Sydney;
- Warringah Council Information Desk, 725 Pittwater Road, Dee Why;
- Department of Planning and Infrastructure website; and
- Warringah Council website.

2.4 Public Notice

Notices were placed in the following newspapers advising details of the public exhibition:

- Manly Daily, 22 June 2013
- Manly Daily, 6 July 2013
- Manly Daily, 20 July 2013
- Manly Daily, 3 August 2013

2.5 Notification to Landowners

The PCG wrote to over 2,000 land owners and residents in the study area (as recorded on Council's rates databases) and neighbouring properties within a 100 metre radius of the study area. The letter provided details of the exhibition period, a copy of the frequently asked questions and invited submissions on the draft strategic review. In addition, an email alert was sent out to interested members of the community, as registered on the project database.

2.6 Confidentiality Measures

The PCG was established to monitor and manage the Strategic Review includes representatives from Warringah Council and the Department of Planning and Infrastructure. The PCG is committed to maintaining confidentiality in the submission process where requested.

Of the 124 of submissions:

- 89 indicated their submissions were not confidential (i.e. these will be published);
- 3 did not indicate if their submission was confidential or not, and therefore will be treated as confidential; and
- 32 indicated their submission was confidential.

3. Submissions Summary

3.1 Number of Submissions

A total of 124 submissions were received by web, email or mail. All submissions received are included in **Appendix B** of this report. Of the 2000 letters sent to landowners, residents and adjoining properties there was a response rate of 6 percent, while 94 percent did not provide a response to the strategic review. A summary of submissions grouped into major stakeholder groups is provided at **Figure 2**.

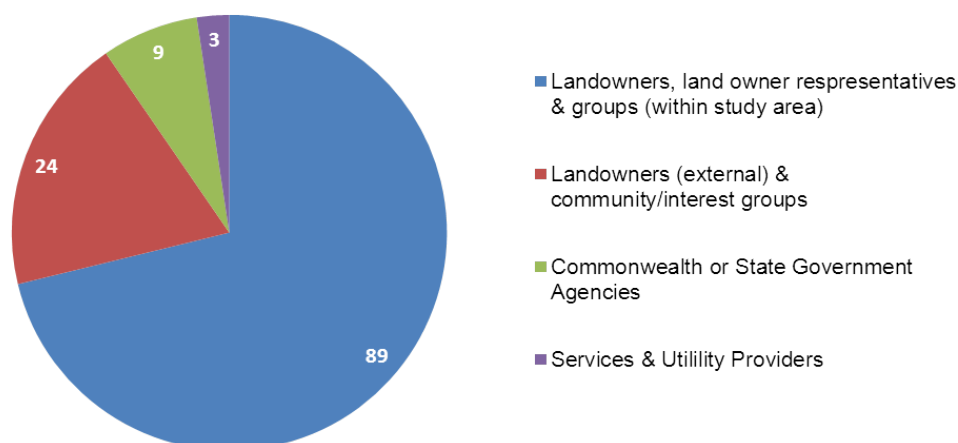


Figure 2 - Summary of submissions from key stakeholders

3.2 Issues Raised in Submissions

All submissions received were read by the Department and Council staff. The type of issues raised along with a graphical representation of the frequency of these issues as raised in submissions is shown in **Figure 3**. More detailed responses to key issues and those that were frequently raised are provided in Section 4 of this report.

Overall, 15 percent of the submissions were in support of the strategic review. It should be noted that the majority of these landowners are within the study area and the draft Strategic Review proposes one of the following land use zones R2 Low Density Residential, R5 Large Lot Residential, RU4 Primary Production Small Lots or SP2 Infrastructure on their land. These landowners would like to see the future stages of the strategic review progressed in order to consider the future development potential of their land.

Prominent issues that have arisen out of submissions include:

- objection to the proposed E3 Environmental Management zoning of land;
- concern with the overall methodology used to inform the outcomes of the review;
- land uses currently permitted will be prohibited in the future;
- impact on land use rights and land value; and
- transparency and community engagement.

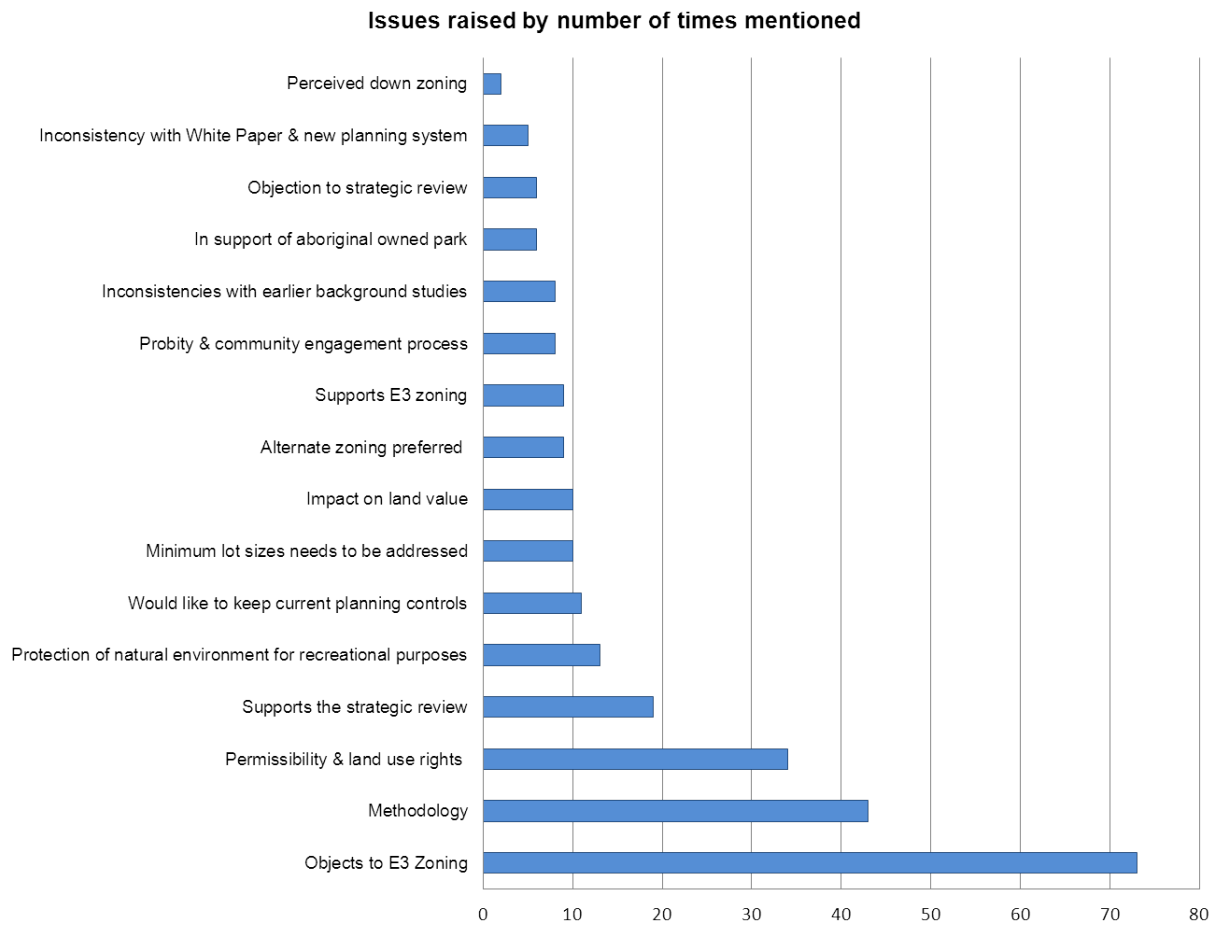


Figure 3 - Issues raised by number and times mentioned during exhibition

3.3 Response to Submissions

It is not practical to provide individual responses to each submission within the Strategic Review timeframe. The issues raised in each submission have been categorised and in cases where the same (or similar) issue is raised by more than one submission, these have been grouped together. Section 4 of this report details how significant and prominent issues have been responded to.

4. Considerations of Key Issues

This section discusses the key issues raised in submissions. These key issues include: proposed E3 Environmental Management Zone; methodology; permissible land use; existing use rights; and probity and community engagement. The PCG's response to these issues has been formed by balancing a range of state and local planning policies, and informed by desktop analysis and site observations.

Prominent issues have been considered in detail in this section, while Section 5 provides responses to other issues raised in submissions.

4.1 Proposed E3 Environmental Management Zone

Seventy three submissions or fifty nine percent raised concern regarding proposed E3 Environmental Management Zone (E3 zone). Most submitters had or represented persons with, land within the study area.

Issues

- Overall the majority of submitters object to E3 zone on privately-owned cleared land.
- Submitters are opposed to E3 zoning for properties which contain an existing dwelling and are used for the grazing of livestock.
- Submissions are concerned with the perceived loss of development potential on land.

PCG Response

The proposed zoning is based on a translation of the Warringah Local Environmental Plan 2000 (WLEP 2000) to Warringah Local Environmental Plan 2011 (WLEP 2011) ensuring all planning controls for the Warringah local government area, are contained in the one LEP.

The strategic review considered the most recent information available for the study area. Environmental features of the land and the constraints were a key consideration in identifying the most appropriate zones.

It was identified that the environmental management zone reflects the land uses most consistent with the character statements for Oxford Falls Valley and Belrose North that apply under WLEP 2000, as outlined in **Figure 4** below.

While E3 zone is not generally intended for cleared land, it may be applied as a transition area between high conservation areas and intensive land use, such as the Garigal National Park.

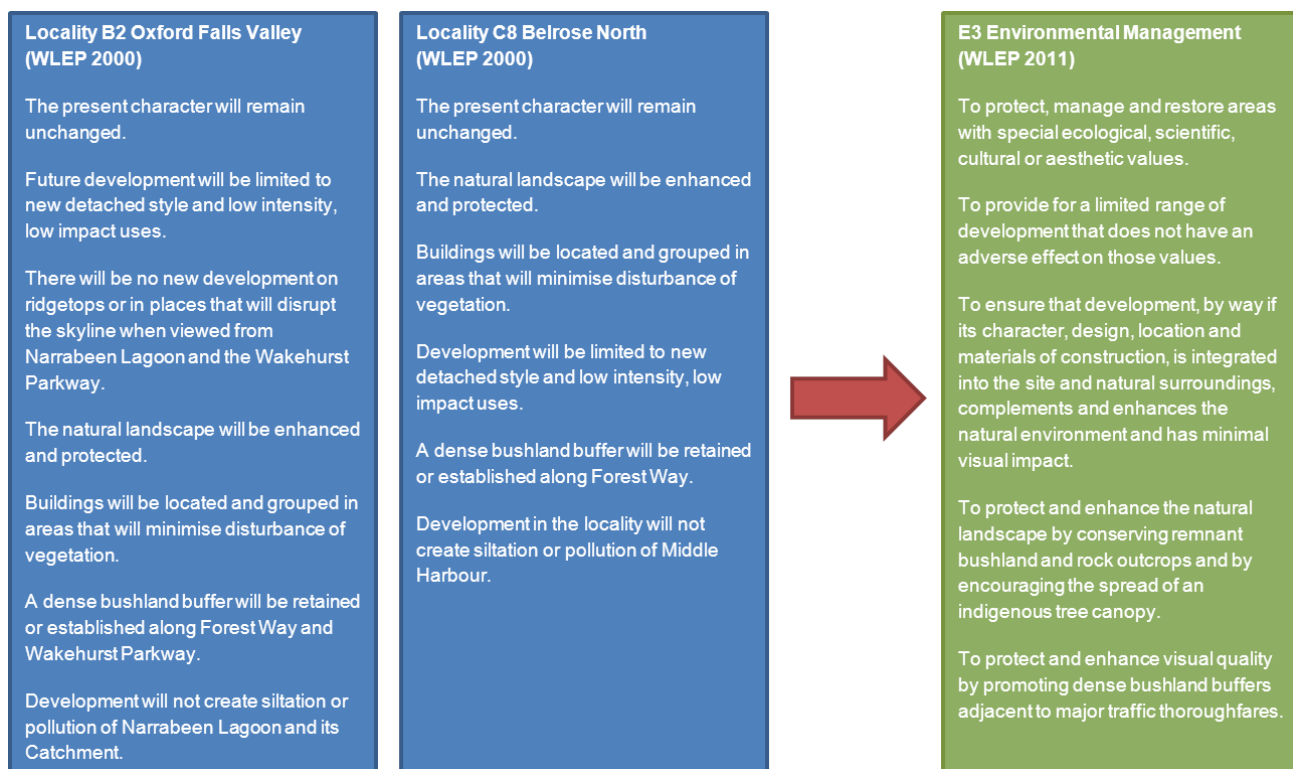


Figure 4 - Translation of desired future character and zone objectives

In addition, the E3 zone may also be applied to highly constrained land where elements of the natural environment and the cumulative impact of further development may have a key impact on water quality of the broader catchment (Narrabeen Lagoon).

The Narrabeen Lagoon has a catchment of fifty five square kilometres and is rated in the top fifty percent of lagoons in New South Wales with a positive ecological health. The reason the lagoon rates so highly is due to the relatively undisturbed nature of the catchment. The most predominant land use within the catchment is native vegetation and open space, followed by a small portion of residential and industrial/commercial land uses. Any change in the existing land use and natural environment may impact greatly on the health and condition of the catchment care needs to be taken for all future development.

There are changes in permitted land uses as an environmental management zone is designed to protect important environmental land from inappropriate development, these are further explained in section 4.3. The ability to have a single dwelling or grazing of livestock will not be reduced by the E3 zoning, the objectives do not prevent this form of land use or development in any way.

Lawfully established land uses continue to be carried out or expanded as an “existing use” under the New South Wales planning legislation. Development consent will be required for any change of an existing use to another use, but only if the proposed use is permissible in the respective zone under the WLEP 2011.

A review of the application of environmental zones in the Far North Coast to privately owned land is currently underway. However, Standard Instrument LEPs will continue to be progressed while the review is underway. Therefore, no change to the strategic review is necessary in relation to the

matter as there is limited difference between proposed zone objectives and the desired future character statements under existing controls within WLEP 2000.

4.2 Methodology

43 submissions raised concern about the methodology used to inform the outcome of the review.

Issues

- Submitters are concerned with the methodology used to allocate E3 zoning.
- Submissions raise concern that the methodology is flawed and prejudiced against private land owners.
- Question the site analysis and assessment criteria used as part of the methodology of the strategic review.

PCG Response

The strategic review has provided the opportunity to identify with the cumulative impacts of future development in Oxford Falls Valley and Belrose North and to investigate the conservation and planning outcomes on a much larger scale than achieved through a project by project or site by site assessment.

The methodology undertaken for stage one of the strategic review included:

1. a review of existing information on constraints imposed by the physical environment (i.e. bushfire risk, flora and fauna, topography) and existing infrastructure in the study area;
2. identification of existing land uses and establish whether existing and continuing use rights apply in the study area;
3. a review category three (3) uses that currently apply under the WLEP 2000 and identify those that are suitable for the study area based on the findings of task 1 and 2;
4. determining an agreed policy position in relation to the use of special use zones and additional uses for future planning controls under the WLEP 2011;
5. identification of sites in the study area where:
 - the E3 zone should remain as exhibited;
 - additional uses could be added to the E3 zone; and
 - a different zone may apply such as R2 Low Density Residential or R5 Large Lot Residential.
6. a review of the proposed changes to the E3 zone and consider the implications of clause 6.6 'Erection of dwelling houses in zone E3 Environmental Management' on land holdings within the proposed zone; and
7. an assessment of the cumulative impact of land uses (both positive and negative) on the study area and Narrabeen Lagoon Catchment.

Assessing the primary and secondary environmental constraints formed a significant part of the methodology. The steps undertaken in the analysis are outlined below:

1. Analysis of primary constraints including:
 - a. riparian corridors, significant vegetation, wetland buffers, acid sulphate, threatened species, wildlife corridor, slope, flooding etc;
 - b. consideration to be given against the degree of prohibitive existing land uses; and

- c. land that was isolated, prohibitive, greater than 50% environmental constraints or would have a cumulative impact if up zoned were recommended for E3 zoning.
2. Analysis of secondary constraints including:
 - a. assessment and consideration of environmental and infrastructure constraints such as bushfire, heritage, services and utilities;
 - b. assessment in terms of Practice Note PN06-002, the desired future character (WLEP 2000) and ground truthing of available service, utilities and infrastructure; and
 - c. land found to have significant impediments (eg. isolated and constrained land) to future development was recommended for E3 zoning.

The outcomes of the analysis were then consideration in terms of assessing the overall cumulative impact of land uses on the area and the natural environment. Consequently, land that included either high primary or secondary environmental constraints, and had a negative cumulative impact was recommended for environmental management zoning.

The methodology has been applied consistently to all parcels of land within the study area as a result no change to the strategic review is required. Any changes to methodology would mean commencing the whole strategic review process again. This is unnecessary as all the land use planning and environmental factors have been thoroughly considered in the translation from existing to proposed Standard Instrument planning controls, which satisfies stage one of the strategic review.

4.3 Permissible Land Use

34 submissions raised issues concerning uses currently permitted and prohibited in the future, and existing land use rights (addressed in Section 4.4 of this report).

Issues

- Submissions raised concern about loss of permissible uses under the Warringah Local Environmental Plan 2011 and E3 Environmental Management Zone.
- There is a general perception that land uses originally permitted are now prohibited in a E3 Environmental Management Zone, particularly grazing of cattle and agistment horses.
- Several submitters question the inability to undertake future development including Seniors Housing and secondary dwelling which is perceived to presently be permissible on their land.

PCG Response

Permissibility has been based on a translation of the WLEP 2000 to WLEP 2011 and an assessment of existing land use within the study area. As a consequence of the assessment, there are some changes in permitted land uses, and key similarities and differences between land uses are outlined in **Figure 5**.

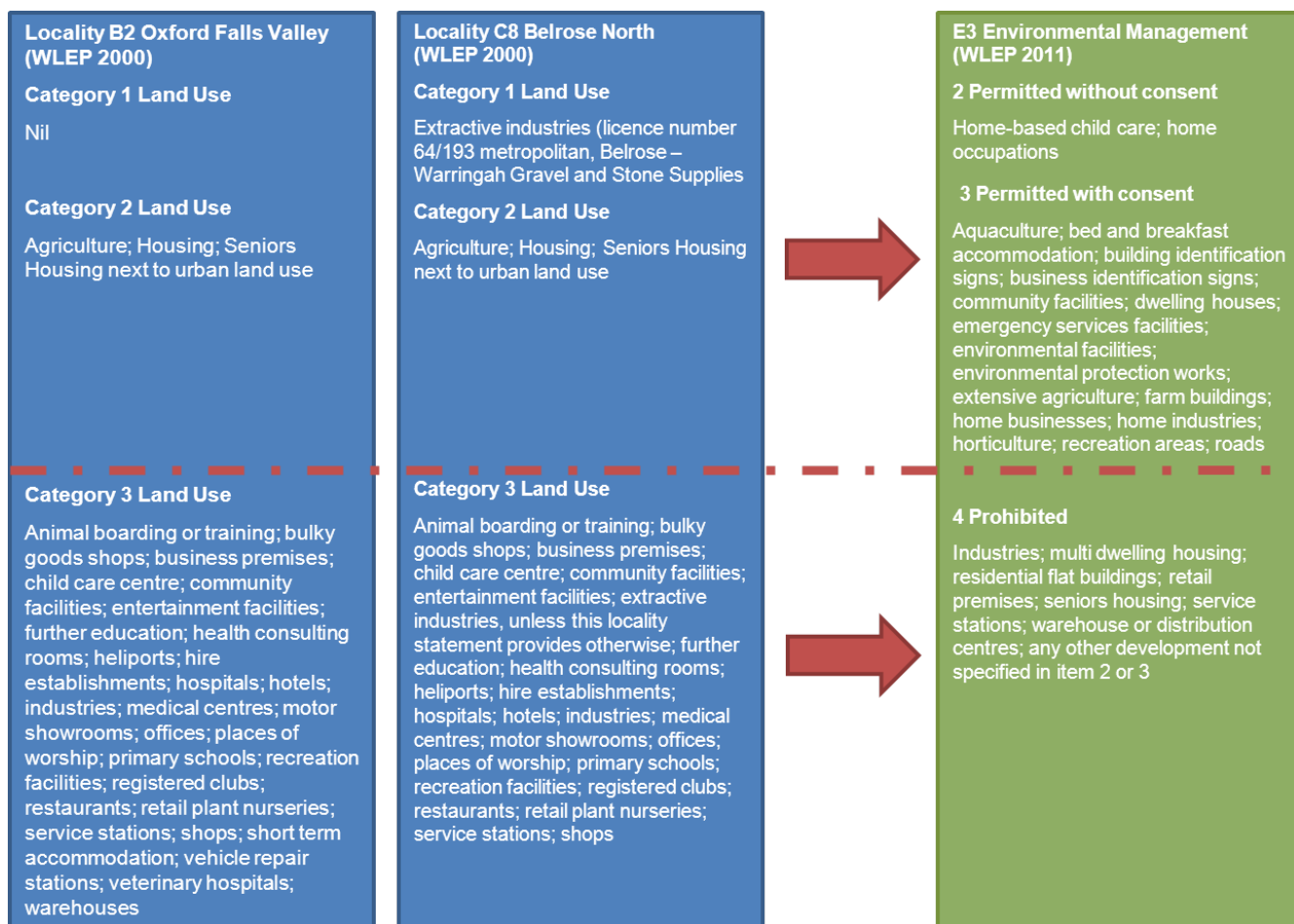


Figure 5 - Key similarities and differences between land uses

Under the WLEP 2000 almost all land uses were permitted and it was identified that this did not always reflect the future desired character of the study area. The strategic review found that category one and category two land uses were generally consistent in keeping with the future desired character and permitted uses under a Standard Instrument LEP and E3 zone.

Under WLEP 2000, landowners could previously apply for seniors housing if the land adjoined urban land, although the development had to meet stringent planning controls which made it difficult to obtain planning approval. The E3 zone prohibits seniors housing, although this type of development may be permitted within other zones located in the study area including R2 Low Density Residential and R5 Large Lot Residential where it adjoins urban land.

In general, category three land uses under current controls, such as industries, bulky goods, vehicle repair stations and warehouses are considered to be inconsistent with the future desired character of the area. While landowners could lodge a development application for category three land uses, the rigorous planning assessment and public hearing made it difficult to obtain approval.

Consequently, a number of category three land uses are prohibited under WLEP 2011 including industries, multi dwelling housing, residential flat buildings and seniors housing as they are considered to be incompatible with the surrounding natural environment.

Concern was raised regarding the removal of existing right to build a dwelling. It is not the intent of the strategic review to remove an existing right to build a residential dwelling. Analysis of

submissions identified there was a need to transfer specified development rights of certain properties as outlined in WLEP 2000 into WLEP 2011. The following amendment is proposed to clause 6.6 Erection of dwelling houses in Zone E3 Environmental Management, subclause (3)(b):

3 (b) development consent may be granted to the erection of 1 dwelling house on Lot 33, DP 870625, Pinduro Place, Cromer and on Lot 2, DP 1007617, Lot 3, DP 1007617, Lot 985, DP 752038, Lot 986, DP 752038, Lot 1001, DP 752038, Lot 1002, DP 752038, Lot 1003, DP 752038, Lot 1004, DP 752038, Lot 1018, DP 752038, Lot 1019, DP 752038, Lot 1, DP 793363 and Lot 2, DP 793363, Oxford Falls.

The majority of the above properties are identified in WLEP2000 (B2 Locality) as portion numbers, however it is more appropriate to identify them by their correct lot description to ensure dwelling house entitlements are retained.

In the translation of permissible use some changes have also occurred to the land use definitions. For example, WLEP 2000 has one definition for agriculture, however, the Standard Instrument and WLEP 2011 closest land use definition is defined as extensive agriculture and horticulture, this is highlighted in **Figure 6**.

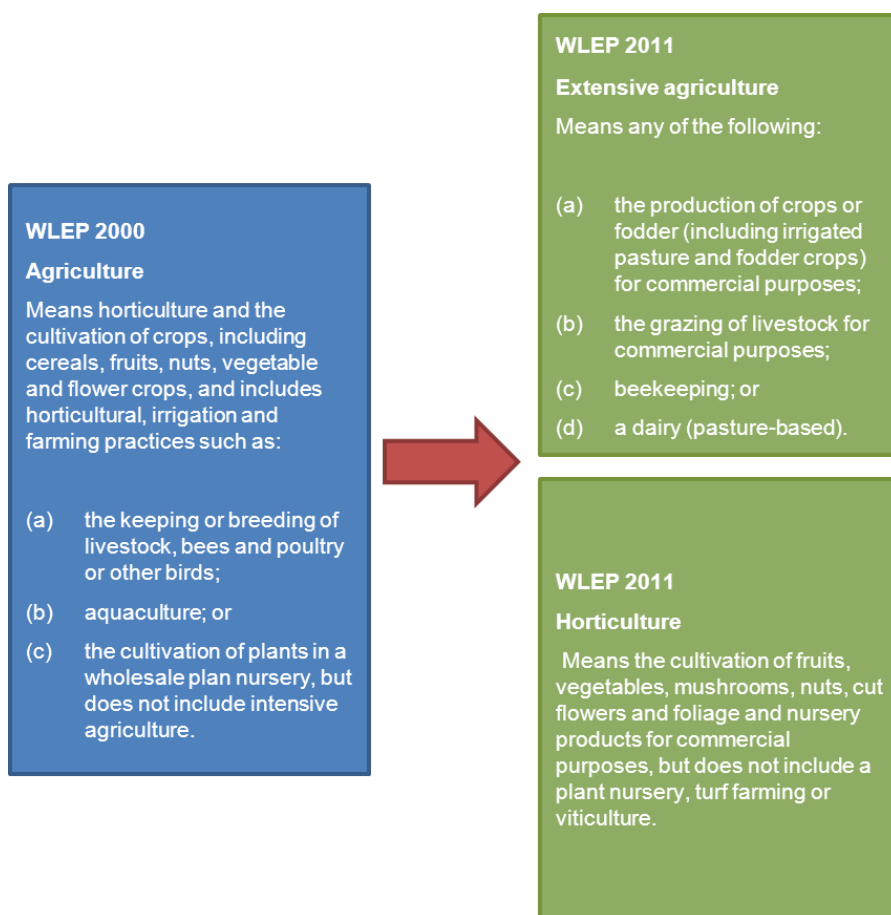


Figure 6 - Land use definition

The ability to have a single dwelling, grazing of livestock, horse agistment, bee keeping , farm buildings will not be reduced by the E3 zoning as the objectives do not prevent this form of land use or development. Extensive agriculture continues to allow for the grazing of cattle and the agistment of horses.

No further changes to the strategic review are necessary other than above mentioned amendment to clause 6.6 Erection of dwelling houses in Zone E3 Environmental Management of the WLEP 2011.

4.4 Existing Land Use Rights

34 submissions raised issues concerning uses currently permitted and prohibited in the future (addressed in section 4.3 of this report), and current impact on land use rights and land value, as addressed in this section.

Issues

- Landowners are concerned that if land use rights are extinguished they will no longer be able to undertake existing land use practices such as agriculture.

PCG Response

Existing use provisions are contained within the *Environmental Planning and Assessment Act 1979* (the Act), in Part 4 Division 10. An existing use is a use that is lawfully commenced but subsequently becomes a prohibited use under a new local environmental plan. Lawful refers to those uses commenced with consent or permissible without consent under the previous planning instrument as being protected.

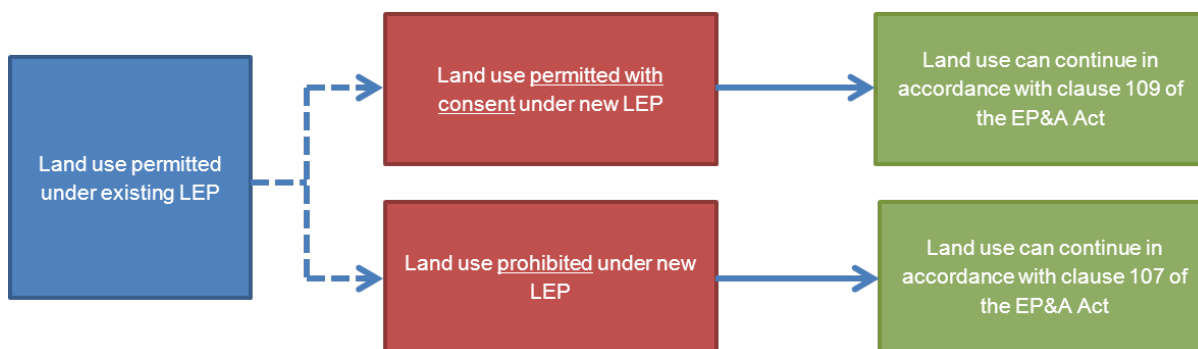


Figure 7 - Land use rights

For example, an existing horse training facility is permitted to continue operating (under earlier consent) and possibly expand even though the site and surrounding areas may have been rezoned for environmental management under the new LEP. An existing land use will only be lost if it ceases to be actually used for a period of 12 months.

Lawfully established land uses continue to be carried out or expanded as an “existing use” under the New South Wales planning legislation. Development consent will be required for any change of an existing use to another use, but only if the proposed use is permissible in the respective zone under the WLEP 2011.

Consideration of submissions identified a number of sites, in addition to those already identified by the strategic review where the use of Schedule 1 Additional Permitted Uses under WLEP2011 will ensure the planning controls most closely reflect existing planning controls and land uses and take into account the desired future character of the area. Site recommended for additional permitted uses are:

- John Colet School, Belrose (Lot 1 DP 601101 and Lot 101 DP 874509) - “Educational Establishment”;

- Oxford Falls Grammar School (Lot 1 DP 1046451) - “Educational Establishment”
- Lot 100 Meatworks Avenue, Oxford Falls (Lot 100 DP 1023183) - “Industrial Activity and Warehouse or Distribution Centre”; and
- Tennis Academy Oxford Falls (Lot 1110 DP 752038) - “Recreation Facility (outdoor)”.

Prohibited land uses can still however be considered through a planning proposal process. Any landowner, or proponent acting on behalf of a landowner, may prepare and submit a planning proposal to the relevant planning authority. Council and State Government will then consider the planning proposal in accordance with the requirements of the Act.

Consequently, the inclusion of the deferred lands into the WLEP 2011 will allow for lawful land uses to continue or be expanded (where appropriate) as an existing use. No further changes to the strategic review are necessary other than above mentioned to Schedule 1 Additional Permitted Uses of the WLEP 2011.

5. Consideration of Other Issues

This section discusses other issues raised in submissions. These include: protection of the natural environment; maintaining current planning controls; addressing minimum lot size; perception of downzoning; impact on land value; consistency with previous studies and White Paper.

5.1 Protection of the natural environment

Issues

- Thirteen submitters would like to see the existing bushland preserved for recreational and environmental purposes.

PCG Response

The strategic review considered the most recent information available with regards to the environmental constraints within the study area. These features were a key consideration in identifying the most appropriate zones.

As a result, the majority of the study area is recommended to be zoned E3 Environmental Management. Environmental management zones are designed to protect important environmental land from inappropriate development. No change to the strategic review is necessary in relation to this matter.

5.2 Maintain current planning controls

Issues

- Eleven submissions wish to retain the current non-urban zoning of land within the study area.

PCG Response

The strategic review is in line with the State Government's Standard Instrument LEP Program, to create a common format and content for Local Environmental Plans across New South Wales. The aim of the program is to have one LEP for each local government area by December 2013.

Finalisation of stage one of the strategic review is a translation of existing planning controls into the WLEP 2011. The Plan avoids duplication and ensures all land within the local government area is covered by one LEP as required by the NSW State Government. No change to the strategic review is necessary in relation to this matter.

5.3 Address minimum lot size

Issues

- Ten submissions request the minimum lot size planning control for all land within the study be addressed upfront.

PCG Response

The purpose of the strategic review is to update planning controls in line with the Government's standard LEP program and WLEP 2011. The recommendations of the strategic review are a

translation of the WLEP 2000, consequently, existing planning controls for minimum lot size have been translated.

It is proposed that planning controls for minimum lot size will be reviewed as part of stage two of the strategic review following detailed studies to determine the future urban development potential of the area. No change to the strategic review is necessary in relation to this matter.

5.4 Impact on land value

Issues

- Ten submissions consider that any E3 zoning will impact on property rights and devalue the land.

PCG Response

Individual submitters identified that restrictive controls may reduce the value of existing properties and impact on existing land use rights. In addition, landowners would have additional out of pocket expenses to maintain land zoned for environmental management.

The impact of the E3 zone in respect to the above issues raised by the community is outside of the scope of the strategic review. As there is limited difference between proposed land use permissibility and those land uses permissible under existing controls within WLEP 2000, it is considered any impact to land value within the study area would be minimal. The PCG has ensured lawful land uses continue as either a permissible with consent or an additional permitted use (Schedule 1 of the LEP). Therefore, no change to the strategic review is necessary in relation to this matter.

5.5 Seek alternative zoning to E3

Issues

- Nine submissions identified a preference for either RU4 Primary Production Small Lots or R5 Large Lot Residential, as an alternative to E3 Environmental Management zone.

PCG Response

The objective of stage one of the strategic review was to determine the most appropriate zoning for the deferred land within the study area. Section 4.2 of this report, outlines the methodology for achieving the translation of planning controls under the WLEP 2000. The thorough methodology informed the recommendations by identifying the most appropriate land use zones for the study area. There is to be no change to the E3 zoning as proposed by the strategic review, no further action is required in relation to this matter.

5.6 Inconsistencies with earlier background studies

Issues

- Eight submitters raised concern that the outcomes of the strategic review are not reflective of the earlier Planning Assessment Commission (PAC) review.

PCG Response

The PAC reviewed four sites within Oxford Falls Valley for urban development. The assessment concluded that none of the sites were capable of urban development.

While it was acknowledged that some environmental constraints may be overcome through design, major constraints still remain. These include distance of sites from key centres, public transport and potential land use conflict with the earth satellite station.

The sites were found to be too small and fragmented to warrant public transport and local services to be justified as a land release area. It was recommended by the PAC, that the cumulative impacts on the broader catchment be reviewed. The strategic review forms the initial step of the recommendations by the Commission. No change to the strategic review is necessary in relation to this matter.

5.7 In support of Aboriginal owned Park

Issues

- Six submissions support the Metropolitan Local Aboriginal Land Council's request to establish an Aboriginal Park within the study area.

PCG Response

The PCG are aware that MLALC is seeking, under Part 4A of the National Parks and Wildlife Act 1974, to reserve land for an Aboriginal Park. At present there is no formal process established which allows for the assessment of freehold land as an Aboriginal Park that is not an existing Reserve.

However, there is a special provision under s36A of the Aboriginal Land Rights Act 1983 for the reservation of land with nature conservation value. This process is dependent upon an assessment by the Minister for Aboriginal Affairs.

On 24 September 2013, Council resolved to give in principle support to the establishment of an Aboriginal Owned Park and recognise the various community groups that have shown their broad support for the proposal to date.

This matter falls outside of the scope of the strategic review and has been referred to the administration of the Minister for Aboriginal Affairs for consideration. No change to the strategic review is necessary in relation to this matter.

5.8 Object to the strategic review

Issues

- Six submissions objected to the strategic review being undertaken prior to the delivery of a new planning system for New South Wales.

PCG Response

Submissions identified it may be premature to complete the strategic review, considering the release of the White Paper and the introduction of a new planning system.

To ensure an efficient transition into the new planning system, NSW State Government requires all councils to operate under one Standard Instrument LEP. The new Act will contain provisions to

transition existing Standard Instrument LEP and Development Control Plans into relevant parts of the Local Plan. The Planning Bill establishes Local Plans as the principal legal document that incorporates all planning requirements in one document.

The recommendations of the strategic review are in line with the outcomes of the White Paper and future planning system, no change to the strategic review is necessary in relation to this matter.

5.9 Inconsistency with White Paper and new planning system

Issues

- Five submitters mention planning reforms and the reduction in the number of land use zones under the new planning system.

PCG Response

Submitters identified the proposed zoning, in particular E3 Environmental Management is inconsistent with the White Paper and future planning system for New South Wales as the White Paper proposed fewer and broader zones, and looked at the removal of environmental protection zones (E3 and E4).

Following consideration of submissions received to the White Paper, the State Government has decided to no longer make any changes to the number of zones to be provided under planning reforms. All thirty five current zones including E3 zoning will continue to apply. The recommendations of the strategic review are in line with the outcomes of the White Paper no change to the strategic review is necessary in relation to this matter.

5.10 Perceived down zoning

Issues

- Two submitters perceive the proposed E3 zoning to essentially be a down zoning and is contrary to Section 117 Direction.

PCG Response

Individual submitters identified that the application of an environmental management zone places overly restrictive controls, thus, down zoning the future development potential of the land. The recommendations of the draft strategic review are consistent with Section 117 Directions, as outlined in Appendix 9 of the draft strategic review.

There is limited difference between the proposed zoning and land use permissibility under WLEP 2000, proposed E3 zoning clearly reflects the environmental characteristics of the land. The PCG have ensured that all lawful land uses to continue under the WLEP 2011 as either a permissible with consent or an additional permitted use (Schedule 1 of the LEP). No change to the strategic review is necessary in relation to this matter.

6. Next Steps of the Strategic Review

The strategic review is being undertaken in two stages, stage one is currently underway and involves translating the planning controls under WLEP 2000 into the best fit zones under WLEP 2011.

The draft strategic review was exhibited between 22 June to 30 August 2013 and this was a key milestone in the scope of works for stage one of the review process. This report documents the issues raised in submissions and responds to key issues raised.

The next steps in stage one of the review process, are as follows:

1. The Warringah Development Assessment Panel (WDAP) will consider all submissions, conduct an independent public hearing and provide an independent report to Warringah Council;
2. Following WDAP, the Strategic Review and Submissions Report will be reported to a Council Meeting; then
3. Warringah Council will prepare a planning proposal to bring the deferred lands into the WLEP 2011. This planning proposal will be exhibited further for public comment.

Stage two of the review will be undertaken by Warringah Council. This Stage will involve conducting further studies to determine the future urban development capability of land as recommended by the PAC Report, 2009.