

Northern Councils Environmental Zones Review



Planning &
Environment

Frequently Asked Questions

May 2014

WHAT IS THE NORTHERN COUNCILS E ZONE REVIEW?

- The Northern Councils E Zone Review is an independent review, being conducted by consultants Parsons Brinckerhoff, into the way environmental zones and overlays are being applied to land on the Far North Coast.
- The review applies to the zoning of land in the Ballina, Byron, Lismore, Tweed and Kyogle local government areas.
- The environmental zones under review are E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living.

WHY WAS THE REVIEW INITIATED?

- The review was initiated to inform planning decisions on applying environmental zoning and environmental overlays in the Far North Coast so that a balance is achieved between allowing agriculture and rural uses to continue while protecting important environmental values.
- Concern has been expressed that councils are introducing environmental zones and overlays as they update their LEPs, without evidence of the environmental significance of the land.
- In some cases, these zones are being applied to rural and agricultural land which has the potential to limit the use of this land for agricultural purposes.

WHAT IS HAPPENING WHILE THE REVIEW IS UNDERWAY?

- Councils are proceeding with their LEPs, but areas with environmental zones and overlays are being deferred, pending the outcome of this review.
- In the meantime, the current zoning of the land will continue to apply to those areas deferred from the LEPs.

WHAT CONSULTATION HAS BEEN CONDUCTED DURING THE REVIEW?

- Parsons Brinckerhoff has:
 - consulted with each council about the environmental zonings and overlays proposed in their new LEPs.
 - conducted extensive consultation with land owners and stakeholders, hosting drop-in sessions in each council area and making follow-up telephone calls to people who could not attend sessions.
 - analysed public submissions from land owners and stakeholders.
 - conducted an on-the-ground assessment of a sample of properties affected by the zonings and overlays in each council area, to determine the accuracy of the proposed zoning based on environmental features, rural uses or agricultural activities.

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WHAT STAGE HAS THE REVIEW REACHED?

- The independent consultant has now produced an interim report which can be viewed at: www.planning.nsw.gov.au/proposals

WHAT RECOMMENDATIONS ARE BEING MADE IN THE INTERIM REPORT?

- The consultant's key draft recommendations are that:
 - environmental zones should only be applied to those areas which have important environmental values, based on validated ecological evidence.
 - E2 and E3 zoning should only be applied where there is proven evidence of significant environmental values that meet the specific criteria listed by the consultant.
 - land that does not meet the criteria should be zoned according to its primary use.
 - where an environmental value is identified which may not warrant an environmental zone, it should be protected through an environmental overlay on the LEP map with an accompanying clause. The consultant considers environmental values which should be managed in this way are drinking water catchment areas, scenic protection areas, coastal risk areas and terrestrial biodiversity.
 - extensive agriculture should be permitted with consent on E2 zoned land (except in Tweed where it will not be permitted, as is currently the case).
 - extensive agriculture should be permitted without consent on E3 zoned land.
 - aesthetic values should be removed as an attribute from the E3 zone.
 - the proposed E4 zoning should be removed from the draft Byron LEP and be replaced with a suitable residential zoning.
 - the proposed E2 and E3 zones in the Kyogle LEP should be removed until an appropriate study is undertaken and approved.
- The consultant's specific draft recommendations for each local government area are available on the website at www.planning.nsw.gov.au/proposals.

WHAT WILL BE THE PRACTICAL OUTCOMES OF THE CONSULTANT'S RECOMMENDATIONS?

- Only land with high value vegetation, such as recognised littoral rainforests, wetland areas or Endangered Ecological Communities, will be included in environmental zones.
- E zones will only be applied where there is evidence of significant environmental values.
- This means that E zones will be more restrictively applied, while still protecting the most important environmental areas.
- Where land does not have the required environmental significance to be given an E zone, it will be zoned according to its primary use.

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- This means that cleared land used for agricultural or rural purposes will be given an appropriate rural zoning.
- Agricultural and rural uses will continue while important environmental values are protected.

WHAT IS THE DEPARTMENT OF PLANNING & ENVIRONMENT'S INTERIM RESPONSE TO THE RECOMMENDATIONS?

- The Department of Planning & Environment (DP&E) 'in principle' supports:
 - the criteria for applying E2 and E3 zoning, as identified by the consultant, so that these zones will only apply where there is validated evidence of significant environmental values.
 - allowing extensive agriculture with council's consent on E2 zoned land and without council's consent on E3 zoned land.
 - the use of overlay maps and related clauses in LEPs to manage **only** matters of public health, safety, risk and hazard such as drinking water catchment areas, coastal risk areas, flooding and acid sulphate soils.
 - councils should assess other environmental attributes such as scenic protection when they determine a development application.
 - the removal of aesthetic values from the objectives of the E3 zone.
- DP&E does **not** support the use of overlays for matters such as scenic protection and terrestrial biodiversity.
- DP&E's full response to the interim report is available at: www.planning.nsw.gov.au/proposals

WILL THE CONSULTANT'S RECOMMENDATIONS AND THE DEPARTMENT'S INTERIM RESPONSE RESULT IN A REDUCTION IN THE AREA OF E ZONES?

- Councils will need to use the consultant's recommended criteria to determine what land should be in an E zone.
- However, given the consultant's recommendation that land such as drinking water catchments or scenic protection areas will no longer be included in E zones, there will inevitably be a reduction in the area of land within an E zone.
- Other environmental values, such as drinking water catchments and coastal risk areas, which do not warrant an environmental zone will be protected through environmental overlays.
- The combined area of land with E zones and land shown on an overlay map will mean all important environmental values are protected in a manner which is appropriate to the level of environmental significance.

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HOW WILL AN ENVIRONMENTAL OVERLAY, SUCH AS A DRINKING WATER CATCHMENT OVERLAY, AFFECT WHAT I CAN DO ON MY LAND?

- An environmental overlay does not change the zoning of land (e.g. rural) and the uses which are allowed under that zoning. It also has no impact on carrying out existing activities.
- The overlay map and accompanying clause are considered by council only when a development application is required for a land use. For example, if the land is within a drinking water catchment area and development consent is required, the overlay and accompanying clause would apply.
- Any land use that does not require a development application, for example extensive agriculture in a rural zone, is not subject to the overlay or accompanying clause.
- The clause accompanying the overlay map lists the particular matters which council must consider when assessing a development application in the area where the overlay applies.

HOW WILL THE GOVERNMENT ENSURE COUNCILS IMPLEMENT THE ADOPTED RECOMMENDATIONS?

- The Minister will issue a Ministerial direction to councils about the criteria which must be used when applying an E2 or E3 zone and the circumstances in which an environmental overlay will be used.

HOW WILL THE ZONING OF PROPERTIES BE DETERMINED?

- Each council will assess the deferred areas in their LEPs against the adopted criteria for the application of environmental zones.
- They will propose zones for these deferred areas based on the final criteria and exhibit the proposed zoning for public comment, before finalising those areas in their LEP.

WILL THE INFORMATION OBTAINED AT SITE INSPECTIONS DURING THE REVIEW BE USED TO DETERMINE THE ZONING OF MY LAND?

- No, the information obtained by the consultant at site inspections is for the purpose of the review only. That information was used in the consultant's broad assessment of how environmental zonings have been applied in relation to evidence on the ground.

IF I REVEGETATE AREAS OF MY LAND WILL THIS RESULT IN AN E ZONE?

- No, where land has been voluntarily revegetated by a landowner, councils will not be able to impose an E2 or E3 zoning, without the agreement of the landowner.
- This will be stipulated in the Ministerial direction.

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WHAT IS THE RELATIONSHIP OF THE E ZONES REVIEW TO THE NORTHERN RIVERS FARMLAND MAPPING PROJECT?

- Land that is mapped as 'State Significant Farmland' or 'Regionally Significant Farmland' on the Northern Rivers Farmland Protection Project - Final Map 2005, and does not contain significant environmental values, will be required to have an appropriate rural zoning.

ARE THERE STATEWIDE IMPLICATIONS FROM THIS REVIEW?

- Yes, the outcomes of this review will form the basis to determine criteria for applying E2 and E3 zones and the circumstances for using environmental overlays when councils across the state update their LEPs.
- Further advice will be provided to all councils following completion of the review.

IS THE GOVERNMENT GOING TO ADOPT THE FINDINGS OF THE CONSULTANT'S INTERIM REPORT?

- The NSW Government will consider the consultant's recommendations and the feedback from councils, agencies, landowners and stakeholders before making any decision whether to adopt, amend or reject the recommendations.

WHAT NEEDS TO BE DONE TO FINALISE THE REVIEW?

- The Department of Planning & Environment will be briefing councils and agencies on the recommendations of the interim report.
- The interim report will be on exhibition at www.planning.nsw.gov.au/proposals for 21 days.
- Feedback from this consultation will be used to prepare the final recommendations.
- The final report will be provided to the Minister for Planning for a decision.

FURTHER INFORMATION:

- www.planning.nsw.gov.au/proposals
- via email at: ezonesreview@planning.nsw.gov.au
- telephone: 1300 305 695