

Appendix 3 – 22 March 2018 Council Report and Resolutions

Report No. 13.15 PLANNING - Update on Environmental Zone review and Planning Proposal implementation process

Directorate: Sustainable Environment and Economy

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5 **File No:** I2018/99

Theme: Ecology
Planning Policy and Natural Environment

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Summary:

15 At the 17 November 2016 Ordinary Meeting Council resolved (**Res16-576**) to endorse a process for amending Byron Local Environmental Plan (LEP) 2014 in order to implement the *Northern Councils E Zone Review Final Recommendations Report*. E zones were deferred from Byron LEP 2014 pending outcome of the State Government's review process, which was completed in late 2015.

20 Staff have commenced the E zone review process and are moving towards preparation of planning proposals. The purpose of this report is to update Council on:

- recent engagement with affected landowners
 - the proposed staging of planning proposals (based on the responses received) to enable an efficient and effective Gateway lodgement process with the Department of Planning & Environment (DPE).
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30 Council has received feedback from more than 750 affected landowners in the Shire. From this feedback process, staff have been able to determine an appropriate staging of planning proposals to enable more efficient and effective processing and minimise delays to landowners where there is agreement. The report recommends that Planning Proposals #1 and #2 be finalised and submitted to DPE for Gateway Determination in accordance with the target dates shown in Table 2.

35 Whilst the recent engagement included all landowners with potential E Zones mapped across the Shire for transparency, as per council resolution **16-576** only Deferred Matter designated land will progress to the next stage of formal planning proposals. The only exception to this will be where a landowner with LEP 2014 zoned land has requested an E Zone designation over their land.

40 This report also recommends that Council endorse the introduction of a new LEP 2014 zone, *RU6 Transition*, to be applied to land currently zoned *7(d) Scenic Escarpment* in LEP 1988 that does not meet the criteria for an environmental zoning. The ability to apply an *RU6 Transition Zone* as part of the E Zone implementation program would maintain consistency with the current *7(d)* zone provisions and ensure the scenic escarpment, as well as other visually significant areas, are not eroded by inappropriate land uses that are otherwise permitted in the *RU1/RU2* zones. Subject to Council's endorsement of the proposed *RU6 Transition Zone*, staff propose to undertake an informal exhibition to invite feedback from affected land owners. The outcomes of this feedback would be reported back to Council together with a draft Planning Proposal #3 as soon a practical after Council's adoption of Planning Proposal #2.

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50 A further report on the use of mapped overlays to protect environmental values that do not meet the criteria for an E zone, or as an alternative to an E zone, will be provided to Council upon finalisation of the E zone Planning Proposals.

NOTE TO COUNCILLORS:

5 In accordance with the provisions of S375A of the Local Government Act 1993, a Division is to be called whenever a motion for a planning decision is put to the meeting, for the purpose of recording voting on planning matters. Pursuant to clause 2(a) under the heading Matters to be Included in Minutes of Council Meetings of Council's adopted Code of Meeting Practice (as amended) a Division will be deemed to have been called by the mover and seconder of all motions relating to this report.

RECOMMENDATION:**That Council:**

1. **Note that land currently zoned under LEP 2014 (i.e. not Deferred Matter land) where the landowner received an E Zone notification letter but did not request an E Zone designation, will be excluded from further consideration under the E Zone review process.**
 2. **Prepare Planning Proposal #1: (PP1) reflecting early agreements reached between landowners and Council staff on how environmental zones are to be applied and submit to the Department of Planning & Environment for Gateway determination.**
 3. **Prepare Planning Proposal #2: (PP2) for:**
 - (i) **Deferred Matter areas that do not meet the criteria for an environmental zoning and will have a suitable rural zone applied (excluding LEP 1988 7(d) zoned land); or**
 - (ii) **Deferred Matter areas that currently have a residential, rural residential, commercial or industrial zoning in LEP 1988 that will transition to an equivalent LEP 2014 zone; or**
 - (iii) **reflecting further agreements reached between landowner and Council staff on how environmental zones are to be applied;**
- and submit to the Department of Planning & Environment for Gateway determination.**
4. **Endorse the introduction of a new LEP 2014 zone, *RU6 Transition*, to be applied to land currently zoned 7(d) *Scenic Escarpment* LEP 1988 that does not meet the criteria for an environmental zoning.**
 5. **Subject to Council's endorsement of the proposed *RU6 Transition Zone*, prepare and undertake an informal exhibition of the related *RU6* provisions for feedback from affected land owners who have not already agreed to this zone, and report the outcomes back to Council.**
 6. **Receive a report on draft Planning Proposal #3: (PP3) for:**
 - (i) **Parcels where there is no agreement reached between the landowner and Council staff on proposed environmental zone/s; or**
 - (ii) **Deferred Matter areas that meet the criteria for an environmental zoning (in part or all) and where there has been no response from the landowner; or**
 - (iii) **remaining LEP 1988 7(d) zoned land to be zoned *RU6 Transition* (subject to Council endorsement).**

as soon as practical after Council's adoption of Planning Proposal #2.

7. **Note that a further report on the use of mapped overlays as mechanism to protect environmental values will be provided to Council upon finalisation of the E zone Planning Proposals identified in Table 2.**
8. **Consider the allocation of \$50,000 as part of the forward budget process 2018/19 (alongside other Council program and budget priorities) to support a staged planning proposal program supported by robust community engagement to better inform the final E Zone Planning Proposal/s.**

Attachments:

- 1 Proposed RU6 Transitional zone: rationale and other supporting information, E2018/12601 [⇒](#)
- 5 2 Proposed uses and objectives in E2 and E3 zones - extract from Council website, E2018/15075 [⇒](#)
- 3 Landowner Letter 1: possible land satisfying E2 - E3 criteria, E2018/15918 [⇒](#)
- 4 Landowner Letter 2: land not satisfying E2 - E3 criteria, E2018/15926 [⇒](#)
- 5 Special Disclosure of Pecunary Interest, E2012/2815 [⇒](#)

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Report**Background**

At the Ordinary Meeting 17 November 2016 Council resolved (**Res 16-576**) the following:

- 5 1. That Council endorse the following process for amending Byron Local Environmental Plan (LEP) 2014 in order to implement the Northern Councils E Zone Review Final Recommendations Report:
- 10 a. accept the Department of Planning and Environment's offer of \$40,000 together with a conditional 30 June 2017 deadline for lodgement of a planning proposal;
- 15 b. prepare and exhibit a draft planning proposal that includes the proposed zoning and supporting methodology for a minimum period of 6 weeks (following the completion of Shire wide vegetation mapping);
- 15 c. invite submissions from affected landowners to determine: (i) primary land use; (ii) agreement or disagreement with proposed zoning; and (iii) alternative zoning (where applicable);
- 20 d. finalise the planning proposal for those sites where there is agreement with the proposed or alternative zoning; and
- 25 e. resolve the zoning of outstanding sites in a subsequent planning proposal.
- 20 2. That Council write to the Department of Planning and Environment (DPE) reaffirming Council's long standing position that a separate coastal hazard zone is required in Byron Local Environmental Plan 2014, as the current Standard Instrument LEP does not provide a suitable replacement for our current 7(f1) Coastal Land and 7(f2) Urban Coastal Land Zones and therefore appropriate alternatives such as 'E5 Coastal Hazard' and/or 'E6 Coastal Living' need to be provided.

A project update report to the Ordinary Council Meeting 23 February 2017 reported that:

- 30 • the DPE had advised that it is unable to support Council's endorsed process for implementing the E Zone review recommendations; hence \$40,000 funding offer cannot be provided;
- 35 • a letter had been forwarded to the Department of Planning and Environment (DPE) reaffirming Council's long standing position that a separate coastal hazard zone is required in Byron Local Environmental Plan 2014.

An appropriate coastal hazard zone and related planning controls are yet to be developed in consultation with the State Government.

40 Staff have since commenced the E zone review process and are moving towards preparation of planning proposals. The purpose of this report is to update Council on:

- 45 • recent engagement with affected landowners
- the proposed staging of planning proposals (based on the responses received) to enable an efficient and effective Gateway lodgement process with the Department of Planning & Environment (DPE).

Land Owner Engagement

50 The *Northern Councils E Zone Review Final Recommendations Report* (2015) (Final Recommendations Report) requires verification of the presence of vegetation attributes that meet the E2 or E3 criteria (as informed by Council's Shire wide vegetation mapping); identification and verification of primary land use; and confirmation of proposed E Zone with the affected landowner.

As part of the verification process, notification letters were sent to potentially affected E Zone landowners in early October 2017. These are discussed in more detail below. For consultation purposes, in applying the state government's environmental zones criteria, the mapping of possible E Zones extended beyond those area's originally identified with environmental values in 2012 and marked as 'Deferred Matters' (DM) in LEP 2014. Hence all landowners with environmental values on their land were notified, irrespective of having a DM.

This was combined with other activities and methods of communication to maximise the potential for understanding and support by affected landowners and the wider community on E Zone implementation including:

- three targeted stakeholder meetings to explain and pilot-test the process used in applying the State Government's E Zone criteria to land in the Shire;
- use of Council's website, public media, Facebook and an e-newsletter to advertise the engagement opportunities for landowners;
- provision of supporting material on Council's website including electronic access to interactive mapping, FAQ and fact sheets on how to provide feedback and an information sheet on the proposed uses and objectives in the E2 and E3 Zone (a copy of the information sheet is contained in Attachment 2);
- one on one meetings in both the office and field; and
- responding to phone enquiries and emails.

The engagement feedback period initially ran from 9 October - 22 December 2017, but was extended until late January 2018, for a total of 16 weeks, due to the high level of interest in the review.

Why does potential E zone mapping extend beyond the current Deferred Matter boundaries?

As part of the E Zone engagement process it was decided to map all vegetation satisfying the criteria for an E2 or E3 Zone and consult with all affected landowners, not just those with a DM designation. This decision was made on the basis that:

- the draft LEP 2012 DM boundaries were based on 2007 vegetation mapping and a range of considerations including variable width buffers (eg. riparian, NP), smoothing of gaps and sharp edges and existing '7' zones. As such, the DM boundaries reflect areas determined using a different methodology (vegetation, environment and aesthetics) than has now been applied in accordance with the 2015 Final Recommendations Report
- mapping of contiguous vegetation communities for possible E2 and E3 Zones would ensure a more holistic assessment of such vegetation for zoning purposes
- it was anticipated that the E Zone review process may result in agreed outcomes on many sites where the proposed E Zone/s do not align with the original DM areas, which is consistent with the *Northern Councils E Zone Review Final Recommendations Report* and the *Ministerial 117 Direction 2.5*.

Whilst potential E Zones were mapped across the Shire in this way for transparency, as per council resolution **16-576** only DM designated land will progress to the next stage of formal planning proposals. The only exception to this will be where a landowner with LEP 2014 zoned land has requested an E Zone designation over their land.

It is proposed that land currently zoned under LEP 2014 (i.e. not Deferred Matter land) where the landowner received an E Zone notification letter but did not request an E Zone designation, will be excluded from further consideration under the E Zone review process.

5 ***Landowner Notification Letters***

Two types of notification letters were issued as outlined below.

Letter 1: Possible land meeting E Zone Criteria

10 Approximately 2600 letters of this type were issued to landowners where Council's records suggest that all or part of their land may meet the criteria for an environmental zoning, irrespective of whether or not the land had a 'Deferred Matter' zone. The letter was intended to seek feedback from the landowner to:

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- verify the Council's records on the criteria used to apply the E Zone, namely
 - vegetation mapping
 - primary land use
 - clarify the landowner's position on the application of the proposed E Zone designation (agreement/disagreement)

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A template copy of this letter is enclosed as Attachment 3.

Letter 2: Land not meeting E Zone Criteria

25 Approximately 560 letters of this type were issued to landowners where Council's records suggest that none of their land meets the criteria for an environmental zoning. The letter was intended to advise that:

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- the land does not meet the criteria for an E Zone on the subject land;
 - a suitable alternative zone will be applied to land currently mapped as DM under LEP 2014;
 - landowners would be notified in writing of the suitable alternative zone and would have an opportunity to provide feedback on this zoning at a later date.

This letter was intended to be informative only and did not require a response from the landowner.

35 A template copy of this letter is enclosed as Attachment 4.

40 Consistent with **Res 16-576**, land wholly within the coastal 7(f1) and 7(f2) zones did not receive notification letters as these areas will be considered under a separate process and remain as a Deferred Matter until appropriate planning controls are developed in consultation with the State Government.

Responses

45 Council has received feedback from more than 750 affected landowners in the Shire. Staff are currently reviewing this feedback on a locality-by-locality basis. Feedback was also received from community members/groups who were not affected landowners, but had an interest in the outcome of the review.

50 As part of the feedback process Council staff engaged with landowners by one or more of the following methods: phone call, email, meeting and/or site visit. Not all landowners who received Letter 1 have responded, however further responses are still being received and considered at the time of writing this report.

From this feedback process staff have been able to determine an appropriate staging of planning proposals to enable more efficient and effective processing and minimise delays to landowners where there is agreement. The proposed staging is outlined in Table 2.

5 Table 2: Proposed “staging” of Planning Proposals (PP)

PP No.	PP Type	Staff comments and / or rationale
PP #1 Target date for lodgement with DPE: May/June 2018	Reflecting early agreements reached between landowners and Council staff on how environmental and non-environmental zones (e.g. RU1/RU2) are to be applied. This includes both DM & non-DM land in the Shire.	<ul style="list-style-type: none"> • These landowners took the time to provide timely feedback about their land; • Landowner agreement has been reached on proposed E zones and/or other zones; • Private land may be zoned E2 or E3 despite being inconsistent with the criteria, at the request of the landowner; • Due to the agreed outcome/s on these parcels it is proposed that PP #1 be finalised and submitted to DPE for Gateway Determination by the target date. <p>RECOMMENDATION: That PP #1 be finalised and submitted to DPE for Gateway.</p>
PP #2 Target date for lodgement with DPE: September 2018	Addressing: <ul style="list-style-type: none"> • DM areas that do not meet the criteria for an environmental zoning and will have a suitable rural zone applied (excluding LEP 1988 7(d) zoned land); or • DM areas that currently have a residential, rural residential, commercial or industrial zoning in LEP 1988 and will transition to an equivalent LEP 2014 zone; or • further agreements reached between landowner and Council staff. 	<ul style="list-style-type: none"> • Notification letters with no proposed E Zone/s (Letter 2) did not require a landowner response; • For land in a LEP 1988 urban zone (e.g. 2 (a), 2 (v)) where the primary use is residential or business, an E Zone will not be applied unless requested by the landowner; • A framework exists for transitioning non E zone areas to an equivalent LEP 2104 zone (see Table 3 following); • Under the planning proposal process a further opportunity exists for landowner feedback on the proposed non E Zone designations <p>RECOMMENDATION: That PP #2 be finalised and submitted to DPE for Gateway.</p>

PP No.	PP Type	Staff comments and / or rationale
PP #3 Target date for lodgement with DPE: 'To be Advised'	Addressing DM parcels where: <ul style="list-style-type: none"> • a response was received but landowner and Council staff are unable to reach agreement on proposed environmental zone/s; or • all or part meet the criteria for an environmental zoning but there has been no response from the landowner; or • further agreements reached between landowner and Council staff; or • balance of LEP 1988 7(d) zoned land is to be zoned <i>RU6 Transition</i> (subject to Council endorsement). 	<ul style="list-style-type: none"> • Number of DM areas where agreement could not be reached is likely to be low and relate to land already in an existing LEP 1988 environmental zone; • Proceeding to a Gateway may elicit a response and assist in verification for those who have not responded; • Under the planning proposal process an opportunity exists for further landowner feedback on the proposed environmental zoning • Landowners who disagree with the final E zone/s adopted by Council can seek an independent review by the NSW Chief Planner. <p>RECOMMENDATION: That Council receive a report on draft PP #3 as soon as practical after Council's adoption of Planning Proposal #2</p>

As indicated above, staff are working towards forwarding the first planning proposal to the Department of Planning and Environment (DPE) for Gateway determination in May/June 2018.

5 Proposed 'RU6 Transition Zone'

Protection of the rural landscape values, including scenic amenity, was one of the key messages expressed by the community in the *Rural Land Use Strategy Discussion Paper*. Under BLEP 1988 the 7(d) *Scenic Escarpment Zone* largely covers most escarpment land in the Shire, as well as other visually important areas. During preparation of the shire wide LEP, areas within the 7(d) zone were proposed to be zoned either *E2 Environmental Conservation* or *E3 Environmental Management* in accordance with the Byron Shire Local Environmental Study 2008. This is partly because there is no equivalent zone provided in the Standard Instrument LEP Template to accommodate such areas.

All 7(d) areas deferred from LEP 2014 are now being assessed against the State Government's E zone Review Final Recommendations Report and related criteria for applying E Zones. Under the Final Recommendations Report, councils on the Far North Coast are not permitted to use scenic or aesthetic values as an attribute for the application of an E2 or E3 Zone or mapped planning controls. The report also states that "A LEP Map is not to be used for areas of scenic protection or aesthetic values". Whilst some vegetated areas in the 7(d) *Scenic Escarpment Zone* meet the criteria for applying E2 Environmental Conservation, other areas do not and will require an alternative rural zone.

The E Zone review and the Rural Land Use Strategy engagement processes have identified a need for a suitable replacement zone to the 7(d) *Scenic Escarpment Zone* in order to:

- align with community values and Council policy (i.e. by ensuring that visually prominent areas are not eroded by inappropriate land uses that are otherwise permitted in the rural RU1/RU2 Zones);

- avoid delays for landowners who have already agreed to an E Zone on part of their land, but cannot proceed without a comparable zone in LEP 2014 for the remaining 7(d) Zone LEP 1988; and
- avoid the prospect of other 7(d) zoned land remaining as Deferred Matter due to the absence of a comparable LEP 2014 zone.

To maintain consistency with the 7(d) zone provisions and ensure escarpment (and other visually prominent) areas are not eroded by inappropriate land uses, a new *RU6 Transition Zone* is proposed. This is in recognition that the scenic escarpment is a sensitive landscape experiencing, and likely to continue to experience, increased development pressure. Inappropriate development has the potential to erode the scenic values of these areas and conflict with community values and Council’s policy framework in this regard. The proposed *RU6 Transition Zone* will maintain the existing development framework around suitable land uses in these visually prominent areas and highly valued landscapes (by both residents and visitors). Initial discussions with the DPE have indicated that the use of the *RU6 Transition Zone* in this context would appear to be consistent with the intend application of this zone.

More detailed information about the proposed *RU6 Transition Zone* (as a draft amendment to Byron LEP 2014) is contained in Attachment 1.

RECOMMEDATIONS:

- **Endorse the introduction of a new LEP 2014 zone, *RU6 Transition*, to be applied to land currently zoned 7(d) *Scenic Escarpment* LEP 1988 that does not meet the criteria for an environmental zoning.**
- **Subject to Council’s endorsement of the proposed *RU6 Transition Zone*, prepare and undertake an informal exhibition of the *RU6* provisions for feedback from affected land owners who have not already agreed to this zone, and report the outcomes back to Council.**

Framework for applying a suitable zone for non E Zone land under the LEP 2104 methodology

Table 3 below provides a framework to be applied in transitioning non E zone areas (LEP 1988) to an equivalent LEP 2104 zone, based on the previous adopted LEP 2014 methodology. This has been updated to reflect the introduction of a new RU6 Zone (pending Council’s endorsement).

Table 3: Framework for translation of land use zones between LEP 1988 and LEP 2014

LEP 1988 zones/land not meeting the criteria for an environmental zoning	Proposed LEP 2014 zone/s
<ul style="list-style-type: none"> • Agricultural Protection Zones 1B1 & 1B2 Zones • State Significant Farmland Protection Areas • Prime Agricultural Lands • Current 1E Extractive Resources Zone (excluding Myocum Waste Management Facility) • S117 identified mineral resources • Private properties currently managed by State Forests (areas identified in layer file received from State Forests) 	<p align="center">RU1 Primary Production Zone</p>

LEP 1988 zones/land not meeting the criteria for an environmental zoning	Proposed LEP 2014 zone/s
1A General Rural and 1D Investigation Zones	RU2 Rural Landscape Zone <i>Note:</i> On completion of the zoning mapping small (<10ha) and narrow (<50m) areas of RU2 were merged into the adjoining RU1 zone.
7(d) Scenic Escarpment	RU 6 Transition Zone (subject to endorsement) <i>(Note: Not part of the previous LEP 2014 methodology)</i>
2 (v) Village Zone	RU 5 Village Zone
2 (a) Residential Zone	R2 Low Density Residential
1 (c1) and 1(c2) Small Holdings	R 5 Large Lot Residential
3 (a) Business Zone	B1, 2, 4 & 7 Business zones as appropriate reflective of surrounding zoning
4 (a) Industrial Zone	IN 1 & 2 Industrial zones as appropriate reflective of surrounding zoning
5 (a) Special Uses Zone	SP2 Infrastructure
2 (t) Tourist Area Zone	SP3 Tourist

5 Some coastal areas are also identified as a Deferred Matter under the Byron LEP 2014, pending the outcomes of the State Government's coast management review and the possible adoption of a new coastal zone. This applies to (7 (f1) *Coastal Lands* and 7(f2) *Urban Coastal Lands* in LEP 1988. Such areas will be considered under a separate process and remain as a DM under the Byron LEP 2014 until appropriate planning controls are developed in consultation with the Sate Government. These zones are therefore not reflected in Table 3 above.

10 **What happens if a landowner disagrees with a proposed E zone?**

15 The DPE *Northern Councils Environmental Zone Review Final Recommendations Report & Section 117 Direction 'Frequently Asked Questions'* Sheet clarifies the process to be applied in the event that a landholder does not agree that their land meets the primary use or validation criteria for an E Zone. The NSW Chief Planner has been appointed by the Minister for Planning to undertake an independent review. The Chief Planner will make a decision on the dispute, based on an assessment of the evidence provided by both Council and the landholder. Councils are required to notify landholders once it resolves to adopt an E zone following a review of submissions. The landholder has 28 days from Council's notification of the adoption of the final proposed zones to notify the Department of their request for a review by the Chief Planner.

Council and Crown Land

25 As part of the review process, staff will hold further discussions with other sections of Council and Crown land representatives to determine an appropriate zone for land where Council's records suggest that all or part of this land may meet the criteria for an environmental zoning. Landowner feedback requesting an outcome that may affect Council or Crown land will be considered as part of this process.

Overlays

5 Council has the option of using mapped planning controls (also known as “overlays”) to protect environmental values that do not meet the criteria for an E zone, or as an alternative to an E zone. These may be applied to sensitive riparian areas (i.e. land within a certain distance of a watercourse) or other native vegetation that needs to be managed through local provision and associated “overlay” map in LEP 2014. The verification process has identified potential land where this may be an appropriate management mechanism, however this is best considered at the end of
10 the E Zone review. A further report on this option will be provided to Council upon finalisation of the application of E Zones.

Financial Implications

15 Staff are proposing a staged planning proposal program supported by robust community engagement to better inform the final E Zone Planning Proposal/s. The timeframe for this project will extend beyond financial 2017-18 financial year and hence its successful completion will require additional budget allocation in the 2018/19 financial year. A \$50,000 budget bid has been submitted for consideration in the 2018/19 Council Budget.

20 **Statutory and Policy Compliance Implications**

The process of applying E zones and mapped overlays in Byron LEP 2014 must satisfy Section 117 Direction 2.5 – *Application of E2 and E3 Zones and Environmental Overlays in Far North Coast LEPs*. This direction specifically requires that a planning proposal that introduces or alters
25 an *E2 Environmental Conservation* or *E3 Environmental Management Zone*, or an overlay and associated clause must be consistent with the *Northern Councils E Zone Review Final Recommendations*.

30 In addition, the newly proposed *RU6 Transition Zone* is consistent with community values and Council policy in relation to the current 7(d) *Scenic Escarpment Zone*, as well as the relevant goals and supporting directions in the *North Coast Regional Plan 2036*.

LEP 2014: Proposed **RU6 Transition Zone**

Rationale

Protection of the rural landscape values, including scenic amenity, was one of the key messages expressed by the community in the *Rural Land Use Strategy Discussion Paper*. Under BLEP 1988 the 7(d) Scenic Escarpment Zone covers most of the escarpment land in the Shire, as well as other visually important areas. During preparation of the shire wide LEP, areas within the 7(d) zone were proposed to be zoned either E2 Environmental Conservation or E3 Environmental Management in accordance with the Byron Shire LES 2008. This is because there is no equivalent zone provided in the Standard Instrument LEP Template (SI LEP) to accommodate such areas.

All 7(d) areas deferred from LEP 2014 are now being assessed against the State Government’s E zones Review Final Recommendations Report and related criteria for applying E Zones. Under the Final Recommendations Report, councils on the Far North Coast are not permitted to use scenic or aesthetic values as an attribute for the application of an E2 or E3 zone or mapped planning controls. The report also states that “A LEP Map is not to be used for areas of scenic protection or aesthetic values”. Whilst some vegetated areas in the 7(d) Scenic Escarpment Zone meet the criteria for applying E2 Environmental Conservation, other areas do not and will require an alternative rural zone.

The E Zone review and the Rural Land Use Strategy engagement processes have identified a need for a suitable replacement zone to the *7(d) Scenic Escarpment Zone*. This is necessary in order to:

- align with community values and Council policy (ie. by ensuring that visually prominent areas are not eroded by inappropriate land uses that are otherwise permitted in the RU1/RU2 zones);
- avoid delays for landowners who have already agreed to an E Zone on part of their land, but cannot proceed without a comparable zone in LEP 2014 for the remaining 7(d) Zone LEP 1988; and
- avoid the prospect of other 7(d) zone land remaining as Deferred Matter due to the absence of a comparable LEP 2014 zone.

Although one of the objectives in the current RU1 Primary Production Zone and RU2 Rural Landscape Zone is ‘*To protect significant scenic Landscapes and to minimise impacts on the scenic quality of the locality*’, the range of permissible land uses in both zones is much greater than that of the 7(d) zone. This is shown in Table 1 below.

Initial discussions with the Department of Planning and Environment have indicated that the use of the RU6 Transition Zone in this context would appear to be consistent with the intend application of this zone.

Table 1 – Comparison of permissible land uses in the ‘7(d)’, ‘RU1’ and ‘RU2’ zones

ZONE →	7(d) Scenic Escarpment (BLEP 1988)	RU1 Primary Production (BLEP 2014)	RU2 Rural Landscape (BLEP 2014)
2. Permitted without consent	Nil.	Environmental protection works; Extensive agriculture; Home-based child care; Home	Environmental protection works; Extensive agriculture; Home-based child care; Home

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ZONE →	7(d) Scenic Escarpment (BLEP 1988)	RU1 Primary Production (BLEP 2014)	RU2 Rural Landscape (BLEP 2014)
		occupations	occupations
3. Permitted with consent	Agriculture; bed and breakfast establishments; bushfire hazard reduction; car parks; clearing of land; drainage; dwelling-houses; environmental facilities; home industries; primitive camping grounds; restaurants; roads; utility installations.	Agriculture; Airstrips; Animal boarding or training establishments; Business identification signs; Camping grounds; Community facilities; Dual occupancies; Dwelling houses; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Helipads; Home businesses; Home industries; Industrial retail outlets; Industrial training facilities; Intensive livestock agriculture; Intensive plant agriculture; Landscaping material supplies; Open cut mining; Places of public worship; Plant nurseries; Recreation areas; Restaurants or cafes; Roads; Roadside stalls; Rural industries; Rural supplies; Rural workers' dwellings; Secondary dwellings; Tourist and visitor accommodation; Veterinary hospitals	Agricultural produce industries; Agriculture; Airstrips; Animal boarding or training establishments; Business identification signs; Camping grounds; Cemeteries; Centre-based child care facilities; Community facilities; Crematoria; Depots; Dual occupancies; Dwelling houses; Eco-tourist facilities; Environmental facilities; Extractive industries; Farm buildings; Flood mitigation works; Forestry; Funeral homes; Garden centres; Health consulting rooms; Helipads; Home businesses; Home industries; Hostels; Industrial retail outlets; Industrial training facilities; Information and education facilities; Landscaping material supplies; Livestock processing industries; Neighbourhood shops; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Restaurants or cafes; Roads; Roadside stalls; Rural supplies; Rural workers' dwellings; Secondary dwellings; Stock and sale yards; Storage premises; Tourist and visitor accommodation; Transport depots;

ZONE →	7(d) Scenic Escarpment (BLEP 1988)	RU1 Primary Production (BLEP 2014)	RU2 Rural Landscape (BLEP 2014)
			Truck depots; Veterinary hospitals; Warehouse or distribution centres
4. Prohibited	Any purpose other than a purpose specified in item 2 or 3.	Aquaculture; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3	Aquaculture; Backpackers' accommodation; Hotel or motel accommodation; Serviced apartments; Any other development not specified in item 2 or 3

To maintain consistency with the current 7(d) zone provisions and ensure visually prominent areas are not eroded by inappropriate land uses that are otherwise permitted in the RU1/RU2 zones, a new *RU6 Transition Zone* is proposed as follows.

ZONE RU6 TRANSITION ('grey shading' = compulsory in SI LEP / 'blue' font = additional local provisions proposed)

1 Objectives of zone

- To protect and maintain land that provides a transition between rural and other land uses of varying intensities or environmental sensitivities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.
- To encourage development that contributes to the Shire's rural landscape character and visual qualities

2 Permitted without consent

environmental protection works; home occupations.

3 Permitted with consent

Agriculture; bed and breakfast accommodation; camping grounds; community facilities; dwelling houses; Eco-tourist facilities; Environmental facilities; home businesses; Home industries; restaurants; roads; road side stalls.

Comparison with 7d Scenic Escarpment Zone (LEP 1988):

3 Only with development consent

Agriculture; bed and breakfast establishments; bushfire hazard reduction; car parks; clearing of land; drainage; dwelling-houses; environmental facilities; home industries; primitive camping grounds; restaurants; roads; utility installations.

4 Prohibited

Any other development not specified in item 2 or 3

The proposed RU6 zone recognises that the scenic escarpment is a sensitive landscape experiencing, and likely to continue to experience, increased development pressure. Inappropriate development has the potential to erode the scenic values of these areas and conflict with community values and Council's policy framework in this regard. The proposed *RU6* zone will maintain the existing development framework around suitable land uses in these visually prominent areas and highly valued landscapes (by both residents and visitors).

RU6 Planning Implications

It is noted that the introduction of a new RU6 zone will not be an exact translation of landuses from the 7(d) zone, mainly due differences between LEP 1988 and LEP 2014 landuse definitions. In addition, DCP 2014 (Chp D3 - Visually Prominent Sites, Visually Prominent Development and View Sharing) my need to be amended to included supporting provisions for land affected by the RU6 Zone.

Proposed Objectives and Uses in the E2 and E3 Zones

The following objectives and permissible land uses are proposed in the E2 and E3 zones:

Zone E2: Environmental Conservation

Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, or cultural values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.

Permitted without consent

Environmental protection works.

Permitted with consent

Environmental facilities; Extensive agriculture; Recreation areas; Roads.

Prohibited

Business premises; Hotel or motel accommodation; Industries; Recreation facilities (major); Residential accommodation; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; any other development not specified in above.

Zone E3: Environmental Management

Objectives of zone

- To protect, manage and restore areas with special ecological, scientific, or cultural values.
- To provide for a limited range of development that does not have an adverse effect on those values.
- To prevent inappropriate development in geologically hazardous areas.
- To encourage passive recreation, environmental education and an understanding of natural systems where these activities will not have a detrimental effect on land within the zone.

Permitted without consent

Extensive agriculture; Environmental protection works; Home-based child care; Home occupations.

Permitted with consent

Bed & breakfast accommodation; Boat launching ramps; Boat sheds; Building identification signs; Business identification signs; Camping grounds; Community facilities; Dual occupancies; Dwelling houses; Ecotourist facilities; Emergency services facilities; Environmental facilities; Farm buildings; Farm stay accommodation; Forestry; Flood mitigation works; Home businesses; Home industries; Horticulture; Jetties; Places of public worship; Recreation areas; Roads; Veterinary hospitals; Wharf or boating facilities.

Prohibited

Industries; Multi dwelling housing; Residential flat buildings; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified above.

To view the above land use definitions see the [dictionary of Byron LEP 2014](#)



BSC Ref: #E2017/84062

9th October 2017

****POSSIBLE LAND SATISFYING E2-E3 ZONE CRITERIA****

Dear Landowner

Update on Northern Councils Environmental Zone Review Process

I am writing to provide an update on the Northern Councils Environmental Zone Review process and you are receiving this letter as some or all of your property (Parcel no/s: **74170, 121220, 121230, 213010 and 228550**) is affected by this review.

Council's records suggest that all or part of your land may meet the criteria for an environmental zoning. Please read on for further information.

What is the Northern Councils Environmental Zone Review?

The Minister for Planning and Infrastructure, in September 2012, announced a review of the application of environmental zones in Local Environmental Plans (LEPs) on the Far North Coast. The purpose of the review is to provide a balanced approach to environmental zonings on the Far North Coast, as well as greater certainty for landowners, councils and the community on how environmental zoning will be applied. The review applies to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.

Environmental Zones - or 'E zones' - are designed to protect or manage land that is of important environmental value. These zones were removed from all Northern Rivers Councils' LEPs in 2012 pending the outcome of the review process. This has resulted in broad areas across Byron Shire being mapped as "Deferred Matter" (or DM) in Byron LEP 2014. This means that a land use zoning under Byron LEP 2014 has not been applied to all or part of your land, and consequently Byron LEP 1988 continues to apply to these areas.

What is the status of this review?

The State government released its *Northern Councils E Zone Review Final Recommendations Report (E zone Report)* in October 2015. It also released supporting legislation in March 2016 to ensure environmental zones are to be applied in accordance with the *E zone Report* recommendations. Council is now assessing the future zoning of "Deferred Matter" (or DM) areas under Byron LEP 2014, in accordance with the legislation.

How is Byron Shire Council implementing the review outcomes?

Council is committed to an open and transparent planning process for resolving deferred matter areas in Byron LEP 2014. This includes working with landowners to achieve agreed outcomes wherever possible. As the first stage of the assessment process Council is consulting with affected landowners to verify information relating to existing vegetation and primary use of the land. This will ensure the



TRADITIONAL HOME OF
THE BUNDJALUNG PEOPLE

ALL COMMUNICATIONS TO BE
ADDRESSED TO THE GENERAL MANAGER
PO Box 219 Mullumbimby NSW 2482 (70-90 Station Street)
E: council@byron.nsw.gov.au
P: 02 6626 7000 F: 02 6684 3018
www.byron.nsw.gov.au ABN: 14 472 131 473

most up to date information is used to inform the future rezoning of affected land (the next stage).

The outcome of this process may result in some areas of the Shire being rezoned as E2 Environmental Conservation and/or E3 Environmental Management, while other areas that do not meet the *E zone Report* criteria will have an alternative zone applied (most likely a rural zone) and any applicable mapped planning controls (known as "overlays").

What do Council's records identify for my property?

Council has undertaken a preliminary assessment to determine a possible zone for the DM area of your property. The assessment is based on: (i) information collected during the recent Shire wide Vegetation Mapping Review and (ii) primary land use (the predominant use of the land over the last two years).

Based on the *E zone Report* criteria, **Council's vegetation mapping indicates that all or part of your land has potential for an E2 or E3 zone.**

Based on Council's property information, **the primary land use of all or part of your land has been identified as 'Agricultural/Environmental/Other'.**

Where can I go to find out more?

To see what part of your land may be affected by a potential E2 or E3 zone or understand how primary land use was determined, you can view this and other supporting information on Council's website at <http://www.byron.nsw.gov.au/environmental-zones-e-zones>.

How can I have a say about the accuracy of this information

Council strongly encourages you to review the above information for your property and notify Council of any inaccuracies by **10 November 2017**. This can be done by:

- requesting a site inspection or making an appointment to speak with staff at Council's Mullumbimby offices by emailing joanne.green@byron.nsw.gov.au. Appointment times during the review period are between 9.00 and 12.00, Monday to Wednesday;
- talking to staff at various "drop-in" locations during October (see Council's website for dates/times);
- providing written feedback, which can be emailed to council@byron.nsw.gov.au or posted to Byron Shire Council, PO Box 219 Mullumbimby 2482 no later than **10 November 2017**.

Please include reference to the E Zone Review process, along with your property address and parcel number, contact details and a description of the changes you consider are required. You may also choose to include supporting information relating to primary land use and/or vegetation on your land. Council will review your feedback and may request your permission to carry out a site inspection of the vegetation on your property to inform amendments to the mapping.

If you require further assistance or advice regarding the above information, please contact Council's Environmental and Economic Planning division on ph (02) 6626 7126.

Yours sincerely



Alex Caras 1 Land Use Planning Coordinator



BSC Ref: #E2017/84064

9th October 2017

**** LAND NOT SATISFYING E2-E3 ZONE CRITERIA ****

Dear Landowner

Update on Northern Councils Environmental Zone Review Process

I am writing to provide an update on the Northern Councils Environmental Zone Review process and you are receiving this letter as some or all of your property (Parcel no/s: **131540**) is affected by this review.

Council's records suggest that NO part of your land meets the criteria for an environmental zoning. Please read on for further information.

What is the Northern Councils Environmental Zone Review?

The Minister for Planning and Infrastructure, in September 2012, announced a review of the application of environmental zones in Local Environmental Plans (LEPs) on the Far North Coast. The purpose of the review is to provide a balanced approach to environmental zonings on the Far North Coast, as well as greater certainty for landowners, councils and the community on how environmental zoning will be applied. The review applies to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.

Environmental Zones - or 'E zones' - are designed to protect or manage land that is of important environmental value. These zones were removed from all Northern Rivers Councils' LEPs in 2012 pending the outcome of the review process. This has resulted in broad areas across Byron Shire being mapped as "Deferred Matter" (or DM) in Byron LEP 2014. This means that a land use zoning under Byron LEP 2014 has not been applied to all or part of your land, and consequently Byron LEP 1988 continues to apply to these areas.

What is the status of this review?

The State government released its *Northern Councils E Zone Review Final Recommendations Report (E zone Report)* in October 2015. It also released supporting legislation in March 2016 to ensure environmental zones are to be applied in accordance with the *E zone Report* recommendations. Council is now assessing the future zoning of "Deferred Matter" (or DM) areas under Byron LEP 2014, in accordance with the legislation.



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How is Byron Shire Council implementing the review outcomes?

Council is committed to an open and transparent planning process for resolving deferred matter areas in Byron LEP 2014. This includes working with landowners to achieve agreed outcomes wherever possible. As the first stage of the assessment process Council is consulting with affected landowners to verify information relating to existing vegetation and primary use of the land. This will ensure the most up to date information is used to inform the future rezoning of affected land (the next stage).

The outcome of this process may result in some areas of the Shire being rezoned as E2 Environmental Conservation and/or E3 Environmental Management, while other areas that do not meet the *E zone Report* criteria will have an alternative zone applied (most likely a rural zone) and any applicable mapped planning controls (known as "overlays").

What do Council's records identify for my property?

Council has undertaken a preliminary assessment to determine a possible zone for the DM area of your property. The assessment is based on information collected during the recent Shire wide Vegetation Mapping Review.

Based on the *E zone Report* criteria, Council's vegetation mapping indicates that **NO part of your land meets the criteria for an E2 or E3 zone.**

Council will investigate a suitable alternative zone (most likely a rural zone) for the DM area of your property as part of the next stage of the assessment process. You will be notified in writing and have an opportunity to provide feedback when the next stage commences.

Where can I go to find out more?

For further information about the E zone review process and to view supporting mapping of the proposed environmental zones, please go to Council's website at <http://www.byron.nsw.gov.au/environmental-zones-e-zones>.

If you feel the above assessment of your land is incorrect, or you require further assistance or advice regarding the E zone review process, please contact Council's Environmental and Economic Planning division on ph (02) 6626 7126 by **10 November 2017**.

Yours sincerely



Alex Caras 1 Land Use Planning Coordinator

BSC File No: E2017/84065
Contact: Jo Green / Alex Caras 6626 7126

11 October 2017

****LAND AFFECTED BY A REGISTERED FORESTRY
OR TIMBER PLANTATION AGREEMENT****

Dear Landowner

Update on Northern Councils Environmental Zone Review Process

I am writing to provide an update on the Northern Councils Environmental Zone Review process and you are receiving this letter as some or all of your property (Parcel no/s: 218320) is affected by this review.

Council's records suggest that NO part of your land meets the criteria for an environmental zoning. Please read on for further information.

What is the Northern Councils Environmental Zone Review?

The Minister for Planning and Infrastructure, in September 2012, announced a review of the application of environmental zones in Local Environmental Plans (LEPs) on the Far North Coast. The purpose of the review is to provide a balanced approach to environmental zonings on the Far North Coast, as well as greater certainty for landowners, councils and the community on how environmental zoning will be applied. The review applies to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.

Environmental Zones - or 'E zones' - are designed to protect or manage land that is of important environmental value. These zones were removed from all Northern Rivers Councils' LEPs in 2012 pending the outcome of the review process. This has resulted in broad areas across Byron Shire being mapped as "Deferred Matter" (or DM) in Byron LEP 2014. This means that a land use zoning under Byron LEP 2014 has not been applied to all or part of your land, and consequently Byron LEP 1988 continues to apply to these areas.

What is the status of this review?

The State government released its *Northern Councils E Zone Review Final Recommendations Report (E zone Report)* in October 2015. It also released supporting legislation in March 2016 to ensure environmental zones are to be applied in accordance with the *E zone Report* recommendations. Council is now assessing the future zoning of "Deferred Matter" (or DM) areas under Byron LEP 2014, in accordance with the legislation.

How is Byron Shire Council implementing the review outcomes?

Council is committed to an open and transparent planning process for resolving deferred matter areas in Byron LEP 2014. This includes working with landowners to achieve agreed outcomes wherever possible. As the first stage of the assessment process Council is consulting with affected landowners to verify information relating to existing vegetation and primary use of the land. This will ensure the most up to date information is used to inform the future rezoning of affected land (the next stage).

The outcome of this process may result in some areas of the Shire being rezoned as E2 Environmental Conservation and/or E3 Environmental Management, while other areas that do not meet the *E zone*

Report criteria will have an alternative zone applied (most likely a rural zone) and any applicable mapped planning controls (known as "overlays").

What do Council's records identify for my property?

Council has undertaken a preliminary assessment to determine a possible zone for the DM area of your property. Based on Council's records your property is identified as being subject to a registered forestry or timber plantation agreement. Therefore **an E2 or E3 zone is NOT proposed over any part of your land.**

Council will investigate a suitable alternative zone (most likely a rural zone) for the DM area of your property as part of the next stage of the assessment process. You will be notified in writing and have an opportunity to provide feedback when the next stage commences.

Where can I go to find out more?

For further information about the E zone review process please go to Council's website at <http://www.byron.nsw.gov.au/environmental-zones-e-zones> .

If you feel the above assessment of your land is incorrect, or you require further assistance or advice regarding the E zone review process, please contact Council's Environmental and Economic Planning division on ph (02) 6626 7126, before **10 November 2017**.

Yours sincerely



Alex Caras | Land Use Planning Coordinator

Report No. 13.15 PLANNING - Update on Environmental Zone review and Planning Proposal implementation process
File No: I2018/99

18-186 Resolved that Council:

1. Note that land currently zoned under LEP 2014 (i.e. not Deferred Matter land) where the landowner received an E Zone notification letter but did not request an E Zone designation, will be excluded from further consideration under the E Zone review process.
2. Prepare Planning Proposal #1: (PP1) reflecting early agreements reached between landowners and Council staff on how environmental zones are to be applied and submit to the Department of Planning & Environment for Gateway determination.
3. Prepare Planning Proposal #2: (PP2) for:
 - (i) Deferred Matter areas that do not meet the criteria for an environmental zoning and will have a suitable rural zone applied (excluding LEP 1988 7(d) zoned land); or
 - (ii) Deferred Matter areas that currently have a residential, rural residential, commercial or industrial zoning in LEP 1988 that will transition to an equivalent LEP 2014 zone; or
 - (iii) reflecting further agreements reached between landowner and Council staff on how environmental zones are to be applied;
 and submit to the Department of Planning & Environment for Gateway determination.
4. Endorse the introduction of a new LEP 2014 zone, *RU6 Transition*, to be applied to land currently zoned 7(d) *Scenic Escarpment* LEP 1988 that does not meet the criteria for an environmental zoning.
5. Subject to Council's endorsement of the proposed *RU6 Transition Zone*, prepare and undertake an informal exhibition of the related *RU6* provisions for feedback from affected land owners who have not already agreed to this zone, and report the outcomes back to Council.
6. Receive a report on draft Planning Proposal #3: (PP3) for:
 - (i) Parcels where there is no agreement reached between the landowner and Council staff on proposed environmental zone/s; or
 - (ii) Deferred Matter areas that meet the criteria for an environmental zoning (in part or all) and where there has been no response from the landowner; or
 - (iii) remaining LEP 1988 7(d) zoned land to be zoned *RU6 Transition* (subject to Council endorsement).
 as soon as practical after Council's adoption of Planning Proposal #2.
7. Note that a further report on the use of mapped overlays as mechanism to protect environmental values will be provided to Council upon finalisation of the E zone Planning Proposals identified in Table 2.
8. Consider the allocation of \$50,000 as part of the forward budget process 2018/19 (alongside other Council program and budget priorities) to support a staged planning proposal program supported by robust community engagement to better inform the final E Zone Planning Proposal/s.