

# Northern Councils EZone Review

## Interim Report

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### Comments by Palerang Council, June 2014

#### Overview

The following comments offered by Palerang Council (Palering) are not directed primarily at the application of E-zones in the Northern Council areas, but more towards the broader implications of any decisions or recommendations that might arise from the present review.

While referred to as an “EZone Review”, the report refers almost exclusively to just the E2 (Environmental Conservation) and E3 (Environmental Management) zones. Without due care in wording subsequent recommendations or directives, there is a risk that the use of the E4 (Environmental Living) zone may be unintentionally or unreasonably affected.

#### Not all E-Zones were created equal

Noting the Section 117 directive (2.1) in relation to environment protection zones, Palering acknowledges the importance of establishing the environmental significance of areas prior to using the SI LEP E2/E3 zones. We have, however, noted some confusion within a sector of our own community with regard to the justification of the use of the E4 (Environmental Living) zone.

The E4 zone would appear to embrace a somewhat different intent to that of either the E2 or E3 zones, the objectives of the former referring simply to the impact of residential development while those of the latter refer explicitly to the protection, management and restoration of the environmental qualities of land so zoned. As such, care should be taken in making broad reference to the applicability of E-zones. In our own situation, we have had people declare that, since they are all described as “environmental protection zones”, the E4 zone would embrace the same protective measures that would apply in the E1 zone.

#### Recommendations relating to the use of the E4 zone

The E4 (Environmental Living) zone is considered only in the context of the Byron Shire LEP, and then in effectively only one very specific application—the rezoning of some small portions of land within or adjacent to existing residential zones, most of which were formerly zoned for residential use. It is suggested that very little in the way of broader recommendations relating to the use of the E4 zone can be derived from an assessment of this single, specific example.

If, as noted in the Report (at the bottom of p.37), the concern in the present case is simply the use of the E4 zone in an urban context, this should be clearly noted in any recommendations or directives that come out of the Report.

Acknowledging that most SI LEPs are now complete, and that the following comment will only apply in a few remaining situations, this is nonetheless particularly relevant in existing rural residential areas, where some people have made an illogical connection between preserving

agricultural interests and the use of residential zoning, merely to avoid the use of the E4 zone (i.e. there is a suggestion that agricultural interests would be better protected by using a residential zone than an environmental zone).

If the intent is for E4 zoning objectives to be consistent with the objectives of the previously used zone, it would help to make this point. Obviously, by the time the relevant report appears, there will be very few SI LEPs left to make, so it will be a retrospective comment in some respects. But it would help to ally misconceptions in our community as to the reasons underpinning the use of the E4 zone—protection of existing land use characteristics, rather than a basis for the imposition of new restrictions.

## **E-Zone Mapping**

These comments again apply to the potential generalisation from the Report comment in relation to the mapping of E-zones, where the comments are a specific reference to the mapping of E2/E3 zones only (cf. p.26).

If this is also the intent with respect to the use of the E4 (Environmental Living) zone, then Palerang requests that the Department give serious consideration to adding a new zoning that can be applied more generally to a rural residential area, to protect the character of the area from purely residential development. If E4 zoning must only apply to specific 'special' areas within a general rural residential zone, it will be difficult to control the overall character, and provide a consistent pattern of development in the broader area.

If, however, the intent of the E4 zone is that it apply more generally than the Report proposes for the E2 and E3 zones, specific commentary to that effect would help to ally community concerns over the implications of E4 zoning.

## **What's in a name?**

The Report (p.36) notes the problem that exists in relation to the negative response to the use of the term "environmental protection". Palerang has made similar observations, with objections typically citing concerns over the application of "... an environmental protection zone, and all which that implies." This situation is exacerbated in the case of the essentially residential E4 zone, by frequent broad references to environmental protection imposed by E-zones, without any effort to distinguish between the core objectives of the E2/E3 zones and those of the E4 zone.

The Report (p.38) suggests that introduction of a "Natural Resource Management" zone might address this problem. In a similar way, a distinct "Rural Living" zone, which may or may not replace the E4 zone, and which would support residential development with a character that provided a transition between rural and environmental objectives might also be worthy of consideration. The objectives of such a zone would provide the capacity to define some sort of hybrid character that may embrace low intensity agriculture, hobby farming, and low impact residential development in areas identified as containing both environmental and agricultural values. While this has essentially been Palerang's interpretation of the intent of the E4 zone, our view does not appear to have been universally accepted within our community.

## **Recommendation 14**

It is noted that the only recommendation relating to the use of the E4 zone is Recommendation 14. As has already been discussed, there is very little about the use of the E4 zone that can be generalised from either the specific case that exists in the Byron SC LEP or this subsequent recommendation. It would be highly desirable for this to be made very clear, and for any other recommendations or directives to very clearly indicate the specific zones to which they refer, E2, E3 or both, rather than using the general description of E-zones, which is quite reasonably interpreted as also embracing the E4 zone, regardless of the nature of the recommendation.

## **Applicability of Recommendations and Ministerial Directives**

The FAQ makes reference to the fact that the outcomes of this review will form the basis to determine criteria for applying E2 and E3 zones, but does not appear to offer any comment in relation to any similar intent in relation to the E4 zone. Indeed, it would seem that, given the specific nature of the E4 zoning issues considered, there would appear to be limited justification for any broader recommendations in relation to E4 zoning.

Further, the Minister's media release announcing the present Report refers to the recognition of the balance that needs to be maintained between appropriate environmental protections and sustainable farming, but then makes reference to the inappropriate use of the E4 zone in the Byron shire without noting that this has nothing to do with any balance between environmental protections and sustainable farming. As has already been noted, it would help to clearly articulate the nature and scope of the issues that are being addressed by any recommendations that arise from the Report.

## **Concluding Comment**

Palerang's primary concern is clarity in the communication of the purpose of the E4 (Environmental Living) zone. To this end, it is seen as important to carefully distinguish between recommendations that apply to the E2 and/or E3 zones, and those that apply to the E4 zone. Based on the issues raised in the present Report, there would appear to be very little overlap between the two, and this fact needs to be clearly articulated in any subsequent communications. In particular, it would be helpful to avoid any broad reference to E-Zones.