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4 June 2014

TO: Director, Planning Coordination and Support, E Zones Review,
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Northern Councils EZone Review Interim Report - Submission on behalf of South Ballina Investments

This submission is written by Land & Fire Assessments Pty Ltd on behalf of South Ballina Investments (SBI). SBI own land at South Ballina Beach Road, South Ballina. The SBI landholdings (i.e. the Site) at South Ballina comprise Lots 1 – 5 DP813112, Lot 4 DP263643, Lot 1 DP1125339 and Lot 20 DP1150395. The Site covers approximately 194.66 ha in area.

SBI is relieved that the **Northern Councils EZone Review Interim Report (Sept 2013)** found, as per our repeated submissions, that the **EZones in the Ballina SILEP** (Standard Instrument Local Environmental Plan) **have not been developed from an environmental study based on robust data sources and analysis**. The report also found that mapping errors of accuracy and precision were apparent in Ballina SC and importantly, that **approximately 31% of sites inspected contain features including small areas of grazing land and some larger anomalies included an operating sand mine and a caravan park**.

The **sand mine referred to in the interim report, is the South Ballina Sand Quarry (SBSQ)** which is located on the aforementioned SBI landholdings. In addition the Site also contains grazing land, which was also included in the E2 Zone.

The interim report further states:

Prior to making the decision to designate an area as an EZone, the area must be verified as containing high conservation value biodiversity assets, or 'special' value, through the development of a council-wide biodiversity strategy and/or vegetation management strategy that is supported by targeted on ground surveys. By doing so, features such as **cleared grazing land, fruit and nut plantations, mines, and caravan parks, can be excluded from EZones as appropriate.**

There are **currently too many anomalies** with on ground conditions for an effective LEP to be implemented in any of the councils. **Clear definitions of what constitutes each EZone must be decided upon so that the EZones are consistently applied and so that their value is not diminished by inappropriate application.**

Given the above, if and when Ballina Council undertakes the detailed vegetation mapping and a LGA wide biodiversity strategy, **it will be imperative to ensure that the criteria to be used are in accordance with the Department Directive** (i.e. the Department of Planning & Environment's Response – Northern Councils E Zone Review Interim Report) and **that grazing land and the quarry are not picked up again.**

On this point, we note that the interim report states that **Ballina Council is preparing detailed vegetation mapping and a LGA wide biodiversity strategy**. According to Council Strategic Planner (Matt Wood) Ballina SC has not done any mapping, although they are planning to, but there is no funding allocated at present. If Ballina SC had already commenced this mapping, it would be of great concern because the process would not appear to be transparent again. Furthermore, Council would need to wait for Directive from Department, which will provide mapping criteria for E2 and E3 zoning.

SBI supports the interim report findings that “EZones need to be applied consistently so that their value is not diminished by inappropriate application or by permitting incompatible uses. **If the environmental significance of the land is not the primary consideration, then the land should not be an EZone.**”

SBI, however, does not support the interim report recommendation that **Split zonings could be applied** in certain circumstances where areas are identified as being of high conservation value but are limited in size and isolated. **SBI strongly opposes the application of split zoning particularly on land such as the SBI Site where the primary landuse is farming and sand quarrying.**

SBI further support the interim report recommendation that land that was previously mapped as an Environmental Protection Zone should be transferred directly to E2. SBI land has a small patch of land that would follow such directive. However, the mapping of this patch is incorrect and should be rectified to follow the vegetation contour line.

However, as per the interim report recommendation, **the rest of the land should be zoned in accordance with the primary function of the area, which in the SBI case would be Rural.**

Further E2 zoning would only apply to land that meets strict and transparent E2 Criteria. SBI supports the statement that **“The E2 zone must only be applied where there is a validated dataset of significant environmental attributes as described in the E2 criteria (Tag A).”**

SBI further support the Department’s response, particularly **its recommendation to NOT support the use of overlays to manage scenic protection areas and terrestrial biodiversity areas.**

Conclusion

- The Northern Councils EZone Review Interim Report confirms the fact that **E2 Zones in general, but particularly in Ballina were applied without sound supporting data and were often inaccurate.** The interim report has re-asserted a set of stringent Criteria that should be adopted to map vegetation that would meet the E2 Zone high conservation value intent. These criteria should be confirmed by the Department and make its application mandatory, not just a guideline.
- SBI supports the above and specifically the Department’s response recommendations in this regard. **However, any detailed vegetation mapping across Ballina needs to be transparent and done with affected landholders’ direct participation. Furthermore, clarification needs to be provided on what is meant by requiring validated data to be used to apply the zones.** Who will validate and by what process would validation occur?
- **SBI furthers support the recommendation that grazing land and the quarry are excluded up front from a potential E2 Zone.**
- **SBI strongly opposes the application of split zoning** particularly on land such as the SBI Site where the primary landuse is farming and sand quarrying.
- SBI concur with the Department’s recommendation to **NOT support the use of overlays to manage scenic protection areas and terrestrial biodiversity areas.**
- Council has no funding to undertake detailed vegetation mapping and a LGA wide biodiversity strategy and, in any case it would take time to undertake such work. **Therefore, in the meantime all land, which was not previously mapped as environmental protection zone, should be zoned Rural (RU1 or RU2) and the Deferred Matter mapping should be removed.** The keeping of land mapped Deferred Matter is having a negative impact on land value, which is currently the case for SBI holdings. In fact, **reputable land valuer has been unable to provide a current valuation of the land because of the uncertainty associated with the Deferred Matter zoning.**
- **Devaluations caused by Council re-zoning should be automatically subject to the Just Terms Compensation Act,** with Councils having to provide such compensation.

