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Preamble

Ballina Environment Society Inc (BES) is the peak group dedicated to local environmental guardianship and lobbying within Ballina Shire, in particular taking responsibility for making submissions on State and federal matters that impact upon the local environment. It was founded in 1983 at the time of the first Local Environmental Plan, and has ever since been involved in both environmental and Cultural Heritage issues in the shire.

BES wants a conclusion to the long-delayed exhibition of this review of Environmental Zones in BLEP11, Ballina Shire's legally binding development instrument.

BES has never agreed with the Standard Instrument's interpretation of our existing LEP . We continue to have doubts as to the intentions and outcomes of the recommendations in this present review.

BES continues to uphold a non-negotiable principle established at the society's birth and which remains a foundational premise of our work. This is that Environmental Zones on private land are absolutely essential for sustainable planning.

Our participation in this consultation highlights the Society's view that every possible support needs to be given to Local Government in its role of protecting ecologically significant environments in Ballina Shire.

Submission

BES has closely studied the submission already made on this matter by the organisation "Save North Coast Nature". We strongly support that submission, and in particular the following points, all subject to the qualifications indicated:

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1. *Regarding the Review's endorsement of environmental zones and overlays in far north coast council Local Environment Plans.*

BES believes inclusion in an overlay should automatically trigger inclusion in an Environmental Zone so as to provide unambiguous constraints over sensitive lands.

2. *Regarding the Review's recommendation that Environment Protection Zones be expanded in Kyogle, Lismore, Ballina & Tweed Shires to include all environmentally sensitive areas not currently protected.*

BES welcomes this goal, but fears that the definitions and recommendations in this Review may fail to achieve the desired outcome.

Intergenerational equity requires a philosophy of "maintain and improve". This appears lacking in the Review, which proposes that any unclassified, un-ground-proofed rainforest, wetland, mangrove, heath or other undefined vegetation be excluded from the continued protection of an E2 zoning.

The Review then adopts the White Paper on Planning Reform's proposal that E3 is to be rezoned agricultural, and E4 zoned Residential. This would result in a significant degradation of our environmental protection. Any zone identified in Ballina Shire Council's LEP review as an Environmental Protection Zone (E2) should be retained in E2.

Given the imminent reversion of E3 to Rural, we believe that more consideration of upgrading E3 to E2 should have been at the forefront of this review of environmental protection.

BES questions the size of the review's envisaged area of protected land. We question how the increase in percentage protected area as proposed by North Coast Councils and described in the report will be affected by the recommendations.

3. *Regarding the Review's endorsement of environmental overlays for buffers around estuaries, streams, wetlands and rainforest.*

It would create a better outcome if this protection was embedded in a sustainable environmental zoning, rather than a separate attachment.

BES cannot support any outcome that fails to clearly acknowledge environmental constraints and ensure their adequate recognition .

BES questions the capacity of the concepts embedded in the proposed Planning Reforms and in this review to increase environment protection. Indeed, we fear that they will on the contrary decrease it.

Clear zoning of environmental constraints should be reflected in LEP mapping.

4. *Regarding the Review's recommendation that guidelines be developed for the mapping of scenic amenity, and that mapped areas be included as an environmental overlay.*

BES's preferred option for scenic amenity in locations endorsed by Local Government is that it should be respected through a sustainable environmental zoning.

Overlays may be appropriate for residential zones but in undeveloped areas planning should respect the community's aspiration for environmental protection.

5. *Regarding the Review's treatment of climate change, coastal hazard and environmental significance,*

The overlay concept in urban areas may be a useful tool, but this should not dictate that 'cleared land subject to coastal hazards, including climate change effects', be removed from the E2 zones,

BES seriously questions the ability of overlays to effectively respect community aspirations and to properly reflect common-sense constraints on environmentally significant land in Ballina Shire and along the Far North Coast generally.

OBJECTIONS

BES strongly supports the objections raised in Save North Coast Natures' submission, in particular the objections to:

1. *Downgrade rainforest, old growth forest, wetlands, mangroves, riparian vegetation and rare, endangered and vulnerable ecosystems from E2 to E3 (Recommendation 1 & 7).*

This is totally unacceptable and quite incomprehensible. It inherently contradicts the concept of environmental protection. These are the very kinds of ecosystem that give a location its primary environmental value. Many are remnant ecosystems which, when a Council believes they are

important enough to be given protection, should not ever be degraded by a review of Environmental Zones.

2. *Downgrading proposed E4 zones to residential zones (Recommendation 14)*

During consultation on the Standard Instrument, BES consistently argued that the constriction of seven EZones to four was bad, but for Councils to only have access to two zones was highly questionable.

E4 could have provided the transition between rural and residential zones. E4 could have been used to provide the protection given in Clause 28 BLEP87 by restricting activities including altering ground surface and clearing vegetation in Strategic Growth Areas.

BES is very pleased to see that Ballina Shire was not allowed to use E4 zones. Even before the Planning Reforms are approved, E4 is recommended to be zoned Residential. We ask however, what overlays are in place for this to happen?

3. *Removing all protection for wildlife corridors mapped by the National Parks & Wildlife Service*

The minimal acceptable outcome is for wildlife corridors to be included as an environmental overlay. That alone will ensure that the necessary connectivity is given some real consideration in planning decisions.

BES would prefer to see an Environmental Zoning of at least E3 management level applying to NPWS-identified wildlife corridors.

4. *Extensive Agriculture and Intensive Horticulture are not appropriate in any Environmental Zone, and are especially objectionable if they can be conducted without consent.*

Ballina Shire is in a transition zone from the coast to the inland, the tropics to temperate climates. The need for vegetated wildlife corridors, especially along our waterways, is a necessity. This challenge is not met by expanding intensive land-use from existing rights in EZones.

BES rejects the notion of allowing new grazing, cropping and irrigated pasture within E2 zones. This defeats the very concept of protection and increases the potential for corruption in any environmental incentive scheme. Existing use rights are to be respected, but extensive or intensive agricultural, horticultural and extractive industry pursuits undermine the whole purpose of environmental zoning.

Given the constraints that exist in regard to Councils designating EZones and existing use rights, we believe that extensive or intensive agriculture or horticulture are not appropriate in any Environmental Zone.

BES finds it impossible to make well-grounded critique and constructive comments on this Review without also seeing the relevant mapping. Until that is available we cannot even be sure what is proposed by the revision of definitions in this Review.

FURTHER RECOMMENDATIONS

1. The NSW Government should urgently help Local Government to review vegetation mapping to improve its coverage and accuracy. In particular, Ballina Shire Council requires assistance to undertake the comprehensive mapping of all high conservation value vegetation required by the review.
2. An appropriate, clear time-line for implementation of the Review's finding should be recommended or prescribed.

Sustainable principles require concrete assurances that until ground-truthing is conducted, the precautionary principle will be applied and areas will NOT be removed from BSC E2 or E3 zones. Further, BES requests consultation and notification before any area is removed from environmental protection in Ballina Shire.

3. Extensive agriculture, by definition, needs to be prohibited in all Environmental Zones to avoid permitting CSG and other mining activities by default under the Mining SEPP - State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

BES supports a CSG-free Ballina Shire and the Review's recommendations cast doubt on the ability to protect even our most significant environmental areas.

BES is disappointed this Review has not contributed to solving the differential between environmental, agricultural and extractive land uses.

4. Coastal heathlands and shorebird roosting and nesting areas must be automatically included in E2 zones. Coastal Hazard Overlays will not produce the necessary outcomes.
5. Core Koala habitat, as identified in a Koala Plan of Management, hold obligations for protection and should automatically be included in an E2 zone rather than merely another overlay.

Koalas are a key indicator of a sustainable environment. Overlays may play a part in protecting wildlife corridors and therefore assist koalas, but core habitats must be conserved through appropriate, sustainable zoning.

6. BES encourages the Government to support the Review's recommendation that all land designated within an environment zone should be a priority area for the application of incentive-based mechanisms, including financial incentives, rate rebates, management assistance, and local award schemes.

Perceived E Zonings should not have property devaluation as an outcome, if custodians are to be encouraged to protect our environmental assets.

BES **assumes** the Report includes Strategic Growth Areas. All SGAs currently identified were transferred directly from BLEP87 Rural (Urban Investigation) zones. Considerable work has been conducted on these areas. All Ballina Shire Council's SGAs contain environmentally significant land.

The problem of exclusion of EZones from SGAs has been consistently raised in Ballina Environment Society submissions. We await the proposed review of 'growth areas' with trepidation.

7. BES raises a red flag in respect of Recommendation 7 (i) tradable or transferrable development rights.

SGAs should not be ever tradable or transferrable. If growth in the areas identified is questioned, trading areas outside investigated SGAs cannot be guaranteed to have any respect for the sensitivity of the land or the community.

Future growth should not be based on traded left-overs. Future growth needs to be able to put environmental constraints first.

Concluding comments

BES expresses deep disappointment in the Review's apparent intention to reduce EZones for the benefit of developers, corporations, and the "big end of town". We find it deeply objectionable that this will be done in ways that are incompatible with planning for a sustainable environment into the future.

BES is further disturbed that the White Paper on Planning Reforms is referenced as a given.

BES is led to question the point of an Environmental Association such as ours continuing to participate in community consultation when that consultation too often proves to be at least mere tokenism or at worst an exclusive charter with predetermined outcomes.

Fiona Folan
President