

Northern Councils E Zone Review Final Recommendations Report

Frequently Asked Questions October 2015

What are E zones?

- Environmental zones – or ‘E zones’ – are designed to protect land that is of important environmental value.
- Types of E zones include ‘E2’ (environmental conservation), ‘E3’ (environmental management) and ‘E4’ (environmental living).

What is the Northern Councils E Zone Review Final Recommendations Report?

- The *Northern Councils E Zone Review Final Recommendations Report* provides a balanced approach to applying E zones and other mapped planning controls to land on the NSW Far North Coast.
- The Final Report is based on the recommendations made by the independent *Northern Councils E Zone Review Interim Report*.
- The Final Report has taken into account the views expressed by councils, agencies, community organisations, landowners and the general public in more than 400 submissions we received during the public consultation on the interim report in 2014.

What are the recommendations in the report?

- The report achieves a balanced approach that supports farming and protects the environment, by recommending that E zones should only be applied to places on the Far North Coast where the ‘primary use’ of the land is either environmental conservation (‘E2’) or environmental management (‘E3’), and this has been based on validated ecological evidence.
- The ‘primary use’ of the land is the first consideration when making zoning decisions.
- Where the primary use of the land is agriculture, a Vegetation Map (i.e. environmental overlay) can be applied to land that contains important environmental features.
- E4 zones will typically be applied to low-impact residential developments in areas of special environmental value.
- The recommendations initially apply to the local government areas of Ballina, Byron, Kyogle, Lismore and Tweed.

How is the ‘primary use’ of land defined in the report?

- ‘Primary use’ is defined as the main use for which the land has been used for the last two years.

- The primary use of the land may vary across a particular property, depending on the characteristics of the land. This may result in more than one zone being applied to the land.
- The primary use of land will need to be identified by the Council during the preparation of a rezoning.

What are the steps for ‘E2’ and ‘E3’ zoning under the recommendations?

- Councils will first consider the primary use of the land before weighing the ecological evidence needed to verify that an area is suitable for environmental zoning.
- Land can only qualify for an E zone if it is home to rainforests, wetlands, endangered plant species or vegetation that has been over-cleared in other areas, or is a place of cultural significance to the local Aboriginal community.
- If a council believes the primary use of the land does not warrant environmental zoning, other mapped planning controls can still be applied in some cases.
- Before an E zone or mapped planning controls can be put in place, evidence of the land’s environmental value needs to be verified by tests such as flora and fauna reports, biodiversity field inspections and ground surveys, or Aboriginal heritage field inspections and cultural heritage reports.
- A proposal to apply an E zone to land will be placed on public exhibition and landowners will be able to make a submission to the proposal.

What is the difference between an E zone and a Vegetation Map?

- Councils use E zones to indicate what type of activities can take place when land has important environmental value.
- A Vegetation Map and associated clause in a Local Environmental Plan gives councils extra flexibility to protect and manage places of significance, without needing to zone the surrounding area for environmental conservation or environmental management purposes. Vegetation Maps do not prohibit land uses, but require certain matters to be considered when development approval is required.
- The controls do not apply to development that can be carried out without consent i.e. extensive agriculture in a rural zone.

Can an E zone be applied to my land if it does not meet the criteria?

- Private land that does not meet the criteria for an E zone can only be zoned for environmental conservation or environmental management if the landowner agrees to this.
- Public land that does not meet the criteria can be zoned 'E2' or 'E3', if the primary use of the land is environmental conservation or environmental management.

If I have revegetated part of my land can it be E zoned?

- Land that has been actively revegetated by the current landowner and is primarily being used for agriculture will not qualify for environmental zoning unless requested by the owner or is a requirement of any funding agreement.
- A Vegetation Map can be placed over revegetated land only if it has environmental value.

What are the likely outcomes of the final recommendations?

- A clear and consistent way of applying E zones on the Far North Coast.
- Greater certainty for landowners, councils and the community, ensuring that E zones are only applied where environmental conservation or environmental management are the primary use of the land.
- Positive outcomes for farming and the environment alike, with greater certainty for the agriculture sector and greater protection for land that is verified as being of important environmental value.
- The value of E zones is enhanced by ensuring zoning decisions are evidence-based.
- Many of the measures councils currently use in environmental zoning decisions have been kept in place under the recommendations.
- Land that has been verified to meet the criteria for an E2 or E3 zone where the primary use of land is not environmental conservation or environmental management may be included in a mapped planning control, such as a Vegetation Map.
- The use of a Vegetation Map cannot however be applied to environmentally zoned land.
- Land that is currently zoned for rural use will continue to be zoned in this way, but other mapped planning controls may be applied to any parts of the land that contain important environmental features.

- When zoning state or regionally significant farmland, councils will have to take into account the primary use of the land before applying an environmental zone or a rural zone.

Why has the Department's position changed on vegetation mapping?

- The Department's initial response to the *Northern Councils E Zone Review Interim Report* did not support using terrestrial biodiversity overlays.
- The Department now supports the use of Vegetation Maps and associated clauses in LEPs for significant native vegetation outside of the E zones on the basis that the guiding principle is the land's 'primary use' and the need for evidence based verification of the land's environmental value.
- The Department also supports mapped planning controls for public health, safety, risk and hazard. These planning controls manage matters of public health and safety connected with drinking water catchments, flooding, coastal risk areas and land that needs strict development controls, such as steep land.

How will a mapped planning control, such as a water catchment map, affect what I can do on my land?

- A mapped planning control does not change the zoning of land or prohibit permissible activities. If land is zoned rural for example, the map and associated LEP clause will identify matters that need to be addressed for activities that only require development approval.

What is the Minister's role in implementing the final recommendations?

- A Ministerial Direction will be issued, ensuring the five affected councils use the criteria for applying environmental conservation and environmental management zones, and giving direction on how other mapped planning controls can be used.
- The Ministerial Direction will then guide the preparation and assessment of zoning decisions.

Will the recommendations eventually be applied statewide?

- The final recommendations within the report will initially apply only to Ballina Shire, Byron Shire, Kyogle, Lismore City and Tweed Shire.
- The Department will be consulting with other councils about how the final recommendations for environmental zoning on the Far North Coast can work across all areas of the State.

Further information

Visit our website at www.planning.nsw.gov.au/environmentalzones

Call our Information Centre on 1300 305 695.

If English isn't your first language, please call 131 450.

Ask for an interpreter in your language and then request to be connected to our Information Centre on 1300 305 695.

Email us at information@planning.nsw.gov.au



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