

## SHOALHAVEN CITY COUNCIL

### SPECIAL DEVELOPMENT COMMITTEE

To be held on Wednesday, 4<sup>th</sup> April, 2012  
Commencing at 4.00 pm.

28 March, 2012

Councillors,

#### NOTICE OF MEETING

You are hereby requested to attend a meeting of the Development Committee of the Council of the City of Shoalhaven, **to be held in Council Chambers, City Administrative Centre, Bridge Road, Nowra on Wednesday, 4<sup>th</sup> April, 2012 commencing at 4.00pm** for consideration of the following business.

R D Pigg  
**General Manager**

Membership (Quorum – 5)

Clr Brumerskyj – Chairperson

All Councillors

General Manager or nominee (Assistant General Manager)

#### BUSINESS OF MEETING

**1. Apologies**

**2. Declarations of Interest**

**3. Deputations**

**4. Report of the General Manager**

Strategic Planning & Infrastructure – Draft Shoalhaven LEP 2009

Environment Protection Zones Submissions

**5. Addendum Reports**

Note: The attention of Councillors is drawn to the resolution MIN08.907 which states:

- a) That in any circumstances where a DA is called-in by Council for determination, then as a matter of policy, Council include its reasons for doing so in the resolution.
- b) That Council adopt as policy, that Councillor voting in Development Committee meeting be recorded in the minutes.
- c) That Council adopt as policy that it will record the reasons for decisions involving applications for significant variations to Council policies, DCP's or other development standards, whether the decision is either approval of the variation or refusal.

Note: The attention of Councillors is drawn to Section 451 of the Local Government Act and Regulations and Code of Conduct regarding the requirements to declare pecuniary and non-pecuniary Interest in matters before Council.

Cell Phones:

Council's Code of Meeting Practice states that "All cell phones are to be turned off for the duration of the meeting".

## **LOCAL GOVERNMENT ACT 1993**

### **Chapter 3**

#### **Section 8(1) - The Council's Charter**

(1) The council has the following charter:

- to provide directly or on behalf of other levels of government, after due consultation, adequate, equitable and appropriate services and facilities for the community and to ensure that those services and facilities are managed efficiently and effectively
- to exercise community leadership
- to exercise its functions in a manner that is consistent with and actively promotes the principles of multiculturalism
- to promote and to provide and plan for the needs of children
- to properly manage, develop, protect, restore, enhance and conserve the environment of the area for which it is responsible, in a manner that is consistent with and promotes the principles of ecologically sustainable development
- to have regard to the long term and cumulative effects of its decisions
- to bear in mind that it is the custodian and trustee of public assets and to effectively account for and manage the assets for which it is responsible
- to facilitate the involvement of councillors, members of the public, users of facilities and services and council staff in the development, improvement and co-ordination of local government
- to raise funds for local purposes by the fair imposition of rates, charges and fees, by income earned from investments and, when appropriate, by borrowings and grants
- to keep the local community and the State government (and through it, the wider community) informed about its activities
- to ensure that, in the exercise of its regulatory functions, it acts consistently and without bias, particularly where an activity of the council is affected
- to be a responsible employer.

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## **REPORT OF GENERAL MANAGER**

### **SPECIAL DEVELOPMENT COMMITTEE - DRAFT LEP2009**

**WEDNESDAY, 4 APRIL 2012**

#### **STRATEGIC PLANNING AND INFRASTRUCTURE**

1. **Draft Shoalhaven Local Environmental Plan 2009 - Submissions - Environment Protection Zones** **File 33363E (PDR)**
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##### **PURPOSE OF THE REPORT**

To detail the key issue of submissions received during the exhibition of draft SLEP 2009, in relation to the Environment Protection zones and outline options to deal with this issue in the finalisation of the draft plan.

**RECOMMENDED that Council consider the individual preferred options/changes to draft SLEP 2009 as set out in the body of this report via the successive recommendations.**

##### **COMMUNITY STRATEGIC PLAN**

- Objective:** 2.2 Population and urban settlement growth that is ecologically sustainable, carefully planned and managed to meet the needs of the community.
- Strategy:** 2.2.1 Develop and implement land use and related strategies for future growth of the City, based on the principles of connectivity, ecological sustainability, flexibility and accessibility.

##### **DELIVERY PROGRAM**

- Activity:** 2.2.1.9 Implement the Planning Works Program to complete planning policy and strategy initiatives.
- Activity:** 1.5.1.2 Apply appropriate land use zones and associated planning controls for nominated centres consistent with endorsed master plans and strategies

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## OPTIONS AND IMPLICATIONS

### *Option 1:*

That Council consider the individual preferred options/ changes to draft SLEP 2009 as set out in the body of this report via the successive recommendations.

### *Implications*

This option is preferable because:

- The preferred options/changes respond directly to some concerns raised in the submissions and are good strategic planning outcomes that are consistent with the Standard LEP Instrument and the adopted “ground rules”; and
- Re-exhibition of the Draft LEP will provide a further opportunity for the community to consider how Council has addressed this key issue.

### *Option 2:*

Council adopt changes to the Environmental Protection zones, other than those suggested in this report.

### *Implications*

This option is not preferable as there is a risk of there being no strategic planning basis to making changes other than those outlined and recommended in the report.

## REPORT DETAILS

### *Introduction:*

# This report addresses one of the key issues raised in various submissions to the draft SLEP 2009 - Environment Protection zones. The fact sheet (Fact Sheet No. 13) on this key issue, that formed part of the exhibition material, is included as **Attachment ‘A’**.

### *Background:*

Shoalhaven is characterised by large areas of land which have significant environmental values. The Shoalhaven LEP 1985 currently includes 8 Environment Protection zones and the Standard LEP Instrument requires the transfer of these 8 zones to equivalent Environment Protection zones. The intended purpose of each of the 4 Environment Protection zones which Council can include in draft SLEP 2009 are described below, as referenced in the Department of Planning & Infrastructure’s Practice Notes PN11-002 and PN 09-002:

*E1 National Parks and Nature Reserves* - This zone is generally intended to cover existing national parks and nature reserves, and new conservation areas proposed for reservation that have been identified and agreed by the NSW Government. All uses

currently authorised under the National Parks and Wildlife Act 1974 will continue to be permitted without consent in this zone. It is noted that this zone is the “equivalent” or “best fit” transfer of the current 8(a) zone under SLEP 1985 and the 8(a) and 8(b) (proposed National Park) under the Jervis Bay REP.

*E2 Environmental Conservation* - This zone is generally intended to protect land that has high conservation values outside the national parks and nature reserve system. The use of this zone needs to be justified by appropriate evaluation of the area in terms of meeting the core zone objectives of having high ecological, scientific, cultural or aesthetic values. A number of land uses considered to be inappropriate for this zone have been mandated as prohibited uses by the Standard LEP Instrument. Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.

*E3 Environmental Management* - This zone is generally intended to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards. A limited range of development including ‘dwelling houses’ could be permitted. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses such as rural or residential.

*E4 Environmental Living* - This zone is generally intended for land with special environmental or scenic values, and accommodates low impact residential development. This zone may be applicable to areas with existing residential development in a rural setting, which still has some special conservation values. Where lands have higher conservation values, with more restrictive land use permissibility, an E2 or E3 zone may be more suitable than E4 zone.

The practice notes also suggest that prior to applying the relevant zone, the environmental values of the land should be established, preferably on the basis of a strategy or from an environmental study developed from data and analysis.

As per the “ground rules” established via Council resolution at the outset of the draft SLEP 2009 process, a “best fit” transfer from the environmental protection zones in SLEP 1985 to the closest equivalent zones in the Standard LEP Instrument was carried out. This led to the following zone transfer:

<b>Shoalhaven LEP 1985</b>	<b>Draft Shoalhaven LEP 2009</b>
Environment Protection 7(a)(Ecology)	E2 Environmental Conservation
Environment Protection 7(c)(Water Catchment)	E2 Environmental Conservation
Environment Protection 7(d1)(Scenic)	E3 Environmental Management
Environment Protection 7(d2)(Special Scenic)	E2 Environmental Conservation
Environment Protection 7(e)(Escarpment)	E2 Environmental Conservation
Environment Protection 7(f1)(Coastal)	E3 Environmental Management
Environment Protection 7(f2)(Coastal Reservation)	E2 Environmental Conservation plus Land Reservation Acquisition overlay
Environment Protection 7(f3) (Foreshores Protection)	E3 Environmental Management
National Park 8(a) plus 8(a) & 8(b) (proposed national park) - Jervis Bay REP	E1 National Park

It is noted that there was no directly equivalent zone to the E4 Environmental Living zone contained in SLEP 1985 i.e. no existing specifically planned/zoned low impact residential development in a rural setting with special conservation values, with most of that type of development currently being located in rural zones. Hence the use of the E4 zone in draft SLEP 2009 would have been inconsistent with the “best fit” transfer. The best way to establish the appropriateness of the use of the E4 zone in Shoalhaven is via a specific strategy or environmental study developed with robust data and analysis, as outlined in the practice notes. This is a project that could possibly be added, if required, to the list of future projects to be worked on following the completion of the Draft Shoalhaven LEP 2009, and is further discussed later in this report.

**Key Issues:**

**Submissions**

# During the exhibition period 96 submissions were received that related to, or mentioned, the Environment Protection zones and their land use tables, as detailed below. A summary of the relevant submissions is included as **Attachment ‘B’**.

Type	Number
Individual	48
Form Letters	20
Petitions	0
Local, State & Federal Agencies	4
Rezoning Requests	0
CCBs & other community groups	22
Internal	2

It is noted that the submissions that related to the application of an E zone to specific or certain geographic areas, town, village, or site will be separately addressed in future reports to this Committee, as “area specific” issues. This excludes submissions that relate to RE1 Public Recreation - zoned land across the City considered to have environmental values that will be addressed in this report.

Further, it is noted that the issue of the application of the biodiversity overlay to land zoned E2 and E3 was discussed in the Special Development Committee report considered by the Committee on 2 April 2012.

**General Submissions**

- Object to the reduced number of environmental protection zones.
- The current 7(e) zone under SLEP 1985 protects the escarpments as potential rock wallaby habitat from nearly all new development. The E2 does not do the same. The land currently zoned 7(e) should be extended to include a buffer of 100m and the number of land uses permissible with consent in the E2 and E3 zone should be reduced. The use of the E4 zone may assist with this.
- The E2 zone should be more restrictive.
- Recommends that the existing 3(h) and 4(e) zones not be transferred to E3 zone.

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- The E3 zone does not offer sufficient protection to certain land.
  - The draft SLEP 2009 should include the four E zones.
  - Community land categorised as “natural bushland” should be zoned E2.
  - Support for SLEP Review Group submission on E zones.
  - Aquaculture should not be permissible in the E zones.
  - Object to all other land uses, other than those that are mandated, being permitted with consent in the E zones.
  - All lakes, estuaries, salt marsh, wetlands, natural floodplains and mangroves should be zoned E2.
  - Requests extension to the E3 zone to include recreation facility (outdoor) as a land use that is permitted with consent.

### ***Comment***

The general submissions were mainly concerned with the land uses permissible in each E zone, the lack of E zones available in the Standard LEP Instrument and suggested further land that should have an E zoning. Also, there were a number of submissions that were concerned that the E4 zone was not included in draft SLEP 2009. The matters raised above are addressed in Issues and Recommendations 1, 2, 3, 4 & 6 below.

### **Community Interest Group Submissions**

#### ***Australian Conservation Foundation - Shoalhaven Branch***

- Concerned with number of land uses permitted with consent in the E2 zone and suggests that the only land uses permitted with consent in this zone should be: ‘environmental facilities’, environmental protection works’ and ‘recreation areas’.
- Concerned with the number of land uses permitted in the E3 zone and suggested that the only land uses permitted with consent in this zone should be: ‘dwelling houses’, ‘environmental facilities’, environmental protection works’, ‘home businesses’, ‘home industries’, ‘recreation areas’, ‘roads’, ‘roadside stalls’ and ‘water recreation structures’.
- In relation to the E2 zone suggested that “water supply” be deleted from the 3rd objective to broaden the application of the objective to catchments generally.
- Requested that the E4 zone be used in draft SLEP 2009 and provided a suggested LUT for this zone.

#### ***Basin Villages Forum***

- Suggests and lists certain RE1 Public Recreation zoned parcels of land that have environmental values and states that they should be zoned E2, to reflect the true use and environmental attributes of that land.

#### ***Berry Alliance***

- Suggested that without the E4 in draft SLEP 2009, far too many land uses are permitted with consent in the E2 and E3 zones.
- Believes that the E4 zone must be used in draft SLEP 2009, to maintain consistency with the South Coast Regional Strategy (SCRS), and that caravan parks would not be an appropriate use in this zone.
- Suggests land to which the E4 zone should apply, including the Environment Protection 7(d1) (Scenic) zone from SLEP 1985 (but not E2 and E3 zoned land).

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- Recommends the following land uses be ‘deleted’ from the E2 zone land use table (LUT), as they are a significant threat to the E2 conservation values:
    - Home businesses
    - Home industries
    - Recreation areas
    - Research stations
    - Sewerage systems
    - Water recreation structures
    - All additional land uses referring to S117(2) Directive 1.2
  - Recommends the following land uses be ‘deleted’ from the E3 zone LUT:
    - Animal boarding or training establishments
    - Boat repair facilities
    - Charter and tourism boating facilities
    - Forestry
    - Group homes
    - Markets
    - Recreation areas
    - Research stations
    - Secondary dwellings
    - Sewerage systems

#### ***Budgong Community Group***

- Reconsider inclusion of the E4 zone in draft SLEP 2009.
- Only land uses permitted with consent in E2 zone should be: ‘environmental facilities’ and ‘environmental protection works’.
- ‘Environmental facilities’, ‘dual occupancies’ (attached), ‘visitor information centres’ and ‘roads’ should be permitted with consent in the E3 zone, in addition to the standard permitted uses.
- “Community land” categorised as “natural area” under the Local Government Act should be zoned E2.

#### ***Callala Bushcare Group***

- Suggests and lists certain RE1 Public Recreation zoned parcels of land that have environmental values and states that should be zoned E2 or E3.

#### ***Huskisson/ Woollamia Community Voice***

- Requests the use of the E4 zone in draft SLEP 2009.

#### ***Hyams Beach Villagers Association***

- Concerned with the failure to use the E4 zone in draft SLEP 2009. Suggests that a revision of the environmental protection zones, including the E4 zone, would allow land uses in the environmental protection zones to be more appropriately allocated.
- Concerned that the use of only two E zones (excluding E1) has resulted in inappropriate land uses in each zone that will result in the destruction of environmental values for which the land has been set aside.
- Concerned that inappropriate land uses are permissible in some zones, including the E2 and E3 zones.

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- Suggests the following land uses be ‘deleted’ from the E2 zone, as they were previously not permitted uses:
    - Bed and breakfast
    - Dwelling houses
    - Home businesses
    - Home industries
  - Suggests the following land uses be ‘deleted’ from the E3 zones, as they were previously not permitted uses or were listed as prohibited and are inconsistent with the SCRS and ESD principles:
    - Animal boarding or training establishment
    - Aquaculture
    - Extensive agriculture
    - Boat repair facilities
    - Cellar door premises
    - Charter and tourism boating facilities
    - Dual occupancies (attached)
    - Environmental facilities
    - Group homes
    - Information and education facilities
    - Kiosks
    - Markets
    - Research stations
    - Secondary dwellings
    - Tourist and visitor accommodation
    - Water recreation structures
  - Suggests additional objectives for the E2 and E3 zone to ensure the intention of the zones are achieved.

***Jervis Bay Regional Alliance Inc.***

- Support the objectives for the E2 zone but also questions the wording. In relation to the E2 zone suggests that “supply” be deleted from the 3<sup>rd</sup> objective to broaden the application of the objective to all water catchments, due to their importance.
- Concerned with most of the land uses permitted with consent in the E2 zone, as they believe such uses would not lead to environmental conservation and some of the uses are inconsistent with the SCRS. Therefore, recommends the following uses be ‘deleted’ as permitted with consent:
  - Aquaculture
  - Bed & breakfast
  - Dwelling houses
  - Emergency service facilities
  - Home businesses
  - Home industries
  - Recreation areas
  - Research stations
  - Roads
  - Sewerage systems
  - Water recreation structures
  - Water supply systems
- Support ‘environmental protection works’ and ‘environmental facilities’ as permitted with consent in the E2 zone.

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- Concerned with some of the land uses permitted with consent in the E3 zone, as they do not “fit in” with the objectives of the zone. Therefore, recommends the following uses be ‘deleted’ as permitted with consent:
    - Aquaculture
    - Boat repair facilities
    - Boat sheds
    - Cellar door premises
    - Charter and tourism boating facilities
    - Dual occupancies (attached)
    - Emergency service facilities
    - Extensive agriculture
    - Forestry
    - Group homes
    - Helipads
    - Home based child care
    - Home businesses
    - Kiosks
    - Markets
    - Recreation areas
    - Research stations
    - Roads
    - Roadside stalls
    - Sewerage systems
    - Tourist and visitor accommodation
    - Water recreation structures
    - Water supply systems
  - Suggest that RE1 Public Recreation zoned parcels of land that have environmental values should be zoned E2, to reflect the true use and environmental attributes of that land.
  - Recommend that all reserves across the City that are categorised as ‘natural - bushland, wetland, escarpment, watercourse or foreshore’ be zoned E2.

***Kangaroo Valley Community Association Inc.***

- There has been a loss of protection of unique landscape features through the cramming of existing environment protection zones into 3.
- Concerned that Council has “dropped” the E4 zone – it should be “re-instated” to allow the strengthening of the E2 and E3 zones. The lack of the E4 zone in draft SLEP 2009 has created a substantial reduction in environmental conditions and allows development that was not previously allowed under SLEP 1985.
- The land uses permitted with consent in the E2 and E3 zones will destroy the flora, fauna and the tourist attraction (leading to job losses) that Shoalhaven is famous for.
- Concerned with specific loss of controls on scenic zones, special scenic zones, escarpment and water catchment zones.
- Concerned that some highly environmentally sensitive land has been zoned E3 in draft SLEP 2009.

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***Kangaroo Valley Environment Group Inc.***

- Concerned with Council's decision to not use the E4 zone.
- Believes the introduction of the E4 zone would better assist in distinguishing between the E2 and E3 zones.

***Kangaroo Valley Tourist Association Inc.***

- Supports the SLEP Review Group submission and the Kangaroo Valley Community Association Inc. submission.

***Lake Wollumboola Protection Association Inc.***

- Recommends the inclusion of the E4 zone in draft SLEP 2009.
- Recommends that only 'environmental protection works' and 'environmental facilities' be permitted with consent in the E2 zone.
- Recommends that 'environmental facilities', 'dual occupancies' (attached), 'visitor information centres' and 'roads' be permitted with consent in the E3 zone, in addition to the standard permitted uses.
- Recommends that "community land" categorised as "natural area" under the Local Government Act be zoned E2.
- Concerned that the extent of the land uses that are "permitted with consent" in the E2 and E3 zones is not consistent with the zone objectives.

***Ulladulla & Districts Community Forum Inc.***

- Supports the inclusion of the E4 zone in draft SLEP 2009.
- Concerned with the blurring of the LUTs for the E2 and E3 zones.
- Believes the introduction of the E4 zone would better assist in distinguishing between the E2 and E3 zones.

***Vincentia Ratepayers & Residents Association***

- Request certain land uses be 'deleted' as "permitted with consent" in the E2 zone, - 'aquaculture', 'bed & breakfast accommodation', 'dwelling houses', 'home businesses' and 'home industries'.
- Request that the E4 zone be used where dwelling houses are allowed instead of E2 zone.

***Red Head Villages Association Inc.***

- The E4 zone should be included in draft SLEP2009 and that it should apply to land that is currently zoned Environment Protection 7(d1) (Scenic) under SLEP 1985.
- 'Environmental protection works' and 'environmental facilities' are the only land uses that should be permitted with consent in the E2 zone, the other uses proposed as permitted with consent are not consistent with the zone objectives.
- There are too many land uses permissible with consent in the E3 zone and only 'dwelling houses', 'environmental protection works', 'environmental facilities' and 'home industries' should be permitted with consent in the E3 zone.

***Shoalhaven Greens***

- Remove all optional "permitted with consent" land uses in the E2 and E3 LUTs.
- Add the E4 zone to draft SLEP 2009.

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### ***Shoalhaven Heads Community Forum***

- Suggest land to which the E4 zone should apply, including the Environment Protection 7(d1) (Scenic) zone from SLEP 1985 (but not E2 and E3 zoned land).
- Concerned that without the E4 zone there are too many uses permitted with consent in the E2 and E3 zones.
- The following land uses should be 'deleted' from the E2 zone LUT:
  - Home businesses
  - Home industries
  - Recreation areas
  - Research stations
  - Sewerage systems
  - Water recreation structures
- The following land uses should be 'deleted' from the E3 zone LUT:
  - Animal boarding or training establishment
  - Boat repair facilities
  - Charter and tourism boating facilities
  - Forestry
  - Group homes
  - Markets
  - Recreation areas
  - Research stations
  - Secondary dwellings
  - Sewerage systems

### ***Shoalhaven Riverwatch Inc.***

- Lists certain RE1 zoned parcels of river foreshore reserves that should be zoned E3, to protect bank erosion and provide for environmental management measures. The sites were identified in the Foreshore Definition Study as having moderate to severe bank erosion.

### ***SLEP 2009 Review Group***

- The protection afforded to sensitive environmental zones has been diluted, as Council has not used the E4 zone and instead has "crammed" a much wider range of uses into the E2 and E3 zones.
- Recommend the inclusion of the E4 zone in draft SLEP 2009.
- Many of the uses proposed in the E2 and E3 zone as permitted with consent are in conflict with the objectives and potentially threaten the very values that the zones and objectives aim to protect.
- Recommend that only 'environmental protection works' and 'environmental facilities' be permitted with consent in the E2 zone LUT.
- Believes that inclusion of 'dwelling houses' in the E2 zone as permitted with consent is not consistent with the SCRS.
- Supports the E2 objectives but suggests that "supply" be deleted from the 3rd objective to broaden the application to catchments generally.
- Recommend that 'environmental facilities', 'dual occupancies' (attached), 'visitor information centres' and 'roads' be permitted with consent in the E3 zone, in addition to the standard permitted uses. Many of the land uses proposed in the E3 zone are in conflict with the zone objectives and are not consistent with the SCRS. The following land uses are not supported as permitted with consent in the E3 zone:

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- Information and education facility
  - Aquaculture
  - Animal boarding and training establishments
  - Boat repair facilities
  - Boat sheds
  - Charter tourism boating facilities
  - Cellar door premises
  - Extensive agriculture
  - Forestry
  - Group homes
  - Kiosks
  - Roadside stalls
  - Markets
  - Secondary dwellings
  - Tourist and visitor accommodation
  - Recommend that “community land” categorised as “natural area” under the Local Government Act be zoned E2.
  - Do not support subdivision of E2 and E3 zoned land.

#### ***Swan Lake Environment Protection Association***

- Recommend inclusion of the E4 zone in draft SLEP 2009 to allow for low impact residential development.
- Recommend that only ‘environmental protection works’ and ‘environmental facilities’ be permitted with consent in the E2 zone LUT.
- Recommend that only ‘dwelling houses’, ‘environmental protection works’, ‘environmental facilities’ and ‘home industries’ be permitted with consent in the E3 zone.

#### ***Tomerong Community Forum***

- Recommend inclusion of the E4 zone in draft SLEP 2009, to allow for low impact residential development and a broader range of uses than the E2 and E3 zones, such as ‘dwelling houses’.
- Recommend that only ‘environmental protection works’ and ‘environmental facilities’ be permitted with consent in the E2 zone, and only the mandated uses should be permitted with consent in the E2 zone.
- Recommend that “community land” categorised as “natural area - bushland” be zoned E2 eg. some foreshore reserves.
- ‘Tourist and visitor accommodation’ is a land use term that is not consistent with the objectives of the E3 zone, and only the mandated uses should be permitted with consent in the E3 zone.
- Do not support the additional ‘aims’ added to the draft LEP for the E2 and E3 zones.

#### ***Bawley Point Kiola Progress Association Inc.***

- Request that Council reconsider the inclusion of the E4 zone in draft LEP 2009.
- Recommend that only ‘environmental protection works’ and ‘environmental facilities’ be permitted with consent in the E2 zone.
- Recommend that ‘environmental facilities’, ‘dual occupancies’ (attached), ‘visitor information centres’ and ‘roads’ be permitted with consent in the E3 zone, in addition to the standard permitted uses.

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- Recommend that “community land” categorised as “natural area” under the Local Government Act be zoned E2.

### ***Comment***

The CCBs and Community Groups were primarily concerned with ensuring sufficient protection is provided to environmentally sensitive lands, drawing comparisons between SLEP 1985 and draft SLEP 2009. CCBs and Community Groups were generally consistent in relation to some comments ie. requested changes to the E zone land use tables and use of the E 4 zone in draft SLEP 2009. Some CCBs and Community Groups raised specific concern with certain RE1 Public Recreation zoned land that they felt should be zoned E2 or E3.

The matters raised above are addressed in Issues and Recommendations 1, 2, 3, 4, 5 & 6 below.

### **Government Agency Submissions**

#### ***NSW Department of Primary Industries - Agriculture***

- In combining zones from SLEP 1985 into the E2 and E3 zones ‘agriculture’ as defined in SLEP 1985 has gone from being “permissible” to “prohibited” on some land. In some cases this is a move from very broad agricultural activities being permissible, to no agricultural activities being permissible or only grazing activities being permissible. Some of the land is cleared and there is risk of losing “existing use rights” and possible costly development application exercises associated with this issue. Therefore it is requested that the “best fit” transfer is applied consistently so each landowner can do the same or similar types of land uses on their land under SLEP 1985 and draft SLEP 2009.
- Suggests the E4 zone could be useful to resolve the above issue.
- Concern is raised with the objectives of the E2 and E3 zones, and their lack of consistency with some of the objectives in the existing environment protection zones in SLEP 1985.

#### ***NSW Office of Environment & Heritage***

- Council should satisfy itself that the final boundaries of the E1 zone are accurate, via OEH’s spatial data download site.
- The E2 zone should be used purely where the natural environment is the primary land use. This zone should have a limited range of land uses that are permitted with consent and this should not include ‘dwelling houses’. ‘Dwelling houses’ should only be permitted where there is pre-existing entitlement and this should not include land currently zoned 7(d2) under SLEP 1985. The E2 zone should be limited to apply to land as follows:
  - Public lands with high conservation value
  - Private lands where a registered on-title agreement for the conservation of land has been entered into.
  - Private lands in extremely sensitive locations (eg. escarpments, coastal foreshores, coastal wetlands) or where high conservation values are verified.
- Support ‘extensive agriculture’ as use permitted with consent in the E3 zone.
- The E4 zone is useful for dealing with rural areas currently zoned for small lot subdivision that contain bushland (as at the time of making the submission it was

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believed that this was one of few zones where lot averaging could apply). The E4 zone could be applied to some undeveloped bushland areas, as per Eurobodalla example.

### ***Southern Rivers Catchment Management Authority***

- Recommend inclusion of a requirement (clause) for consent activities described under Section 19 & 22 of the Native Vegetation Act and advise that a development consent is not required for any clearing activity already subject to a Property Vegetation Plan (PVP) or other valid consent under the Native Vegetation Act.
- Recommend a “protected regrowth” clause be included in draft SLEP 2009.
- Recommend that Council reconsider the inclusion of the E4 zone, in conjunction with a lot averaging clause, in draft SLEP 2009, to apply to undeveloped bushland lots currently zoned Rural 1(c).
- Recommend that only ‘environmental protection works’ and ‘environmental facilities’ be permitted with consent in the E2 zone.
- Recommend that ‘environmental facilities’, ‘environmental protection works’, ‘dual occupancies’ (attached), ‘dwelling houses’, ‘home businesses’, ‘home industries’, ‘business identification signs’, limited extensive agriculture such as bee keeping and ‘roadside stalls’ be permitted with consent in the E3 zone.
- Recommend that RE1 land where significant vegetation communities are present and not in low condition be zoned E2.
- Concerned Clause 4.2C of draft SLEP 2009 will create new dwelling entitlements in E2 zone. Therefore, recommends Clause 4.2C(1)(a) not apply to E2 zoned land.

### ***Office of Water***

- Preference to zone riparian land (particularly Category 1 watercourses) as E2, but if this doesn't occur objectives in zones that apply to riparian land should be amended to ensure specific objectives to protect and enhance waterways and riparian lands.
- Concerned about certain land uses being permitted with consent in the E2 zone, that appear to conflict with the objectives of the E2 zone and PN09-002, such as ‘dwelling houses’, ‘recreation areas’ and ‘water recreation structures’.
- Concerned about certain land uses being permitted with consent in the E3 zone, such as ‘extensive agriculture’ and private ‘boat sheds’ and ‘water recreation structures’.

### ***Comments***

The State Government Agencies each had their key area of interest or agency responsibility inherent in their submissions. However, generally there was concern raised in relation to where the E zones have been applied, zone objectives and the makeup of the land use tables. It is noted that the issues raised by the State Government Agencies are somewhat consistent with the issues raised by CCBs, community groups and individual, general submissions in relation to this key issue, although in several cases the comments on each issue differ.

It is noted that the criteria or description of the land that Office of Environment and Heritage (OEH) suggest should be zoned E2 is not readily known to Council and specific clauses requested by Southern Rivers Catchment Management Authority (SRCMA) are considered to be State wide matters, that should be addressed via the Standard LEP Instrument.

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The matters raised above are addressed in Issues and Recommendations 1, 2, 3, 4, 5, 6 & 7 below.

### **Form Letters**

There were 20 form letters received that were concerned that without the E4 being included in draft SLEP 2009, there are too many uses permissible in the E2 and E3 zones. The form letter stated the E4 zone could be applied to land currently zoned 7(d1) and that 'caravan parks' should be prohibited in the E4 zone. These form letters also specifically suggested a reduction in the land use terms permitted with consent in the E2 and E3 zone.

### **Comments**

The form letters raise an issue which was also raised by the CCBs, community groups, two State Government agencies (OEH and DPI – Agriculture) and several individual, general submissions. This issue is the use of the E4 zone and the makeup of the land use tables in the E zone, and these matters are addressed in Issues and Recommendations 2, 3 & 4 below.

### **Internal Council Groups**

#### ***Policy Planning - Natural Resources & Floodplain***

This submission specifically commented on the zoning of certain RE1 land in the City and stated *“that Community Land categorised as Natural Area has, at some point, been assessed as being valuable enough to be categorised in this way. These Natural Areas have been gazetted for their natural values and most will have a management plan which outlines the management aspiration of the land (e.g. to be managed for its conservation value). Therefore, Community Land categorised as Natural Area Bushland could either be zoned E2 (as the objectives better match the gazetted purpose of the land) or as a minimum be covered by the biodiversity overlay. If these areas are left in the RE1 zone then an objective needs to be added to reflect their gazetted purpose.”*

This submission also commented on the following E zone matters:

- Some of the E2 objectives have been diluted and suggested some rewording to the 3<sup>rd</sup> objective and the reconsideration of the word “conserve” in the objectives. A review of the E2 objectives should incorporate overarching conservation objectives and water quality objectives should not just be limited to water supply catchments.
- Number of the land uses permitted with consent in the E2 and E3 are inconsistent with the objectives.
- Needs to be clearer distinction between the land uses permitted in E2 and E3 zones. The permitted land uses in each zone should reflect the management objectives of each zone.
- The following objective should be added to the E2 and E3 zone: “to protect water quality and the ecological integrity of natural waterways”.

#### ***Policy Planning - Urban Design & Heritage***

This submission was in part concerned with the permissibility of 'water recreation structures' and 'sewerage systems' in the E2 and E3 zone, as the nature of these activities may be contrary to the objectives of the zone.

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## **Comments**

One internal submission was detailed in its reasoning to change the zoning of Community Land categorised as Natural Area – Bushland from RE1 to E2. This suggestion was also included in several of the other submissions. The submission comments on the RE1 zone, along with the E zone land use tables and objectives comments are addressed in Issues and Recommendations 1, 2, 3, 4, 5 & 6 below.

### **Independent Report – Land Use Tables**

# Although not a submission, and as outlined in previous reports to this Committee, to assist with the consideration of the LUTs, Locale Consulting was commissioned to undertake an independent review of the LUTs. This report is provided as **Attachment ‘C’** and will be further referred to in this report.

### **Issue 1: Zone transfer approach from SLEP 1985**

Submissions from CCBs and State Agencies (namely DPI - Agriculture and OEH) were concerned with the transfer of 8 environment protection zones from SLEP 1985 into effectively 2 environment protection zones in draft SLEP 2009 and the issues this has caused. The reference to “effectively 2” in the previous sentence relates to the fact that the E1 zone in draft SLEP 2009 is a “best fit” transfer of the National Parks 8(a) zone in SLEP 1985 and also the 8(a) and 8(b) zones in the Jervis Bay REP.

#### **Comment**

It must initially be noted that it is not necessarily the number of environment protection zones that offers environment protection to land, rather it is the content or strength of each LUT.

The “best fit” transfer from SLEP 1985 to draft SLEP 2009 was particularly complex in the case of the environment protection zones, as there are some key differences in the LUTs between the existing environment protection zones under SLEP 1985. Typically this means the draft SLEP 2009 as exhibited could not maintain the status quo for all the environment protection zones in SLEP 1985.

This sometimes means less land uses being permissible on certain land and sometimes more land uses being permissible on certain land, and this was somewhat unavoidable due to the combining of several zones.

An example of where an additional land use is permissible is the 7(d2) zone (noting it is the only environment protection zone in SLEP 1985 in which dwelling houses are prohibited (other than the 7(f2) Coastal Reservation zone of which there are only 7 parcels in the City), where the exhibited draft SLEP 2009 permits ‘dwelling houses’ in certain circumstances on that land, via the proposed E2 zoning.

An example of when an additional land use is prohibited is the removal of ‘caravan parks’ as a land use permitted with consent in the E3 zone, notwithstanding that ‘caravan parks’ are currently permitted with consent in the 7(d1) and 7(f1) zones.

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Basically, it was not possible to undertake an effective and direct “best fit” transfer in the case of the environment protection zones and the Standard LEP Instrument. The option exists to “revisit” the application of the E2 and E3 zones. This could include the creation of one zone (E2) with a restrictive LUT to reflect the significance of protecting the highest conservation value land in the City via the LEP, and one zone (E3) with a less restrictive LUT. However, this would require substantial resource and a strategy basis that does not exist at this point in time, and would delay the LEP process at this crucial point. Further, this approach is not consistent with the “best fit” transfer. However, this approach has strategic planning merit and is considered an important standalone project to be considered following the completion of the Draft Shoalhaven LEP 2009. This will also enable an informed and justifiable response to this issue that was of concern for many submission authors, rather than attempting to do it in an ad-hoc manner through the Special Development Process.

Due to the complexity of the “equivalent” zone transfer scenario and in response to the submissions the issue of the permissible uses in the E2 and E3 zone, and the use of the E4 zone, is discussed as separate issues with separate recommendations below.

***Option 1:***

Revisit the zone transfer process and re-consider where the E2 and E3 zones should be applied.

***Implications***

To revisit the zone transfer process now would delay the LEP process and should the other recommendations in this report be supported the application of the E2 and E3 zones could be more effectively considered in the context of the use of the E4 zone. There is also the potential to decrease the level of environmental protection afforded to certain land if less land was to be zoned E2, which could be a possible outcome of this option.

***Option 2:***

Retain the zone transfer as exhibited in draft SLEP 2009 and therefore the current extent of the E2 and E3 zones across the City.

***Implications***

This option is preferable as it allows the LEP process to continue in a timely manner, it is consistent with the DP&I practice notes and it is in context with the further recommendations included in this report.

**Recommendation 1:**

**Retain the zone transfer as exhibited in draft SLEP 2009 and therefore the current extent of the E2 and E3 zones across the City.**

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## **Issue 2: Use of E4 Environmental Living zone**

A high number of submissions received in relation to the E zones requested the use and inclusion of the E4 zone in draft SLEP 2009. Most of those submissions did not state where they felt the zone should be applied, which is obviously a key matter for consideration. Some of the submissions did suggest that the E4 zone was considered to be the “equivalent” zone for the current 7(d1) zone under SLEP 1985 or it should be utilised for some 1(c) zoned land in the City. Also, the Independent LUT Review Report recommended that consideration be given to the introduction of the E4 zone to cater for limited residential development within special value areas.

### ***Comment***

As detailed in the “background” section of the report, during the early stages of the preparation of the Plan, from discussion with DP&I and review of other Councils that were utilising the E4 zone, it was determined there was no equivalent zone in SLEP 1985 ie. no existing low impact residential development in a rural setting with special conservation values, with most of that type of development currently being located in rural zones. These areas had been identified and sufficiently addressed via the Rural Plan. Subsequently the inclusion of lot averaging provisions in draft SLEP 2009 (as recommended by this Committee on 12 March 2012 and resolved by Council on 20 March 2012) also provides further certainty for these areas.

Hence the use of the E4 zone in draft SLEP 2009 would have been inconsistent with the “best fit” transfer approach. That is not to say that the E4 zone may not be appropriate for some land in Shoalhaven. However, the only way to establish the appropriate use of the E4 zone in Shoalhaven is via a specific strategy developed with robust data and analysis, as outlined in the DP&I practice notes. Such a project would also need to include extensive community engagement with effected landowners and other relevant stakeholders. This is an important project and could be added to the list of future projects to be undertaken following the completion of the Draft Shoalhaven LEP 2009, and would allow an informed response to this issue that concerned many submission authors.

To date, the E4 zone has been used somewhat sparingly in other Standard LEP Instruments. For example the E4 zone has only been applied in 3 discreet areas around Goulburn, adjacent to existing rural residential areas.

The following options exist in regard to this issue:

### ***Option 1:***

Council undertake a detailed strategic planning exercise to investigate and identify the appropriateness of zoning some land E4 Environmental Living, as a future planning proposal to amend the LEP. This strategic planning exercise may also require reconsideration at the appropriate point of the E2 and E3 zone LUTs and also the application of the E2 and E3 zones, in the context of the possible inclusion of a further E zone.

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### ***Implications***

This is considered an appropriate way forward as it allows an informed response to the many submissions that raised this issue and ensures draft SLEP 2009 is not delayed by this key issue that is complex and is as consistent as possible with the “best fit” transfer and therefore the adopted “ground rules”.

### ***Option 2:***

Council include the E4 Environmental Living zone in draft SLEP 2009 and determine appropriate locations for the zone.

### ***Implications***

This is not preferable as no detailed work has been done or strategy prepared to support inclusion of the zone and identify the land that is should be applied to. Without this sound strategic basis the DP&I may not support the inclusion of the zone when a new Section 65 certificate is requested. Further, this option is inconsistent with the “best fit” transfer and therefore the adopted “ground rules”.

### **Recommendation 2:**

- a) **That Council undertake a detailed strategic planning exercise after the adoption of this draft LEP, to investigate the appropriateness of zoning areas E4 Environmental Living, as a possible future planning proposal after completion of the Draft LEP 2009; and**
- b) **This strategic planning exercise also include reconsideration of the E2 and E3 LUTs and application of the E2 and E3 zones, in the context of the possible inclusion of a further E zone (E4).**

### **Issue 3: Changes to Permissible Uses in the E2 Environment Conservation zone**

A number of the submissions requested also changes to the permissible uses in the E2 zone or the “tightening up” of the LUT. The Independent LUT Review Report also recommends a number of changes for a range of reasons as outlined in the report (see **Attachment ‘C’**). These reasons include possible environmental impact and appropriateness of the land use, in the context of the dictionary definition.

### ***Comment***

The land uses defined as permitted with consent in the E2 zone are the result of the “best fit” transfer from the 7(a), 7(c), 7(d2), 7(e) and 7(f2) zones in SLEP 1985, noting that there are differences in each of those LUTs that impact upon the “equivalent” zone transfer process. One of these zones, 7(d2), prohibits ‘dwelling houses’. Any application lodged for a land use permitted with consent in the E2 zone would be required to satisfy the objectives of the zone and be assessed via the Section 79C process. A further review of the E2 LUT would be carried out as part of Recommendation 2 above, however any further reduction in the range of land uses permitted with consent would potentially

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undermine the development types that can currently be carried out on the land as zoned in SLEP 1985.

**Option 1:**

Undertake a review of the E2 Land Use Table, as exhibited in draft SLEP 2009, to remove some of the land uses that are “permitted with consent”. This could include ‘aquaculture’, ‘dwelling houses’ and ‘home industries’.

**Implications**

This option would allow an immediate response to several of the issues raised in the submissions that requested a “tightening up” of the land use table and greater distinction between the E2 and E3 zones. However, this option would most likely make some land uses prohibited, that are currently permissible with consent under SLEP 1985.

**Option 2:**

- a) Prohibit ‘dwelling houses’ on the existing 7(d2) land via either an additional local clause or the minimum lot size overlay map, and
  - Retain the E2 Land Use Table as exhibited in draft SLEP 2009 in the interim, and
  - Undertake a review of the E2 Land Use Table and the application of the E2 zone, in the context of the detailed strategic investigation into the possible future inclusion of the #4 Environmental Living zone in the LEP.

**Implications**

This is the preferred option for the following reasons:

- It aims to be consistent with the “best fit” transfer, specifically in relation to ‘dwelling houses’ in the 7(d2) zone.
- It supports a strategic approach to responding to several of the submissions.
- The E2 land use table cannot be effectively reviewed until such time that the possible future use of the E4 zone has been resolved.

**Recommendation 3:**

- a) **Prohibit ‘dwelling houses’ on the existing 7(d2) zoned land via either an additional local clause or the minimum lot size overlay map;**
- b) **Retain the E2 Land Use Table as exhibited in draft SLEP 2009 in the interim; and**
- c) **Undertake a review of the E2 Land Use Table and the application of the E2 zone, in the context of the detailed strategic investigation into the possible future inclusion of the E4 Environmental Living zone in the LEP**

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## **Issue 4: Changes to Permissible Uses in the E3 Environment Management zone**

# A number of the submissions requested changes to the permissible uses in the E3 zone or the “tightening up” of the LUT. The Independent LUT Review Report also recommends a number of changes for a range of reasons as outlined in the report (see **Attachment ‘C’**). These reasons include possible environmental impact and appropriateness of the land use, in the context of the definition.

### ***Comment***

The land uses defined as permitted with consent in the E3 zone are the result of the “best fit” transfer from the 7(d1), 7(f1) and 7(f3) zones in SLEP 1985, noting that there are differences in each of those LUTs that impact upon the “equivalent” zone transfer process. Any application lodged for a land use permitted with consent in the E3 zone would be required to satisfy the objectives of the zone and be assessed via the Section 79C process. A further review of the E3 LUT would be carried out as part of Recommendation 2 above, however any further reduction in the range of land uses permitted with consent would potentially undermine the development types that can currently be carried out on the land as zoned in SLEP 1985.

### ***Option 1:***

Undertake a review of the E3 Land Use Table, as exhibited in draft SLEP 2009, to remove some of the land uses that are “permitted with consent”. This could include ‘aquaculture’, ‘boat repair facilities’, ‘forestry’, ‘kiosks’ and ‘markets’.

### ***Implications***

This option would allow an immediate response to several of the issues raised in the submissions that requested a “tightening up” of the land use table and greater distinction between the E2 and E3 zones. However, this option would most likely make some land uses prohibited, that are currently permissible with consent under SLEP 1985.

### ***Option 2:***

- Retain the E3 Land Use Table as exhibited in draft SLEP 2009 in the interim; and
- Undertake a review of the E3 Land Use Table and the application of the E3 zone, in the context of the detailed strategic investigation into the possible future inclusion of the E4 Environmental Living zone in the LEP.

### ***Implications***

This is the preferred option for the following reasons:

- It aims to be consistent with the “best fit” transfer.
- It supports a strategic approach to responding to several of the submissions.
- The E3 land use table cannot be effectively reviewed until such time that the possible future use of the E4 zone has been resolved.

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#### **Recommendation 4:**

- a) **Retain the E3 Land Use Table as exhibited in draft SLEP 2009 in the interim; and**
- b) **Undertake a review after the completion of draft SLEP 2009 of the E3 Land Use Table and the application of the E3 zone, in the context of the detailed strategic investigation into the possible future inclusion of the E4 Environmental Living zone in the LEP.**

#### **Issue 5: Changes to Objectives of the E zones**

A number of submissions raised non-specific concerns with the objectives of the E2 and E3 zone.

Four specific requests (from CCBs and community groups) suggested the removal of “water supply” or “supply” from the 3<sup>rd</sup> objective in the E2 zone, to widen the application of the objective to all catchments.

One specific comment from the NSW Office of Water stated a preference to zone riparian land (particularly Category 1 watercourses) as E2, but added if this does not occur, the objectives in zones that apply to riparian land should be amended to include specific objectives to protect and enhance waterways and riparian lands.

One internal submission from Council’s Policy Planning - Natural Resources & Floodplain Section suggests the following objective be added to the E2 and E3 zone: *“to protect water quality and the ecological integrity of natural waterways”*. Further concern was also raised with the dilution of some of the E2 objectives and therefore the Section suggested some rewording to the 3<sup>rd</sup> objective and the reconsideration of the word “conserve” in the objectives. A review of the E2 objectives should incorporate overarching conservation objectives and water quality objectives should not just be limited to water supply catchments.

#### ***Comment***

This wording of the 3<sup>rd</sup> objective is consistent with the current objectives for the 7(c) (water catchment areas) zone in SLEP 1985 as the zone specifically applies to water supply catchment areas. Acknowledging the expanded land to which the E2 zone applies it would be preferable to reword the objective to apply to both water supply catchment areas and also other catchments, as outlined in the recommendation below.

The Office of Water’s request to zone all riparian land as E2 is a Standard LEP Instrument issue that should be considered on a state wide basis. However, there are several zones in which riparian lands are currently located, therefore an overall “Aim of Plan” may be a more appropriate means to consider this issue. One of the aims recommended by this Committee on 19 March 2012 is “to encourage the proper management, development and conservation of natural and man-made resources”, and this aim is considered to be broadly applicable to riparian land. Further, the Citywide DCP and other policy documents include controls and guidelines regarding the protection and enhancement of waterways (which may also have a Waterway zone with specific

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objectives) and riparian lands. The same “Aim of Plan” – “to encourage the proper management, development and conservation of natural and man-made resources” also addresses one of the concerns raised by Council’s Policy Planning – Natural Resources & Floodplain Section in that this aim applies to all zones across the City where overarching conservation objectives are relevant.

**Recommendation 5:**

**That the 3<sup>rd</sup> objective in the E2 zone be reworded to read as follows: “To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways”.**

**Issue 6: RE1 Public Recreation zone**

Several submissions (primarily from CCBs and also the SRCMA and an internal submission) requested that consideration be given to changing land zoned RE1 Public Recreation to E2 or E3. These submissions related to either specific parcels of land or certain categories of community land. The internal submission received supported the zoning of community land categorised as “Natural Area Bushland” to E2 or the inclusion of this land on the biodiversity overlay.

***Comment***

It is outside the scope of the current draft LEP, and is inconsistent with the “best fit” transfer, to generally change the zoning of all community land categorised as “Natural Area Bushland” at this point in time. In the meantime, the Council owned reserves are governed/protected by their classification under the Local Government Act 1993 and resulting Plans of Management. However, this issue does merit further consideration and should be prioritised as part of an existing Council project which is already underway. This separate project, which could result in a future planning proposal, would allow an informed response to this issue that was of concern for several submission authors and allows for a detailed review of the zoning of Council’s land holdings, not just in the context of the environment protection zones.

Due to the lack of conservation objectives in the proposed new RE1 zone and the differences and variety in Council’s land, an additional objective is considered appropriate as an interim measure.

This matter was also discussed with DP&I and OEH to determine how other Councils were addressing this issue. It was agreed that, to satisfy legislative requirements, that a strategy (along with possible public hearings) is required, that identifies constraints and opportunities on all Council land, to support any change of zoning to RE1 land. To undertake this exercise at this stage in the LEP process would cause a substantial delay.

***Option 1:***

- (a) That the zoning of Council’s reserves be considered as part of the ongoing review of Council land and as a possible future planning proposal, and

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- (b) The proposed zoning, as exhibited in draft SLEP 2009, be retained for Council reserves, and
  - (c) That the community land categorised as “Natural Area Bushland” be included on the biodiversity map overlay in draft SLEP 2009, and
  - (d) An additional 4<sup>th</sup> objective be included in the RE1 LUT to provide for the environmental protection and enhancement of land that has environmental value, not just for recreational purposes - *“To protect and enhance the ecological, scientific, cultural and aesthetic values of public recreation land”*.

### ***Implications***

This is the preferred option for the following reasons:

- It aims to be consistent with the “best fit” transfer.
- It supports a strategic approach to responding to several of the submissions.
- Inclusion of the community land categorised as “Natural Area Bushland” be included on the biodiversity map overlay in draft SLEP 2009 and the additional objective provide an interim step to give greater protection to Council land with environmental values until such time that part (a) of the option is completed.

### ***Option 2:***

Retain the RE1 zone as exhibited in draft SLEP 2009.

### ***Implications***

This option does not respond to the submissions received in relation to this matter.

### ***Option 3:***

Change the zoning of community land categorised as “Natural Area Bushland” from RE1 to E2.

### ***Implications***

This option is considered pre-emptive of the outcome of a separate strategic exercise that is already underway.

### **Recommendation 6:**

- (a) That the zoning of Council’s reserves be considered as part of the ongoing review of Council land and as a possible future planning proposal.**
- (b) The proposed zoning, as exhibited in draft SLEP 2009, be retained for Council reserves.**
- (c) That the community land categorised as “Natural Area Bushland” be included on the biodiversity map overlay in draft SLEP 2009.**
- (d) An additional 4<sup>th</sup> objective be included in the RE1 LUT to provide for the environmental protection and enhancement of land that has environmental value, not just for recreational purposes - *“To protect and enhance the***

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***ecological, scientific, cultural and aesthetic values of public recreation land”.***

### **Issue 7: Additional clauses relevant to the E zones**

The SRCMA recommended that the following additional clauses be included in draft SLEP 2009.

- Requirement (clause) for consent activities described under Section 19 & 22 of the Native Vegetation Act and advise that a development consent is not required for any clearing activity already subject to a PVP or other valid consent under the Native Vegetation Act.
- “Protected regrowth” clause.

### ***Staff Comment***

The two matters raised above do not solely apply to Shoalhaven, rather they are state wide matters that are more appropriately addressed via the Standard LEP Instrument.

### **Recommendation 7:**

**At this time, no additional local clauses relevant to the E zones be inserted in draft SLEP 2009.**

### ***Resourcing Implications - Financial, Assets, Workforce:***

To date, considerable staff (workforce) time has been, and will continue to be, prioritised on this project.

### ***Community, Environment (ESD), Economic and Governance Impact:***

The exhibition allowed for extensive community comment on this key issue. The submissions received have been considered, analysed and summarised as discussed and outlined in this report. Draft SLEP 2009 will be re-exhibited, as resolved by Council on 28 February 2012, to give opportunity for further community consideration and feedback in relation to any changes made during this stage of the draft LEP process. The recommendations made in the report are based on the submissions, adopted “ground rules”, requirements of the Standard LEP Instrument and sound strategic planning.

A fundamental consideration in relation to the key issue of the E zones is ensuring environmental values that are recognised by strategies or environmental studies are implemented via the draft LEP wherever possible, and where a “best fit” transfer to the Standard LEP Instrument zones has occurred maintaining the status quo for landowners has been paramount wherever possible.

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## **CONCLUSION**

As outlined in the “background” section of this report, in the Shoalhaven case, the Standard LEP Instrument required a set number of distinct environmental protection zones to be utilised whilst attempting to carry out a “best fit” transfer from SLEP 1985 to draft SLEP 2009.

The recommendations in this report aim to create the most equitable changeover from SLEP 1985 to draft SLEP 2009 in relation to the environmental protection zones. Further, the recommendations aim to ensure further strategic planning work is undertaken in relation to the application of the environmental protection zones to better respond, in the future, to some issues raised in the submissions.

Peter Adams

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R.D Pigg

**GENERAL MANAGER**