

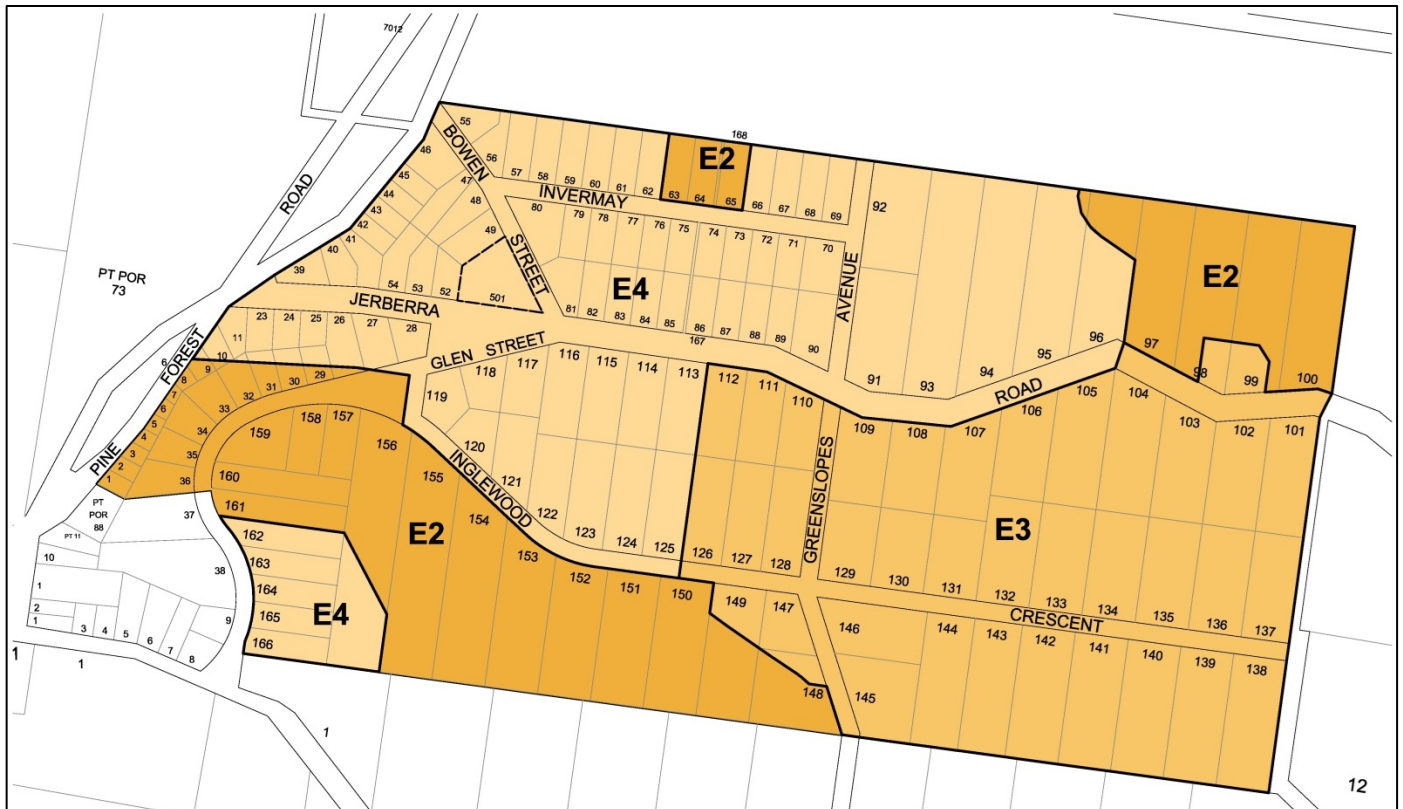
# Jerberra Estate, Tomerong

## E2 – Environmental Conservation Zone – Planning Controls



[www.shoalhaven.nsw.gov.au](http://www.shoalhaven.nsw.gov.au)

*Shoalhaven*  
City Council



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This information has been produced to assist landowners whose land is zoned 'E2 - Environmental Conservation' in Jerberra Estate.

## The Jerberra Estate Local Environmental Plan (LEP)

Local Environmental Plans (LEP's) are statutory (legally binding) plans under Part 3 of the NSW Environmental Planning and Assessment Act 1979. LEP's allow Councils to regulate the ways in which all land, both private and public may be used and protected through zoning and development controls.

The Jerberra Estate LEP commenced on 22 February 2014, concluding the Planning Proposal (rezoning) that was exhibited in 2012.

The Jerberra Estate LEP consists of a [written instrument](#) and [accompanying maps \(zoning, lot size and development area\)](#).

The Estate is now zoned a combination of: 'E2 – Environmental Conservation'; 'E3 – Environmental Management'; and 'E4 – Environmental Living'.

The LEP contains land use tables which set out the objectives and permissible uses for each of the zones in the Estate. A copy of the land use table for the E2 zone is provided at the end of this leaflet.

Dwelling houses are generally permissible in the E2, E3 and E4 zones but there are minimum requirements for land area that control which lots within the Estate can be developed for this use.

Prior to commencement of the Jerberra LEP on 22 February 2014, the Estate was zoned 'Rural' and the minimum land area for dwelling houses was 40 hectares (400,000 m<sup>2</sup>). The 40 ha lot size standard has been retained on the E2 zoned land in the Estate. All properties in the Estate are considerably less than 40 hectares. Thus dwelling houses cannot be approved on the E2 land, even though they are permissible within the zone.

Smaller minimum lot sizes apply to the E3 and E4 zoned land.

Under clause 6.5 of the Jerberra LEP, development can only be approved if it is within the 'development area' on the development area map.

### Why is land zoned 'E2'?

The E2 zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The E2 land in Jerberra contains the following biodiversity values that are protected under both NSW and Australian Environmental Law.

**Swamp Sclerophyll Forest** is a protected vegetation community which occurs in the broad drainage depressions located in the south western and north eastern parts of the Estate. Swamp Sclerophyll Forest is an 'endangered ecological community' (EEC) under the NSW *Threatened Species Conservation Act* (TSC Act).

The EEC in the northeast of the Estate is also habitat for the **Eastern Bristlebird** which is protected under the TSC Act and the Commonwealth *Environment Protection and Biodiversity Conservation Act* (EPBC Act).

The **Biconvex Paperbark** (*Melaleuca biconvexa*) occurs in two areas of the Estate:

1. An area of approximately 6.16 hectares which is broadly aligned with the EEC in the south western part of the subject land; and
2. An area of approximately 0.25 hectares in a smaller drainage depression in the northern part of the subject land.

The Biconvex Paperbark is protected under the TSC Act and the EPBC Act.

The E2 zone and associated planning controls are consistent with the biodiversity values that occur in these areas. In 2012, the Federal Government determined that further assessment and approval would not be required under the EPBC Act if the Estate is developed in accordance with the Estate's planning controls.

Further information on the planning history of the Estate is available on Council's website at:

<https://www.shoalhaven.nsw.gov.au/Planning-Development/Development-Plans-and-Policies/Paper-Subdivisions>

## Conclusion

The E2 zone has fewer permissible uses than the previous RU2 zone and environmental conservation is integral to the zone objectives. As noted above however, the situation has not essentially changed in respect of the ability of the E2 zoned land in Jerberra Estate to be used for residential purposes. Planning controls have not allowed the individual lots to be developed since the City's first land use planning scheme was introduced in 1964.

## Policy – Voluntary Acquisition of Residual E2 Environmental Conservation Land - Jerberra & Nebraska Estates

On 5 October 2021, Council's Development & Environment Committee adopted the above Policy which allows owners of 'residual E2 Environmental Conservation land' in the Jerberra Estate, to potentially sell their land to Council (should they wish). The Policy is available on Council's website under Council/Access to Information or by clicking here:

<https://doc.shoalhaven.nsw.gov.au/displaydoc.aspx?record=POL21/44>

'Residual E2 land' is land that is zoned E2 Environmental Conservation under the Shoalhaven Local Environmental Plan (Jerberra Estate) 2014 and

- does not have a dwelling entitlement; and
- is not proposed for consolidation into a larger development parcel.

The residual E2 land in Jerberra is shown in Figure 2 of the [Policy](#) (bounded by a thick dashed brown line).

If you own 'residual E2 Environmental Conservation land' in the Jerberra Estate, this means you can now potentially sell this land to Council (if you wish) subject to an independent land valuation, prepared in accordance with the Policy.

Should you wish to initiate the process (without any obligation) you can do so by providing a written expression of interest in selling your property to Council via:

- Email: [council@shoalhaven.nsw.gov.au](mailto:council@shoalhaven.nsw.gov.au) OR
- Write to:

Jerberra Estate Planning Controls: 'E2 – Environmental Conservation' Zoning

The Chief Executive Officer  
Shoalhaven City Council  
PO Box 42  
NOWRA NSW 2541

Please quote Council reference 3599E and mark your correspondence for the attention of: Technical Services, Property Unit. The Property Unit will then, in consultation with you, engage a registered Land Valuer to prepare an independent land valuation.

The Council reports and accompanying attachments that were considered by Council in the lead-up to the Policy being adopted, and Council's resolutions are all available at Council's Get Involved Page: <https://getinvolved.shoalhaven.nsw.gov.au/jerberra-nebraska-estates>

## **Other options**

### **Transfer of land in lieu of unpaid rates**

For several years, Council has had a policy of accepting land within paper subdivisions (including Jerberra Estate) in lieu of unpaid rates, if requested by the owner in lieu of unpaid rates. This policy still applies and Council will cover the legal fees for the transfer.

### **Private conservation programs**

Owners of land zoned E2 could consider entering into an agreement under one of the conservation programs that are available. An overview of various private conservation programs is provided in a document titled "[Conservation on Private Land](#)" prepared by the Environmental Defenders Office (EDO) NSW. Some of these programs offer some financial incentives. However they are generally targeted at larger areas of land under single ownership, and may not be applicable/available for the E2 land in Jerberra Estate.

Some other useful links are provided below:

<http://www.environment.nsw.gov.au/cpp/ConservationPartners.htm>

<http://nct.org.au/supporting-land-owners/legal-protection-for-land/>

<http://www.wildlifelandtrust.org.au/index.php/member-resources/private-land-conservation-grant>

## Excerpt from the Shoalhaven Local Environmental Plan 2014 (Jerberra Estate)

### Zone E2 Environmental Conservation

#### 1 Objectives of zone

- To protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values.
- To prevent development that could destroy, damage or otherwise have an adverse effect on those values.
- To protect water quality and the ecological integrity of water supply catchments and other catchments and natural waterways.
- To protect the scenic, ecological, educational and recreational values of wetlands, rainforests, escarpment areas and fauna habitat linkages.
- To conserve and, where appropriate, restore natural vegetation in order to protect the erosion and slippage of steep slopes.

#### 2 Permitted without consent

Nil

#### 3 Permitted with consent

Aquaculture; **Bed and breakfast accommodation**; **Dwelling houses**; Emergency services facilities; Environmental facilities; Environmental protection works; **Home businesses**; Recreation areas; Research stations; Roads; Sewerage systems; Water recreation structures; Water supply systems

#### 4 Prohibited

Business premises; Hotel or motel accommodation; Industries; Multi dwelling housing; Recreation facilities (major); Residential flat buildings; Restricted premises; Retail premises; Seniors housing; Service stations; Warehouse or distribution centres; Any other development not specified in item 2 or 3

#### Notes:

1. The uses highlighted in red need to be read in the context of the overall [Jerberra Estate LEP](#).
2. Any “dwelling house” needs to be able to comply with the minimum lot size overlay.