

Appendix B
Extract from the February 2014
report to Council on the draft PLEP

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2 Submission themes

2.1 Exhibition period and the availability of hard copies

Numerous submissions commented that a second exhibition over the Christmas holiday period was not appropriate. Refer to the Introduction above for comment.

2.2 The zoning of the rural residential areas outside of Braidwood and Bungendore

2.2.1 Submissions

Approximately one hundred and forty one submissions stated that they did not support the application of the land use zone E4 Environmental Living and would like rural residential land to be zoned R5 Large Lot Residential. Additionally, many submissions stated that they would like extensive agriculture to be permissible without development consent in the land use zone R5 Large Lot Residential. It is noted that the majority of these submissions are a 'form letter' and are from property owners in the localities of Wamboin and Bywong.

The reasons given for the preference for the land use zone R5 Large Lot Residential were:

- the word 'rural' is contained in the first objective of the R5 Large Lot Residential land use zone
- the word 'environment' is contained in the title of the E4 Environmental Living land use zone
- Council has not provided any scientific evidence that justifies the application of an environmental land use zone and there is nothing 'special' about the land
- the zoning of the land 'environmental' will increase the interest of government in controlling the use of the land. This will result in a focus on the natural environment in the assessment of development applications which in turn will devalue and restrict the use of the land
- the Biodiversity (Terrestrial) maps are predictive maps and do not show what is actually present
- the land does not contain high conservation values and no on-ground flora and fauna assessment for the area or individual properties has been undertaken
- the land has been used for agricultural production for a long time
- the restriction of various land uses in the E4 Environmental Living land use zone, such as childcare centres
- the local environmental plan places too much emphasis on protection rather than improvement
- the objective 'To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns.' it is suggested constrains the residential use of land and favours environmental protection
- the land use zone R5 Large Lot Residential has been used in the *Yass Local Environmental Plan 2013* for rural residential areas that are not adjacent to Yass

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- the land has been well managed without the need for an environmental protection land use zone
- the permitted land uses are restrictive and will force people to close existing businesses or move
- landowner 'rights' will be impeded
- it will restrict the ability to maintain good grazing land and undertake agriculture and will allow it to return to being only suitable for native animals
- there will be additional 'bureaucracy' and Council fees
- R5 Large Lot Residential is the default zone recommended by the NSW Department of Planning and Infrastructure
- it is an impediment bushfire hazard reduction
- the use of an environmental protection zone across the rural residential areas trivialises the concept of an environmental land use zone

In addition to the above comments, the following comments were made in submissions:

Submission No. 99

The submission states in relation to the following E4 land use zone objectives:

- To encourage development that is visually compatible with the landscape
- To minimise the impact of any development on the natural environment

"The two italicised points (above) are repetitive-what is special and must be conserved is already noted in the first mandatory point. These extra points may be interpreted as being inserted for a specific reason-as if "special ecological, scientific or aesthetic values" refers to something completely different."

Submission No. 129

The submission states that "The value of properties zoned E4 will be significantly and detrimentally affected." by clause 4.1B Subdivision of land within zone E4 Environmental Living. The submission suggests that it will not be possible to erect a dwelling on a 'resulting lot' where Council does not have 'evidence' of the environmental values of the land.

Comment

Clause 4.1B enables the subdivision of land in the land use zone E4 Environmental Living using an 'averaging' provision. Subclause 4.1B(5) relating to a *resulting lot* restricts the subdivision of land that has already been subdivided in accordance with this clause. The clause 'carries over' the current provisions in the *Yarrowlumla Local Environmental Plan 2002*. It has the same effect as clauses 20(4) and (5) of the YLEP 2002 which control subsequent subdivision of large lots created in previous average lot size subdivisions.

Submission No. 178

The submission states "...note that Extensive Agriculture will now be permitted without the need for development consent, and believe that this addresses the concerns of the vast

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majority of objectors...suggest that matters relating to E4 including sub-division and minimum lot size be considered as part of the Rural Lands Study.”

Submission No. 184

The submission states...“The Standard Instrument (whatever its shortcomings) provides flexibility. Although probably too late in proceedings to introduce a new zone, RU4 may have been an option for at least part of the area in question. Alternatively the modification of E4 to take on the character of Yarrawluma’s 1(d) zone may have merit.

“If Council cannot accommodate landholders by embracing R5 or some alternate zone, the provisions of E4 should be urgently and carefully reviewed with a view to erasing these elements which trouble so many residents. This exercise should not be postponed to a distant Rural Lands Study, but form part of the current LEP process with an emphasis on meaningful community consultation.”

Submission No. 77 and other submissions in support of E4 Environmental Living

There were ten submissions which stated that they support the application of the land use zone E4 Environmental Living. One of the submissions (Submission No. 77) includes seventy nine signatures (number stated in the submission) and comments.

The reasons provided in the submissions for supporting the land use zone E4 Environmental Living are:

- it maintains an environment which is rich in flora and fauna
- the land use zone supports the lifestyle of people in the area, “with an interest in maintaining/enhancing the environmental status of the area and perhaps undertaking small scale rural activities”
- the zone will provide “the best possible current protection to the natural environment and the lifestyle amenity of these areas against inappropriate development.”
- “Whether rural residential or agricultural is of less moment than that Palerang resist random urbanisation. It may be inevitable that our towns become larger, but that should happen in a managed way. Indeed, Palerang should actively define its status as the model of sensible rural residential development.”
- “This (E4) provides the landowners in this community with the closest approximation of their current amenities and entitlements under the current state zoning regime and does not impose any additional requirements or restrictions...”
- The E4 is the closest to the old 1(d) in intent
- “The amended E4 enshrines all current activities and reflects what I prefer to see as the future for Bywong and Wamboin”

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2.2.2 Background to the application of the land use zone E4 Environmental Living

The E4 Environmental Living land use zone was applied to existing rural residential areas that are outside of Bungendore and Braidwood including the areas zoned 1(g) (Rural Small Holding) under the *Yarrowlumla Local Environmental Plan 2002*. The majority of the land is used for residential purposes or smaller scale agricultural activities. There is no land use zone in the standard instrument that is directly equivalent to the current rural residential zones outside of Braidwood and Bungendore.

In preparing the draft local environmental plan, the Practice Notes, zone objectives of E4 Environmental Management, R5 Large Lot Residential and RU4 Primary Production Small Lots were examined as well as the characteristics of the land use zone and current land uses. It was recognised that the size and use of the lots, and the amount of native vegetation cover differed between the areas currently zoned rural residential and village. There was no formal environmental study undertaken and this is not a requirement, particularly in the situation of 'translating' the current local environmental plans into a standard instrument LEP.

Extracts of the Department of Planning and Infrastructure Circular *PN 11-002 Preparing LEPs using the Standard Instrument: standard zones* which describe the Department's intention regarding each of the relevant land use zones are listed below:

"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 mandatory objectives for the E4 Environmental Living land use zone are:

- To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values.
- To ensure that residential development does not have an adverse effect on those values.

The Practice Note PN 09-002 *Environment Protection Zones* also includes comments on E4 Environmental Living. It is noted that the land uses listed in the Practice Note as being suitable for the zone are similar to those in the draft local environmental plan. The land uses in the Practice Note are:

- bed and breakfast accommodation
- building identification signs and business
- identification signs
- caravan park
- community facility
- dwelling house

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- eco-tourism
- environmental facility
- home business, home industry and home-based child care
- information and education facility
- kiosk
- recreation area
- secondary dwellings, e.g. attached to the principal dwelling
- tourist and visitor accommodation

“R5 Large Lot Residential

This zone is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas. The allocation of large lot residential land should be justified by council’s housing/settlement strategy prepared in accordance with planning principles set out in regional and subregional strategies, s.117 directions and relevant SEPPs. Access to reticulated sewerage and water systems should be considered when determining appropriate minimum lot sizes. Lot sizes can be varied within the zone depending on the servicing availability and other factors such as topography, native vegetation characteristics and surrounding agricultural land uses.”

The rural residential areas to the west of Bungendore and adjacent to Tarago Road at the northern end of Elmslea and immediately adjacent to Braidwood are zoned R5 Large Lot Residential in the draft local environmental plan and are currently zoned 2(v) Village. The mandatory objectives for the R5 Large Lot Residential zone are:

- “• To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality.
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future.
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.”

“RU4 Primary Production Small Lots

This zone (previously named Rural Small Holdings) is for land which is to be used for commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings.

In 2011, the name of the zone was changed to clarify that it is a rural zone for agricultural uses, not a pseudo-residential zone. The objectives of the zone have been changed to encourage opportunities in relation to primary production on small lots and to minimise fragmentation and alienation of resource lands important for

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food security. The changed zone name, modified core zone objectives and additional mandated permissible uses ('intensive plant agriculture' and 'plant nursery') better reflect the intent of the zone – being an agricultural industry/food production focus and not a rural residential lifestyle zone."

The land use zone RU4 Primary Production Small Lots is not considered appropriate as there are a few properties that would fit the above description.

As stated in the report for the 17 October 2013 Extraordinary Meeting of Council, one of the aims of applying the E4 Environmental Living land use zone was to retain the rural residential area outside of urban areas and to recognise that the areas generally contain a higher level of native vegetation than the areas adjacent to Braidwood and Bungendore. The practice notes prepared by the NSW Department of Planning and Infrastructure are a guide only. It is the role of Council to consider the unique circumstances of its local government area when determining land use zones. Each council in NSW has had to choose from the available zones and adapt them (to the extent possible in the standard instrument) to the particular local circumstances. Zones with the same name may have quite different characteristics in different LGAs.

As the report of the 17 October 2013 Council meeting also stated, the words "special ecological, scientific or aesthetic values" in the first of the E4 Environmental Living mandatory objectives has been taken in the preparation of the draft local environmental plan to mean the natural features, particularly the native vegetation, of the rural residential land use zones and the significance of the water catchments of the Yass, Molonglo and Queanbeyan Rivers. These are of importance to the ecological health and amenity of the area and region. The use of the word 'special' is not viewed in the sense of there being a 'one-off' type of feature or critical habitat (the highest legal status accorded to habitat in NSW). Rather that the characteristics of the areas are unique and very different to that of the rural residential areas adjacent to Bungendore and Braidwood that are proposed to be zoned R5 Large Lot Residential. Additionally, the aesthetic values are of equal importance and differ to the residential areas on the edge of Braidwood and Bungendore. Given, the above it is thought that lots in the rural residential areas outside of Braidwood and Bungendore would meet the objective.

The aim of the objective "To encourage the retention of the remaining evidence of significant historic and social values expressed in existing landscape and land use patterns" is to have previous land uses such as mining and in some instances agriculture considered in development proposals. The Council report of 17 October 2013 suggested that given the perceived ambiguity of this objective, that a paragraph explaining zone objectives be included in the draft development control plan. This would complement the draft character statements which have been prepared for each of the villages and Bungendore and Braidwood (refer page 76 of 17 October report). Recommendation 7, that a paragraph explaining the zone objectives be included in the draft development control plan was adopted by Council. This recommendation was in relation to the land use zone E3 Environmental Management but as the same objective is in the land use zone E4 Environmental Living the recommendation is considered applicable.

It is considered that the objectives do not restrict rural residential living but rather ensure consideration of the values of the zone so that both these and residential living can co-exist. It should be noted that the majority of lots in the E4 Environmental Living zone have a dwelling and that the dwelling is the primary land use on the lot.

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The existing local environmental plan objectives and those in the draft local environmental plan are shown below. As seen in the table, there is a similar emphasis on the management of the natural environment in each of the local environmental plan objectives except for those in the *Tallaganda Local Environmental Plan 1991*.

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Local Environmental Plan objectives		draft Palerang Local Environmental Plan 2013	draft Palerang Local Environmental Plan 2013	draft Palerang Local Environmental Plan 2013
<p><i>Tallaganda Local Environmental Plan 1991</i> 1(c) Rural Small Holdings</p> <p>The objective of this zone is to facilitate development of land identified as suitable for:</p> <p>a) rural residential or hobby farm development, or</p> <p>b) home industries which are compatible with the environmental capabilities of the land and which will not adversely affect the environment, and, in particular, will not adversely affect the quality of water resources in the vicinity</p>	<p><i>Yarrowlumla Local Environmental Plan 2002</i> 1(d) Rural Residential</p> <p>a) to provide the opportunity for development of integrated rural residential communities,</p> <p>b) to promote an innovative and flexible approach to rural residential development,</p> <p>c) to ensure that development is compatible with the environmental capabilities of the land and to encourage the conservation and enhancement of natural resources by means of appropriate land management techniques,</p> <p>d) to assist in meeting the demand for rural residential development where it is consistent with the conservation of rural, agricultural, heritage and natural landscape qualities,</p> <p>e) to ensure that attractive views from main roads and other vantage points are protected and enhanced,</p> <p>f) to ensure that adequate provision has been made for water supply and disposal of effluent,</p> <p>g) to ensure that development does not create unreasonable demands, now or in the future, for the provision or extension of public amenities or services,</p>	<p>E4 Environmental Living</p> <ul style="list-style-type: none"> To provide for low-impact residential development in areas with special ecological, scientific or aesthetic values. (mandatory) To ensure that residential development does not have an adverse effect on those values. (mandatory) To encourage the retention of the remaining evidence of significance historic and social values expressed in the existing landscape and land use patterns. To encourage development that is visually compatible with the landscape. To minimise the impact of any development on the natural environment. To ensure that development does not unreasonably increase the demand for public services or public facilities To minimise conflict between land uses within the zone and land uses within adjoining zones. 	<p>R5 Large Lot Residential</p> <ul style="list-style-type: none"> To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. (mandatory) To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future. (mandatory) To ensure that development in the area does not unreasonably increase the demand for public services or public facilities. (mandatory) To minimise conflict between land uses within this zone and land uses within adjoining zones. (mandatory) To minimise the impact of any development on the natural environment. 	

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	<p>h) to ensure that traffic-generating development is suitably located so as not to adversely affect the safety and efficiency of roads,</p> <p>i) to ensure that development will not lead to excessive soil erosion or run-off,</p> <p>j) to ensure that the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of land within this zone,</p> <p>k) to ensure that any effect development will have on threatened plant and animal species or regionally significant grassland and grassy woodland communities is taken into account,</p> <p>l) to ensure that sites of Aboriginal archaeological significance in the zone are identified and protected.</p>		
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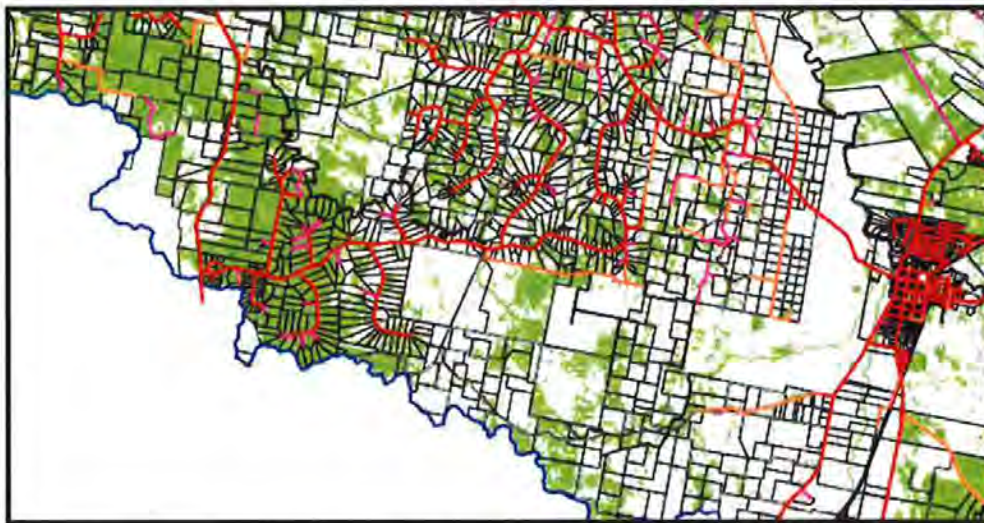
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The lots in the areas zoned E4 Environmental Management are typically sized between 2 and 40 hectares in size which is too small for large scale agricultural practices. However, some properties are used to graze small numbers of livestock and in several instances to grow crops and practice horticulture. The agricultural class of the land in these areas is 3, 4 and a small amount of 5. Class 4 and 5 land is not prime agricultural land.

2.2.3 Native vegetation

The areas zoned E4 Environmental Management generally contain a high proportion of high conservation value native vegetation. The map below shows the draft local environmental plan Terrestrial Biodiversity map for Wamboin. The report prepared for the 17 October 2013 Council meeting showed other rural residential areas.



Map 1 Terrestrial Biodiversity draft Palerang Local Environmental Plan 2013, Wamboin area

Source NSW Office of Environment and Heritage and NSW Land and Property Information

Note

The green areas are patches of high conservation value native vegetation. The black lines show lot boundaries, the red lines are roads and the blue line, the Palerang local government area boundary.

Numerous submissions suggested that because the maps were predictive, that they were not appropriate for use in the zoning of land. A predictive native vegetation map contains data that is the result of the analysis of flora and fauna surveys at varying scales and the interpretation of satellite imagery by specialist ecologists using established techniques. The vegetation map is not simply a collection of electronic images. As it is not financially possible to assess every property in a large area, this approach to developing vegetation maps is commonly used. The predictive element is detailed and an established method in ecological management and land use planning. However, it is broad scale as it needs to cover a very large area. This does not decrease the value of the map as the zoning of land

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is not undertaken at a property scale. It is noted that while some lots do not contain high conservation value native vegetation this does not mean that they should not be zoned E4 Environmental Living. The application of a zone to an area is concerned with the greater values of an area rather than individual lots.

The report to the Council meeting of the 5 December 2013 provides an overview of the draft Palerang Local Environmental Plan 2013 Terrestrial Biodiversity map, the reasons for upgrading the map and the proposed method. The following is a section from this report:

“The terrestrial biodiversity map (in Geographical Information System format) which is part of the draft Palerang Local Environmental Plan 2013 was developed by the NSW Office of Environment and Heritage. It was compiled from a variety of data sources and consists of both native vegetation and natural resource data. The native vegetation contained in the map is classified as being of high conservation value. The map data varies in age and the method and the purpose for which it was compiled. As a result of this there is no single classification system for the native vegetation contained in the map. Whilst this does not decrease the value of the map, its usefulness would be improved if there was a Palerang wide classification system which aligned with a system agreed to by NSW state government agencies.

It would also be advantageous for Council’s planning system if Council had a Geographical Information System format map of all native vegetation in the local government area and that all the vegetation was ranked by value. For instance endangered ecological communities and areas containing threatened species would be given a rank of A and areas containing native vegetation of a lower quality be allocated ‘C’. This map would be used to update the Palerang Local Environmental Plan Terrestrial Biodiversity map.”

Comment

A number of submissions suggested that the E4 Environmental Living land use zone would place a greater emphasis on the natural environment in the assessment of development applications. It should be noted that the objectives for the land use zone 1(d) Rural Residential under the *Yarrowlumla Local Environmental Plan 2002* require the natural environment to be considered. Objectives relating to the natural environment are:

- (c) to ensure that development is compatible with the environmental capabilities of the land and to encourage the conservation and enhancement of natural resources by means of appropriate land management techniques,
- (d) to assist in meeting the demand for rural residential development where it is consistent with the conservation of rural, agricultural, heritage and natural landscape qualities,
- (i) to ensure that development will not lead to excessive soil erosion or run-off,
- (j) to ensure that the form, siting and colours of buildings, building materials and landscaping complement the natural scenic quality of land within this zone,
- (k) to ensure that any effect development will have on threatened plant and animal species or regionally significant grassland and grassy woodland communities is taken into account,

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Section 79C of the *NSW Environmental Planning and Assessment Act 1979*, sets out the matters for consideration in the assessment of development applications. Section 79C1(b) states “the likely impacts of that development, including environmental impacts on both the natural and built environments, and social and economic impacts in the locality,” This section will apply regardless of the land use zone and has been in the Act since its commencement (or something very similar – as section 90). Additionally, legislation such as the *NSW Threatened Species Conservation Act 1995* and the *Environment Protection and Biodiversity Conservation Act 1999* currently apply to the rural residential areas. The zoning of the land will not impact on the application of these Acts.

2.2.4 The application of E4 Environmental Living or R5 Large Lot Residential or the deferment on a decision

The application of E4 Environmental Living or R5 Large Lot Residential

As stated above, it is the role of Council to consider the Practice Notes and the context of its local government area and then select an appropriate land use zone from the Standard Instrument. Submissions have commented on the zoning of former 1(d) Rural Residential under the *Yarrowlumla Local Environmental Plan 2002* land and the zoning of this land under the newly gazetted local environmental plans. The parts of the Carwoola and Royalla localities that are now within the Queanbeyan City Council area have been zoned E4 Environmental Living or E3 Environmental Management (maps 4 and 9, *Queanbeyan Local Environmental Plan 2012*). Submission No. 125 states that the Carwoola area does not contain the agricultural areas that Bywong does.

The *Yass Local Environmental Plan 2013* and the *Cooma-Monaro Local Environmental Plan 2013* both use the land use zones R5 Large Lot Residential and E4 Environmental Living.

Three alternates to zoning the current rural residential areas E4 Environmental Living have been commented on below, these are:

1. change the E4 Environmental Living land use zone to R5 Large Lot Residential
2. defer the decision on the zoning until after the draft local environmental plan has been gazetted
3. zone individual lots on a criteria.

Note that none of these proposals are recommended by planning staff. They are discussed here so that all implications are known.

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1 change the E4 Environmental Living land use zone to R5 Large Lot Residential

If the land use zone for the rural residential areas (currently zoned 1(c) or 1(d)) was to be changed from E4 Environmental Living in the draft Palerang Local Environmental Plan 2013 to R5 Large Lot Residential, the following consequent changes would be required:

(a) the current R5 Large Lot Residential land use zone would need to be changed to R2 Low Density Residential

The areas zoned R5 in the draft Palerang Local Environmental Plan 2013 (the western part of North Elmslea, Bungendore and Llewellyn Drive, Braidwood) are quite different in character from the areas currently zoned rural residential (1(d) or 1(c)) and would need to be zoned R2 Low Density Residential so that they are distinguished from rural residential areas such as Carwoola and Wamboin. It is also necessary to ensure that the land uses are appropriate for areas on the edge of a town.

(b) the zone objectives of the R5 Large Lot Residential land use zone would need to be amended

It is suggested that if the R5 zone is used for the current rural residential areas and the intention is to maintain the existing character and controls, the following objectives should be used:

- To provide residential housing in a rural setting while preserving, and minimising impacts on, environmentally sensitive locations and scenic quality. (mandatory)
- To ensure that large residential lots do not hinder the proper and orderly development of urban areas in the future. (mandatory)
- To ensure that development in the area does not unreasonably increase the demand for public services or public facilities. (mandatory)
- To minimise conflict between land uses within this zone and land uses within adjoining zones. (mandatory)
- To encourage the retention of the remaining evidence of significance historic and social values expressed in the existing landscape and land use patterns.
- To encourage development that is visually compatible with the landscape.

It is suggested that the current R2 Low Density Residential land use zone objectives would be satisfactory for the areas zoned R5 Large Lot Residential (the western part of North Elmslea, Bungendore and Llewellyn Drive, Braidwood) in the draft Palerang Local Environmental Plan 2013. These lots are generally smaller than the rural residential areas, contain little native vegetation and often have either reticulated water or sewer. No amendment of the lot size map would be required.

(c) the zone objectives of the R5 Large Lot Residential land use zone would need to be amended to broadly match the land uses in the exhibited draft E4 Environmental Living land use zone

The draft PLEP used the E4 zone for rural residential areas and R5 for the residential areas with large lots adjacent to Bungendore and Braidwood. As a consequence the land use tables for these zones have been tailored to the areas where they were to be applied. Land uses permissible with consent in the E4 Environmental Living land use zone such as animal boarding and training establishments and intensive plant agriculture are not suitable for R5 large lot residential areas on the edge of Braidwood or Bungendore. It is

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not considered appropriate to enable extensive agricultural without development consent on small (in a rural sense) lots that adjoin a town.

It is suggested that the land uses in the E4 Environmental Living land use zone would be appropriate to be applied to the amended R5 Large Lot Residential land (the rural residential areas). It is noted that very few submissions have commented on land uses in the E4 Environmental Living land use zone. Given this, it is assumed that the community feels that the land uses are generally appropriate for the zone.

No change is considered necessary to the R2 Large Lot Residential land use table. It is noted that there are some land uses that are currently permissible with development consent in the R5 Large Lot Residential land use zone that are not permissible in R2 Large Lot Residential: extensive agriculture, farm buildings, cellar door premises, horticulture, roadside stalls and viticulture. One approach would be to assume that it is unlikely that these land uses would be sought in the areas that R2 Large Lot Residential currently encompasses and therefore insert them in the R2 Large Lot Residential land use table. Another approach would be to prohibit them even though they were considered as being appropriate in the western part of North Elmslea, Bungendore and Llewellyn Drive, Braidwood.

The R2 Low Density Residential land use zone permits with development consent boarding houses, semi-detached dwellings, seniors housing, exhibition homes and villages and shop top housing. It is suggested that it is unlikely that development consent for these land uses would be sought in the western part of North Elmslea, Bungendore or Llewellyn Drive, Braidwood.

The tables below show that the land uses in the draft Palerang Local Environmental Plan 2013, the bold text illustrates the land uses that differ between the two land use zones:

R5 Large Lot Residential

Backpackers' accommodation; Bed and breakfast accommodation; Building identification signs; Business identification signs; **Cellar door premises**; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Electricity generating works; Environmental facilities; Environmental protection works; **Extensive agriculture**; **Farm buildings**; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home industries; **Horticulture**; Neighbourhood shops; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; **Roadside stalls**; Secondary dwellings; Sewage treatment plants; **Viticulture**; **Water recycling facilities**; Water supply systems

R2 Low Density Residential

Backpackers' accommodation; Bed and breakfast accommodation; **Boarding houses**; Building identification signs; Business identification signs; Child care centres; Community facilities; Dual occupancies; Dwelling houses; Electricity generating works; Environmental facilities; Environmental protection works; **Exhibition homes**; **Exhibition villages**; Flood mitigation works; Group homes; Health consulting rooms; Home-based child care; Home industries; Neighbourhood shops; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Roads; Secondary dwellings; **Semi-detached dwellings**; **Seniors housing**; Sewage treatment plant; **Shop top housing**; Water supply systems.

(d) the zone names in clause 4.1B need to be amended as this subdivision provision provides the opportunity for 'averaging' in the rural residential areas

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Clause 4.1B allows the subdivision of land using an 'averaging' provision. It is considered inappropriate to have 'averaged' lots in the large residential lot areas adjacent to Braidwood and Bungendore (the western part of North Elmslea, Bungendore and Llewellyn Drive, Braidwood).

(e) all references to E4 Environmental Living throughout the draft local environmental plan would need to be removed

(f) Re-exhibition of the draft local environmental plan would be required

The above changes to the draft local environmental plan are significant, both in terms of magnitude of the changes to the draft Palerang LEP written instrument and in terms of the proportion of the Council area and Council population affected. Therefore another exhibition would be required. This would add approximately six months to the gazettal of the draft local environmental plan.

2 defer the decision on the zoning of the E4 area until after the draft local environmental plan has been gazetted

It is suggested that a deferment on a decision in relation to this matter until after the gazettal of the draft local environmental plan is impracticable as it would result in there being a gazetted local environmental plan (PLEP 2014) applying to all areas except the rural residential areas and a draft plan still needing to be taken into account (Draft PLEP 2013) as well as two current local environmental plans relating to the rural residential areas YLEP 2002 and TLEP 1991). This would be a complex situation which would create confusion regarding planning provisions and would not be a significant improvement from the current situation of six in-force local environmental plans and a draft plan.

3 zone individual lots on a set of criteria

It is not considered practical to zone land based on a set of criteria, for example the level of native vegetation cover or by the use of existing rural residential land use zones for instance 1(d) Rural Residential or 1(c) Rural Small Holdings. The option of have 'split zone' lots or to have parts of a rural residential area zoned both R5 and E4 is also thought to be impractical. The primary reason being, that it would be very time consuming to determine and consult with individual property owners on the location of zone boundaries.

Concluding comments

If the land use zone E4 Environmental Living was changed to R5 Large Lot Residential and the areas on the edge of Braidwood and Bungendore were changed to a land use zone such as R2 Low Density Residential or lots were zoned according to a criteria, this would be a significant amendment to the draft local environmental plan that has been exhibited. It is suggested that it would be necessary to re-exhibit the draft local environmental plan due to these amendments. This would delay the gazettal of the local environmental plan for at least six months.

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While there have been a large number of submissions requesting that the rural residential areas be zoned R5 Large Lot Residential, it is the staff view that land use zone E4 Environmental Living is the most appropriate of the available standard instrument zones and that it should remain in the draft local environmental plan as these rural residential areas are quite different in their nature to the proposed R5 Large Lot Residential areas adjacent Bungendore and Braidwood.

In the YLEP 2002 and its predecessors Yarrawlumla council developed the 1(d) Rural Residential zone to include environmentally focussed objectives, and provisions that were specifically aimed at environmental protection. For this reason the YLEP 1(d) Rural Residential zone is quite different from the Snowy River LEP 1997 1(c) Rural Residential zone or the Tamworth LEP 1996 1(d) Rural Residential zone, neither of which have any objectives related to environmental protection (other than general protection of rural character).

It is clear from the YLEP objectives and the 1(d) zone objectives that environmental protection was considered important and that there were environmental values that Yarrawlumla wanted to ensure were properly considered when areas were being developed for rural residential use. In developing the YLEP 1(d) zone Yarrawlumla was seeking to address exactly the same issue that the department of planning and Infrastructure has addressed in the creation of the standard instrument E4 Environmental Living zone – the idea that significant environmental qualities can be maintained while allowing very low density residential use.

No change to the draft Palerang Local Environmental Plan 2013 is considered necessary. However, as Council has resolved to undertake the Palerang Rural Lands Study over the next eighteen months and the assessment of rural residential land will be part of the study, the rural residential areas should be zoned E4 Environmental Living as exhibited and the zoning of the land given further consideration in the study. This would enable the draft local environmental plan to progress.

2.3 Other matters relating to the E4 Environmental Living land use zone

Submission No. 178

The submission suggests that “matters relating to E4 including sub-division and minimum lot size be considered as part of the Rural Lands Study.”

See comments above.

2.4 Landuses in E4 Environmental Living

Submission No. 132

The submission states “I note that the overly prescriptive conditions proposed to be included in the Palerang LEP E4 zone are not reflected in the same zones in either the

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Queanbeyan or Cooma local government areas, both of which also encompass areas which were formally zoned as Rural Residential 1(d)."

Submission No. 91

The submission states "The following proposed uses that are currently permitted without consent would require Council approval or be prohibited under Zone E4 (Appendix B): Agriculture-general farming (to the extent that this exceed the definition of extensive agriculture); bush fire hazard reduction; cemeteries-private burial site; garaging of plant and trucks; tree farming.

I submit that the list of uses permitted in the zone to with Wamboin is assigned without consent be extended to match, as far as possible, the uses permitted without consent in the old 1(d) zone."

Comment

As much as practical, the draft local environmental plan 'carries over' the existing provisions, however, the Standard Instrument does not contain the definitions listed above or they are defined differently. Council is required to use the definitions in the Standard Instrument.

In regard to bush fire hazard reduction, it is mandatory that clause 5.11 of the draft local environmental plan is included. This clause allows bush fire hazard reduction work authorised by the *Rural Fires Act 1997* on any land without development consent.

Submission No. 178

"E4 Environmental Living

The Braidwood Greens note that Extensive Agriculture will now be permitted without the need for development consent, and believe that this addresses the concerns of the vast majority of objectors."

2.5 The minimum lot size in the rural and rural residential land use zones

Submission No. 1

The submission states that the application of a 6 hectare limit in Carwoola is restrictive. It is stated that 5 hectares should be the minimum lot size.

Comment

The rural residential area of Carwoola has a 6 hectare minimum lot size under the draft local environmental plan. However, clause 4.1B enables the subdivision of land using an 'averaging' provision. If subdivision does not occur under the *NSW Community Land Development Act 1989* then smaller lots (not less than 2 hectares) can be created provided that the total area of all the lots results equates to each lot having a minimum lot size of 6 hectares. This provision is the same as clause 20 of the *Yarrowlunla Local Environmental Plan 2002* that currently applies to land in Carwoola.

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If the *Community Land Development Act 1989* is applied then the 'average' lot size can be reduced to 1 hectare under clause 4.1B of the draft local environmental plan. This provision is similar to clauses 30 and 31 which relate to cluster housing under the *Yarrowlumla Local Environmental Plan 2002*. In preparing the draft local environmental plan, the aim has been to as much as practical to continue the dwelling and subdivision provisions that currently apply to the land.

It is considered that no change is required.

Submission No. 35

Submission No. 35 states that there is a discrepancy in the minimum lot sizes in the RU1 Primary Production land use zone and that this is an impediment to development. The submission comments on the merits of the 80 and 40 hectare minimum lot size.

Comment

The lot sizes have been 'carried over' from the current six local environmental plans that apply to the former local government areas that form the now Palerang local government area. Council has resolved to undertake a rural lands study which will consider minimum lot sizes and the application of the 'averaging' subdivision provision in the rural areas. For further information on the proposed method refer to the Council report of 5 December 2013.

Submission No. 161

The submission states "The block size maps don't seem to reflect the reality of the situation now nor allow for the trend that created the environment in Wamboin to continue.

"The 5 Ha limit seems entirely focussed on removing the ability to subdivide 8Ha (20 Acre Blocks). At the very least it should be change to 4 Ha. In reality it should be recognised that the AA2 Zone is situated in a position that makes it a logical expansion point for Canberra people looking for larger (not necessarily 5, 10 or 20 ha blocks). As long as the provision of roads for subdivisions is undertaken by the developer I see no reason to impose such arbitrary limits.

"In my view this represents a rather selfish imposition, by a self-appointed 'guardians of the Palerang way group', that in the future will deny people without the means to outlay large sums of money the ability to move into the area on a 2, 5 or 10 acre block in the region. Not everyone that wishes to live outside the urban environment wishes to have, or can afford the overhead of, the maintenance associated with a 13 Acre block."

Comment

Refer to the comments in relation to submission no. 1 above and submission no.65 below.

It is considered that no change to the LEP is required.

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Submission No. 65

The submission states “The continuation in the draft LEP of the disparity in subdivision standards between broad acre farmers of different location but on similar land type and function, is a gross mismanagement of an important rural imperative that each Palerang generation has perpetuated.

This long standing anomaly has been ignored, while other less consequential issues have been conflated; such as the reinforcement of redundant environmental imperatives throughout the Plan.”

Comment

On 6 February 2014, Council resolved to commence the Palerang Rural Lands Study. The study will include the consideration of minimum lot sizes in rural, rural residential and environmental land use zones.

2.6 The application of the land use zone RU1 Primary Production to land formally zoned RU2 Rural Landscape or E3 Environmental Management

2.6.1 In support of the application of the land use zone RU1 Primary Production to land formally zoned RU2 Rural Landscape or E3 Environmental Management

Submission No. 3

The owners of a property that was partly zoned E3 Environmental Management under the draft Palerang Local Environmental Plan 2012 stated that they support the removal of this land use zone and that is zoned RU1 Primary Production under the draft Palerang Local Environmental Plan 2013.

Submission No. 40

The author of the submission states “The use of RU1 zoning is more appropriate. It reflects that this land is being used for the same purposes and does not impose arbitrary differentiation of land based on uncertain criteria. It will help ensure the ongoing opportunities for use of the land for agricultural pursuits.”

Submission No. 148

The submission states “If council wishes to revisit rezoning land E3 in the future it should also update or make separate definitions of agricultural production to allow for more sustainable farming practices. This would be in keeping with its goals of more sustainable land use and still provide opportunities for employment in rural areas. With current definitions in place, we therefore support maintaining the current zoning of RU1 for our property.”

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Comment

Council is unable to amend the land use definitions in the draft local environmental plan as they are part of the Standard Instrument template which Council is required by the legislation to use.

Submission No. 184

The submission states:

- “This council is commended for its flexibility and fair-mindedness in addressing farming concerns at the zoning regime proposed in the 2012 draft. The restoration of a single, uncomplicated farmland zone will maintain the approach observed by most shires in our region.”
- “The deletion of RU2 Rural Landscape and its inclusion in RU1 Primary Production deserve support. From the very start RU2 has been hard to define, difficult to map and impossible to sell. This Cinderella zone has been interpreted differently from council to council. The zone has remarkably few defenders in enlightened planning circles. Some regard it as an “anything goes” proposition, an easy target for aggressive subdivision.

Many councils would not embrace this zone; others have discarded it along the way.

Palerang is a grazing shire. Our agriculture is not diverse. One farmland zone is appropriate to our circumstance.”

- “The deletion of E3 Environmental Conservation from all but 7(e) and its inclusion in RU1 have also been welcomed by many farmers...

An environmental study of land proposed E3 was not undertaken as part of the identification process. If council wishes to refine its future approach to the protection of its most sensitive areas, such a study may be advisable.

Meanwhile, in approving the newly constituted RU1 Zone councillors should take care to satisfy themselves that adequate mechanisms are in place to protect elements of special environmental consequence.”

In addition to the above submissions, there were numerous submissions in support of the removal of the E3 Environmental Protection land use zone and its replacement with the RU1 Primary Production land use zone.

2.6.2 Not in support of the application of the land use zone RU1 Primary Production to land formally zoned RU2 Rural Landscape or E3 Environmental Management

Submission No. 77

The submission states “We are however very concerned about the loss of protection against inappropriate development in environmentally sensitive areas previously zoned E3 and which were unwisely rolled into the RU1 general agriculture zone, almost

Appendix C

Practice Note 07-001



LEP practice note

STANDARD INSTRUMENT FOR LEPS

Note	PN 07-001
Date	26 March 2007
Related	

Standard instrument for LEPS – frequently asked questions (1)

The purpose of this practice note is to provide councils with an overview of responses given by the Department to commonly asked questions regarding the implementation of the standard instrument for LEPS. It should be noted that this practice note does not contain legal advice.

Land uses

Mixed use development

Q: Does 'mixed use development' have to be listed in Item 3 (permitted with consent) for every zone if more than one use is to be permissible on one allotment/in one building? (Mixed use development is defined as a building or place containing two or more different land uses.)

A: No. In any zone, a combination of permissible uses can be permitted on a site without listing mixed use development as a permissible use. Mixed use development should only be stated as a permissible use in a land use table when describing the circumstance or limitation imposed on when a permitted use is allowed in a zone, eg 'Office premises (but only as part of a mixed use development)'.
Figure 1.

Dual occupancy

Q: How can attached and detached dual occupancies be described within a LEP?

A: The following may be used:

- Dual occupancy (attached)
- Dual occupancy (detached).

Separate definitions are not necessary to explain what 'attached' or 'detached' means.

Shop top housing

Q: How can large scale retail development (eg supermarkets) be prevented in zones where shop top housing is a mandated use?

A: Shop top housing will only be permitted above whatever type of retail development is permitted in a zone (or over an existing retail use). For instance, in the zones where shop top housing is a mandated use, neighbourhood shops are also permitted, therefore shop top housing can occur above neighbourhood shops.

To remove any doubt, other forms of retail premises can be listed under Item 4 in the zoning table as prohibited development (see Figure 1 below).

The Department will consider whether a revision to the definition of shop top housing is necessary to emphasise that shop top housing refers only to the housing component.

Figure 1.

Zone R4 High Density Residential

1. *Objectives of zone*
 - To provide for the housing needs of the community within a high density residential environment.
 - To provide a variety of housing types within a high density residential environment.
 - To enable other land uses which provide facilities or services to meet the day-to-day needs of residents.
2. *Permitted without consent*
 - Exempt development; Roads.
3. *Permitted with consent*
 - Business premises; Child care centres; Community facilities; Neighbourhood shops; Places of public worship; Residential flat buildings; Shop top housing.
4. *Prohibited*
 - Retail premises (except neighbourhood shops); Any other development not otherwise specified in items 2 or 3.

Neighbourhood shops

Q: Will large scale retail uses be allowed in residential areas through the definition of 'neighbourhood shop'?

A: Neighbourhood shop is a narrowly defined form of retail premises, covering the sale of 'foodstuffs, personal care products, and other small daily convenience goods' for the 'day-to-day needs of people who live or work in the local area'. Other types of retail premises that provide for weekly shopping needs or cater for a wider retail catchment would generally not be covered.

The example shown in Figure 1 demonstrates how other retail types may be prohibited in the R3 zone.

Multi-dwelling housing

Q: Can residential flat buildings be specifically excluded from the definition of multi-dwelling housing?

A: The Department will consider this when the Standard Instrument is next amended. Residential flat buildings can be prohibited in zones where multi-dwelling housing is permitted, eg R3 Medium Density Residential.

Semi-detached housing

Q: How is semi-detached housing defined?

A: There is no current definition in the Standard Instrument that covers two dwellings that are attached, but on separate lots of land. Consideration is being given to including such a definition in the next amendment to the Standard Instrument.

Q: Can a definition of duplex be inserted as a local provision?

A: No. Councils cannot create a definition where a land use is covered by an existing defined term, including group terms. A 'duplex' on a single lot of land is a dual occupancy (attached). See discussion below on definitions for more information.

Land use matrix

Q: Can a land use matrix be used in a LEP?

A: No. Land use matrices will not be permitted in official draft or gazetted LEPs. The Land Use Table versus Matrix question was put out to consultation in September 2005 and the clear majority of respondents (including the majority of councils) voted in favour of the former.

Councils can prepare a land use matrix based on the gazetted LEP to use with their communities. Some councils are developing e-planning systems with a similar functionality, however these will not form part of the statutory LEP.

Zones

R5 Large Lot Residential zone and RU4 Rural Small Holdings zone

Q: What is the difference between these zones?

A: The zones are distinguished by the primary intended future use of the land—residential versus primary production.

The objective of the R5 Large Lot Residential zone is to provide residential housing in a rural setting. This zone should be used where it is intended that the future use of the land will be principally for residential purposes, and the primary amenity expectation for the land is to be residential. A range of different minimum subdivision lot sizes may be set for land within this zone on the Lot Size Map.

The RU4 Rural Small Holdings would ordinarily be applied to land that is in existing small rural holdings where it is intended that the land will continue to be used for primary production purposes. The amenity expectation for land within this zone will be for agriculture and other primary industry uses. Different minimum subdivision lot sizes might be identified on the Lot Size Map for different areas of land within this zone.

Q: How does R5 Large Lot Residential relate to the application of SEPP (Senior Living)? Will seniors housing will be able to be built on land adjoining R5 land?

A: State Environmental Planning Policy (Seniors Living) is currently under review. One of the outcomes of the review will be to establish whether the SEPP should apply to R5 Large Lot Residential zones.

Intensive agriculture

Q: Which rural zone should be used for land where intensive plant or animal agriculture is intended to be carried out?

A: Intensive plant and animal agriculture can be accommodated within the RU1 Primary Production zone or RU4 Rural Small Holdings zone. Different minimum subdivision requirements may be shown for land within the rural zones in accordance with clause 19 and the Lot Size Map.

Residential zones

Q: How can excessive occurrence of a particular use be managed in a zone, eg residential flat buildings in zone R1 General Residential?

A: Development standards such as floor space ratio (FSR) and height can be used to influence the density and built form of particular types of development within a zone. A range of different FSRs and building heights for land within a zone can be set on the Floor Space Ratio and Height of Buildings maps, which will influence the location and form of development within zones such as R1 General Residential.

Other development controls (eg heads of consideration, other development standards) can be used to influence the location and form of particular uses, supplemented by detailed streetscape and other controls in a council's development control plan (DCP).

B5 Business Development zone and B6 Enterprise Corridor zone

Q: How can the B5 and B6 zones be applied so as to not impact on the viability of existing centres, eg by allowing major retail premises and office premises in out-of-centre locations?

A: It is not intended that retail hierarchies should be undermined by out-of-centre convenience retailing in the B5 and B6 zones. The Department is currently assessing how the Standard Instrument can be modified to allow more flexibility in these business zones.

RE1 Public Recreation zone

Q: How should land that is currently zoned 'Future Open Space' or 'Regional Open Space' be zoned under the Standard Instrument?

A: All land which is to be used for public open space or recreation purposes is to be zoned RE1 Public Recreation. No distinction is necessary on the Land Zoning Map as to whether the land is already in public ownership or is to be acquired. The acquisition authority for land zoned RE1 that is yet to be acquired will be identified on the Land Reservation Acquisition Map and in the table in clause 25.

Waterway zones

Q: Can zone W2 Recreational Waterways apply to land that is above mean high water mark and currently occupied by marinas and boating related activities?

A: The Waterway zones are generally intended for application to the waterway's channel and banks and not for land based development associated with the waterway. One of the terrestrial zones should be used, eg RE2 Private Recreation or IN4 Working Waterfront.

Q: What is the difference between the W3 Working Waterway and IN4 Working Waterfront zones?

A: The W3 Working Waterways zone is used for zoning the areas of water. All land and waterways covered by a LEP should generally be zoned.

The IN4 Working Waterfront is to be used for land adjoining the waterfront where maritime industries, small ports, boating facilities etc are to be provided. For larger ports, the SP2 Infrastructure zone should be considered.

Q: Should small creeks etc be zoned one of the Waterway zones?

A: No. Small and intermittent waterways should generally be zoned according to the surrounding zone.

Q: How should waterways in National Parks be zoned?

A: Waterways within a National Park should be zoned E1 National Parks and Nature Reserves.

Environmental overlays

Q: Can environmental sub-zones be used? How can multiple natural resources values be managed?

A: The Standard Instrument does not allow for sub-zones to be created. Where land has particular environmental qualities that need to be addressed through zoning controls, an appropriate zone is to be selected from the eight Standard Instrument zones that specifically provide for environmental protection as part of their core objectives, ie RU2, RE1, RE2, E1, E2, E3, E4 or W1. The choice of zone should reflect the primary intended use of the land.

Planning overlays are the appropriate mechanism for managing multiple natural resources values requiring different planning responses. Overlays may be prepared as a local provision where appropriate. For example a 'water supply area' overlay could identify land within a water supply catchment on a map (which may include land in several different zones), and set out detailed additional considerations or standards that must be applied before consent can be granted to a development application. (See LEP Practice Note PN 06-002 and Planning Circular PS 06-008 for further information on the use of planning overlays.)

Land reserved for public purposes

Q: How should land which is to be acquired for a public purpose be zoned?

A: Land which is reserved for one of the public purposes listed under section 26(1)(c) of the *Environmental Planning and Assessment Act 1979* (EP&A Act) and which has not yet been acquired and used for its intended public purpose is to be zoned according to its intended future use, ie:

Public Purpose	Zoning
Open space (including local, and regional, and future)	RE1
National Park	E1
Classified road; Railway; Local road widening; Public place; Public hospital; Public school; Public cemetery	Usually SP2* and the intended public purpose for the land annotated on the Land Zoning Map

Note: * A SP2 zoning will usually be necessary because under section 27 of the EP&A Act and Division 2, Part 3 of the *Land Acquisition (Just Terms Compensation) Act 1991* the owner initiated acquisition provisions only apply where the land is exclusively set aside for a public purpose (or expressly set aside for a public purpose and also other uses, but those uses do not constitute a 'reasonable use of the land'). The land can be rezoned after it is acquired, if appropriate, to reflect the surrounding zone.

All land reserved for public purposes but not yet acquired is to be identified on the Land Reservation Acquisition Map, which is used to identify the relevant acquiring authority for the land.

Exempt and complying development

Q: Can exempt and complying development be included in DCPs?

A: No. Exempt and complying development controls are to be located in Schedules 2 and 3 in all new LEPs.

Q: Can existing exempt and complying controls be transferred to new LEPs without change?

A: No. The effectiveness of existing exempt and complying development controls in LEPs and DCPs varies widely across NSW. This has impacted on the take-up of exempt and complying development and has flow on effects to the quality of certification where the LEP/DCP requirements are unclear.

Councils should review their existing exempt and complying development provisions and include revised controls in their new draft LEPs. For a small number of councils where exempt and complying provisions are operating efficiently, this may involve minimal changes. However the majority of councils will need to consider improvements to the existing exempt and complying provisions, many of which have been in place for over six years.

Exempt and complying controls:

- Should encompass a broad range of minor development types
- Must not impose blanket exclusions that prevent all types of exempt and complying development being carried on particular land where the issue could be addressed by appropriate standards in Schedules 2 and 3. For example, certain types of exempt and complying development can occur in bushfire prone land provided that appropriate materials are used, and a range of works that do not involve new buildings (eg fencing, changes of use) can be carried out near sewers and easements.
- May only include standards that:
 - Are specific and relevant to the type of development
 - Are measurable and do not involve merit considerations
 - Are set out within the Schedule, and avoid references to external documents (other than specified Australian Standards). Non-specific conditions such as 'must comply with all relevant standards in any DCP that applies' should not be included.

Q: Where should standard conditions for complying development be set out?

A: Standard conditions for complying development should be set out in the LEP. At this stage, this should be in a separate Part (eg Part 2) within Schedule 3. Councils should also include an enabling clause following clause 17, eg:

Clause 17A Conditions for complying development

A complying development certificate is subject to the standard conditions for complying development specified in Part 2 of Schedule 3.

It is intended that the Standard Instrument be amended to make specific provision for complying development conditions.

Clauses

Clause 15 Subdivision – consent requirements

Q: What is the difference between clause 15(2)(b) and 15(2)(c)?

A: The same substantive matters are covered in both subclauses, however 2(b) includes additional criteria regarding the requirement for realignments to be 'minor', and that there must be no opportunities for additional dwellings. Consideration will be given to merging these subclauses when the standard instrument is next amended.

Q: Can clause 15 be amended to prevent subdivision occurring without consent where the lot created would be less than the minimum size?

A: The ability to subdivide lots to less than the minimum lot size without consent under this clause is being re-examined by the Department in light of comments received from several councils.

Clause 19 Minimum subdivision lot size

Q: Can there be a 'no subdivision' area on the Lot Size Map?

A: No. Large minimum subdivision lot sizes (in some cases larger than the existing subdivision pattern) have in the past been used to achieve a planning intent of minimal subdivision (or consolidation), and councils may continue to do this.

Clause 21 Height of buildings

Q: Can Reduced Levels (RLs) be used on the Height of Buildings Map instead of metres?

A: The Department is giving consideration to the request from some councils to amend the Standard Instrument to allow RLs to be used on the Height of Buildings Map in certain locations.

Q: Can storeys be used?

A: The maximum number of storeys in a building (within the specified maximum building height, in metres) can be addressed in a DCP.

Clause 25 Land acquisition in certain zones

Q: What needs to be shown on the Land Reservation Acquisition Map?

A: The Land Reservation Acquisition Map (LRA Map) must identify the particular future public purpose of land that is to be acquired as shown in the second column in the table below. This notation must correspond to the table in clause 25. Note that all references to a map in clause 25 are to the LRA Map.

Public purpose	Marked on the LRA Map as	Acquiring authority listed in clause 25
Open space	Local open space (RE1)	Council
	Regional open space (RE1)	The corporation constituted under section 8, EP&A Act
National park	National park (E1)	Department of Environment and Conservation
Classified road	Classified road (SP2)	Roads and Traffic Authority
Local road	Local road (SP2)	Council
Hospital	Public hospital (SP2)	Department of Health
School	Public school (SP2)	Department of Education and Training
Etc...		

The technical requirements for LEP maps will show how the land is to be identified (outline, colours etc) on the LRA Map.

Land that is being acquired by the Council by agreement outside of this regime need not be shown on the LRA Map.

Once land has been acquired and used for its intended public purpose it should no longer be shown on the LRA Map.

Clause 27 Classification and reclassification of public land

Q: Does clause 27 mean that previous classifications or reclassifications of land under the *Local Government Act 1993* will be lost?

A: No. All previous classifications or reclassifications of land will stand. The details are to be recorded in council's register of land under section 53(2) of the *Local Government Act*. LEPs are not the place to maintain this historical record, and separate stand-alone reclassification LEPs will not be supported.

Q: Does council have to include all previous classifications of land in the new LEP (eg copy the Schedules from its existing LEPs)?

A: No. When a council prepares a new principal LEP in accordance with the Standard Instrument,

only land that is to be newly classified or reclassified should be listed in the LEP schedule.

Clause 34 Preservation of trees or vegetation

Q: Can tree preservation controls under the LEP be applied to clearing that is permitted without consent under the *Native Vegetation Act 2003*?

A: No. After discussions with the Department of Natural Resources, clause 34 was amended in 2006 to prevent LEP tree preservation controls requiring consent for clearing that is permitted without consent under the *Native Vegetation Act 2003*. This is to reduce the duplication of statutory roles under the *Native Vegetation Act 2003* and the *Environmental Planning and Assessment Act 1979*.

Clause 35 Heritage conservation

Q: How should Aboriginal heritage items be shown on the Heritage Map so as to avoid highlighting their exact location?

A: Only the general locations of Aboriginal items should be shown on maps.

State environmental planning policies (SEPPs) and regional environmental plans (REPs)

Q: Should site specific SEPPs and REPs be included in a council's LEP?

A: Where appropriate, the provisions of certain location specific SEPPs and REPs may be included in new principal LEPs. Councils should talk to the Department's regional planning team when commencing preparations for their comprehensive LEP with respect to any location specific SEPPs and REPs in their area.

Q: Should Sydney Harbour waterways be zoned under LEPs?

A: No. The Sydney Harbour Catchment REP will continue as a separate environmental planning instrument for zoning the harbour waterways.

Definitions

General matters regarding definitions

Q: What is the Department's policy regarding new definitions?

A: The key objective is that a particular land use should usually be categorised the same way in every LEP. This will make plans easier to understand for communities, make doing business in NSW simpler, and will facilitate the development of e-planning which relies on consistent language and categorisation.

The key principles are:

- The standard definitions are to be used wherever they apply.
- The common meaning of a term (eg as can be ascertained from consulting the Macquarie

dictionary) is to be used wherever a term is not defined in the Standard Instrument.

- Local provisions may not define new land use terms for use in zoning tables.

Definitions will not be included for any term where the common meaning would suffice.

Refer to LEP Practice Note PN 06-003 on Definitions for detailed guidance on this issue.

Land use terms

Q: Can new land use definitions be added as a local provision?

A: No. The standard definitions must be used wherever a land use would fall within an existing land use definition. This includes where terms are within any of the broad land use groups, eg retail premises, business premises, office premises, industry, agriculture, tourist and visitor accommodation, residential accommodation etc. Only the standard definitions may be used (or a proposal submitted for the Department to amend the Standard Instrument to include an additional term).

A proposal for a new term to be added to the dictionary should clearly explain the planning issue to be addressed and how the proposed new term would relate to the existing defined terms.

Q: Can additional definitions be included for typical types of exempt and complying development such as pergolas, carports etc?

A: Particular types of exempt and complying development such as pergolas and carports can be described within the schedule using common language without the need for additional definitions.

General terms (non-land use)

Q: What does council need to do to justify including a definition within a local provision?

A: Council will need to justify why a clause cannot be written using common language words. If the Department agrees that a definition is warranted, the term would be set out within the local clause and apply only for the purpose of interpreting that clause.

Further information

A copy of this practice note, the standard instrument, and other specific practice notes on using the standard instrument for LEPs are available on the Department's website www.planning.nsw.gov.au.

Authorised by:

Sam Haddad
Director General
NSW Department of Planning

Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

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Appendix D

Practice Note 07-001



LEP practice note

STANDARD INSTRUMENT FOR LEPS

Standard zones

Note	PN 09-002
Date	30 April 2009
Related	

Environment Protection Zones

The purpose of this practice note is to provide guidance to councils on the environment protection zones in the standard instrument and how they should be applied in the preparation of local environmental plans.

Overview

The standard instrument for principal local environmental plans (LEPs) contains four environment protection zones specifically for land where the primary focus is the conservation and/or management of environmental values. The zones provide for varying levels of environmental protection from zone E1 to E4:

- **E1 National Parks and Nature Reserves**
This zone is for existing national parks, nature reserves and conservation areas and new areas proposed for reservation that have been identified and agreed by the NSW Government.
- **E2 Environmental Conservation**
This zone is for areas with high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. The zone provides the highest level of protection, management and restoration for such lands whilst allowing uses compatible with those values.
It is anticipated that many councils will generally have **limited areas** displaying the characteristics suitable for the application of the E2 zone. 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 for land where there are special ecological, scientific, cultural or aesthetic attributes or environmental hazards/processes that require careful consideration/management and for uses compatible with these values.
- **E4 Environmental Living**
This zone is for land with special environmental

or scenic values, and accommodates low impact residential development.

As with the E3 zone, any development is to be well located and designed so that it does not have an adverse effect on the environmental qualities of the land.

Additional considerations of each zone are located in Attachment 1.

Application of environment protection zones

The environment protection zone E1 is only to be applied to existing areas identified under the *National Parks and Wildlife Act 1974* or areas identified as proposed for national park or nature reserves agreed by the NSW Government.

The environment protection zones E2 through to E4 are applied where the protection of the environmental significance of the land is the primary consideration. Their importance for visitation, tourism and job creation should also be carefully considered.

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 robust data sources and analysis. This is particularly important where land is identified as exhibiting high ecological, scientific, cultural or aesthetic values outside national parks and nature reserves. For example, in most cases, council's proposal to zone land E2 needs to be supported by a strategy or study that demonstrates the high status of these values. Under such a strategy or study, zoning would need to be appropriate and land uses would need to be capable of being sustained.

The application of these zones is also to be consistent with relevant legislation, State and regional planning policies and subregional strategies.

The zones are to be applied consistently so that their value is not diminished by inappropriate application or by permitting incompatible uses.

The detailed zone guide attached to this practice note will assist council's application of the environment protection zones. In selecting additional uses, council is supported by the requirement that these be consistent with the mandatory zone objectives and any mandatory uses.

Supplementary detail

Zones E2 to E4 will generally need to be supplemented by detailed provisions in the development control plan. These would most likely cover the design, construction and management of uses in these zones, particularly with respect to eco-tourism, tourist accommodation and dwellings (where permissible).

Identification of areas for future acquisition

Land to be acquired for certain public purposes

Where council is aware of land to be reserved for future acquisition for certain public purposes, such land will be identified according to its intended future public purpose under the *Environmental Planning and Assessment Act 1979*.

The land reserved for future acquisition is to be identified on the Land Reservation Acquisition Map accompanying the principal LEP and the acquiring authority of the State shown in clause 5.1.2 of the principal LEP. Land listed in clause 5.1.2 requires the relevant authority to consent to the listing.

Other circumstances

The range of uses proposed to be permitted in the E zones is a consideration for council in consultation with the Department of Planning. In determining uses, council should be aware that the range of uses should not be drawn too restrictively as they may, depending on circumstances, invoke the *Land Acquisition (Just Terms Compensation) Act 1991* and the need for the Minister to designate a relevant acquiring authority.

Unless a relevant acquisition authority has been nominated and that authority has agreed to the proposed acquisition, council should ensure, wherever possible, that the range of proposed land uses assists in retaining the land in private ownership.

Use of alternative zones

Where the primary focus is not the conservation and/or management of environmental values, a different zone type should be applied.

Such zones may be applied in conjunction with local environmental provisions and maps in the principal LEP to identify any special considerations.

Local environmental provisions

Local environmental provisions may be applied where zone provisions need to be augmented in order to ensure that special environmental features are considered. For example, rural land that is still principally for agriculture but which contains environmentally sensitive areas may be zoned RU1 or RU2 and the environmental sensitivities managed through a local provision and associated ('overlay') map.

The benefits of this approach include:

- The intended conservation or management outcomes for land can be clearly articulated in the LEP.
- Areas are clearly defined and controls streamlined.
- Sub-zones are not created. (These are not permitted under the standard instrument).

Provisions for environmentally sensitive areas may include multiple natural resource or other features such as acid sulfate soils and riparian land. A local provisions clause may include objectives and, where the sensitivity is a mappable attribute, a map would accompany the provision.

Any local provision will apply in addition to the objectives and land use table for zones. The local provision must be consistent with mandated objectives and permissible or prohibited uses of the relevant zone/s.

Split zone considerations

Where council wishes to acknowledge different land capabilities on a single allotment, council may consider applying more than one zone across the land. For example, this approach may be considered appropriate over an allotment to distinguish between areas of environmental value and areas for agricultural purposes.

In choosing this approach, council needs to consider the implications of such splits. Appropriate minimum lot sizes and development standards are to be selected to support the intent of the zones and identify a suitable scale and intensity of development. Identifying appropriate minimum lot sizes at the same time as zone splitting would reduce the potential for future uncertainty if land is proposed for subdivision at a later stage.

Application of legislation

Council needs to be aware of the following:

- section 117 directions apply, including Direction 1.3—*Mining, petroleum and extractive industries* and Direction 2.1—*Environment protection zones*. Council must check the relevance of all directions and justify any proposed inconsistency
- State and regional environmental planning policies apply and may include other uses that may be permissible in a particular zone. Other uses may be provided in other planning instruments, e.g. State Environmental Planning Policy (Infrastructure) 2007 and State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007.

Further information

A copy of this practice note, the standard instrument, and other specific practice notes and planning circulars on using the standard instrument for principal LEPs, can be accessed on the Department's website at <http://www.planning.nsw.gov.au/planningsystem/lo-calplanning.asp>.

Authorised by:

Sam Haddad
Director-General

Attachment 1 – Additional zone considerations
Attachment 2 – Frequently asked questions

Important note

This note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this note.

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E1 National Parks and Nature Reserves



Application

This zone is for land reserved under the *National Parks and Wildlife Act 1974*, including existing national parks, reserves and conservation areas. This zone is also to be applied to new areas proposed for reservation as identified and agreed by the NSW Government.

This zone is not generally intended to apply to Crown land reserved for conservation purposes under the *Crown Lands Act 1989*.

Objectives and uses

It is not necessary to add any additional objectives or uses to this zone, as the relevant matters are already covered by the standard provisions.

Uses currently authorised under the *National Parks and Wildlife Act 1974* are permitted without consent within the zone.

Other considerations

Land reserved for acquisition for future national park should be identified on the Land Reservation Acquisition Map. The approval of the Department of Environment and Climate Change must be obtained for the reservation of such land.

Waterways within a National Park will also be zoned E1.

E2 Environmental Conservation



Application

Use of the zone will depend on land capabilities and the proposed future uses based on environmental protection values and strategic directions.

The use of the E2 zone needs to be supported by an appropriate assessment of the area meeting the zone objectives of high ecological, scientific, cultural or aesthetic values of this zone.

The following are examples of where the E2 zone should also be applied:

- lands with very high conservation values such as old growth forests, significant wildlife, wetlands or riparian corridors or land containing endangered ecological communities
- high conservation coastal foreshores and land acquired, or proposed for acquisition, under a Coastal Lands Protection Scheme
- some land with a registered BioBanking agreement
- land under the care, control and management of another catchment authority such as the Department of Water and Energy or a council for critical town water supply, aquifer or catchment as appropriate
- land with significant Aboriginal heritage values, if appropriate
- coastal foreshores and land subject to coastal hazards, including climate change effects
- land currently zoned for environmental protection where strict controls on development apply, e.g. steeply sloping escarpment lands, land slip areas.

The section 117 Direction 5.2—*Sydney drinking water catchments* identifies Special Areas (owned or under the care, control and management of the Sydney Catchment Authority). In the hydrological catchments in this direction, an E2 zone is to be applied to those parts of the Special Areas above the full water supply level.

Objectives

The mandatory zone objectives focus on protecting land with high conservation value and preventing development that could destroy, damage or otherwise have an adverse effect on that value.

Local objectives may reflect the particular types of values in the E2 zone within the council area. For example, an LEP might include an additional objective to identify the protection of drinking water catchment lands.

Objectives referring to land uses need to be carefully worded to avoid reducing the conservation focus of the zone. For example objectives such as 'to provide uses compatible with the high ecological, scientific, cultural or aesthetic values of this zone' may be appropriate under carefully controlled conditions.

Uses

There are no mandatory permitted uses for this zone.

Councils should carefully choose uses that protect the high conservation value of the land and avoid adverse effects in relation to natural hazards.

Additional uses that may be suitable (as permitted with consent) depending on location, include, but are not limited to:

- bed and breakfast accommodation
- eco-tourism¹
- environmental facility
- farm stay accommodation
- Information and education facility (environmental information and education)
- water recreation structure
- wetland rehabilitation.

It is important that councils maintain the integrity of the E zones by including only uses consistent with the zone objectives. As well, **councils should, wherever appropriate, retain existing uses that maintain conservation land capabilities.**

In relation to the standard instrument for principal LEPs the following uses are mandatory prohibited uses: business premises, hotel or motel accommodation, industries, multi dwelling housing; recreation facilities (major), residential flat buildings, retail premises, seniors housing,

¹ The draft definition of 'eco-tourism development' means nature-based tourism development with a primary focus on the education, interpretation, cultural understanding and appreciation of the natural environment that is managed to be ecologically sustainable.

service stations, and warehouse or distribution centres.

Councils should be aware that uses should not be drawn too restrictively as they may, depending on circumstances, invoke the *Land Acquisition (Just Terms Compensation) Act 1991* and the need for the Minister to designate a relevant acquiring authority.

In selecting additional uses, the following are unlikely to be suitable in the E2 zone:

- intensive agriculture
- rural industry
- signage (other than as ancillary to environmental facilities).

Where conservation is not the main objective, another zone series is appropriate, e.g. the residential or rural zone series.

Other considerations

Generally an acquisition authority for E2 land would not be identified unless the land is expressly set aside for a public purpose under section 26(1)(c) of the *Environmental Planning and Assessment Act 1979*, e.g. as public open space or a public reserve.

However, depending on circumstances, if the permitted uses are considered to be drawn too restrictively, a relevant acquiring authority may need to be designated.

E3 Environmental Management

Application

The following are examples of where the E3 zone may be applied:

- areas of special ecological, scientific, cultural or aesthetic attributes that require management in conjunction with other low-impact uses, e.g. scenic protection areas, areas with contiguous native vegetation or forest cover.
- as a transition between high conservation value land, e.g. land zoned E1 or E2 and other land such as that zoned rural or residential.
- where rehabilitation and restoration of its special environmental qualities are the primary purpose.
- highly constrained land where elements such as slope, erodible soils or salinity may have a key impact on water quality within a hydrological catchment.

There are instances where environmentally significant land has been zoned rural in the past but has not been used primarily for agriculture. Such lands should be zoned E3.

However, the zone is generally not intended for cleared lands including land used for intensive agriculture.

Objectives

The mandatory zone objectives focus on protecting, managing and restoring areas with special ecological, scientific, cultural or aesthetic values and to provide for a limited range of development that does not have an adverse effect on those values.

Additional local objectives may be applied if they are compatible with the mandatory objectives and uses.

Uses

Mandatory uses

Dwelling houses are a permitted use (with consent) in this zone. Home occupations may be carried out without consent.

In accordance with the direction for this zone, environmental protection works and roads must be permitted with or without consent.



A number of land uses considered to be inappropriate for this zone are listed as mandatory prohibited uses.

Additional uses

Councils can specify additional uses to be permitted in the zone at Items 2 and 3.

Councils may generally (but need not) permit, with consent, home industries, kiosks, cellar door premises, neighbourhood shops and roadside stalls in the zone. All other forms of retail premises and industries are prohibited in the zone.

Councils should choose uses that do not have an adverse effect on the special values of the land. Generally, if intensive forms of agriculture are proposed, a rural zone would be more appropriate (than an E zone). Additional uses that may be suitable (as permitted with consent) depending on location, include, but are not limited to:

- bed and breakfast accommodation
- building/identification signs and business identification signs, e.g. as exempt or complying development
- community facility
- dwelling house
- eco-tourism²
- environmental facility
- farm stay accommodation
- home business, home industry and home-based child care
- information and education facility
- kiosk
- recreation area
- water recreation structure
- wetland rehabilitation.

It is important that councils maintain the integrity of the E zones by including only uses consistent with the zone objectives. As well, **councils should, wherever appropriate, retain existing uses that maintain conservation land capabilities.**

Unless they are existing uses in the zone, the following uses are generally considered to be unsuitable:

² The draft definition of 'eco-tourism development' means nature-based tourism development with a primary focus on the education, interpretation, cultural understanding and appreciation of the natural environment that is managed to be ecologically sustainable.

- intensive plant agriculture and intensive livestock agriculture
- residential accommodation other than detached dwelling houses
- retail premises (excluding neighbourhood shops)
- rural industry
- storage premises.

Councils should be aware that uses should not be drawn too restrictively as they may, depending on circumstances, invoke the *Land Acquisition (Just Terms Compensation) Act 1991* and the need for the Minister to designate a relevant acquiring authority.

Consideration of mining

As part of council's consideration of whether or not to apply the E3 zone, council must take into account the section 117 Direction 1.3—*Mining, petroleum production and extractive industries* in relation to significant resources and Direction 2.1—*Environmental protection zones* and justify any inconsistency.

Under the State Environmental Planning Policy (SEPP) (Mining, Petroleum Production and Extractive Industries) 2007, underground mining can be carried out on any land with development consent. Under this SEPP, surface mining can be carried out with consent on land for which agricultural and industrial uses are permitted (with or without consent).

Where there are mining, petroleum or extractive industries resources identified in a section 117 Direction, and a council proposes to apply the E3 zone, council needs to clarify the permissibility of mining in this zone. Councils are therefore advised to include the following note at the beginning of the E3 land use table:

'Note. State Environmental Planning Policy (Mining, Petroleum Production and Extractive Industries) 2007 may apply to land within this zone.'

E4 Environmental Living



Application

This zone will be typically applied to existing low impact residential development. This may include areas already zoned for rural residential that have special conservation values. Where lands have higher conservation values and fewer intended land uses than the E4 zone, an E2 or E3 zone may be appropriate.

Regional councils should distinguish carefully between the E4 zone, the RU4 Rural Small Holdings and R5 Large Lot Residential zones to address environmental, agricultural and residential land capabilities respectively.

Where small holdings undertake agricultural production such as viticulture or cropping such as growing berries, the RU4 zone should be considered. If there are few environmental considerations, then R5 may be the appropriate zone.

Objectives

The mandatory zone objectives seek to provide for low-impact residential development in areas with special ecological, scientific or aesthetic values and to ensure that residential development does not have an adverse effect on those values.

Any additional objectives should reflect local characteristics and not duplicate the matters covered in the core objectives.

Uses

Mandatory uses

The zone permits dwelling houses (with consent) and home occupations (without consent).

In accordance with the direction for this zone, councils must permit environmental protection works and roads with or without consent in the zone.

Additional uses

Councils can specifically list additional uses to be permitted in the zone at items 2 and 3. The direction for this zone allows home industries to be permitted if desired (they would otherwise be prohibited under the term industries).

Care should be taken to select uses that are in keeping with the special conservation values of the land and complement low impact residential development. Additional uses that may be suitable (as permitted with consent), depending on location, include, but are not limited to:

- bed and breakfast accommodation
- building identification signs and business identification signs
- caravan park
- community facility
- dwelling house
- eco-tourism³
- environmental facility
- home business, home industry and home-based child care
- information and education facility
- kiosk
- recreation area
- secondary dwellings, e.g. attached to the principal dwelling
- tourist and visitor accommodation.

Additional uses that are generally unsuitable in the zone include:

- business premises
- office premises
- residential accommodation (other than dwelling houses and secondary dwellings)
- retail premises
- rural industry
- storage premises.

Other considerations

Where environmental capabilities are the primary concern on land that may be zoned R5 Large Lot Residential, RU4 Rural Small Holdings or E4 Environmental Living, preference should be given to the E4 zone.

³ The draft definition of 'eco-tourism development' means nature-based tourism development with a primary focus on the education, interpretation, cultural understanding and appreciation of the natural environment that is managed to be ecologically sustainable.

Frequently asked questions

Q. How are additional local environmental provisions to be referenced in LEPs?

A. Areas should be mapped and a separate clause included. For example a map identifying scenic protection areas should be referred to as follows:

6.1 Scenic protection

- (1) The objective of this clause is _____.
- (2) This clause applies to land identified as a scenic protection area on the Scenic Protection Map.
- (3) Before granting consent to development to which this clause applies, the consent authority must be satisfied that the development:
 - (a) _____.
 - (b) _____.
- (4) For the purpose of this clause, Scenic Protection Map means the [Name of local government area or other relevant name] Local Environmental Plan [Year] Scenic Protection Map.

It is important that the map clearly identifies 'Scenic protection area' in the legend and is prepared in accordance with the LEP Mapping Requirements.

Q. Is the E2 zone suitable for public open space land that has high conservation value?

A. Public open space principally used for public recreation purposes should be zoned RE1 Public Recreation, as this zone includes the protection of the natural environment among its core objectives. (Where recreational space is to be used for golf courses, registered clubs, caravan parks and the like it should be zoned RE2).

Areas of bushland within a public reserve will be protected under the plan of management required for community land under the *Local Government Act 1993*.

The E2 or E3 zone can be applied to public land such as bushland reserves with very high conservation value if the land meets the criteria for the application of the zone, for example where future land use is restricted for conservation reasons. This may be considered particularly where a bushland park offers recreation on walking trails and in the form of lookouts rather than as sporting fields and children's playgrounds.

Q. How would zone changes affect existing uses?

A. Existing legal land uses will not be affected, providing these remain in use.

Q. Can dwelling houses be prohibited in the E2 zone?

A. Yes, however, this needs to be adequately justified on conservation grounds. Note, if dwelling houses and other uses were previously permitted on this land and uses including dwelling houses are then proposed to be prohibited, the land may be considered to be an acquisition zone if a reasonable range of uses are not permitted.

Q. Council has recent detailed mapping of vegetation that differs from areas identified in SEPP 14 and SEPP 26. Should the new information be used to determine the zone boundaries or should the mapping be based on the SEPP maps?

A. The extent of SEPP lands remains that identified in the relevant SEPP map. Where new information identifies additional land with conservation value assets, these lands may be considered for inclusion in an appropriate environment protection zone, e.g. land including old growth forest.

Q. How should land be zoned which is owned by the Sydney Water Catchment Authority but which lies below the high water mark or is operational land.

A. This land should be zoned SP2 Infrastructure and the uses annotated on the relevant land zone map.