

Briefing Note – Dec 2019

Environmental & Urban Edge Zone Review

Draft Central Coast Local Environmental Plan



A report on the 'Outcomes of Public Exhibition of draft Central Coast Local Environmental Plan and draft Central Coast Development Control Plan' was to be considered at the 9 December 2019 Ordinary Council Meeting of Council. At this meeting it was resolved:

1256/19 *That Council defer consideration of this item until February 2020 to allow for the following:*

- a** *That the Chief Executive Officer seek legal advice regarding the ability of Council to rezone the current deferred matters that are not public lands, to an equivalent environmental zone as an interim measure, whilst the Environmental Lands Review project is undertaken.*
- b** *That the Chief Executive Officer provide an updated table comparing proposed changes with the former Gosford and Wyong LEPs and DCPs, referencing the clauses in the relevant instruments.*
- c** *That the Chief Executive Officer provide a written briefing to Councillors about the Environmental and Urban Edge Review (EUEZR) including an outline and timeline of the process since commencement.*

The following briefing is in response to *item c* above and provides an overview of the history of the Environmental and Urban Edge Zone Review (EUEZR).

December 2004 July - August 2005

On 7 December 2004 former Gosford City Council resolved to commence preparation of strategic planning investigations leading to the preparation of Comprehensive Local Environmental Plan and associated plans.

April – August 2005

In April 2005 a direction was issued by the Department of Infrastructure Planning and Natural Resources (DIPNR) for all Councils in the State to prepare new LEPs based upon the Standard Instrument Principal LEP. Gosford LEP 2014 (GLEP 2014) and Wyong LEP 2013 (WLEP 2013) are examples of Standard Instrument LEPs.

The former Gosford City Council resolved on 5 July 2005, pursuant to s54 of the EP&A Act 1979, to prepare a new LEP. A consolidation LEP was commenced in August 2005 and then amended to become a comprehensive LEP applying citywide following a coincidental direction from DIPNR

May 2008

A report was considered by the former Gosford City Council on 6 May 2008 which sought endorsement to submit the proposal for a Section 65 Certificate (the former equivalent of a Gateway Determination). The proposal included the conversion of environmentally zoned land to the most comparable zone, at the time, under the standard instrument. The following table outlines the old zones under IDO 122 and GPSO and the proposed comparable zone at the time under the *Draft Gosford Local Environmental Plan 2009* (Draft GLEP 2009):

	Old Zones	New Zones (Draft GLEP 2009)
Environment Protection Zones	National Parks currently zoned 6(a), 6(b), 6(d), 7(a) Conservation, 7(e) Coastal Land Acquisition, Zone 8 National Parks	E1 National Parks and Nature Reserves
	7(a) Conservation, 7(c4) Scenic Protection - Mangrove Creek, 7(c5) Tourist, 7(c6) Residential, 7(e) 9(a) Restricted Development - floodprone	E2 Environmental Conservation
	7(c2) Scenic Protection - Rural Small Holdings	E3 Environmental Management
	7(c3) Scenic Protection - Tourist Accommodation	E4 Environmental Living

Table 1: Draft GLEP 2009 Zone summary

This proposal was endorsed by Council and included in the submission for a s.65 Certificate.

September 2009

On 25 September 2009 the s.65 Certificate of the Director General (the former equivalent of a Gateway Determination), to certify the draft plan may be publicly exhibited, was issued with a letter stating that:

"Guidance on the use of E zones was released too late for inclusion in the draft LEP submitted to the Department, however the draft plan is now inconsistent with Practice Note 09-002 in relation to E zones.

Council will be required to review its use of E zones and bring them into line with PN09-002 and this should occur as soon as practicable."

The review of E zones in line with Practice Note 09-002 was intended to be undertaken as a future project following gazettal of the exhibited LEP.

10 Feb – 5 May 2010

Draft GLEP 2009 was publicly exhibited from 10 February to 5 May 2010. An extensive community engagement process was undertaken and included the engagement of a consultant specialising in public engagement to assist Council, creation of reference groups, mail outs, information displays, 12 public information sessions, a specific website, regular media releases and statutory advertisements. 1460 submissions were received.

This exhibition included the rezoning of environmental lands to the most comparable zone as outlined in Table 1 above.

May 2011



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A report on the consideration of submissions and recommendation for adoption of the Draft GLEP 2009 was considered by the former Gosford City Council on 31 May 2011. This outlined that the bonus lot provisions under IDO 122 could not be replicated and transferred to the GLEP and provided two options to ensure the continuance of the bonus contributions. The preferred option and subsequent resolution related to the environmental lands was:

"B Pursuant to Section 68 of the Environmental Planning and Assessment Act, Council forward the revised draft Local Environmental Plan to the Regional Director - Department of Planning and Infrastructure, requesting the Minister makes the Plan pursuant to Section 70 of the Act, subject to:

- a) the inclusion of Zone E5 - Public Conservation for all council owned and managed Coastal Open Space System lands; and*
- b) deferment of all privately-owned lands zoned Conservation 7(a) and Scenic Protection 7(c2) located east of the F3 from draft Local Environmental Plan 2009 and retention of the operative provisions of Interim Development Order No 122 as they relate to these zones. These provisions are to remain operative for five years from the date of gazettal of draft Local Environmental Plan 2009; and ...*

E Council undertake the following actions:

6 Council carry out the Environmental zones review to implement the Department of Planning and Infrastructure Practice Note PN09-002 as soon as practical after completion of draft Local Environmental Plan 2009. This review will aim to, amongst other matters, assess the suitability and capability of accommodating "urban support" type uses such as places of public worship, cemeteries (including memorial walls) and educational establishments and the identification of a suitable zoning regime to accommodate these forms of development where considered appropriate. Deferred 7(a) and 7(c2) zoned lands are to be included in this review with a view to their inclusion in an SI zone once the bonus lot contributions have been exhausted and the deferment provisions expire."

August 2013

Following ongoing discussions and consultation with the Department of Planning and Infrastructure and advice that a new public environmental conservation zone would be supported, the State Government then advised they would no longer support the introduction of a new E5 Public Conservation Zone. As a result, the former Gosford City Council resolved at its meeting of 20 August 2013 to:

Defer all Council owned and managed COSS lands and Council pursue the matter separately with the Minister...

February 2014

GLEP 2014 was gazetted on 11 February 2014 and excluded all Council owned and managed COSS lands and all privately owned land zoned 7(a) Conservation and 7(c2) Scenic Protection located east of the M1. This land is identified as "Deferred Matter" on the Land Application Map. These deferred



matters lands were to be subject to an environmental lands study as noted above and became known as the Environmental and Urban Edge Zone Review (EUEZR).

July 2015 – March 2017

On 28 July 2015 the former Gosford City Council resolved to prioritise the review of land zoned 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) as part of the EUEZR to determine the appropriate zoning of these lands. The appropriate zoning of these lands was required to be completed within five years, as directed by the NSW Department of Planning. The EUEZR then broadened its focus from 7(c2) Conservation and Scenic Protection (Scenic Protection – Rural Small Holdings) zoned land to include all Conservation and Scenic Protection zones, as well as all matters deferred from the GLEP 2014. These lands were considered in Phase One of the EUEZR project.

Further requests for an E5 Public Conservation Zone were not supported by State Government and subsequently Phase Two of the EUEZR was to include the rezoning of publicly owned COSS land.

The EUEZR was undertaken by the former Gosford City Council. This Review identified Standard Instrument zonings using a Geospatial analysis at the lot level through an evidence-based approach using a multi-criteria evaluation technique. This also included the minimisation of split zones and a mapping review which resulted in a smoothing of zone boundaries in the later phases. Consultation on the EUEZR included a series of stakeholder workshops, with the community, government agencies, environmental groups, planning consultants and Aboriginal Land Councils.

The proposed zones were guided by the *Northern Councils E Zone Review* and *Planning Practice Note PN 09-002 Environmental Protection Zones* as required by the Department of Planning and Environment. This independent review considered the way E zones and overlays were being applied to land on the Far North Coast.

The EUEZR was to be carried out in four phases:

- Phase 1 – Principles and Criteria
- Phase 2 – Land Sustainability Analysis
- Phase 3 – Proposed Zone Plan
- Phase 4 – E zone planning Outcome

Consultation was undertaken during all phases of the study. The following was included in the engagement strategy for the EUEZR:

Phase 1 Principles and Criteria

Five key stakeholder workshops	October 2015
Have Your Say interactive hub	January 2016
Including discussion forum, Q&A service interactive maps, FAQs and Brochures	
Staff Briefing	January 2016

Phase 2 – Land Sustainability Analysis



Letter/E-mail out	March 2016
Have Your Say online collaboration portal	Feb- May 2016
Special Interest Groups	April 2016
Mail Out – Repeal of Bonus Lot Provision	April -May 2016
Industry Meetings (OEH, RMS etc.)	May 2016
Online Video	May 2016
Dedicated Information telephone line	June 2016 (available through 2017)
Phase 3 – Proposed Zone Plan	
Community Information Sessions	June 2016
Special Interest Group Sessions	June 2016
Staff Information email and briefing	June 2016
Community Information e-mail/letter article	July 2016
Dedicated Information telephone line	March -June 2016 (available through 2017)

May 2016

In May 2016 the former Gosford City and Wyong Shire Councils were amalgamated to form the Central Coast Council. The amalgamation prompted the need for a single consolidated LEP for the new Central Coast Council.

Nov 2016

Central Coast Council resolved to prepare a planning proposal for the consolidation of the WLEP 2013, GLEP 2014, GPSO and IDO 122. In order to achieve this, the zone recommendations of the EUEZR were to be implemented through this project and deferred matters rezoned to a Standard instrument zone.

March 2017

The EUEZR report was finalised and provided to the CCLEP Project team for submission to the Department of Planning and Environment (DPE) in March 2017 as part of the Consolidated CCLEP Planning Proposal. This report made recommendations to zone all deferred matters land to a Standard Instrument zone.

August 2017

An amended Planning Proposal was submitted to DPE with a request for Gateway Determination in August 2017 and providing additional information requested by DPE.

October 2017

A Gateway Determination was issued by DPE. Work commenced on undertaking digital mapping and addressing gateway conditions.

2017-2019

The following consultation was undertaken as part of the CCLEP and included the EUEZR report and outcomes:



Agency Consultation	Dec 2017-2018
Industry Information Session	Jan 2018
Public Exhibition	Dec 2018 - March 2019
Four community information sessions including two sessions dedicated to the EUEZR	Dec 2018 – Feb 2019
Six community information pop-up sessions	Dec 2018 – Feb 2019
Letter Mail to Deferred Matters Land Owners	Dec 2018
Media releases	Dec 2018 – March 2019
Advertisement and stories in local newspapers	Dec 2018 – March 2019
Dedicated customer screens and I-pads	Dec 2018 – March 2019
Dedicated exhibition webpage	Dec 2018 ongoing
Fact Sheets, FAQs & summary	Dec 2018 – ongoing
Digital mapping	Dec 2018 – ongoing

Dec 2019

Submissions were received during exhibition and issues raised by government agencies concerning the outcomes of the EUEZR. The key issues raised and identified during the ground truthing of submissions included:

- Differences in the application of Environmental zones under the WLEP 2013, GLEP 2014 and EUEZR.
- Differences in provisions under the Environmental zones of each instrument e.g. minimum lot size.
- Removal of appropriate split zones which does not properly allow for the zoning of land with different environmental and physical characteristics.
- The E3 Environmental Management zone being applied to land based on potential land management needs rather than conservation values.
- Discrepancies in the smoothing of zone boundaries.
- Inconsistencies between geospatial data and what's on the ground.

A report was prepared for Council on the outcomes of the public exhibition of the CCLEP. The recommendation included in the report is that:

Land zoned under the Interim Development Order No. 122 (IDO 122) which is outside of the current COSS will maintain its current land use zoning provisions and be removed from CCLEP mapping.

As such this land would remain deferred to allow for further refinement of criteria and a consistent approach to environmental lands across the full LGA. This recommendation was made following review of submissions, concerns raised by the community, ground truthing, consideration of legal ramifications and consultation with DPIE. All deferred matters land identified as current COSS is recommended to be zoned E2 Environmental Conservation. This recommendation is the preferred approach and would allow for further consideration of issues identified and consistent application of Environmental zones across the full LGA.

