

18 June 2021

Our Ref: X081951
File No: 2021/081951

Aoife Wynter
Director Employment Zones
Department of Planning, Industry and Environment
By email: Aoife.Wynter@planning.nsw.gov.au

Dear Aoife

Submission to the employment zones reform

Thank you for the opportunity to comment on the proposed changes to the Standard Instrument Principal Local Environmental Plan (2006) (Standard Instrument) employment zone reforms to replace the twelve existing business and industrial zones with eight new business and industrial zones.

The City is concerned about the scope of the proposed changes, noting there is little evidence to support the need for such fundamental changes to the Standard Instrument. Moreover, the proposed implementation timeframes do not allow for adequate consultation or adequate time to consider issues and mitigate the potential unintended consequences of the changes.

While the proposed changes will affect councils in different ways, the following are the City's key concerns:

- the rationalisation of zones will negatively impact on the success of central Sydney with the loss of the B8 – Metropolitan Centre zone, which would make Sydney the only state capital in Australia deprived of an exclusive zone for its central business district
- the consolidation of three business zones into one constrains the ability of councils to manage business and industrial zones and has a flow on effect on the performance of our employment lands broadly and the businesses that locate within them
- the *Sydney Local Environmental Plan 2012* and Sydney Development Control Plan 2012 contain zone-specific planning clauses and provisions that will be affected by the proposed changes. There is no clear way forward for how these issues are to be addressed, for example, will individual councils be required to lodge planning proposals and draft amending DCPs to amend those clauses and provisions; and
- no process has been proposed where the conversion of one zone to another requires a decision of local government, for example, where the use of a special purpose zone (SP4) may be proposed. It is the City's strong view the elected Council and in the case of the City of Sydney, the Central Sydney Planning Committee, should resolve a way forward on these matters. This cannot be achieved in the allotted timeframes.

It is the City's strong view the proposed changes, particularly where they are attempted to be implemented in unreasonable and unrealistic timeframes, will result in confusion and uncertainty for developers and will potentially complicate development in employment areas for some time.

Recommendation 1: Further evidence be gathered to inform a comprehensive understanding of how changes to employment zones may support government objective.

Recommendation 2: Further consultation be undertaken with local government to identify risks, develop mitigation strategies, and form a more detailed implementation plan.

The City seeks the retention of a zone exclusive to the Sydney CBD – B8

The retention of the B8 - Metropolitan Centre zone in central Sydney is critical to manage the productive functions of Australia's most important and valuable economic centre. Interfering with the B8 – Metropolitan Centre zone when it is functioning well, merely to reduce the number of zones that exist has disproportionate consequences, considering the uncertainty and confusion that could result for landowners and those seeking to invest in central Sydney.

The recently endorsed *Central Sydney Planning Strategy* sets a vision for the next 20 years reinforcing the global city centre. The Strategy uses the B8 – Metropolitan Centre zone as a core area of focus, essentially defining a precinct boundary for the policies and controls for the unique and diverse uses within this zone. Such uses include international and major national business headquarters, major retail centres and specialty stores, international and major domestic tourism facilities, and major cultural and entertainment activities and events (and the resultant light, noise, crowds associated with these), and residential uses.

City controls that rely on the B8 – Metropolitan Centre zone include the critical Heritage Floor Space Scheme through to activities using amplified sound which are permitted in the B8 zone but not in the B4 zones. Therefore, if the B8 – Metropolitan Centre zone was dissolved into other more general business zones, replacement planning tools such as additional mapping layers and site-specific controls would need to be created, adding to complexity of the planning controls which are simply resolved through B8. This is not a problem for either Council or the property industry that needs a fix.

The Central Sydney Planning Strategy has outlined the aspiration to even expand the B8 – Metropolitan Centre zone to simplify and consolidate controls and meet state and local productivity objectives detailed in the Greater Sydney Region Plan, Eastern City District Plan, as well as the Central Sydney Planning Strategy. The proposed framework will work against this, creating a patchwork approach to planning which would be more confusing for industry and undermine central Sydney's ability to continue to function as Australia's only globally significant economic centre.

The removal of the B8 – Metropolitan Centre zone is also inconsistent with the approach of all other capital cities in Australia (apart from Canberra), which have a special zone allocated to their central business/city core area. This includes Melbourne, which retains their equivalent capital city zone, even after undergoing a rationalisation of their business zones. As the Australian Centre for Population in December 2020 forecasts that Melbourne will overtake Sydney as Australia's largest city in 2026-27, we don't want to risk losing our economic status to Melbourne either.

The City has concerns about the suggested approach in the position paper, which recommends that the SP4 zone could apply to 'parts of the B8 Metropolitan Centre in the City of Sydney LGA' with MU – Mixed Use applying in other parts of the Metropolitan Centre. Applying multiple zones to central Sydney is undesirable as it erodes the economic focus, the consistent planning approach and the shared objective to grow central Sydney.

There is uncertainty of how the proposed SP4 – Local Enterprise zone will be used in other areas and while the position paper suggests it will only be used in unique circumstances, what is considered 'unique' is unclear. It is also unclear how objectives for these zone(s) being considered for central Sydney could be the same as objectives for those same zones applying to local centres or suburban, and less intensive, areas of New South Wales.

Further complexity would then be required by controls, such as heritage floor space, which would cover both an SP4 and MU zone, to achieve the current precinct wide controls enabled through the B8 – Metropolitan Centre zone. All of which is contrary to the intent of the Central Sydney Planning Strategy for simplifying and consolidating controls.

Removing the B8 Metropolitan Centre zone provides negligible benefit towards are more consistent NSW planning framework as the zone is only used in one location and its purpose and objectives are effective and clear.

Recommendation 3: Include a zone to exclusively apply to the Sydney CBD, preferably retain the B8 – Metropolitan Centre zone.

Recommendation 4: If an exclusive zone is not provided in the proposed framework to replace B8 – Metropolitan Centre, ensure that the SP4 zone is added to the Amendment Order to the Principal SI LEP with the ability to tailor objectives and replace 'local' in the zone title.

The City requests that it retains its ability to manage 'specialised retail premises' in its enterprise areas

A clear intent of this review is to expand land available across Sydney to support specialised retail premises. Supporting analysis ranges from past productivity commission discussion papers to the Retail Expert Advisory Committee report, which argues retailers have trouble finding suitable sites in NSW.

The rationalisation of three business zones into one, with 'specialised retail premises' made a mandated permissible use is a blunt response to the challenges faced by retailers. Merging these three zones into one will compromise the toolkit available to Councils to support the growth of their enterprise areas.

'Big box' retail operators experience challenges finding suitable sites as they need to be on a suitable road and traffic impacts need managing. Finding a large enough site is challenging in the older built up areas closer to central Sydney. There is a critical shortage of large sites that are zoned for employment purposes only and may be in zones that do not currently permit specialised retail premises.

There is a major risk that within inner Sydney, expanding permissibility of this use will consume large strategically important sites that can instead support enterprise of strategic importance to our economy, especially where they are close to trade gateways.

Site selection should be undertaken in a finer grain manner as part of a broader review of employment lands by Councils.

The City adopts a strategic, evidence-based approach to managing 'specialised retail premises,' balancing demand for the use with demand for other employment uses as well as the impacts on traffic. This approach is regularly reviewed as part of land use planning reviews for our enterprise lands. It is critical that the City retains its ability to manage expansion of specialised retail premises using a precinct overlay approach.

The availability of our strategically located land for enterprise and maintaining the efficient operation of the road network is critical to the economic performance of our southern enterprise lands. Mandating this use will have the greatest impacts on council areas with limited employment land, such as the City, resulting in a loss of productive floor space. Specialised retail premises have a very low employment per sqm.

SGS Economics and Planning completed its Enterprise Area Review in late 2020, which recommended that we do not expand permissibility of specialised retail premises and that *'expanding the area that could be developed for bulky goods or car retailing would risk displacing other valuable employment generating uses.'*

Recommendation 5: Remove 'specialised retail premises' as a mandated permitted use from the E3 Productivity Support zone or introduce a second enterprise zone to provide a zone where 'specialised retail premises' is not mandated as a permissible use.

Inadequate time and resourcing for Councils to implement the new framework

It is likely that the proposed changes would require a substantial review of existing LEPs by councils by firstly to review of all areas to place them in an appropriate zone (given the implementation framework does not automatically assign a new zone based on the existing zone).

The review by councils would also need to address policy decisions and LEP clauses that have been explicitly linked to the current zoning framework that will need to be redrafted to speak to specific geographies rather than zones. The City for example has several clauses that are zone specific that will be affected, such as clause 7.13A, which allows affordable housing in the B7 zone only, or clause 6.28, which allows development on certain land in the B6 zone.

Given the above, a lengthy transition period is required to allow Councils to make the necessary changes with 5-7 months being inadequate. Most Councils simply will not have the resources to undertake the necessary review in this timeframe. A longer transition period should allow councils to incorporate any necessary amendments to their LEPs when they are doing a future comprehensive review.

Recommendation 6: Introduce a transition period that allows Councils to translate the new framework at the same time as future LEP reviews.

Lack of rationale behind the merging of zones to form 'Productivity Support' zone

The zone is described as a 'transition between the centres and industrial zones' which mis-characterises the related existing zones. In the City of Sydney, B5 – Business Development, B6 – Enterprise Corridor and B7 – Business Park zones currently function differently to just a transition. They are business zones that have higher amenity than

industrial areas but encourage agglomeration and need to be protected from uses with a higher land value such as residential and retail uses to support business and employment.

The City of Sydney undertook an extensive review of its employment lands in the early 2010s with clear evidence-based rationale for applying the B5, B6 and B7 zones. A recent review of this approach found that it has been successful, and our enterprise lands are performing well.

One large urban services zone will result in less useful and more generalised LEP objectives that do not speak to the intensity of use and the type of employment outcomes that are being targeted for different locations. If the B5, B6, and B7 zones at the City of Sydney were merged, it would undo the well-considered, evidence based and recently reviewed approach to manage our enterprise lands with little justification.

The zone review flagged that across NSW, these three zones are used uniformly, and they lack distinct purpose. This may be a sign that employment areas across NSW, particularly in the Sydney metropolitan area may need review and Councils will need to update their land use vision for their employment lands.

Collapsing the three zones into one will restrict the ability of Councils to rezone industrial land to allow for higher order uses due to the risk of incursion from unfavourable land uses. A key land use that Councils will be unable to manage is specialised retail premises. The only employment zone where this can be prohibited would be industrial.

Recommendation 7: Introduce two productivity support zones to give Councils greater flexibility to manage their employment lands.

More information required to explain role of the mixed-use zone

The MU – Mixed Use zone has the potential to allow finer grain planning outcomes and provide greater certainty on outcomes. It is, however still unclear what the purpose of this zone is and what it might facilitate.

A zone which supports genuine mixed-use development rather than a dominant residential use is strongly supported. To facilitate this outcome, specific design requirements, generous loading facilities, ventilation, vehicle circulation and minimum non-residential floor space requirements need to be embedded into statutory planning framework to ensure strategic objectives are achieved rather than leaving it to the individual landowner to choose their most desirable uses.

It is likely that this zone would occur in areas experiencing uplift in floor space ratio and height of building, which is how a larger employment focus can be achieved without damaging development feasibility. It is critical that the use of this zone does not become a tool for future spot rezoning of industrial land to allow for residential uses, with a larger employment role used as justification. It should be encouraged as a positive method of encouraging new employment space outside of industrial zones, closer to centres.

In certain instances, the ability for the zone to be prescriptive with land uses ensures future development commits to certain services, businesses, or activities, rather than just floor space. For example, where a development is required to have a retail

component, instead it is required to have a supermarket. Currently you can rezone an area for renewal with the intent for it to be a local centre but there is no way to ensure a supermarket or other essential services.

Recommendation 8: Introduce objectives for the MU-Mixed Use zone that specify design requirements to make the space flexible for a range of business types.

Recommendation 9: Provide examples of where this zone could be applied to provide understanding of its intent so that additional feedback can be provided.

Feedback on objectives

Some of the proposed objectives of the commercial centre and mixed-use zones refer to activity of street frontages or ground floors – this is too specific as laneways, basements and other levels can support activity that is interesting and valuable. An example of this is in the City’s planning proposal for [Oxford Street](#).

Objectives for centres need to be included that strengthen the role of employment. These objectives need to support Priority E6 of the District Plan which requires that “...housing should not compromise a centre’s primary role to provide goods and services” or the objective to “protect or expand retail and/or commercial floor space” and “protect or expand employment opportunities”.

This is important when older 20th century building stock in established centres is replaced with mixed-use development, displacing flexible, relatively affordable (albeit ageing) employment floor space with rigid, constrained ground floor retail spaces. It is also important when trying to establish new centres, with the flexibility and quality of employment floor space offering critical to the success of these new centres.

Recommendation 10: Revise centre zone objectives to broaden the concept of activation and strengthen their employment role.

To speak with a Council officer about this submission please contact [REDACTED] Specialist Planner on [REDACTED] or email [REDACTED]

Yours sincerely

[REDACTED]

Director

City Planning | Development | Transport