



Ku-ring-gai Council Submission

Employment Zones Reform

June 2021

Ku-ring-gai Council Submission – Employment Zones Reform

Ku-ring-gai Council welcomes the opportunity to provide feedback on the exhibited Position Paper, Draft Standard Instrument Principal LEP Amendment Order, Implementation Plan and Land Use Matrix for the proposed employment zones reform.

This submission has been prepared by Ku-ring-gai Council staff. Due to the exhibition timeframe and the deadlines for reporting to the monthly Council Meetings, the submission has not been endorsed by Council.

Ku-ring-gai does not have any Industrial zones, so the comments in this submission are focused on the Business and Mixed Use zones only. In this respect, there are a number of matters which are of concern, and detailed comments are outlined on the following pages 3 – 17. While these comments are based on Ku-ring-gai's centres, the issues would be common across other Council areas both in the North District and wider Sydney.

In addition to the detailed comments provided in the submission, Ku-ring-gai Council makes the following recommendations:

Recommendation 1: Councils retain the ability to adapt zones – including objectives and land uses – for the context of their centres and local area.

Recommendation 2: Centres hierarchy should not only rely on use of development standards or controls.

Recommendation 3: Inclusion of additional zone within the framework in order to effectively differentiate between current B1 Neighbourhood Centre and B2 Local Centre zones.

Recommendation 4: Councils retain the ability to include their own local objectives in addition to the standard zone objectives, provided that they are not inconsistent with the standard objectives.

Recommendation 5: Expansion of *shoptop housing* definition to allow ground floor commercial uses and health services facilities is supported. Any further expansion of the ground floor permitted uses need careful consideration to ensure that they are compatible and do not impact on residential amenity.

Recommendation 6: Councils have the ability to tailor the permitted and prohibited land uses to align with the local context and Councils strategic vision for centres.

Recommendation 7: The Employment Lands Reform and proposed changes to the Codes SEPP for industrial and business zones be considered in the context of a holistic package, rather than two separate processes.

Recommendation 8: Sufficient time needs to be given to Councils to undertake the strategic review and assessment of the strategic planning impacts resulting from the reforms.

If you have any questions regarding this submission, please contact [REDACTED]

Proposed employment zones framework

Under the current *Standard Instrument Principal Local Environmental Plan (2006)* there are eight (8) business zones, and four (4) industrial zones. The Employment Zones Reform proposes an entirely new employment zones framework comprising of:

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- E4 General Industrial
- E5 Heavy Industrial
- MU1 Mixed Use
- W4 Working Foreshore
- SP4 Local Enterprise

The proposed E1 Local Centre and E2 Commercial Centre zones are for centres, and the proposed E3 Productivity Support zone is proposed to provide a transition between centres and industrial zones.

The Position Paper outlines that the:

- E1 Local Centre Zone is proposed to replace both the existing B1 Neighbourhood Centre and most B2 Local Centres zones.
- E2 Commercial Centre Zone is proposed to replace the existing B3 Commercial Core and some larger B2 Local Centres.
- E3 Productivity Support is proposed to replace the B5 Business Development, B6 Enterprise Corridor and some B7 Business Parks.

Comments

The Position Paper notes that the reforms are seeking to provide greater uniformity and consistency to business and industrial zoned land, including where these zones are applied and broadening the mandated permissible land uses. It is appreciated that there is a need for some overarching direction and rationale for how the zones are applied, however a one size fits all approach across NSW as to application of zones, and permissibility of certain land uses is not appropriate. There are very clear differences between centres in Ku-ring-gai, the adjoining Local Government Areas, Greater Sydney and wider NSW. Councils should retain the ability to undertake strategic planning to determine appropriate zoning and retain the ability to adapt the zones for the context of their individual LEPs.

The Position Paper also provides a breakdown of the utilisation of existing business and industrial zones across NSW Standard Instrument LEPs, and notes '*only 5% of LEPs utilise all available business zones*'. It is acknowledged there is scope to reduce the current number of business zones, however there needs to be an adequate number of zones within the framework in order to effectively differentiate between centres of different scales, centres of different functions and to establish centres hierarchy.

Ku-ring-gai Councils most significant concern is the proposed new E1 Local Centre Zone. The Position Paper notes that this new E1 Local Centre Zone is to fundamentally replace the existing B1 Neighbourhood Centre and B2 Local Centre Zone, and that the E1 zone is intended to cover centres of varying scales, from small scale neighbourhood centres to larger local centres. This is a real concern, especially for Ku-ring-gai as the majority of our centres are either zoned B1 Neighbourhood Centre and generally comprise of a small group of strip shops and serve the surrounding low density residential areas, or B2 Local Centre which are the larger centres along the train line and Pacific Highway. There is a big difference between the scale and function of the neighbourhood and local centres within Ku-ring-gai, from small neighbourhood centres like West Gordon of 780m² GLA to large local centres like Gordon of 80,754 m² GLA, and it would not be appropriate for these centres to have the same zoning. This is inconsistent with and would undermine the centres hierarchy set out in Ku-ring-gai's Local Strategic Planning Statement (March, 2020) and Retail and Commercial Centres Strategy (December 2020).

The Ku-ring-gai Local Environmental Plan 2015 includes the aim "*To establish a hierarchy of commercial centres for Ku-ring-gai*", and the reforms are inconsistent with this LEP aim and will undermine the centres hierarchy. The Position Paper has suggested that due to the changing nature in retail, flexibility around land uses is required and therefore the hierarchy of centres within a local government area will be based on a reliance on development controls to set the scale of development and to maintain the existing and desired future character. The centres hierarchy within Ku-ring-gai is not just based on scale, but rather:

- the use of different zones and permitted/prohibited land uses to differentiate centres and to minimise conflict between land uses
 - For example function centres, entertainment facilities and supermarkets are permitted within the B2 Local Centres, and these uses are not permitted in the B1 Neighbourhood Centres.
- the use of development controls, such as height, floorspace ratio, and local provisions such as maximum gross floor areas for commercial premises in the B1 Neighbourhood Centre zone to set the scale of development to ensure it is cohesive the with local character and appropriate for the local context.

If councils will now only rely on development controls to support a centres hierarchy, this may require councils to undertake additional strategic planning to review the development controls applying to certain centres – which hasn't been accounted for, with the Position Paper noting *'this process should draw from strategic planning, it should not require Councils to review or undertake additional strategic planning'*.

Ku-ring-gai Council currently has a number of Part 6 Local Provisions within the LEP which relate specifically to development within the B1 Neighbourhood Centre and B2 Local Centre zones:

- **Clause 6.7 Active street frontages in certain business zones** – which require ground floor uses to attract pedestrian traffic along the street frontage in B1 and B2 zones.
- **Clause 6.8 Minimum street frontages for lots in Zone B2** – which requires development in B2 zone to have a street frontage of at least 20m

- **Clause 6.9 Development in zone B1** – the objective of this clause is to maintain the commercial hierarchy of Ku-ring-gai by limiting development of commercial premises in the B1 zone to 1,000sqm and consideration of the economic impacts for development over 5,00sqm.

If the existing B1 Neighbourhood Centre and B2 Local Centre zones within Ku-ring-gai are all translated into the same E1 Local Centre zone, the application of these Local Provision Clauses will be impacted. With no way to differentiate between the smaller and larger centres, the clauses will either have to apply to all centres, or no centres. This is particularly concerning for **Clause 6.9 Development in zone B1** which limits development of commercial premises in the B1 zone to a maximum 1,000sqm. If this clause were to apply to all centres, it would severely restrict commercial developments in the larger local centres. Alternatively if this clause were to no longer apply, it would permit large scale commercial developments, such as supermarkets, which are incompatible with the small scale commercial character of the neighbourhood centres.

It would be problematic for Council to try to use the two proposed centre zones (E1 Local Centre to apply to B1 Neighbourhood Centres and E2 Commercial Centre to apply to Local Centres) as the E2 Commercial Centre does not permit residential development / shoptop housing. The Ku-ring-gai Retail and Commercial Centres Strategy (December 2020) prepared by AEC recommends that mixed use developments (i.e. residential and commercial) need to be promoted in the centres as pure retail and/or commercial developments are unfeasible. A mixed use development will increase viability, and enable developers to overcome the high costs of land consolidation and development constraints.

An additional zone should be included within the proposed framework to ensure that B1 Neighbourhood Centres and B2 Local Centre zones can be differentiated and centres hierarchy maintained.

Recommendation 1: Councils retain the ability to adapt zones – including objectives and land uses – for the context of their centres and local area.

Recommendation 2: Centres hierarchy should not only rely on use of development standards or controls.

Recommendation 3: Inclusion of additional zone within the framework in order to effectively differentiate between current B1 Neighbourhood Centre and B2 Local Centre zones.

Strategic intent

The position paper outlines that the:

- E1 Local Centre Zone is proposed to replace both the existing B1 Neighbourhood Centre and most B2 Local Centres zones.
- E2 Commercial Centre Zone is proposed to replace the existing B3 Commercial Core and some larger B2 Local Centres.
- E3 Productivity Support is proposed to replace the B5 Business Development, B6 Enterprise Corridor and some B7 Business Parks.

The table below provides a comparison of existing Ku-ring-gai Business and Mixed Use zone objectives and the proposed new equivalent zones objectives, as well as Ku-ring-gai Councils comments.

Existing Zone Objectives	Proposed Zone Objectives
<p>B1 Neighbourhood Centre</p> <ul style="list-style-type: none"> • To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood. 	<p>E1 Local Centre</p> <ul style="list-style-type: none"> • To provide a range of retail, business and community uses that meet the needs of people who live, work or visit the area • To encourage employment opportunities and business investment • To enable residential development if it will encourage a vibrant Local Centre • To ensure that development is compatible with the amenity, character and scale of surrounding neighbourhoods.
<p>Council Comments:</p> <p>One of the key differences between the proposed E1 Local Centre zone objectives and the zone objectives for Ku-ring-gai's B1 Neighbourhood Centre zone is Ku-ring-gai's inclusion of the reference to '<i>small-scale</i>' to describe the business and community uses within the centre. The description of '<i>small-scale</i>' is further quantified by the local provision Clause 6.9 which limits commercial premises to 1000sqm within the B1 zone and sets clear guidance as to scale of development expected in these centres.</p> <p>As detailed in the comments under "<i>Proposed Employment Zones Framework</i>" heading, it is concerning to Ku-ring-gai that the intention of the reform is that existing B1 Neighbourhood Centres and B2 Local Centres will both be translated to the same E1 Local Centre Zone – removing the differentiation of land uses, functions and scale of commercial developments.</p> <p>The reform should incorporate the inclusion of additional zone within the framework in order to effectively differentiate between current B1 Neighbourhood Centre and B2 Local Centre zones. Councils should retain the ability to include their own local objectives in addition to the standard zone objectives, provided that they are not inconsistent with the standard objectives.</p> <p>The proposed E1 Local Centre zone includes the objective "<i>To enable residential development if it will encourage a vibrant local centre</i>". The inclusion of the wording "<i>if it will</i>" is confusing, as residential development via shoptop housing is a proposed to be a</p>	

mandated permitted land use. How will it be determined that proposed residential development does or does not *encourage a vibrant centre*?

<p>B2 Local Centre</p> <ul style="list-style-type: none"> • To provide a range of retail, business, entertainment and community uses that serve the needs of people who live in, work in and visit the local area. • To encourage employment opportunities in accessible locations. • To maximise public transport patronage and encourage walking and cycling. • To provide for residential housing close to public transport, services and employment opportunities. • To encourage mixed use buildings that effectively integrate suitable commercial, permitted residential development and other development. 	<p>E1 Local Centre</p> <ul style="list-style-type: none"> • To provide a range of retail, business and community uses that meet the needs of people who live, work or visit the area • To encourage employment opportunities and business investment • To enable residential development if it will encourage a vibrant Local Centre • To ensure that development is compatible with the amenity, character and scale of surrounding neighbourhoods. <p>E2 Commercial Centre</p> <ul style="list-style-type: none"> • To provide the principal commercial centre for surrounding areas • To provide a range of business, office, retail, community, entertainment and other land uses that meet the needs of the community • To encourage employment opportunities and business investment • To promote vibrant and active street frontages, including during evenings and weekends
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Council Comments:

As detailed in the comments under “*Proposed Employment Zones Framework*” heading, it is concerning to Ku-ring-gai that the intention of the reform is that existing B1 Neighbourhood Centres and B2 Local Centres will both be translated to the same E1 Local Centre Zone – removing the differentiation of land uses, functions and potential scale of commercial developments. The reform should incorporate the inclusion of additional zone within the framework in order to effectively differentiate between current B1 Neighbourhood Centre and B2 Local Centre zones.

Within the B2 Local Centre zone objectives, Ku-ring-gai Council has incorporated the key intentions for these centres which relate specifically to the local context. These include:

- encouraging and maximise public transport, walking and cycling ;
- providing for residential development close to public transport, services and employment ; and
- encouraging mixed use buildings – integrating commercial and residential development in the centres.

The proposed E1 Local Centre and E2 Commercial Centre zone objectives do not align with the current B2 Local Centre zone objectives. Ku-ring-gai’s B2 Local Centre zone encourages residential development and mixed use development, while the proposed E1 Local Centre only enables residential development ‘*if it will encourage a vibrant centre*’. Additionally, the proposed E2 Commercial Centre zone objectives do not include anything

on residential or mixed use developments. Councils need to retain the ability to include their own local objectives to the proposed zones to ensure the zones appropriately reflect the local context, and Councils intentions for future development in these centres.

The proposed E2 Commercial Centre zone objective ‘To provide **the principal commercial centre for surrounding areas**’ gives the idea that there is one and only principal commercial centre. What about Councils that intend on applying this zone to multiple centres in a LGA?

B7 Business Park

- To provide a range of office and light industrial uses.
- To encourage employment opportunities.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.

E3 Productivity Support

- To provide a range of facilities and services, light industries, warehouses and offices
- To provide for land uses that meet the needs of the community, businesses and industries that are not suited to locations in other employment zones
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres
- To encourage employment opportunities
- To provide opportunities for new and emerging industries
- To enable limited retail uses to meet the day to day needs of workers or to sell goods of a large size, weight or quantity or goods manufactured on-site.

Council Comments:

The proposed E3 Productivity Support zone objectives generally align with the existing B7 Business Park zone objectives within the Ku-ring-gai LEP.

B4 Mixed Use

- To provide a mixture of compatible land uses.
- To integrate suitable business, office, residential, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling.
- To support the integrity and viability of adjoining local centres by providing for a range of “out of centre” retail uses such as specialised retail premises and compatible business activities.

MU Mixed Use

- To provide a range of business, community, light industrial, retail and residential land uses.
- To encourage vibrant, active and safe areas
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

Council Comments:

The proposed MU Mixed Use zone objectives generally align with the existing B4 Mixed Use zone objectives within the Ku-ring-gai LEP.

The proposed zoned objective to *minimise conflict between land uses* is supported. Ku-ring-gai B4 Mixed Use zone includes references to accessible locations, encouraging public transport, walking and cycling as well as supporting out of centre retail uses such as specialised retail premises. Councils need to retain the ability to include their own local

objectives to the proposed zones to ensure the zones appropriately reflect the local context, and Councils intentions for future development in these centres.

B5 Business Development

- To enable a mix of business and warehouse uses, and specialised retail premises that require a large floor area, in locations that are close to, and that support the viability of, centres.
- To provide for specialty retailing and other compatible non-residential uses in locations with poor residential amenity.

E3 Productivity Support

- To provide a range of facilities and services, light industries, warehouses and offices
- To provide for land uses that meet the needs of the community, businesses and industries that are not suited to locations in other employment zones
- To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres
- To encourage employment opportunities
- To provide opportunities for new and emerging industries
- To enable limited retail uses to meet the day to day needs of workers or to sell goods of a large size, weight or quantity or goods manufactured on-site.

Council Comments:

The B5 Business Development zone within Ku-ring-gai has been strategically limited to allow for business, warehouse and specialised retail premises that require a large floor areas in a location that is close to the centre. While the objectives of the proposed E3 Productivity Support zone are intended to support a much wider range of services and light industrial land uses.

Councils need to retain the ability to include their own local objectives to the proposed zones to ensure the zones appropriately reflect the local context, and Councils intentions for future development in these centres.

Recommendation 4: Councils retain the ability to include their own local objectives in addition to the standard zone objectives, provided that they are not inconsistent with the standard objectives.

New, updated or consolidated land use definitions

As part of the Employment Zones Reform, three (3) new land use terms are proposed, an update to six (6) existing terms are proposed and feedback is sought on the potential consolidation

- New definitions are proposed for:
 - domestic goods repair and reuse facility
 - creative industries
 - data centre
- Updated definitions are proposed for:
 - business premises
 - industrial retail outlet
 - kiosk
 - neighbourhood shop
 - shop top housing
 - crematorium
- Feedback is being sought on the potential consolidation of:
 - hardware and building supplies AND garden centres to create home improvement retail premises
 - landscaping material supplies AND rural supplies AND timber yards to create Trades Retail premises
 - storage premises AND warehouse or distribution premises to create Storage and distribution premises
 - self storage units decoupled from parent term of storage premises
 - local distribution premises decoupled from parent term warehouse or distribution premises.

Comments

The proposed amendment to business premises to remove reference to outdated *internet access facilities* is supported. The Positions Paper outlines that an amendment is proposed to list 'shop' as a land use that a business premises is not is also supported, however this amendment is has not been incorporated into the public consultation draft of the Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021.

The amended definitions proposed for *crematorium*, *kiosk*, *neighbourhood shop*, *industrial retail outlet* are supported. The existing *5.4 Controls relating to miscellaneous permissible uses* which limit the size and scale of Kiosks and Neighbourhood Shops need to be retained.

The proposed amendment to *shoptop housing* definition to expand the permitted ground floor land uses from just *retail premises* and *business premises* to also incorporate *commercial premises* and *health services facility* is supported. It is noted that the Department is also requesting feedback on whether definition needs to be further updated to allow for more than just ground floor commercial uses. Any further expansion needs to be carefully considered to ensure that any additional land uses permitted on the ground floor of shoptop housing are compatible and will not result in adverse impacts to the residential amenity.

The new definitions proposed for *domestic goods repair and reuse facility*, *creative industries* and *data centre* are supported.

The proposed consolidation of *hardware and building supplies* AND *garden centres* to create *home improvement retail premises* and the consolidation of *landscaping material supplies* AND *rural supplies* AND *timber yards* to create *trades retail premises* may be difficult, as there isn't a clear distinction between the proposed groupings. Trades utilise *hardware and building supplies* and the general public undertaking home improvements will utilise *landscape material supplies*.

The Department has requested feedback on the potential consolidation definitions to determine any instances where the current land use terms have different permissibility within individual land use tables. Within the KLEP 2015:

- B2 Local Centre Zone – the proposed consolidation of *landscaping material supplies* AND *rural supplies* AND *timber yards* to create *Trades Retail premises* will result in different permissibility, as currently *timber yards* and *landscaping material supplies* are prohibited land uses. By virtue of the open zone, *rural supplies* are permitted with consent as they are not specified as permitted without consent or prohibited.
- B5 Business Development – the proposed consolidation of *storage premises* AND *warehouse or distribution premises* to create *Storage and distribution premises* will result in different permissibility, as currently *warehouse and distribution centres* are a permitted land use, however *storage premises* are prohibited.

Recommendation 5: Expansion of *shoptop housing* definition to allow ground floor commercial uses and health services facilities is supported. Further expansion of the ground floor permitted uses need careful consideration to ensure that they are compatible and do not impact on residential amenity.

Land use tables

The Draft Standard Instrument Principal LEP Amendment Order outlines the proposed land use tables for the new employment zones. The table below provides a Council's comments based on a comparison of existing land use table for Ku-ring-gai's Business and Mixed Use zones, and the proposed new replacement zones land use table.

B1 Neighbourhood Centre Land Use Table vs E1 Local Centre Land Use Table
<p>Council Comments:</p> <p>The Position Paper notes that a review LEPs across NSW revealed that there is a <i>'restricted number of permissible uses in the B1 zone, that inhibits the evolution of centres. Density controls will continue to manage the scale of development; however businesses should be able to deliver business types to meet community expectations.'</i></p> <p>The Ku-ring-gai and Hornsby Subregional Employment Study 2008 informed commercial zoning within Ku-ring-gai under the Standard Instrument LEP, and recommended centres zoned for B1 Neighbourhood Centre should be limited to the range of services available as not to detract draw activity away from higher order centres.</p> <p>Concern is raised that the proposed reform to translate both the existing B1 Neighbourhood Centre and B2 Local Centre to the E1 Local Centre zone will result in large scale retail and commercial premises being development within Ku-ring-gai's smaller centres. Large scale retail and commercial premises – such as supermarkets – are incompatible with the small scale character, and have the potential to significantly impact on the residential amenity of the surrounding low density residential areas. Commercial premises which require larger floorplates and gross floor area are more suitable for the large centres located along the train line and Pacific Highway where the impacts of their size can be appropriately managed.</p> <p>Greater flexibility and increasing the range of permitted land uses is one of the key justifications for the reforms outlined in the Position Paper. However, Ku-ring-gai Council already uses an 'open zone' for B1 Neighbourhood Centre by nominating that the permitted with consent land uses include <i>Any other development not specified in item 2 (Permitted without consent) or 4 (prohibited)</i>. This open approach to the permitted land uses allows greater flexibility, and reduces the need for 'spot rezoning' and other ad hoc LEP amendments to permit additional acceptable uses that were not anticipated during the initial LEP preparation.</p> <p>The proposed land uses of <i>Entertainment Facilities</i> and <i>Function Centres</i> are currently prohibited within the B1 Neighbourhood Centre zone, and under the proposed E1 Local Centre zone will be a permitted land use. These land uses generally require a large floor area, and due to their size and nature of use have the potential to adversely impact on the residential amenity of the surrounding low density residential areas. It is not sufficient to suggest that these land uses could not be established in the neighbourhood centres due</p>

to limited availability of land, as set out in the Land and Environment Court Planning Principle *Weight To Be Given To The Zoning* (BGP Properties Pty Limited v Lake Macquarie City Council [2004] NSWLEC 399), planning decisions must generally reflect an assumption that, in some form, development which is consistent with the zoning will be permitted, and in most cases it can be expected that the court will approve an application to use a site for a purpose for which it is zoned, provided of course the design of the project results in acceptable environmental impacts.

B2 Local Centre Land Use Table

vs

E1 Local Centre and E2 Commercial Centre Land Use Tables

Council Comments:

It would be problematic for Council to try to use the E2 Commercial Centre to apply to the current B2 Local Centres, as the E2 Commercial Centre does not permit residential development / shoptop housing. The Ku-ring-gai Retail and Commercial Centres Strategy (December 2020) prepared by AEC recommends that mixed use developments (i.e. residential and commercial) need to be promoted in the centres as pure retail and/or commercial developments are unfeasible. A mixed use development will increase viability, and enable developers to overcome the high costs of land consolidation and development constraints.

The reform should incorporate the inclusion of additional zone within the framework in order to effectively differentiate between current B1 Neighbourhood Centre and B2 Local Centre zones.

Greater flexibility and increasing the range of permitted land uses is one of the key justifications for the reforms outlined in the Position Paper. However, Ku-ring-gai Council already uses an 'open zone' for B2 Local Centre by nominating that the permitted with consent land uses include *Any other development not specified in item 2 (Permitted without consent) or 4 (prohibited)*. This open approach to the permitted land uses allows greater flexibility, and reduces the need for 'spot rezoning' and other ad hoc LEP amendments to permit additional acceptable uses that were not anticipated during the initial LEP preparation.

B7 Business Park Land Use Table

vs

E3 Productivity Support Land Use Table

Council Comments:

The position paper notes that currently there is no clear home for urban services land uses in the existing zones framework. The E3 Productivity Support Zone is proposed to support urban services land uses, and the Position Paper notes this zone replaces the B7 Business Park zone. It is proposed that the E3 zone will permit specialised retail (larger floorplates) and retail to meet the day-to-day needs of works and business.

Pymble Business Park is currently zoned B7 Business Park. The Ku-ring-gai Retail Centre Study 2005 (HillPDA), and the Ku-ring-gai and Hornsby Subregional Employment Study 2008 (SGS Economics and Planning) set the strategic direction to discourage retail development within Pymble Business Park, so as to not undermine Gordons strategic role by drawing retail activity away from Gordon Local Centre and impacting on the centres hierarchy. The proposed reforms permitting of specialised retail premises will result in a significant policy change for Pymble Business Park which has historically prohibited retail development.

Councils latest Retail and Commercial Centres Strategy (December 2020) included a recommendation to undertake further study into the future of Pymble Business Park and the investigation into additional land uses including residential or specialised retail. Due to the timing of these employment zone reforms, Council has not yet undertaken this further study, and as such there is no strategic analysis into the potential implications for this change.

Ku-ring-gai Council is supportive that residential uses are not proposed to be permitted in this zone due to the potential amenity conflicts arising from the permitted land uses and intended objective of the zone. This aligns with Councils long-term policy position which has prohibited residential from the Pymble Business Park.

B4 Mixed Use Land Use Table

vs

MU1 Mixed Use Land Use Table

Council Comments:

The Position Paper notes that the B4 zones predominantly operates as a residential rather than business zone, and this is accurate for the B4 Mixed Use zoned land within Ku-ring-gai, which permits residential flat buildings.

Ku-ring-gai Council already uses an 'open zone' for B4 Mixed Use zone by nominating that the permitted with consent land uses include *Any other development not specified in item 2 (Permitted without consent) or 4 (prohibited)*. This open approach to the permitted land uses allows greater flexibility, and reduces the need for 'spot rezoning' and other ad hoc LEP amendments to permit additional acceptable uses that were not anticipated during the initial LEP preparation.

B5 Business Development Land Use Table

vs

E3 Productivity Support Land Use Table

Council Comments:

There are a significant number of land uses that are currently prohibited within the B5 Business Development zone, which will be permitted under the translation to the proposed E3 Productivity Support zone, including:

Animal boarding or training establishments; Boat building and repair facilities; Industrial training facilities; Mortuaries; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Service stations; Storage premises; Timber yards; Wholesale supplies

The proposed E3 Productivity Support zone has a broader range of permitted land uses and a more general mix of services, light industry, creative industry, manufacturing and warehousing. While the B5 Business Development zone within Ku-ring-gai is more limited, and has been purposely restricted to allow for business, warehouse and specialised retail premises that require a large floor areas in a location that is close to the centre.

There is very limited land zoned B5 Business Development within the Ku-ring-gai LGA – only one site at the northern end of Lindfield Local Centre, a couple of sites at the northern end of the Gordon Local Centre, and a couple of sits at the southern end of the Pymble Local Centre. Council will need to undertake further strategic review as to whether these additional permitted land uses are appropriate.

Recommendation 6: Councils have the ability to tailor the permitted and prohibited land uses to align with the local context and Councils strategic vision for centres.

Implementation and relationship to other planning reforms

The Position Paper and Implementation Plan set out a timeframe for the amendment to Standard Instrument Principal LEP Order by September 2021, and incorporated into all SI LEPs by mid-2022.

The implementation plan will be delivered through two tranches:

- Tranche 1 – Councils who are able to review the provided translation content (August – November 2021)
- Tranche 2

The Department of Planning is also undertaking other related employment land reforms with the proposal to implement changes to the Codes SEPP for industrial and business zones through Building Business Back Better has recently being publically exhibited, with the changes to come into effect in mid-2021.

Comments

The proposed reforms for employment zoned land will result in considerable structural changes to the planning system, and this reform is just one of the many that have recently exhibited. The numerous exhibitions, and the tight timeframes in which Councils are required to undertake meaningful reviews are very resource intensive. In addition, the limited timeframes do not allow for the draft submissions to be reported to the elected Council for a formal view or resolution, this is due to Ordinary Meeting of Council being held one per month, with the deadline for reporting 3 weeks prior to the meeting date. This is especially concerning where the reforms propose significant changes to the planning system and will result in significant policy shift – such as this reform for employment lands.

The Position Paper notes that *Implementation will require work to translate existing B and I zoned areas into the new framework; while this process will draw from strategic planning, it should not require councils to review or undertake additional strategic planning* – however, as the reforms are for an entirely new employment zones framework there will be a significant burden on Councils to review and prepare land use tables and permitted and prohibited land uses and maps to ensure the outcome of the reform is aligned with the strategic planning Council has undertaken, and set out in the Local Strategic Planning Statement.

The reform has also resulted in the disruption to Councils implementation of the Local Strategic Planning Statement. Ku-ring-gai Council had planned to undertake an Employment Lands Strategy in 2021, however this has had to be put on hold to await the outcome of this reform, which will have significant implications to employment zoned land and to ensure that resources are not wasted by preparing a study that will be quickly out of date. Additionally, the Ku-ring-gai Retail and Commercial Centre Strategy prepared by AEC in 2020 will require further amendment following the implementation of the reform, as this strategy, includes a recommended centres hierarchy and planning recommendations based on the current zoning framework.

Councils will need to be given time to undertake a proper review of implications of the reforms and assess strategic planning impacts. This may require Councils undertaking further investigations and studies, for example the specific study into Pymble Business Park flagged in Councils LSPS and Retail and Commercial Centres Strategy, in order to fully understand the potential implications. There may also be additional LEP amendments required to offset the impacts on Councils current strategies.

The proposal to implement the Codes SEPP changes for industrial and business zones ahead of the broader employment zone reform is premature. This risks unintended consequences if changes affecting particular zones are made to the Codes SEPP, and those zones are later simplified or consolidated under the broader employment zone reform process. These changes should be considered in the context of the complete package of reforms for employment lands. It is difficult to assess how the changes proposed in these separate reform pieces will align and what the impact will be on Councils strategic planning.

Recommendation 7: The Employment Lands Reform and proposed changes to the Codes SEPP for industrial and business zones be considered in the context of a holistic package, rather than two separate processes.

Recommendation 8: Sufficient time needs to be given to Councils to undertake the strategic review and assessment of the strategic planning impacts resulting from the reforms.