

29 June 2021

Ms Aoife Wynter RPIA
Director Employment Zones Reform
NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Email: employment.zones@planning.nsw.gov.au

Dear Ms Wynter

EMPLOYMENT ZONES FRAMEWORK

Thank you for the further opportunity to participate in the Department of Planning, Industry and Environment's Employment Zones Framework consultations.

Cement Concrete & Aggregates Australia (CCAA) is the peak industry body for cement manufacturers, concrete suppliers and extractive operators throughout New South Wales. Collectively known as the heavy construction materials industry, our members are engaged in the quarrying of sand, stone and gravel, the manufacture of cement and the supply of pre-mixed concrete to meet New South Wales's building and construction needs. These businesses range from large global companies to SMEs and family operated businesses.

Cement, concrete, stone and sand are the critical materials that enables the \$56 Billion New South Wales construction industry, employing 370,000 workers and contributing 45% of the New South Wales taxation revenue base. CCAA notes that the COVID-19 pandemic has had a significant impact upon the economy of New South Wales and the construction sector, supported by an efficient heavy construction materials supply chain is playing a pivotal role to help deliver an economic rebound.

CCAA notes the intent of the Department of Planning, Industry and Environment (DPIE) to reform the employment focused zones under Standard Instrument Principal Local Environmental Plan (2006) (SI LEP) as noted in the November 2020 Budget to create additional zoning flexibility, remove the inconsistent application of zones and to respond to emerging business needs and changes across the cities and regions of our state.

The SI LEP came into effect in 2006 and includes eight business (B) zones and four industrial (IN) zones. The proposed framework seeks to create five new employment zones, two mixed zones to encourage more variable land usages and a new special purpose, flexible zone to cater for bespoke planning and unique precinct building.

As you will no doubt be aware, the delivery of concrete must be efficient and is time critical to avoid spoiling and wastage. Australian Standard (AS1379) states that not only must concrete conform to strength and uniformity but is also required to be discharged within 90 minutes from the

commencement of mixing, or before proper placement and compaction of the concrete can no longer be achieved, whichever comes first¹.

A significant factor in achieving the 90-minute standard and efficient concrete transportation and delivery is the location of batch plants in central locations throughout Sydney and major metropolitan centres such as Sydney. Given Sydney's size, scale and congested transport routes and challenges with obtaining access to local roads, it would simply be impossible to transport and deliver concrete to most construction sites if batching plants were located in the outskirts of the city.

Furthermore, concrete for many applications is often specified at 60 minutes to placement. Allowing for traffic, queuing and site delivery, there is very little margin for concrete to be delivered from further away.

Our sector remains concerned that the employment zones reform process, whether inadvertently or by design, may lead to incompatible development and encroachment upon existing concrete batch plant sites or potentially the ability to create new batching plants within proximity to centres of construction. It is in this context, that CCAA's response is provided below.

- **Disconnect between the Positions Paper and the Draft Standard Instrument**

We do not see effective alignment between the proposed reform set out in the Positions Paper with the Draft Standard Instrument. While a range of references are highlighted for the need to protect industrial zoned land from incompatible development, we do not believe that this has been followed through with strong enough planning controls that preserve appropriately zoned land from incompatible uses. This point will be argued further below.

- **Open zoning provisions won't address the loss of strategic industrial zoned land**

CCAA does not believe that an open zoning approach (particularly in the proposed E3 and E4 zones) would address the loss of strategic industrial land, but rather add to competition for remaining industrial land use while serving to marginalise existing key industrial operations that are critical to the construction and development of cities and regions across NSW.

Based on the land use table exhibited both as a standalone document and that proposed in the draft amendment to the SI LEP, a range of incompatible land uses may be permitted for consideration in the key industrial zone (E3 – General Industrial) for concrete batching plants. We note that the proposals seek to allow the individual LGA to identify the range of zoning uses through its strategic planning studies and given that employment trends are largely used to determine key and types, it is very likely that a trend towards more commercial or retail use would arise.

1

https://www.ccaa.com.au/imis_prod/documents/Library%20Documents/CCAA%20Technical%20Publications/CAA%20Guides/CCAAGUIDE2007-T53-HousingWEB.pdf

The reliance of strategic instruments and non-binding zone objectives will not be sufficient to ensure the protection of existing uses or the preservation of adequate land for production of construction materials with proximity to key markets. This could lead to increased construction costs and adversely affect development within and around the Sydney Metropolitan region, where it is noted that only 54% of Councils retain traditional industrial lands.

- **Land Use Table – Permissible Uses**

CCAA notes that the proposed land use table will permit the establishment of high technology and service uses to locate within the proposed E3 and E4 zones. Of particular concern, is the proposed permissibility of uses such as:

- Artisan food and drink;
- Creative industries;
- High technology industries (including the sub term use of data centre)

These uses typically impact operations due to:

- Incoming higher yield uses will raise land costs;
- Incoming uses of this nature frequently result in nuisance/amenity complaints for industrial operations that are then required to implement expensive mitigation measures or relocate;
- Relocating within established areas of operation is often difficult due to the scarcity and expense of land.

As an example, the Artarmon Concrete Batching Plant owned by Boral is surrounded by a mix of commercial office buildings and a Bunnings site but was required to be enclosed in order to preserve the amenity of adjacent land uses.

The “flexibility” being introduced to the SI LEP is skewed in favour of more commercial and retail type uses to the clear detriment of traditional industrial uses. As can be seen below, traditional industrial is permitted in only two of the eight proposed zones, whilst commercial type uses are permitted across 4 to 5 zones. Of the two possible zones in which traditional industrial uses can locate, one of those, under the proposed framework, would accommodate an increasing range of land uses that due to the nature of their operations and the associated density of employment are typically deemed incompatible with concrete or asphalt plants.

Land use	Proposed no. of zones	Percentage of total zones where uses are permitted (%)
Artisan Food and drink industry	5	62.5
High technology (general term)	4	50
Data centre (sub-term)	5	62.5
General industries (general term – which captures concrete batching plants)	2	20

Despite the proposed direction set out in the Policy Position paper and the supporting draft amendments to the SI LEP, there remains an obvious lack of support from Local Governments and

communities to accept traditional industrial uses in proximity to higher end/higher density uses. The Hanson Batching Plant at Glebe Island is a very clear example of local residents and Council seeking to separate traditional industrial uses from non-industrial land uses.

CCAA remains concerned that the proposed framework does little to address this imbalance and that local government and “loud” communities will continue to alienate industrial operations from a broader range of land uses zones whilst eroding the protections afforded to them in the areas where they are permitted to operate.

- **Measures to offset any impacts**

While CCAA recognises and supports the notion of greater flexibility through the planning framework, we argue that more needs to be considered with regards to the protection of strategic industrial land that is under pressure from ad hoc and opportunistic rezoning applications combined with encroaching commercial/retail uses raising the cost of land and introducing incompatible land uses.

We call upon DPIE to consider the following measures:

- **Amend Clause 2.3 of the SI LEP** - to include a further sub-clause, that requires consent authorities to be satisfied a non-industrial use proposed in zones E3 and E4 is consistent with the objectives of the zone and that the proposed use cannot reasonably be located elsewhere. The current requirement for a consent authority to merely “have regard” to land use objectives is not sufficient to ensure the protection of existing industry or the preservation of industrial land for appropriate land uses.
- **Amend the SI LEP** - include provisions aimed at ensuring the protection of existing industry from incoming incompatible uses such as the insertion of the clause below:

Despite any other provision of this Plan, development for the purposes of a non-industrial use or a mixed-use development that contains non-industrial uses may be carried out with development consent on land in Zone E3 General Industrial if the consent authority is satisfied that the development is compatible with the existing uses and approved uses of land in the vicinity of the development having regard to the following matters—

- (i) the impact that the development (including its bulk, scale and traffic generation) is likely to have on the existing uses and approved uses of that land, and*
- (ii) the services and infrastructure that are or will be available to meet the demands arising from the development, and*
- (iii) the impact that those uses are likely to have on the health, wellbeing and amenity of employees and patrons of the development by reason of noise, dust, lighting, truck movements, operating hours or otherwise.*

- **Develop and mandate compliance** with guidelines for the preparation of strategic documents used to introduce a broader range of uses to industrial zones, particularly the E3 and E4 zones. Like residential zoning strategies, these should also be subject to

endorsement by DPIE prior to being formally adopted by Councils to ensure that the strategies are meeting genuine need/demand for land types within a specified LGA.

- **Further Consultation** - with industrial operators should be undertaken to better understand and meet their needs. We are concerned that consultation undertaken to date is not representative of industry and all of the existing users of industrial land.

Thank you again for the opportunity to present our thoughts and comments on the proposed Employment Zones Framework. Our industry is committed to ensuring that Concrete Batching Plants and heavy construction material distribution facilities, as critical pieces of economic infrastructure for NSW, can survive and remain as key pieces of the future planning environment in the decades ahead.

We would appreciate the opportunity to discuss this matter with you in further detail. Accordingly, I can be contacted on [REDACTED]

Yours sincerely,



JASON KUCHEL
State Director, New South Wales & South Australia