

30 June 2021

NSW Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Attention: Director Employment Zones

SUBMISSION ON PROPOSED EMPLOYMENT ZONES FRAMEWORK

1. INTRODUCTION

Planning Ingenuity is a specialist town planning firm that provides a full range of planning services to various clients, covering both large and small developments. We have reviewed the 'Position Paper' on the proposed employment zones framework, and associated material, which is on public exhibition until 30 June 2021 and provide the below submission on particular elements of the proposed reform.

2. ZONE REFERENCES

It is noted that the proposed naming of the new employment zones as E1 to E5 creates a crossover to the existing 'environment' zones of E1 to E4 already in existence under the Standard Instrument. In our view, it would be preferable to create completely new zone references, such as EMP1-EMP5, so as to avoid confusion with existing zones and to avoid the need to amend the zoning of the existing E1 to E4 zones (which will impact upon a large number of residential property owners). Our recommendation is consistent with objectives for simplifying the planning system, particularly as used by 'mums and dads'.

3. E1 LOCAL CENTRE ZONE

The consolidation of the existing B1 and B2 zones into the new E1 Local Centre zone is supported in terms of simplifying the framework and centres hierarchy, and on the basis that the proposed mandatory permitted uses in the new zone are generally a consolidation and extension of the mandatory permitted uses under the existing zones.

However, it is noted that "educational establishments" are not listed as a mandatory permitted use within Zone E1, whereas they are currently a mandatory permitted use in the B2 zone. It is considered that local centres should support a variety of uses, including schools, as they are generally located within walking distance of public transport and also allow for cross purpose trips (e.g. drop children off on the way to work). The exclusion of this permitted use has not been discussed in the reform documentation. Given the proposed framework generally consolidates and broadens permitted uses, it is considered that "educational establishments" should be retained as a mandatory permitted use in the new E1 zone unless specific justification is provided for its exclusion.

4. E3 PRODUCTIVITY SUPPORT ZONE

The consolidation of the existing B5, B6 and B7 zones into the new E3 Productivity Support zone is supported in terms of simplifying the framework, and on the basis that the proposed mandatory permitted uses in the new zone is effectively a consolidation and extension of the mandatory permitted uses under the existing zones.

It is noted that the objectives of the E3 zone generally limit retail uses but allow for the sale of goods of "a large size, weight or quantity", and "specialised retail premises" are included as a mandatory permitted use. This is supported, to provide certainty of permissibility for this form of retail (which is not clear under the existing B6 and B6 objectives and permitted uses).

However, the E3 objective which requires that land uses "are not suited to locations in other employment zones" is considered to be an inappropriate limitation. The other objectives of the zone clearly identify that a range of facilities





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and services, light industries, warehouses and offices are to be provided for in the zone, employment opportunities are to be encouraged and opportunities provided for new and emerging industries. Mandatory permitted uses in the zone include those that *could be provided in other zones* such as business premises, office premises, child care facilities, neighbourhood shops, recreation areas, service stations and so on. The objective as written would require demonstration that the proposed use is not better suited in a different employment zone.

If the intention was to differentiate uses in the E3 zone from those in the centres (i.e. E1 and E2), the objective which requires that *“uses must be compatible with, but not compete with, land uses in surrounding local and commercial centres”* meets that requirement.

In summary, the objective which requires that land uses *“are not suited to locations in other employment zones”* is considered overly restrictive and should be removed as an objective from the E3 zone.

5. E4 GENERAL INDUSTRIAL ZONE

The consolidation of IN1 General Industrial and IN2 Light Industrial zones into the new Zone E4 General Industrial is generally supported. This simplifies the zoning, and the proposed objectives and mandated permitted uses are largely consolidated from the existing IN1 and IN2.

However, it is noted that “places of public worship” are not listed as a mandatory permitted use within Zone E4, whereas they are currently a mandatory permitted use within both IN1 and IN2. This has not been discussed in the reform documentation. Given the proposed framework generally consolidates and broadens permitted uses, it is considered that this use should be retained in the new E4 zone unless specific justification is provided for its exclusion. The location of places of public worship within industrial zoned areas is generally appropriate, being located away from more sensitive residential uses.

It is considered appropriate to retain a separate zone for heavy industrial, with existing Zone IN3 Heavy Industrial translated into Zone E5 Heavy Industrial.

6. MU1 MIXED USE ZONE

The Position Paper recognises issues with the current B4 zone effectively operating as a residential zone, with the strategic intent of the new MU1 Mixed Use zone to support genuine mixed use development rather than one dominant use. However, the proposed amendments to the Standard Instrument do not appear to particularly address this issue.

A number of additional mandatory permitted uses are proposed for the MU1 zone, which will allow for a greater mix of land uses. However, it is noted that the existing mandatory permitted uses are relatively broad and this has not prevented the apparent over provision of residential uses in the mixed use zone.


The renaming of the zone such that it is effectively a separate category i.e. not one of the “E” zones may assist in differentiating the purpose of the zone. However, overall the proposed changes are not considered of themselves to make a significant change to the mixed use zone. Other reform will be required to address this issue.

7. LAND USE TERMS

7.1. Shop Top Housing

The proposed amendment of the definition of “shop top housing” to expand the potential ground floor use is supported. It is noted that the Position Paper refers to allowing health services facilities or light industry on the ground floor, however the Draft Order refers to “commercial premises or health services facilities”.

However, it is considered that the ground floor use under the definition should be further expanded. Other non-residential uses are appropriate to occupy the ground level of shop top housing, for example child care facilities, given that the primary purpose is to activate the ground floor. It is suggested that the definition could be amended to refer to dwellings located above a non-residential use that is permitted with consent in the relevant zone. This issue has been



the source of debate in several Land & Environment Court decisions, which collectively have added uncertainty, cost and complexity to the issue.

Related to this issue is the question as to whether boarding houses or student housing can be located above non-residential uses as 'shop-top housing' where not otherwise permitted. Again, in town planning terms it is logical that such uses be contained within commercial centres.

7.2. Storage and Distribution Premises

This new term is proposed to combine "storage premises" and "warehouse or distribution centre". In general, the consolidation of these two terms simplifies the land use terms and provides a clearer description.

It is noted that different permissibility applies to these two land use terms under the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006* (Growth Centres SEPP) – Appendix 11 The Hills Growth Centre Precincts Plan – B7 and IN2 zones – where 'warehouse or distribution centres' are permitted with consent, and 'storage premises' are prohibited. Given that these land use terms are defined under the SEPP, they will not be impacted by changes to the Standard Instrument. However, this highlights a growing disconnect between land use definitions and permissibility within SEPPs (particularly the Growth Centres SEPP) and the Standard Instrument, which creates uncertainty and confusion for developers and practitioners. It is noted that the proposed reform does not propose any change to the existing approach in relation to SEPP land use permissibility. However, in our view, this is a matter which needs to be addressed.

7.3. Self-Storage Units

It is noted that there is no proposed change to the definition of "self-storage units", but the term would be decoupled from the parent term "storage premises", given that they are not part of the freight and logistics network.

In general, the separation of "self-storage units" as a land use term is considered to be logical, given that they are a particular form of development which has its own needs (e.g. in terms of car parking).

However, if separated out as its own land use, "self-storage units" will not be covered under the current parent term of "storage premises" which is listed as a mandatory permitted use in the E3 Productivity Support zone (within the Draft Order). "Self-storage units" are not listed as a mandatory permitted use in any of the new proposed zones (within the Draft Order) - noting that does not necessarily reflect a purposeful exclusion, but rather that the consolidated land use terms were not included in the Draft Order as it was not previously discussed in the upfront engagement on the reform (as outlined in the Position Paper).

It is noted that decoupling "self-storage units" will allow Councils to include "self-storage units" within any zone where it is deemed appropriate, which may broaden the zones in which they are a permitted land use. However, without inclusion of "self-storage units" as a mandatory permitted use within any of the new zones within the Standard Instrument, there is no certainty that they will be permitted. Accordingly, it is requested that if "self-storage units" are decoupled from the parent term, they are included as a mandatory permitted use in at least the E3 Productivity Support zone.

8. CONCLUSION

In general, the proposed reform to employment zones is welcomed given it will allow for a more simplified planning framework and increased flexibility to adapt to the changing environment.

This submission provides commentary on certain aspects of the proposed changes, and in particular requests amendments are made to:



- Consider using completely new zone references, such as EMP1-EMP5, so as to avoid confusion with existing E1-E4 zones and to avoid the need to amend the zoning of these existing zones (which will impact upon a large number of residential property owners).
- Retain “educational establishments” as a mandatory permitted use in the new E1 zone.
- Remove the objective from the E3 Productivity Support zone which requires that land uses “*are not suited to locations in other employment zones*”, as this is considered overly restrictive and unnecessary given other objectives of the zone.
- Retain “places of public worship” as a mandatory permitted use in the new E4 zone.
- Further amend the definition of shop top housing to allow the ground floor use to be any non-residential use that is permitted with consent in the relevant zone.
- If “self-storage units” are decoupled from the parent term, include as a mandatory permitted use in at least the E3 Productivity Support zone.

We would welcome the opportunity to discuss this submission further and/or should you require any further clarification, please do not hesitate to contact [REDACTED] or myself.

Yours faithfully,
Planning Ingenuity Pty Ltd



Jeff Mead
MANAGING DIRECTOR

