



Director Employment Zones
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30 June 2021

Dear Sir/Madam,

Re: NSW Ports Submission on the Draft Employment Zones Reform

Thank you for providing NSW Ports with the opportunity to comment on the Draft Employment Zones Reform (the Reforms). NSW Ports is responsible for managing the port and freight assets of Port Botany, Port Kembla, the Cooks River Intermodal Terminal (IMT) and the Enfield Intermodal Logistics Centre (ILC). These assets, along with the efficient movement of freight to and from these assets, are critical to the future economic growth, liveability, productivity, and sustainability of New South Wales.

NSW Ports seeks to ensure that employment lands across Sydney and New South Wales can function in a way that is beneficial to the freight supply chain. NSW Ports also has a key responsibility in ensuring existing and envisioned port and port related industrial land uses in and near our assets are retained and developed for this purpose. Further, the protection of industrial lands across the State is of vital importance to the ability of the supply chain to effectively function; imported containers need to be distributed to key catchments across Sydney and NSW 24 hours a day, seven days a week in order to effectively meet consumer needs. The functionality of the supply chain directly affects the economic performance, the liveability, and the productivity of New South Wales.

It is important that any reform does not have unintended consequences for industrial lands. With this in mind, a key issue for nationally significant trade gateways like Port Botany and Port Kembla and our significant employment generating neighbours like Sydney Airport and Bluescope Steel is the need to ensure that reform doesn't precipitate a further loss of already scarce industrially-zoned employment lands in the vicinity of those gateways or our hinterland.

NSW Ports is specifically concerned with:

- proposals that will potentially give rise to land use conflict through reverse amenity impacts which may limit the ability for freight related sites to operate (including 24 / 7 operations), and
- proposals that will potentially encourage the fragmentation of industrial lands into smaller lots (by way of title or strata subdivision) that makes the land unusable for the large lot requirements associated with the movement of freight in NSW.

With this in mind, NSW Ports has identified two key risks associated with the proposed Reforms:

1. the risk of Councils downzoning their lands during the transition process, resulting in a net loss of productive industrial land in NSW that can effectively service the freight supply chain, and

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Port Botany Operations
Pty Ltd as trustee for
Port Botany Unit Trust
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Port Kembla Operations
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Port Kembla Unit Trust
ABN 50 132 250 580

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2. the risk associated with introducing 'lighter' (including 'creative') industries in new areas, potentially pushing freight and logistics uses away from key freight infrastructure and exacerbating subdivision of larger lots needed for the supply chain. This is also of concern for when the Reforms are eventually introduced to *State Environmental Planning Policy (Three Ports) 2013* (the Three Ports SEPP)

Risk 1: Councils downzoning existing IN1 (General Industrial), IN2 (Light Industrial) and IN3 (Heavy Industrial) zoned land to the proposed MU1 (Mixed Use Zone) and E3 (Productivity Support Zone)

NSW Ports is concerned with the risk of Councils downzoning existing industrial zones during the Reforms implementation process, particularly during the anticipated zone translation, refining of zone applications, and implementation processes. These Reforms need to be considered in the context of existing industrial precincts having been developed and operated over many years and the potential implications of a broad-brush approach to potentially changing permissible land uses.

For example, a Council in updating their LEP may seek to amend their zoning of a particular precinct from IN1 General Industrial to E3 Productivity Support, and although a warehouse may be permissible in the E3 zone as it was in IN1, this change in zoning is potentially introducing additional 'higher value' uses that push warehousing and distribution out of the precinct or introduce land use conflict that would restrict a warehouse operations. By way of example, a transition of a land use zone from IN1 General Industrial to E3 Productivity Support would introduce childcare facilities and respite day care centres as permissible uses in the precinct which could lead to land use conflicts.

This is a further possible outcome should an existing industrial area be 'downzoned' to the MU Mixed Use zone. As identified in the Proposed Employment Zones Framework the MU Mixed Use zone would support a mix of residential, retail, light industry and tourist accommodation.

NSW Ports asserts that the erasure of the IN2 Light Industrial zone, which almost exclusively services light industrial land uses, the introduction of the aforementioned zones without oversight, and subsequent diversification of permissible land uses may catalyse the loss of valuable industrial land uses or reduce their effective productivity by introducing a range of sensitive uses currently prohibited.

Accounting for the above, NSW Ports would expect oversight and controls to be implemented by DPIE in order to ensure there is no net loss of urban industrial land or an introduction of sensitive uses to existing industrial areas, including those which operate 24 / 7 to meet the demands of a growing population. The Proposed Employment Zones Framework states:

"Implementation will not require councils to prepare individual planning proposals."

However, NSW Ports suggests that any changes in current zonings that are not 'like-for-like' would require the justification of a planning proposal in order to assess the strategic merit of the change. There is a key risk that New South Wales will have a net loss of more intensive industrial lands through an unchecked transition process.

Recommendation: It should be mandated that all IN1 General Industrial land is required to transition to E4 General Industrial and that all IN3 Heavy Industrial land is required to transition to E5 Heavy Industrial – any diversion from this like-for-like transition should require a separate and individual planning proposal process.

Risk 2: Encroachment of Light Industries in areas used for freight and logistics

The industrial land surrounding Port Botany, the Enfield ILC, and Cooks River IMT is currently generally zoned IN1 General Industrial and the industrial land surrounding Port Kembla is currently generally zoned IN3 Heavy Industrial (see maps at Attachment A).

NSW Ports remains concerned with any proposed erosion of employment lands that productively contribute to the freight task in NSW. This includes any introduction of permissible uses in industrial zones that would encourage the subdivision of those lands, would increase light vehicle traffic, or would introduce sensitive uses that could potentially impact on the operational efficiency of a 24/7 supply chain. The new 'creative industries' land use definition provides a specific example of how this could occur.

Creative Industries

NSW Ports supports the need to define 'creative industries' for land use planning purposes. We are concerned however, at its grouping as a sub-term of the light industries land definition given light industries are permissible within the IN1 General Industrial zone (and proposed E4 General Industrial zone) and this is the zone most likely applied to industrial lands that are vital for the freight task in New South Wales and that support our key infrastructure assets. Creative industries in the IN1 General Industrial zone (or proposed E4 General Industrial zone) have the potential to create land use conflict through reverse amenity impacts and an intensification of light vehicle movements.

The Proposed Employment Zones Framework states the following in regard to the definition for 'creative industries':

The definition will capture occupations that commonly identify as creative including:

- *traditional and digital media;*
- *fine arts and crafts;*
- *design; and*
- *creative products*

and extends to the activities carried out including production, workshops, display/performance and sale of items.

NSW Ports is concerned that the introduction of these uses in areas around critical infrastructure such as ports and intermodals will potentially result in land use conflict (i.e. noise impacts on performances or production, increased light vehicle traffic related to the sale of items) and will speed the potential subdivision of land (including strata subdivision) in areas where larger lots are necessary in order to undertake warehousing and distribution activities.

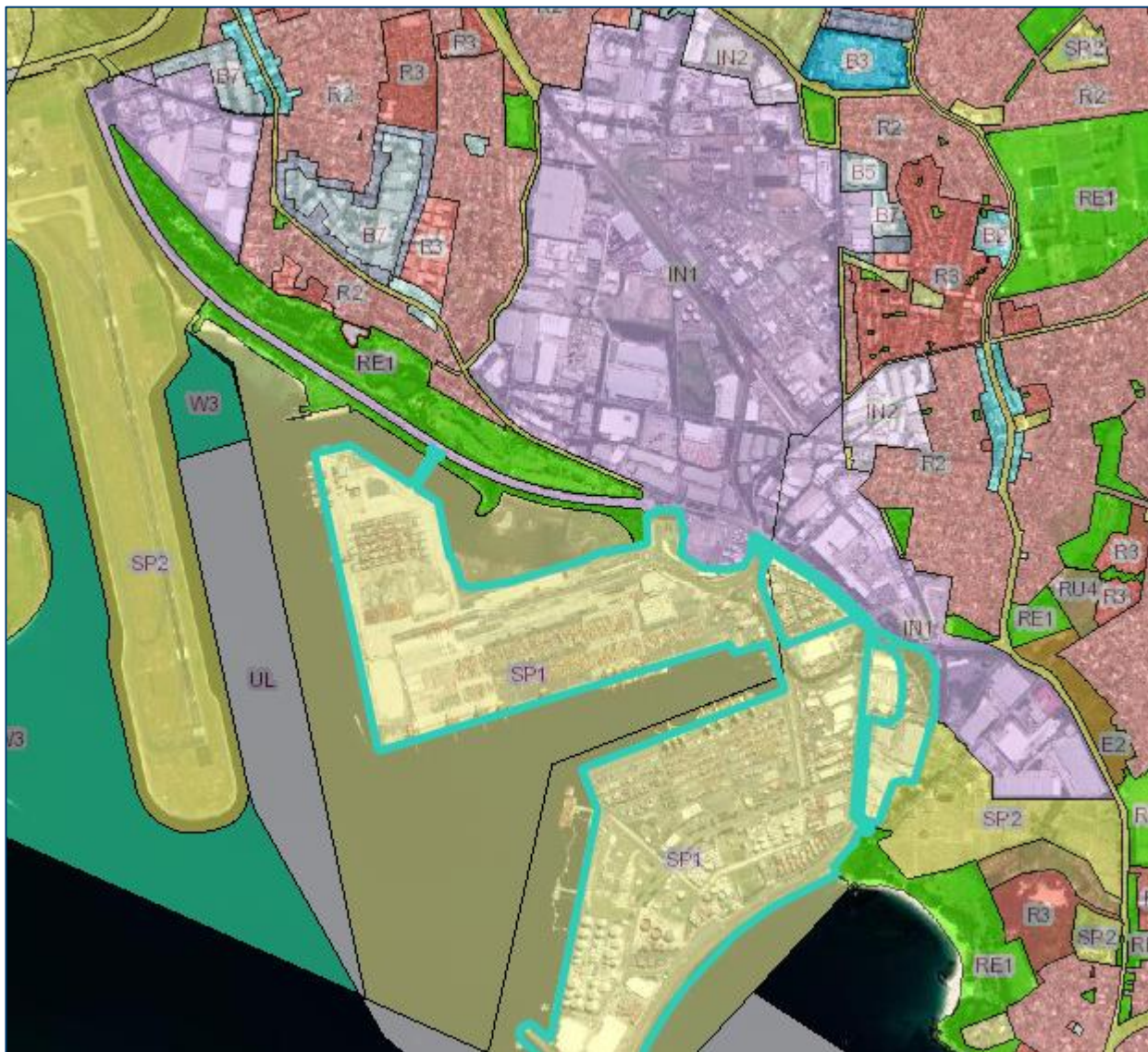
Recommendation: Creative industries are not included as a sub-term of 'light industry' but rather are a stand-alone definition. Further, the new standalone land use of creative industries should not be permissible within the proposed E4 General Industrial or E5 Heavy Industrial zones but rather permissible only within E1 Local Centre, E2 Commercial Centre, and E3 Productivity Support zones.

Yours sincerely,

Greg Walls

Planning Manager

Attachment A – NSW Ports Assets and Surrounding Lands



0 0.5 1km Surrounding Industrial Land (NSW Ports land bound blue)

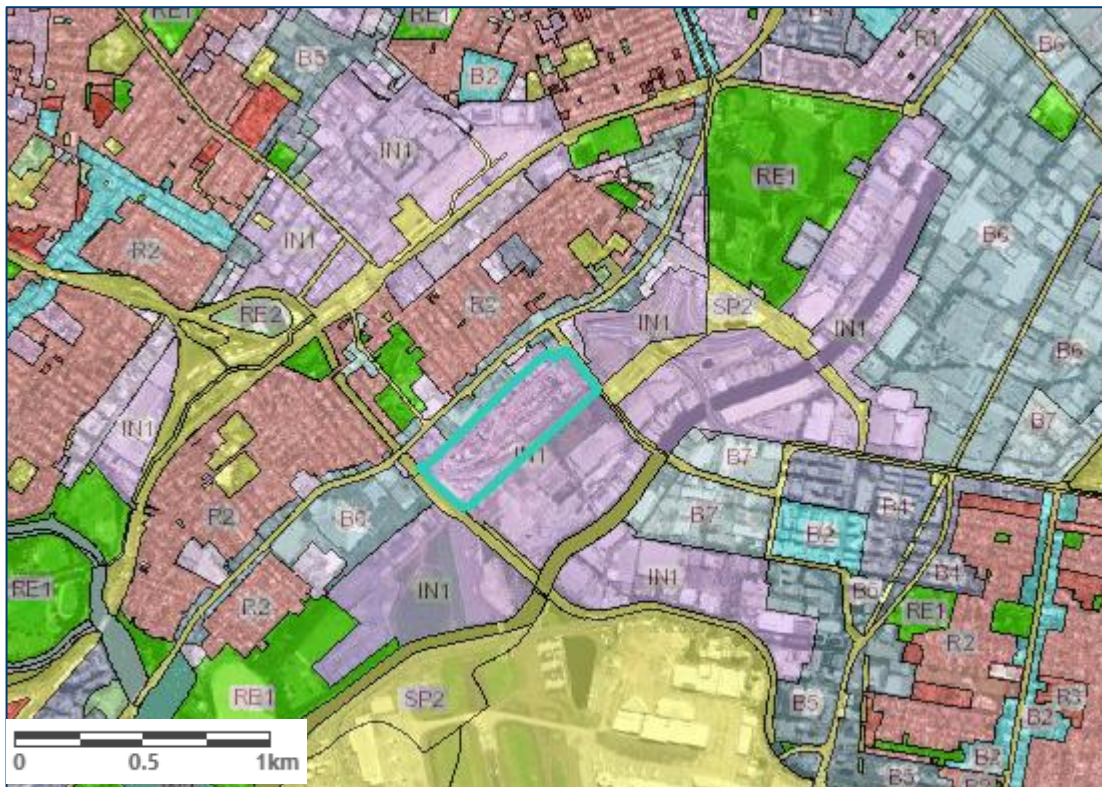


Figure 2 - Cooks River Intermodal and Surrounding Industrial Land (NSW Ports land bound blue)

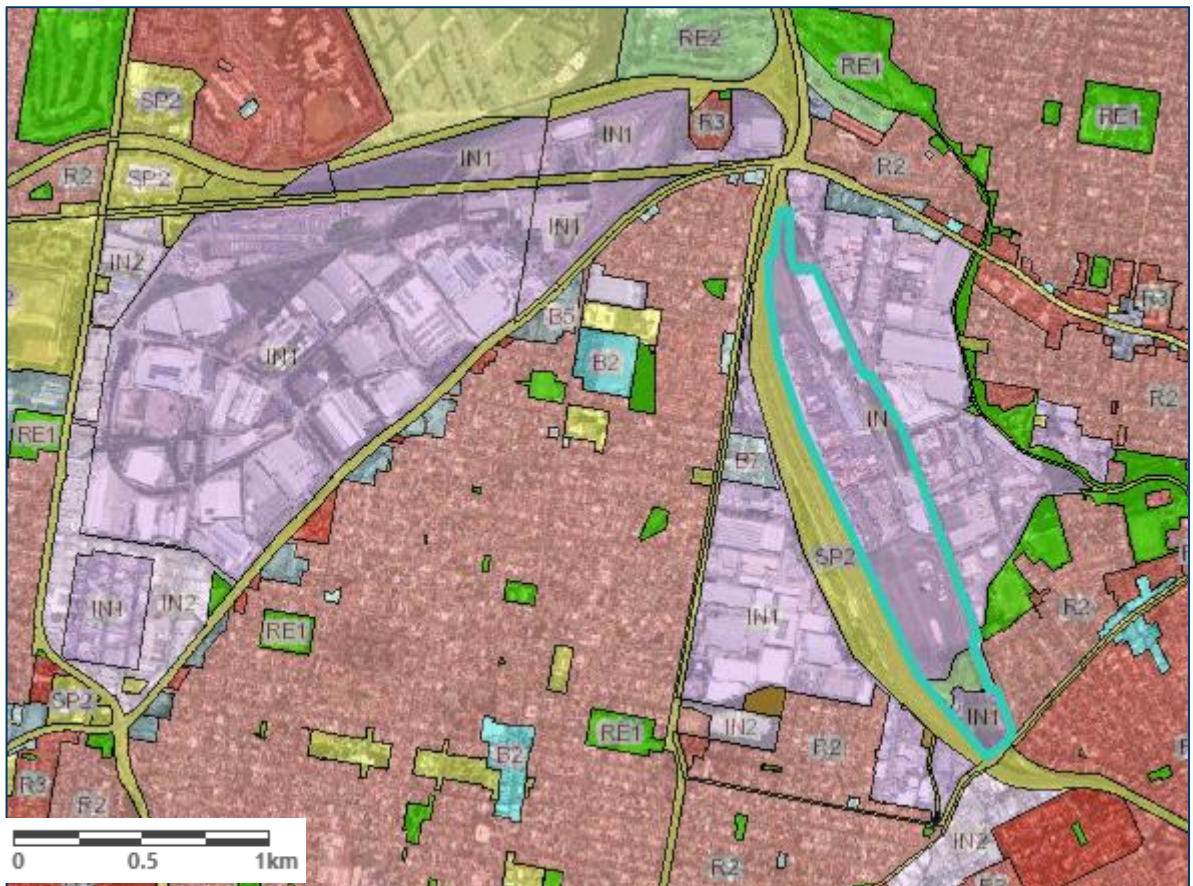


Figure 3 - Enfield Intermodal and Surrounding Industrial Land (NSW Ports land bound blue)

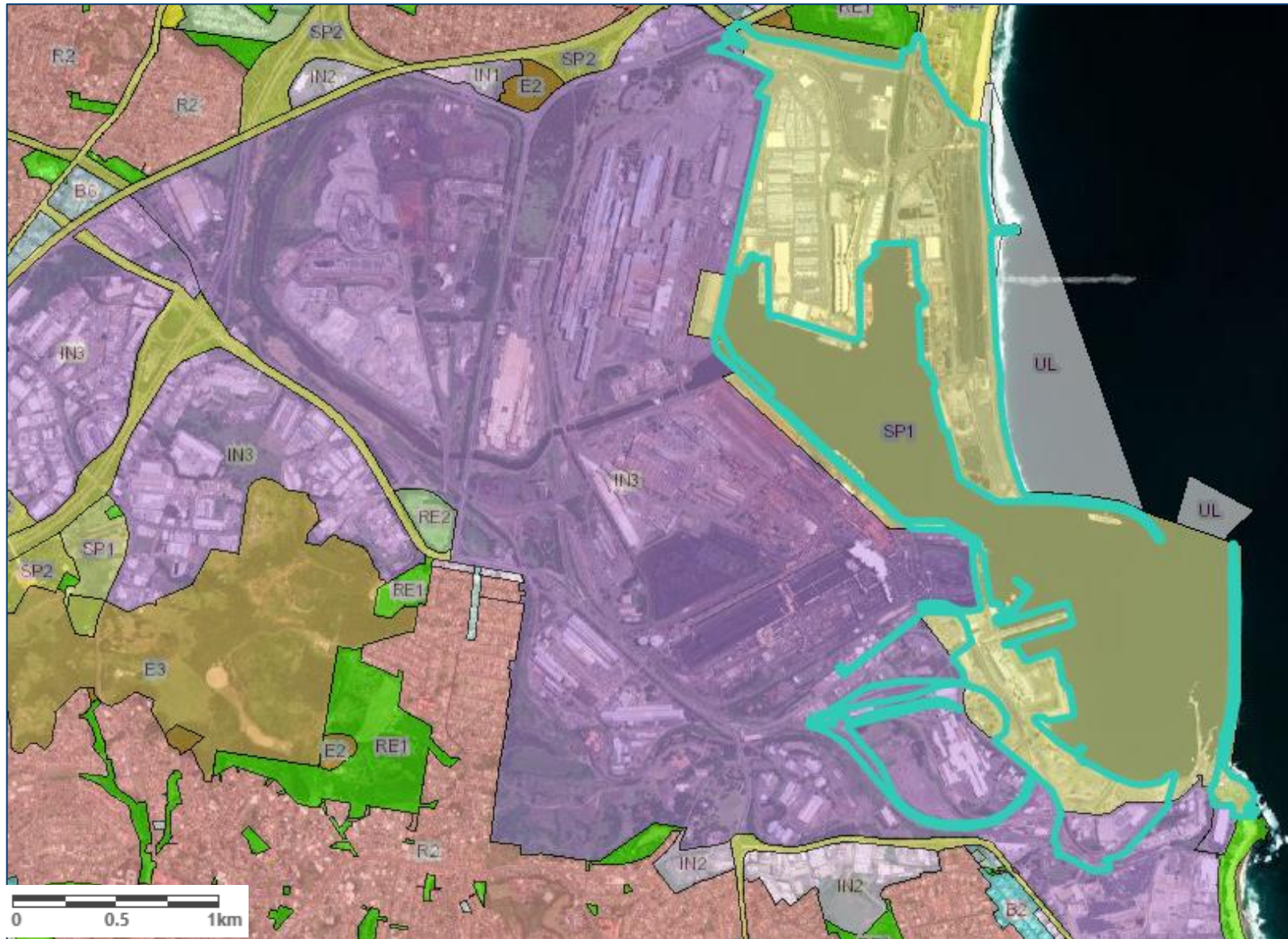


Figure 4 - Port Kembla and Surrounding Industrial Land (NSW Ports land bound blue)