

27 July 2021

Department of Planning, Industry & Environment
employment.zones@planning.nsw.gov.au

Dear Sir/Madam

Penrith City Council final submission on the proposed planning amendments for the Employment Zones Reform

Thank you for the opportunity to provide feedback in response to the Position Paper, Standard Instrument Amendment, and Implementation Plan for the proposed amendments for Employment Zones Reform.

Please note that a draft submission was submitted to the Department of Planning, Industry and Environment (DPIE) on 30 June 2021. At the Ordinary Meeting of 26 July 2021, Council formally endorsed a submission to DPIE on the Employment Zones Reform. This submission is to be considered as Council's final submission.

Council is supportive of the intent of employment zones reform and is committed to working with The Department of Planning, Industry and Environment (DPIE) to ensure that the Employment Zones Reform leads to strong economic and desirable planning outcomes for our community. DPIE's early consultation with Council's and ongoing communication with relevant staff on the employment zones reform was welcomed and this approach should be adopted for all future planning reforms.

Summary

- The objective of supporting economic activity and post-COVID 19 recovery and growing and diversifying local jobs is aligned to Council's Community Strategic Plan, Local Strategic Planning Statement, and draft Employment Lands Strategy.
- The proposed employment zones framework is generally supported, with the proposed suite of zones considered to be a logical, modern and complementary consolidation of the existing zones, which provides for all types of employment uses and land use compositions.
- It is acknowledged that the reduction in number of zones could simplify the use and interpretation of employment zones; however, the exhibition package does not provide sufficient evidence of how this consolidation will lead to increased economic activity and employment generating uses on its own.

It would have been beneficial for the ongoing work referred to in the Position Paper (cost benefit analysis and social impact assessment) to be released with the proposed framework so the proposal, and supporting justifications, could be assessed holistically. Release of this work at the earliest opportunity would be valuable.

- In general, a reasonable balance between flexibility and certainty has been struck with the range of mandated uses proposed for the new zones. However, Council has concerns about the compatibility of certain mandated uses in some proposed zones due to potential impacts on the amenity of neighbouring uses within the zone and effects on the wider network and structure employment generating land, including Penrith's centres hierarchy. The specific issues with certain mandated uses and zones are highlighted below; however, notably includes Council's concerns regarding offices and business premises being mandated in the Productivity Support zone.
- It is acknowledged that one of the challenges with a reform of this nature is the differing contexts in which it will apply. The need for the expansion of certain uses in areas with limited or supply-constrained employment lands is understood. However, this situation does not necessarily apply to Penrith, which has considerable quantity and diversity of zoned or planned employment land to meet demand over the medium and long term. Local constraints and opportunities should be factored into the application of the proposed framework.
- Council's preference is for more flexibility around some mandated uses that lack compatibility, to achieve desirable planning outcomes for our community that better respond to the local context and are aligned with Councils' strategic directions.
- It is the expectation that the final makeup of the employment zones framework will inform how Council continue to use or expand the use of Clause 5.4 (Controls relating to miscellaneous permissible uses), Part 7 (Local provisions) and Schedule 1 (Additional permitted uses), as well as the range development standards, to achieve certain planning outcomes in specific locations.
- A significant portion of Penrith's current and future employment land is administered under a SEPP, including the Aerotropolis, Western Sydney Employment Area and Penrith Lakes. The DPIE should undertake a review of SEPPs to ensure that they are aligned with the employment zones reform and improve consistency within the planning system.
- Council acknowledges the role that DPIE will have in leading the translation of the zones and supports DPIE's position to amend the LEP via a self-repealing SEPP. Given the size and range of zones with Penrith LEP 2010, it is anticipated that Council will not be able to meet the timeframes for Tranche 1, and considers timeframes outlined for Tranche 2 to be more realistic and achievable, especially due to the need for Council briefing and reporting timeframes.
- Clarification is sought whether Council will be able to introduce new local provisions through the SEPP in line with the translation of zones, or whether this will need to be carried out as an individual Planning Proposal following the gazettal of the new zones.
- It is recommended DPIE include a 4-week delayed commencement of the new zoning framework once gazetted, to enable Council's to update their planning information systems and planning certificates, given the extent of the changes anticipated.

Proposed zones framework

General

- The proposed E zone prefix is confusing due to the existing set of environmental zones that already use the E prefix. It is proposed that the prefix be changed to a B for business zones. The term is considered broad enough to capture the scope of objectives and uses in the proposed zones, whilst being able to be more easily understood by all stakeholders.

E1 Local Centre

- The need for the zone and the identified objectives is supported.
- Whilst the proposed zone seems to be similar to the existing B2 Local Centre zone, the increase of mandated uses from the B1 Neighbourhood Zone is significant. This expansion of uses can provide further opportunity to expand local amenity and convenience; however, the compatibility of some mandated uses, especially for smaller scale centres, is not considered suitable.
- The uses that Council would consider more suitable to be removed from the mandate list on the grounds of potential amenity impacts includes pubs, landscaping and building supplies, timber yards and vehicle repair stations.
- A desktop appraisal of the scale and lot pattern of Penrith's existing B1 Neighbourhood Centres has indicated that spatial constraints likely not support these types of uses. However, at this stage in the process it is too early to identify with certainty. Removal of these mandated uses provides flexibility to add them to local centres, as local provisions, once further analysis identifies the centres that have the spatial characteristics to support such uses.
- It is important that all existing local provisions, such as limits on the size of shops in existing B1 and B2 zones, are retained and updated to align to the new Local Centre zone to manage any scale and function issues.

E2 Commercial Centre

- We support retaining the Commercial Centre zone with no mandated residential uses. This is needed to mitigate the high-demand residential market from dominating key centres and reducing employment generating land. This zone helps reflect Penrith City Centre and St Marys Town Centre role as a Metropolitan Cluster and Strategic Centre respectively, which act as key employment and commercial office hubs now and into the future, for Penrith and the Western City.
- The mandating of the parent term tourist and visitor accommodation means that farm stays, and bed and breakfasts are now permissible. Given the wholly commercial land use mix of the zone, these uses are not suitable or not potentially technically possible as they require working farms. It may be preferable to list the suitable child uses within tourist and visitor accommodation to better reflect the zone characteristics.



- Vehicle repair stations is an additional mandated use which is considered potentially unsuitable for the zone due to possible amenity impacts, traffic generation and general incompatibility with the zone objectives, such as vibrant and active frontages and principal commercial, business and office centre.

E3 Productivity Support

- The intention of a supporting zone that provides for a mix of uses that meet the needs of the community, business and industries is supported. As is the logical consolidation of the B5 Business Development and B6 Enterprise Corridor which have very similar characteristics.
- Including B7 Business Parks in this direct translation presents challenges in achieving certain strategic objectives, as the proposed land use table represents a wide spectrum of mandated uses that are considered incompatible.
- Council considers that proposed zone objectives and position within the employment zone framework, best represent a mixed-employment zone which supports population serving industries - from vehicle repair to specialised retail (bulky goods) to indoor recreational activities – and business that support the operational needs of businesses and industries.

These uses require proximity to the communities or business they serve, large floorplates and affordable price per sqm rents, locations that have high accessibility for customer and supply vehicles, and a degree of separation from some industrial uses to ensure amenity and safety for customers and workers.

Penrith's draft Employment Lands Strategy shows that demand for this type of floor space is high, with strong forecast grow over the medium and long term.

- Council is generally supportive of the mandated uses proposed to achieve this employment outcome, including, the limited range of retail uses and industrial uses.
- However, Council is not supportive of mandating offices and business premises as these uses do not meet the proposed zone characteristics or objectives. It is considered that the uses do meet the following proposed objectives:
 - *“To provide for land uses that meet the need of the community, business and industries that are not suited to locations in other employment zones”.*
 - Offices and business premises are key uses in supporting the objectives and desired characteristics of the E2 Commercial Centre zone and E1 Local Centre zone; therefore, not considered to be unsuitable for other locations.
 - *“To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres”.*
 - Whilst Penrith's Centres Strategy is yet to be finalised, the LSPS outlines a vision that emphasises the

importance of Penrith City Centre and St Marys as important commercial centres, anchored by office floorspace and business uses, reinforcing the Western City District Plan. The inclusion of standalone offices and business premises as a mandated use in the Productivity Support zone has the potential to move office and commercial floorspace away from centres, impacting the viability and competitiveness of Penrith's centres hierarchy.

- Penrith's draft Employment Lands Strategy recognises that there is demand for some office space in B5, IN1 and IN2 zones to allow administrative and manufacturing and/or distribution functions to be co-located. However, as offices are permitted as ancillary uses, it is considered that this facilitates the desired mixed-employment outcome, ensuring an established link between the business functions. There was no evidence that the controls needed to be changed to permit standalone offices.
- Penrith's LSPS and draft Employment Lands Strategy supports focusing office and commercial employment in centres that are supported by public transport hubs. Productivity Support zones are generally not well serviced by public transport. Standalone offices in these zones could therefore encourage increased car usage for commuting, creating traffic and infrastructure implications. This may present challenges for Council to achieve a 30-minute city, where centres supporting homes and jobs can be accessed by public transport within 30 minutes.
- The mandating of vehicle body repair workshops is not supported due to the potential amenity impacts for customers and workers of neighbouring uses. Under the Penrith LEP 2010, the use is not currently permissible in the B5 Business Development, B6 Enterprise Corridor or B7 Business Park zones, and it is considered that it is more appropriate for the E4 General Industry zone.
- In Penrith, the main area zoned B7 Business Park is the land occupied by Western Sydney University. This zone supports a specific type of employment, including providing for a range of higher order jobs around health, education, and high technology industries, and a range of supporting and related uses such as incubators. Notably, it does not permit specialised retail premises.

As the Productivity Support zone is a more general zone with a range of supporting employment uses, it is considered that the objectives and land use mix of Penrith's B7 Business Park and proposed Productivity Support zone are not aligned.

- The use of local provisions, where additional uses can be added to certain locations, rather than mandating offices in the Productivity Support zone, is considered a better mechanism to provide for a business park or campus style offices when strategic objectives and land use characteristics support it.
- As a business park is a specific and unique land use mix, it also may be more suitable for the use of proposed SP4 Local Enterprise Zone to be expanded to facilitate business parks or campus style office parks in particular locations.
- In summary, Council considers that the Productivity Support zone should be a general supporting zone with a mix of uses that provides for



population and business serving uses which require the space and access that out-of-centre locations provide. Offices and business premises should be removed from mandated uses, as they are key uses in supporting Penrith's centre hierarchy. In the unique circumstances business park or campus style office development is the planning objective, adding offices in local provisions, or using the SP4 Local Enterprise zone are considered better methods to achieve this planning outcome, given the proposed employment zones framework.

E4 General Industry

- Council is supportive of the proposed zone and mandated uses that look to provide viable land for light and general industrial uses. As outlined in the draft Employment Lands Strategy, there is high demand for industry land and protecting and growing industrial employment is a key strategic objective for Council.
- Council is supportive of places of public worship not being a mandated use as proposed, as this land use does not align with the objectives of the zone and its primary employment function.
- Vehicle body repair workshops should be added as a mandated use in the General Industry zone and removed as a mandated use in Productivity Support, as it is considered more compatible.

E5 Heavy Industry

- Council is supportive of the proposed zone and mandated uses that look to provide viable land for heavy industrial uses.

MU1 Mixed Use

- Council is supportive of the proposed zone, which seems very similar to the existing B4 Mixed Use zone and generally supportive of the mandated uses.
- Local provisions to ensure a suitable supply of commercial floorspace amidst high residential demand, such as clauses requiring minimum FSRs for non-residential development and active street frontages, will be required to support the objectives of the zone.
- Council is not supportive of mandating all light industry uses. It is considered that these uses are not suitable to the zone objectives, characteristics and likely mix of uses, and could create possible amenity impacts. Allowing Council to select specific child terms that are suitable to the zone is preferred.
- It is appreciated that in some locations across Sydney where space for light industries is limited, mixed use locations may present an opportunity. But in Penrith there is sufficient land in other zones to accommodate these uses and therefore not considered necessary to include as a mandatory use in the MU1 Mixed Use zone.

Inclusion as a local provision in suitable locations that align with local strategic objectives and land use constraints and opportunities, is considered a more appropriate way to achieve this planning outcomes.



- Further refinement of the light industries definition (discussed below) could assist in providing certainty to the types of uses that could be approved as a light industry. Under the current definition, Council does not consider light industry suitable to the zone as it cannot be assured that amenity impacts are controlled. Particularly in circumstances where light industries exist before residential, which has the potential create land use conflicts if residential use are proposed in the future.
- Vehicle repair stations are also considered incompatible for this zone based on potential amenity impacts, and not supported as a mandated use.

SP4 Local Enterprise Zone

- Council believes that the proposed SP4 zone has the potential to be a useful tool to achieve specific and unique planning outcomes and would like to see it developed further to have a wider application.
- Penrith has employment-focused precincts that do not neatly fit the existing or proposed employment zones framework, such as The Quarter and Sydney Science Park, where a tailored zone of this nature can be valuable in allowing a degree of flexibility and evolution over time, whilst achieving strategic economic outcomes, including the provision of higher order jobs.
- Council can also envisage this zone potentially being effective in the planning of future centres on the North South Rail Line.
- As already mentioned, the zone could be used effectively to achieve business park or campus style office precincts. Particularly those precincts that are aligned to education or health institutions where a range of diverse but specific range of uses are required to create productive exchange between the anchor institution and network of supporting and related uses.
- Council is committed to working with DPIE to develop and evolve the parameters and application of this zone.

New and amended land use definitions

Comments have only been provided for definitions where identified specific issues have been identified. Council generally supports the new, amended, and consolidated terms and definitions not expanded on below.

New Land Use Terms and Definitions

- Domestic goods repair and reuse facility
 - The Position Paper and draft Standard Instrument amendment are different. All references to the term circular economy, as used in the Position Paper, should be removed to avoid confusion.
- Creative Industry
 - The definition should specify that this does not include general offices used for creative industries. Without this, a sub-group of offices have been created for a specific sector.



Amended Land Use Terms and Definitions

- Industrial retail outlet
 - The proposed change has not been included in the draft Standard Instrument amendment, and therefore comment unable to be provided. Clarification is sought.
- Local distribution premises
 - Last mile distribution examples (parcel lockers and click and collect) could be added to the definition to ensure appropriate scale and function of development, given the proposed mandating of this use in all centre zones.
- Neighbourhood shop
 - The removal of ancillary uses is supported as it overlaps with the definition for business premises. To remove any ambiguity, the definition should be amended to include business premises in the list of uses the definition does not include.
- Shop top housing
 - The rationale in the Position Paper makes mention of the change allowing light industry. The proposed definition in the draft Standard Instrument amendment does not mention light industries. Council is supportive of the expansion of uses as proposed; including light industries is not supported.
 - We are supportive of expanding the definition to include ground and first floor commercial floor space. Local provision 7.27 in the Penrith LEP 2010 mandates commercial uses on the ground and first floor in St Marys, and Council supports further controls that provide opportunities for additional commercial floorspace in all centres.

Potential Consolidated Land Use Terms

- Trade retail premises
 - Council has concerns about the suitability of rural supplies in this grouping. Under the Penrith LEP 2010, rural supplies are permissible in the RU1 Primary Production, RU2 Rural Landscape, RU4 Primary Production Small Lots and E3 Environmental Management zones. Removal of rural supplies as a standalone term could permit landscaping materials supplies and timber yards in these locations under the proposed consolidated term, which are not currently permitted nor considered compatible. This could have impacts on the amenity and character of Penrith's rural areas, which are an important part of Sydney's Metropolitan Rural Area.

Proposed terms to amend

- Light industry
 - It is considered that the definition could be updated to reduce subjectivity and ambiguity. The boundary between light and general industry is not clear and relies on an assessment of possible impacts, which opens the range of uses up to interpretation and judgment, creating inconsistent application depending on the context and scale of the proposal, and

possible land use conflicts, especially in areas where land use mixes are changing.

- An option to overcome this, would be to only include the specific range of uses in the light industry definition. If a use is not in this list it would fall under general industry, which seems to be most suitable catch-all definition for everything between light and heavy industry.
- Increased certainty around the range of uses under light industry could provide Council with more justification to support the proposed use of light industries in employment zones framework.

Implementation and timeframe

Council agrees that a review of the employment zones is overdue and respects the DPIE's clear direction to implement the new zoning framework quickly. With this in mind, Council acknowledges the role that DPIE will have in leading the translation of the zones and supports DPIE's position to amend the LEP via a self-repealing SEPP, instead of requiring Council to prepare an individual Planning Proposal.

It is Council's expectation that this translation will be carried out in partnership, and that Council will have input in all stages of the implementation, including the ability to review and confirm the final employment zones framework prior to it being gazetted. Clarification is sought whether Council will be able to introduce new local provisions through the SEPP in line with the translation of zones, or whether this will need to be carried out as an individual Planning Proposal following the gazettal of the new zones. It is Council's preference that this occurs as part of the SEPP so that the new zones and any supporting controls are implemented at the same time.

Whilst the proposed timeframes for implementation seem ambitious, they do not seem unrealistic. Given the size and range of employment zones with Penrith LEP 2010, it is anticipated that Council will not be able to meet the timeframes for Tranche 1, and considers timeframes outlined for Tranche 2 to be more realistic and achievable.

As the public exhibition of the proposed SEPP and Explanation of Intended Effect will be managed by DPIE, it is requested that any submissions received by the community following the public exhibition are made public or shared with the relevant Council. This will assist in future reviews of the employment zones framework undertaken by Council.

For practical reasons, it is recommended DPIE include a 4-week delayed commencement of the new zoning framework once gazetted to enable Council's to update their planning information systems and planning certificates, given the extent of the changes anticipated.



We appreciate the opportunity to provide feedback in relation to this matter. If you have any further questions on Council's submission, please contact

[Redacted contact information]

Yours sincerely,

[Redacted signature]

City Planning Manager