

30 June 2021

Attention: Director Employment Zones
NSW Department of Planning, Industry and Environment
Locked Bag 5022, Parramatta NSW 2124

Public exhibition of proposed employment zones framework

Dear Madam

Thank you for the opportunity to comment on the Department of Planning, Industry and Environment's proposed new employment zones framework (the framework).

This submission has been prepared by Council officers and has not been adopted by Council. It is not necessarily a policy position of Council.

Council's review of the exhibition material included consideration of how Council's B and IN zones may translate into the new zone options, in association with the new zones' mandated permissible uses, as proposed in the framework's position paper.

B1 Neighbourhood Centre under LEP 2013

E1 Local Centre is understood to be the only option in the position paper for B1. Given Council's B1 zones are generally small in area and surrounded by residential, it is considered that numerous proposed E1 mandated permissible uses would be inappropriate because of their potential impact on residential amenity within and near the B1 zone, and or the limited availability of larger B1 zoned sites.

E1 mandates the group term commercial premises. B1 prohibits it and allows lower key definitions under the group term such as neighbourhood shops and neighbourhood supermarkets. For the reasons above, it is considered that while business premises and office premises may be reasonable in E1, certain types of retail premises may not be, including specialised retail premises, timber yards and pubs/small bars under the food and drink premises group term.

For the same reasons it is considered that mandated E1 uses such as entertainment facilities, function centres, places of public worship, vehicle body repair workshops and vehicle repair stations are not considered appropriate in smaller scale E1 centres (translated over from B1). **Council therefore requests the Department reconsider mandated uses in E1.**

B2 Local Centre under LEP 2013

Understood to be three options in the position paper for B2 – E1 Local Centre, E2 Commercial Centre, MU1 Mixed Use. In terms of its mandated uses, **smaller B2 centres may be suited to E1 subject to the considerations in the above paragraph. Larger B2 centres may be suitable for E2.** MU1 by mandating light industry would have the potential for amenity impacts and may take industry focus from industrial zones.

B3 Commercial Core under LEP 2013

E2 Commercial Centre is understood to be the only option in the position paper and appears to be a reasonable translation option for B3.

Council's would be looking to retain an ability to permit higher density housing in E2.

It is noted that recreation facilities (major) are mandated in the E2 zones and E3 zones, where it would be challenging to find sites to accommodate large-scale sporting or recreation activities that are attended by large numbers of people including theme parks, sports stadiums, showgrounds, racecourses and motor racing tracks.

B4 Mixed Use under LEP 2013

Understood to be two options for B4 in the position paper – E2 Commercial Centre, MU1 Mixed Use. There are two B4 areas. For the Civic Centre in Shellharbour City Centre, **E2 appears to be a reasonable translation option as it is contiguous with existing B3 zoning.** While residential adjoins the site, it part comprises a large undeveloped area which can facilitate appropriate design options. Light industry as facilitated via the MU1 option may be inappropriate on this site due to potential residential amenity impacts.

The other area of B4 adjoins Oak Flats train station, and currently accommodates a regional police station, surface level parking and vacant land. The Shellharbour Business Centres and Surrounding Residential Lands Study (SBCSRLS) identifies this site for mixed use transit oriented development to intensify development around the Oak Flats Train Station and build a critical mass to support the development of a local mixed use zone which serves both the immediate local neighbourhood and commuters.

The SBCSRLS recommends the following LEP changes for part(s) of this site as follows:

- FSR: increase from 1:1 to 3.5:1
- Height: increase from 15 metres to 29 metres

MU1 could be considered for Oak Flats B4 area subject to managing potential amenity impacts of the mandated light industry use. This could involve clarifying that the group term light industry by definition, is limited to high technology industry, home industry, artisan food and drink industry, together with the two new proposed definitions of creative industry and domestic goods repair and reuse facility. If light industry includes industries additional to these, then there may be a need for land use tables to refer only to the uses under the light industry group term, as appropriate.

E2 would be the preferred option, although future development would need to consider retail hierarchy matters. In this respect E1 because of its lower inferred hierarchical order, may be a better fit for B4.

It is recommended the Department consider E1 for an additional translation option for existing B4, subject to the Department reconsidering mandated uses recommended in E1, as indicated under the above heading B1 Neighbourhood Centre under LEP 2013

B5 Business Development under LEP 2013

E3 Productivity Support is understood to be the only option in the position paper for B5. There are four areas of B5 zoning. Two either side of New Lake Entrance Road in Shellharbour City Centre and Oak Flats respectively, and two either side of Shellharbour Road at Warilla and Lake Illawarra respectively. The four B5 areas are considered unsuited to E3. E3 would be introducing into these areas numerous definitions including industrial retail outlets, industrial training facilities, light industries, recreation facilities (major), timber yards, vehicle body repair workshops. While some of these uses, for instance those under the light industry group term, may be appropriate, others would potentially impact residential uses adjoining B5 and potentially within. It is noted that the position paper indicates E3 generally does not support residential uses. This may be because of other mandated E3 uses having potential amenity impacts on residential.

Over half of the combined Warilla and Lake Illawarra B5 areas is recommended to be zoned B4 Mixed Use as part of the Shellharbour Business Centres and Surrounding Residential Lands Study (SBCSRLS), in association with height increases from 11m to 15m and FSR increases from .5 to 1.8:1. These measures are designed to facilitate increased residential development, with B4 permitting shop top housing, boarding houses, group homes, hostels, seniors housing, residential care facilities, residential flat buildings (RFBs) and multi dwelling housing, compared with B5 which only permits shop top housing. The SBCSRLS was required to be prepared as part of Council's Local Housing Strategy. Council's strategic land use intent for these two B5 areas is for a higher density residential focus. This does not reflect the provisions of the E3 zone.

Council seeks discussion with the Department about Council's B5 zones before any standard instrument is drafted on any new employment zones.

B7 Business Park under LEP 2013

Understood to be two options in the position paper for B7 - E3 Productivity Support and E2 Commercial Centre.

The one B7 site is primarily controlled via the prevailing (over LEP 2013) state government concept approval (CA) under the former Section 75O of the EP and A Act.

The CA mandates the development of a business park on the B7 zoned site. Council relies on the common dictionary meaning for business park (as there is no definition in the concept approval or in LEP 2013). A business park is defined in the Cambridge Dictionary as '*an area that is specially designed to have business offices, small factories, etc*'. The CA also provides for the development of a university and/or marine research and marine biology units for the site.

Despite the repeal of part 3A, these provisions have been preserved by cl 3B of Schedule 2 of the Savings Regulation which state in paragraph (f):

(f) the provisions of any environmental planning instrument or any development control plan do not have effect to the extent to which they are inconsistent with the terms of the approval of the concept plan,

Therefore to have any effect, anything permissible (including innominate uses) via the LEP land use tables would need to be consistent with the approval of a business park.

Council does not support the option of E2 for the B7 site preferring E2 only be applied in the existing B3 zone, potentially B4 areas (if E1 cannot be an option) and potentially larger B2 areas.

E3 would mandate additional new uses that are currently prohibited in B7. These would need to be merit assessed for consistency with the approval of a business park, on a case by case basis.

Council notes the position paper's strategic intent for E3 includes suiting locations near catalyst development (such as health and education) to support those uses through development such as a larger campus style business park.

This intent is consistent with the concept approval's provisions for university/research facilities on the site.

Given the above, E3 would be the preferred translation option.

IN1 General Industrial and IN2 Light Industrial under LEP 2013

Understood to be two options for IN1 in the position paper – E5 Heavy Industrial and E4 General Industrial. And two options for IN2 in the position paper – E3 Productivity Support and E4 General Industrial.

E5 Heavy industrial is not suited to any of the IN1 or IN2 areas. Hazardous and offensive industry needs large areas of land with spatial buffers to distance itself from other incompatible development. Shellharbour's industrial zones do not and cannot facilitate this.

E4 would be the obvious best fit for both IN1 and IN2 given their mandated uses are consistent with those of IN1 and IN2.

E3 (the other option for IN2) contains many uses which would detract from and dilute the industry potential of IN2 by introducing a range of non – industry type mandated uses.

IN2 Light Industrial under Rural LEP 2004 (Illawarra Regional Business Park)

Understood to be two options for IN2 in the position paper – E3 Productivity Support and E4 General Industrial.

E4 would be best fit for IN2 given the more significant E4 mandated uses are permitted in IN2. Currently prohibited uses such as garden centres, general industries, hardware and building supplies and industrial training facilities would become permissible under E4, which is considered acceptable.

E3 (the other option for IN2) contains many uses which would detract from and dilute the industry potential of IN2 by introducing a range of non – industry type mandated uses.

Shops permissibility in existing B5, B7

Council notes the following extract from the stakeholder FAQ document:

Having regard to the proposals included in Building Business Back Better Explanation of Intended Effect (EIE) for expanded complying development, that work will be looking at mechanisms to support employment lands. One such mechanism could be a calling up of Cl. 5.4 Controls relating to miscellaneous permissible uses. As part of the final harmonisation of these two reform programs Cl.

5.4 could capture 'shops' where they are added by councils as permissible with consent in the proposed E3 Productivity Support zone. This mechanism would support the viability and vibrancy of centres and protect the value of employment lands by encouraging shops to locate in existing centres. Accordingly, councils in any submission to the department are encouraged to nominate in instances where shops are permitted with consent in existing B5, B6 and B7 zones a potential maximum floor area.

In response Council advises that neighbourhood shops are permitted with consent in its B7 zone. Shops/neighbourhood supermarkets are prohibited (under commercial premises).

In the B5 zone, shops, neighbourhood shops and neighbourhood supermarkets are innominate uses. It is noted shops include neighbourhood shops and neighbourhood supermarkets. Shellharbour LEP 2013 Clause 5.4 nominates maximum floor areas of 80m² and 1000m² respectively for neighbourhood shops and neighbourhood supermarkets.

As outlined above, Council only supports the application of E3 in the B7 zone. Council notes neighbourhood shops are mandated in E3, but not neighbourhood supermarkets. And agrees with this approach.

Calderwood release area

The Calderwood release area is controlled by the State Environmental Planning Policy (State Significant Precincts) 2005 (SEPP) and concept approvals under that SEPP. The release area contains large areas of B4 Mixed Use zoning. Council notes the Department's advice that it is currently working through the SEPPs especially ones that zone land and are either partially or entirely affected by the Standard Instrument Order, and that work would form consequential amendments that would likely occur following implementation of standard instrument LEPs; but that needs to be confirmed.

Illawarra Regional Business Park under Shellharbour Rural LEP 2004 (SRLEP 2004)

Council notes the position paper indicates that other environmental planning instruments that rely on the Standard Instrument Principal LEP either through land use tables, model provisions or dictionary will need to be amended as part of the new framework.

The Part 4 provisions of Shellharbour Rural LEP 2004 were originally subject to the former Part 3A (EP and A Act) provisions.

The IRBP provisions were subject to a concept plan approval and rezoning under that legislation and later transferred into SRLEP 2004. Most of the IRBP site is zoned IN2 Light Industrial. Clause 66(2) of SRLEP 2004 follows:

A word or expression used in this Part has the same meaning as it has in the standard instrument prescribed by the Standard Instrument (Local Environmental Plans) Order 2006 (as in force immediately before the commencement of the Standard Instrument (Local Environmental Plans) Amendment Order 2011) unless it is otherwise defined in this Part.

Council would appreciate the Department considering rationalising, in collaboration with Council, SRLEP's Part 4 provisions into the new zoning framework, including zone names and zone tables as part of consequential amendments. This would facilitate Part 4 provisions to be then transferred out of deferred lands (SRLEP 2004) and into LEP 2013.

Department of Planning, Industry and Environment

Should you have any enquiries regarding this letter, please contact

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Yours sincerely

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