

29 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
ON BEHALF OF PRECINCT CAPITAL PTY LTD**

1. INTRODUCTION

We act as town planning consultants to Precinct Capital Pty Ltd who are landowners and developers of numerous land parcels throughout Greater Sydney, principally in the form of business parks, warehousing and self storage facilities.

We have been instructed to make a submission in relation to the proposed employment zones framework for which a 'position paper' is on public exhibition until 30 June 2021.

Precinct Capital are generally supportive of the proposed framework, with the proposed changes seen to provide for a more simplified planning framework by rationalising the number of zones and expanding mandatory permitted uses, thus providing for more flexibility and certainty for developers and practitioners alike. However, this submission highlights a few areas where particular comments are provided.

2. INDUSTRIAL ZONED LAND

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.

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

3. 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 apparent 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 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.

4. SP4 LOCAL ENTERPRISE ZONE

The Position Paper recognises that “The SI LEP does not generally accommodate precincts with strategic significance that undergo a detailed master planning process. These areas tend to sit within SEPPs which reduces the legibility of the planning system and diminishes opportunities available to councils to lead precinct planning work.” The proposed new SP4 Local Enterprise zone seeks to introduce a flexible mechanism within the Standard Instrument that will allow for a bespoke planning response for unique precincts.

The approach to capture precinct controls within an LEP rather than a SEPP is generally supported. Precinct Capital has direct experience within a ‘unique precinct’, by way of the proposed Nepean Business Park development in the Penrith LGA which is currently going through the planning approval process under *State Environmental Planning Policy (Penrith Lakes Scheme) 1989* (Penrith Lakes SEPP). Despite being rezoned for employment use in 2017, development of the land for employment generating purposes (which is estimated to create 18,450 jobs (direct and indirect), provide \$1.95 billion of economic activity during construction, and \$500 million per annum in gross value to the Penrith economy) has been subject to significant delays due to various issues, including not least that a development control plan has only recently been prepared.

A key observation in seeking to develop the business park under the Penrith Lakes SEPP is that managing planning outcomes via the SEPP means that not only it is out of sync with zone naming conventions and land use definitions under the Standard Instrument, more importantly it is out of sync with reforms and other strategic work taking place across the State which promote employment generating uses.

Despite the proposed business park being a key employment generating area for the Penrith LGA, the proposed reform to the employment zones framework under the Standard Instrument will not apply to the business park given it is managed under the Penrith Lakes SEPP. This creates a disjointed planning system, and handicaps the business park from benefiting from the reforms being introduced (for no apparent reason). The same “exclusion” appears to apply to other State lead policy and reform which is not equally applied to land such as the Nepean Business Park that is subject to SEPP provisions.

(In terms of zone naming conventions, the proposed business park is within the ‘Employment’ zoned land under the Penrith Lakes SEPP and other zones are ‘Environment’, ‘Parkland’, ‘Residential’, ‘Tourism’ and ‘Waterway’. Consistent zone names across LEPs and SEPPs would promote legibility and allow appropriate linkages to other legislation.)

It is not clear if the intention is for this mechanism to replace SEPPs in the longer term. However, this would be considered as a positive step forward for an improved NSW planning system.

5. TRANSLATION OF ZONES

It is noted that the self-repealing SEPPs, which will include changes to a number of individual LEPs, will be put on exhibition at a later stage, at which point it will be possible to comment on the proposed zone to be applied to particular land parcels. It is noted that DPIE have indicated that review of, or additional, strategic planning should be not undertaken, therefore zones are effectively to be translated over to the new zones.

There is some uncertainty regarding the translation of the existing B7 zoned land, given that the Position Paper indicates that generally it would become E3 Productivity Support, however some B7 zoned land may become E2 Commercial Centre. If translated to an E2 zone, the objectives and permissible uses would be quite different than what

currently applies to B7. However, as noted above, the time to comment on the specific zoning will be when the self-repealing SEPPs are exhibited.

6. LAND USE TERMS

6.1. Storage and Distribution Premises

This new term is proposed to combine “storage premises” and “warehouse or distribution centre”. In general, it is considered that 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.

6.2. 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.

7. 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:

- 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.



- 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.

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

Yours faithfully,
Planning Ingenuity Pty Ltd

