

2 July 2021  
Our Ref: 8186A.16KM\_EZ



planning consultants

Department of Planning, Industry and Environment  
4 Parramatta Square  
12 Darcy Street  
PARRAMATTA NSW 2150

**Attention: Aoife Wynter, Director Employment Zones**

Dear Aoife,

**Re: Employment Zones Reform  
Submission on behalf of Bunnings Group Ltd**

### **1.0 Introduction**

DFP Planning Pty Limited (DFP) has been engaged by Bunnings Group Ltd (Bunnings) to review the Employment Zones Reform package, particularly the Position Paper and Draft Standard Instrument Principal LEP Amendment Order, and to prepare this submission in response to the exhibited material.

This submission focuses on matters that are relevant to Bunnings although there would likely be similar implications for businesses that rely upon the 'hardware and building supplies' land use definition as it currently exists under the Standard Instrument LEP (SILEP).

Our key concerns relate to:

1. How existing zones will be assimilated into the proposed new zones and preventing local councils from taking the opportunity to reduce the number of zones and/or localities where hardware and building supplies are permissible;
2. Creating confusion and ambiguity for practitioners and consent authorities by removing the land use term for hardware and building supplies and introducing new definitions for '*Home Improvement Retail Premises*' and '*Trade Retail Premises*' with no substantive improvement in the application of the SILEP; and
3. Introducing a new "Employment" Zone with an "E" prefix where the "E" prefix is already used in relation to environmental zones.

Whilst we are supportive of reducing the number of land use zones and providing more flexibility to employment generating businesses, this should not come at the expense of introducing additional red tape and ambiguity which ultimately, is likely to slow down the delivery of employment land uses like Bunnings stores and therefore, reduce productivity and delay job creation.

Accordingly, we recommend that:

- A. DPIE lead all zoning assimilation exercises in consultation with landowners;
- B. There be no change to the hardware and building supplies land use definition as this will not “*provide greater certainty for the community, councils and the development industry*” ; and
- C. The “E” prefix be retained for environmental zones and an alternate prefix be used for commercial and industrial zones.

## 2.0 Bunnings Group Ltd

Bunnings is Australia’s largest hardware and building supplies operator providing retail and trade services to families, tradespeople and the development industry more generally. As at June 2021, Bunnings’ operations in NSW comprised:

- 14,300 team members;
- 93 stores (with an average over 150 team members per store);
- 1,039,090m<sup>2</sup> of retail trade floor area; and
- Annual sales of \$4.1 billion (2020 FY).

Since 2010, Bunnings has delivered 51 stores in NSW (typically between 3-6 stores per annum) with approximately \$100-200 million in investment per annum.

Bunnings is current constructing new stores in Campbelltown, Leppington, Pymble and Kempsey, is tendering for the construction of stores in Tempe and Narrabri and is planning (DA/Planning Proposal) for stores in Inverell, Mudgee, Wagga Wagga, Ulladulla and Tura Beach.

Accordingly, the implications for changes to permissibility of hardware and building supplies development resulting from zoning changes and/or land use definitions are crucial to the ability of Bunnings to continue to deliver jobs and investment in NSW.

## 3.0 New Employment Zones

Having reviewed the Position Paper, our assessment of the implications for Bunnings resulting from the proposed amalgamation of land use zones is as follows:

- The existing **B1 Neighbourhood Centre Zone** (B1 Zone) will become the E1 Local Centre Zone (E1 Zone). Currently hardware and building supplies is not a mandated permissible land use in the B1 Zone but we understand that it will be a mandated permissible use in the E1 Zone. We support this approach as increasing opportunities for business and investment in this zone is a positive outcome and it provides flexibility for hardware and building supplies operators to continue to provide a range of smaller, more local stores that are compatible with the amenity of the neighbourhood, noting that Bunnings operations do not exclusively entail large floorplate stores;
- The existing **B2 Local Centre Zone** (B2 Zone) will be assimilated to the E1 Zone, the E2 Commercial Centre Zone (E2 Zone) or the MU Mixed Use Zone (MU Zone). Currently hardware and building supplies is a mandated permissible land use in the B2 Zone and we understand that it will be a mandated permissible use in the E1, E2 and MU Zones. We support this approach as it maintains the status quo;
- The existing **B3 Commercial Core Zone** (B3 Zone) will become the E2 Zone and as above, hardware and building supplies will remain a mandated permissible land use. We support this approach;

- The existing **B4 Mixed Use Zone** (B4 Zone) will be assimilated to the E2 Zone or the MU Zone and as above, hardware and building supplies will remain a mandated permissible land use. We support this approach;
- The existing **B5 Business Development Zone** (B5 Zone) and the **B6 Enterprise Corridor Zone** (B6 Zone) will be assimilated into the E3 Productivity Support Zone (E3 Zone). Hardware and building supplies will remain a mandated permissible land use in the E3 Zone and hence, we support this approach;
- The existing **B7 Business Park Zone** (B7 Zone) will be assimilated to either the E2 Zone or the E3 Zone. Hardware and building supplies will remain a mandated permissible land use in these new zones and hence, we support this approach;
- The existing **B8 Metropolitan Centre Zone** (B8 Zone) will be assimilated to the MU Zone or the SP4 Local Enterprise Zone (SP4 Zone). Hardware and building supplies is currently a mandated permissible land use in the B8 Zone and whilst this would also be the case for the new MU Zone, it would not be so for the SP4 Zone.

Accordingly, there is potential for an existing B8 Zone to become a SP4 Zone and hardware and building supplies could become a prohibited land use. For an existing store, this would mean that any future alterations and additions or reconstruction would have to rely upon existing use rights which would require a more onerous and complicated approval process, increase red-tape, potentially prevent Bunnings from responding to market conditions in the future and might severely limit the ability to expand the provision of services and jobs to the community.

A new store would be a prohibited use and could not proceed without a successful Planning Proposal, which is a process that engenders substantial risk from a development perspective and will therefore lead to less investment and also limit employment opportunities.

Accordingly, we seek the assurance of DPIE that any existing B8 Zone that is assimilated to a SP4 Zone, will be done so in a manner that retains hardware and building supplies as a permissible land use;

- The existing **IN1 General Industrial Zone** (IN1 Zone) will be assimilated to either the E4 General Industrial Zone (E4 Zone) or E5 Heavy Industrial Zone (E5 Zone). Hardware and building supplies is currently a mandated permissible land use in the IN1 Zone and whilst this would also be the case for the new E4 Zone, it would not be so for the E5 Zone.

Akin to the B8 to SP4 assimilation discussed above, we seek the assurance of DPIE that any existing IN1 Zone that is assimilated to a E5 Zone, will be done so in a manner that retains hardware and building supplies as a permissible land use;

- The existing **IN2 Light Industrial Zone** (IN2 Zone) will be assimilated to either the E3 Zone or the E4 Zone. Hardware and building supplies will remain a mandated permissible land use in these new zones and hence, we support this approach;
- The existing **IN3 Heavy Industrial Zone** (IN3 Zone) will be assimilated into the E5 Zone. Hardware and building supplies is not currently a mandated permissible land use in the IN3 Zone and similarly, will not be in the new E5 Zone.

Whilst this maintains the status quo and we understand that a heavy industry zoning may not be appropriate for general retailing, the form and nature of hardware and building supplies development is considered to be compatible with other development normally seen in a heavy industrial zone.

Accordingly, we recommend that DPIE mandate hardware and building supplies as a permissible land use in the E5 Zone, as this will support businesses “to grow, respond and adapt as necessary” and would overcome the above concern should an IN1 Zone be assimilated to an E5 Zone;

- The existing **IN4 Working Waterfront Zone** (IN4 Zone) will be assimilated into the W4 Working Foreshore Zone (W4 Zone). Hardware and building supplies is not currently a mandated permissible land use in the IN4 Zone and similarly, will not be in the new W4 Zone. Whilst we acknowledge that the waterfront zones are oriented to maritime activities, we note that maximum flexibility for employment generation would be attained by also permitting hardware and building supplies development.

Accordingly, whilst we are supportive of the majority of the proposed zoning assimilations we are concerned that unless closely managed by DPIE, there may be an unintended consequence whereby hardware and building supplies becomes a prohibited land use in the new SP4 Zone when assimilated from a B8 Zone and in the new E5 Zone when assimilated from an IN1 Zone.

Furthermore, we recommend that hardware and building supplies become a mandated land use in the E5 Zone and consideration also be given to making hardware and building supplies a mandated permissible land use in the W4 Zone.

#### 4.0 Land Use Definitions

The Position Paper moots various new and amended land use definitions including those of 'Home Improvement Retail Premises' (HIRP) and 'Trade Retail Premises' (TRP). These definitions would be introduced at the expense of the existing hardware and building supplies land use definition.

It is understood that DPIE is seeking feedback on this approach and that it does not form part of the Draft Standard Instrument Principal LEP Amendment Order.

In our opinion, the hardware and building supplies land use definition has served the industry and local communities very well over past 10 years or so that it has been in existence. This is evidenced by the significant and continuing investment by Bunnings in new stores and creation of employment opportunities.

When introduced to the SILEP, hardware and building supplies put an end to many situations whereby consent authorities were unable to properly define the various activities incorporated in stores run by operators such as Bunnings.

The mooted deletion of the hardware and building supplies land use term in favour of HIRP and TRP does not appear to have any benefit other than to attempt to reduce the total number of land use terms in the SILEP.

In our opinion, if that is the only objective, achieving a net reduction of 4 land use terms in the manner proposed is flawed, as it is likely to reintroduce ambiguity and confusion amongst businesses, consent authorities and local communities.

It may also cause confusion for existing Development Consents that describe the approved use as hardware and building supplies as it may be interpreted that this use is then an existing use if HIRP and TRP are not jointly permissible in the applicable zone.

Our primary concern is that the mooted land use terms seem to be attempting to separate activities that might be more traditionally viewed as "retail" and those that might be viewed as "trade oriented". The reality is that operators such as Bunnings provide services to the general community, office workers, sole traders, small and large trade companies and a broad range of other commercial entities.

Furthermore, our appreciation of which new land use zones within which HIRP and TRP would be mandated permissible land uses is no different to where hardware and building supplies is proposed to be mandated.

Accordingly, we see no benefits to pursuing the land uses definitions of HIRP and TRP, we envisage significant adverse disbenefits and therefore, request that the existing definition of hardware and building supplies be retained.

## 5.0 Zone Nomenclature

Whilst it is ultimately unlikely to cause Bunnings difficulties in undertaking its business operations, the introduction of the “E” prefix for the proposed “Employment” zones when there is already such a prefix for “Environmental” zones, seems counter intuitive to the overarching aims of the reforms, to “provide greater certainty for the community, councils and the development industry” and to reduce red-tape.

This approach will require unnecessary amendments to every single planning instrument in NSW at great cost to the development industry and community at large. There is no business case for such extravagant expenditure of public funds.

Furthermore, it has not been articulated how the existing “E” zones will be renamed, noting that there are serious implications should they be amended to use terms such as “conservation”, “protection”, “scenic” or the like, if they do not already do so, as this would potentially have perverse outcomes of limiting development which is intended to be permitted under various SEPPs.

Accordingly, we recommend that DPIE adopt a different prefix for the new zones and abandon the “E” prefix and vast waste of time and money associated with making such a cosmetic change.

## 6.0 Conclusion

DFP has reviewed the Employment Zones Reform package on behalf of Bunnings and whilst we are supportive of the majority of the proposed zoning assimilations we are concerned that unless closely managed by DPIE, there may be an unintended consequence whereby hardware and building supplies becomes a prohibited land use in the new SP4 Zone and E5 Zone when assimilated from a B8 Zone or IN2 Zone.

Furthermore, we see no benefit to pursuing new land use terms of HIRP or TRP by way of deleting the long-standing and successful land use term of hardware and building supplies.

Accordingly, we recommend that:

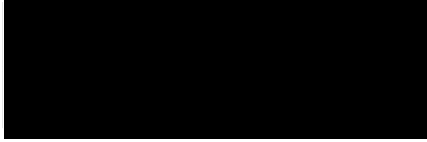
1. DPIE ensure that any existing B8 Zone that is assimilated to a SP4 Zone, will be done so in a manner that retains hardware and building supplies as a permissible land use and that this be done in consultation with Bunnings;
2. DPIE mandate hardware and building supplies as a permissible land use in the E5 Zone, as this will support businesses “*to grow, respond and adapt as necessary*”;
3. If recommendation 2 is not adopted, DPIE ensure that that any existing IN1 Zone that is assimilated to an E5 Zone, will be done so in a manner that retains hardware and building supplies as a permissible land use and that this be done in consultation with Bunnings;
4. DPIE consider mandating hardware and building supplies in the W4 Zone and in doing so, attain maximum flexibility for employment generation on foreshore land;
5. The existing definition of hardware and building supplies be retained and that DPIE not pursue the land uses definitions of HIRP and TRP as these are likely to reintroduce ambiguity and confusion for businesses, consent authorities and local communities; and
6. DPIE adopt a different prefix for the new employment-oriented zones and abandon the “E” prefix.



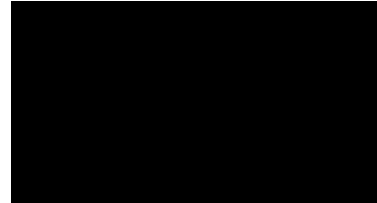
Along with representatives from Bunnings, we would be please to discuss this submission with you further and should you have any queries, please contact the undersigned.

Yours faithfully

**DFP PLANNING PTY LTD**



**KENDAL MACKAY  
DIRECTOR**



Reviewed: \_\_\_\_\_