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Attention: Aoife Wynter, Director Employment Zones
NSW Department of Planning, Industry and Environment
employment.zones@planning.nsw.gov.au

Stockland Submission to the Employment Zones Reform

Dear Ms Wynter

Thank you for the opportunity to provide Stockland's submission to the *Employment Zones Reform* draft policy and implementation package.

Stockland is Australia's largest diversified property group, with over \$8 billion invested across NSW. As Australia's largest residential developer, Stockland is also one of the largest retail property owners, developers and managers in Australia. We have a substantial and growing portfolio of logistics and office development sites and assets, including campus style development in Macquarie Park, and planned CBD landmarks in North Sydney and the City of Sydney.

Overview

At the time of writing, Stockland owns **31** assets located on business and industrial zoned land in NSW, ranging from mixed use apartment projects to shopping centres, from retail to business parks, office buildings, industrial estates, and warehouse and distribution centres.

Overall, we support the Government's initiatives to develop a new employment zone framework for NSW that aims to provide greater certainty for the community, councils and the development industry; support councils' long-term strategic planning objectives; support businesses, industry and society to grow, respond and adapt as necessary; facilitate innovation and changes in business processes now and into the future.

With these objectives in mind, we have analysed each of Stockland's 31 assets, assessing the zoning and range of permissible uses under current planning instruments compared with the proposed zone framework. This assessment has flagged a number of issues and insights.

We wish to share our insights with you, to inform the finalisation and implementation of the zoning reform.

Insight: Consolidating more flexible zones with other zones will prove challenging

1. The range of permissible land uses in each zone can vary significantly between LEPs. This complicates the proposal to consolidate certain zones within a single new zone, particularly where one of the zones is unusually flexible. Two examples as follows:

- Shellharbour Retail Park: The B5 zone is intended to roll into E3. Shellharbour LEP's B5 zone is unusually flexible, as it permits shop top housing in addition to all forms of commercial premises (ie without exception all retail, office and business premises), warehouse and industrial uses. This range of land uses is starkly different from any other zone in Shellharbour LEP including the B7 and IN2 zones that would also be converted to E3 but prohibit shop top housing as well as most retail uses. The B5 zone would be equally unsuitable to be converted to E2 as warehouse and distribution and light industry is likely to be prohibited in the E2 zone.
 - The Macquarie Park employment area is zoned B3 and B7. Light industry is currently permitted in both zones. If converted to E2, Data centres (proposed to be re-defined as a subset of High Tech Industry / Light Industry) would potentially become a prohibited use, considering that the E2 zone is intended to incorporate some B2, B3, B4 and most B7 land across the LGA and is unlikely to permit light industry.
2. A solution to this issue would be the use of LEP overlay maps which allow additional permissible uses over certain broad areas (eg the former B5 zoned in Shellharbour). The drawback with this approach is that it increases complexity.

Insight: Consistency between LGAs will not be secured

3. Creating flexibility and adaptability for suitable uses in employment zones and being able to support new activities and innovation is a priority for industry. However, the draft land use matrix indicates that a surprising small number land uses will actually be mandated as permissible uses – little more than the current standard template. Apart from this, Councils are free to make as many uses prohibited as they wish. The outcome will be inconsistent land use tables across different LGAs – which is no different from the current situation.
4. Our recommendation is to mandate more permissible uses and introduce open land use tables (below).

Insight: 'Open' Land Use tables should be required

5. The position paper indicates that Councils are to be 'encouraged' to use open land use tables. We believe that this position needs be non-negotiable. Open land use tables are the only efficient way to respond to new and innovative land uses. Such land uses can be treated as innominate and therefore permissible with consent. The public interest is protected because the development is subject to tests against consistency with the zone objectives and Council's strategic framework.

Insight: Approach to mandating certain land uses

6. A positive move is mandating **local distribution premises** as permissible uses in most of the new zones, as our analysis indicated zero take-up of this definition in any of land use tables of the 31 Stockland assets. (As such, it was only permissible 'by default' in open land use tables.
7. We support **Data Centres** being mandated as permissible uses (including as a light industry) in the E3, E4 and E5 zones.
8. We support **office premises and business premises** be mandated as permissible uses in the E1-E3 zones, but recommend that these uses be mandated in every one of the new

zones. We challenge the prevailing planning wisdom that permitting such uses in industrial zones will undermine the strength of higher order employment centres. Zone objectives can be utilised along with other strategic frameworks such as those are used to manage out of centre retail development. The inclusion of office and business premises in the E4 and E5 ensures greater flexibility to support industrial uses and workers, enabling an appropriate mix of uses in our many diverse industrial areas.

9. The restriction on floor space for **neighbourhood shops** is a key issue in employment areas where these are the only form of retail permitted, but where reasonable worker amenity is warranted.
10. A related concern is that **take away food and drink premises** will not be mandated in all E zones. Still fewer zones will mandate permitting **cafes and restaurants**. This should be remedied.
11. We recommend that **residential flat buildings** should be mandated as permitted with consent in the MU Mixed Use mixed use zones, in addition to shop top housing. The new MU Mixed Use zone is proposed to support a mix of residential, retail, light industry and tourist accommodation and to promote and encourage activities at ground floor and on street fronts. The position paper explains that this is not a productivity related zoning, which is why it is not proposed to be an E zone.
12. The mandating of **residential flat buildings** is sought in addition to shop top housing in the MU zone. As identified in the following subsection, the current definition of shop top housing is highly inflexible insofar as it prohibits any ground floor residential uses. This can result in sub-optimal outcomes compared with the use of individual ground floor residential entries and courtyards which can provide high levels of activation and surveillance of the street. Given that the MU zone is not primarily a productivity related zoning, the ability to propose stand-alone residential buildings should be assured.

Insight: Some definitions should be reviewed

13. **Data centres:** We support the need for a new definition for data centres as a subset of High Technology Industry, which is itself a subset of Light Industry. We submit that the SEPP Infrastructure and SEPP State and Regional Development should be amended accordingly to avoid ongoing confusion with the interpretation of data storage premises in those documents.
14. **Shop top housing:** The proposed changes to the definition of shop top housing are supported in principle, however they need to go further.

Any non-residential use (assuming such use is permitted in the zone, and consistent with the zone objectives) should be appropriate on the ground floor.

Where there are large sites, sites with multiple buildings, and/or buildings fronting local roads or adjacent to lower density residential areas, the requirement for non-residential ground floor uses in every building can result in sub-optimal outcomes. In those cases, ground floor activation is best achieved through individual residential entries and courtyards rather than numerous often vacant retail and commercial tenancies. Greater flexibility must be built into the definition to accommodate this, and we recommend that detailed engagement occur in this regard.

Insight: Streamlined pathway required to address unintended consequences

15. As we saw during the introduction of the standard instrument across NSW, the conversion of zones and updating of land use tables inevitably results in the prohibition of certain uses which were previously permitted. The risk of this occurring with the employment zone reforms is considered to be higher than ever given the need to shoehorn a number of existing zones into a single zone. In the case of E2 and E3 zones, as many as four existing zones will be consolidated into one.

Due to the rapid implementation approach proposed, Councils cannot be expected to consider all lawful land uses being undertaken on every piece of employment and mixed use land. And while there will be an opportunity for landholders to review the draft zoning, it is unlikely that every landholder will do so, or will obtain professional planning advice to become aware of the risks around any existing uses.

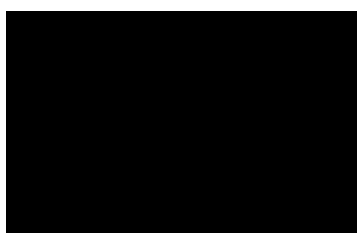
In order to avoid future existing use rights issues, there must be a pathway to deal with circumstances where an inadvertent prohibition is identified following the LEP amendment. A housekeeping LEP amendment to mop up errors is not the way forward, given that these typically take 2-4 years from inception to finalisation. And a site specific PP submitted at the cost of the landholder is not only inefficient, but highly inequitable given that the issue arose due to circumstances outside their control. DPIE is urged to consider how this issue could be addressed prior to the implementation of the changes.

Conclusion

Stockland appreciates the opportunity to comment on the reform package, and welcomes any further opportunity to be part of future discussions on this topic. We also support the submissions of our industry groups, including the Property Council of Australia and the Urban Development Institute of Australia.

_____ is the contact for your office if you wish to discuss any of the comments or recommendations above.

Kind regards



Gavin Boswarva
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Stockland