



14 July 2021

Ms Aoife Wynter
Director Employment Zones
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: FP85 and FP245

Dear Ms Wynter,

SUBMISSION – EMPLOYMENT LAND ZONE REFORMS (FP85 and FP245)

I refer to the above matter and advise that at its Meeting of 13 July 2021, Council considered a report on the key issues and policy implications for Council and resolved that:

1. *Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Employment Land Zone Reforms, in accordance with the comments contained within this report.*
2. *Council 'opt-in' on the optional objectives for the proposed E2 Commercial Centre and MU Mixed Use zones, as detailed within this report.*
3. *Council forward a copy of its submission to Local Government NSW and neighbouring Councils.*

In accordance with this resolution, please find attached a submission from Council in the form of the Report and Minute from 13 July 2021. The report contains a summary of the key elements of the Position Paper, as well as comments in response to each. Please refer to individual sections titled "Comments".

Whilst there is merit in simplifying the planning system and reimagining the employment zone framework to boost productivity, the following key concerns are raised:

- Some elements of the proposed reforms could impact Council's ability to implement local policy and planning controls.
- The range of existing employment zones under the Standard Instrument are important to supporting Council's implementation of a hierarchy of centres. The proposed changes would erode this hierarchy by enabling overly flexible planning outcomes that may not necessarily be in keeping with the local character or strategic intent of an area.
- It is acknowledged that the Department is working to strict and ambitious timeframes to implement the proposed reforms. However, this may not enable sufficient time for the outcomes of community consultation to be meaningfully considered. Given the magnitude of the changes

proposed, adequate time should be given to properly consider the input of stakeholders and ensure that any and all consequences of the reforms have been considered.

- Whilst there is merit in mandating a greater number of permissible land uses, it is critical that the right balance is struck to ensure the proposed land uses are appropriate within the zone, align with the zone objective and prevent incidents of land use conflict. Whilst it is open to Council to initiate planning proposals to prohibit specific land uses in the future, this poses a significant administrative burden and there are no guarantees that Council would succeed with the prohibition of the use (as previously experienced within The Hills Shire). It would be prudent to allow time for Councils to properly consider potential local impacts and conflicts and nominate prohibited land uses as part of the implementation of the reforms, rather than awaiting for issues to arise and then requiring individual Councils to go through lengthy and resource-intensive planning proposal processes to rectify these issues.
- It is unclear whether Council will have the opportunity to provide meaningful input into the implementation of the proposed framework or whether this will be largely lead by the Department (with minimal Council involvement). This is particularly concerning given the proposed zones are not necessarily a direct translation from the existing framework.
- It is difficult to determine the full extent of impact to Council arising from some of the measures proposed within the Position Paper as specific detail is not provided for some of the proposed changes. Specific details and draft amendments to Environmental Planning Instruments should be the subject of further consultation.
- The proposed naming convention ('E') for the new zones is confusing and duplicates the environmental zones that are already in force (e.g. E1 National Parks, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living).
- It is critical that any proposed reforms also address issues relating to State Environmental Planning Policy (Sydney Region Growth Centres), rather than simply amending the Standard Instrument LEP.

Should you require further information please contact [REDACTED]

Yours faithfully,

[REDACTED]

[REDACTED]

[REDACTED]

Attach: Council Report and Minute, 13 July 2021

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 13 July 2021

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr S P Uno
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr A N Haselden
Clr J Jackson
Clr M G Thomas
Clr A J Hay OAM
Clr R Jethi
Clr F P De Masi
Clr R M Tracey

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr E M Russo

ITEM-6

PROPOSED EMPLOYMENT ZONE REFORMS (FP85 AND FP245)

A MOTION WAS MOVED BY COUNCILLOR TRACEY AND SECONDED BY COUNCILLOR HASELDEN THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED UNANIMOUSLY.

353 RESOLUTION

1. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Employment Land Zone Reforms, in accordance with the comments contained within this report.
2. Council 'opt-in' on the optional objectives for the proposed E2 Commercial Centre and MU Mixed Use zones, as detailed within this report.
3. Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

Being a planning matter, the Mayor called for a division to record the votes on this matter

VOTING FOR THE MOTION

Mayor Dr M R Byrne
Clr S P Uno
Clr Dr P J Gangemi
Clr B L Collins OAM
Clr A N Haselden
Clr J Jackson
Clr M G Thomas
Clr A J Hay OAM

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 13 July 2021

Clr R Jethi
Clr F P De Masi
Clr R M Tracey

VOTING AGAINST THE MOTION

None

MEETING ABSENT

Clr E M Russo

CALL OF THE AGENDA

A MOTION WAS MOVED BY COUNCILLOR JETHI AND SECONDED BY COUNCILLOR DE MASI THAT items 8, 9, 11, 12, 14, 15, 16 and 17 be moved by exception and the recommendations contained therein be adopted.

THE MOTION WAS PUT AND CARRIED.

354 RESOLUTION

Items 8, 9, 11, 12, 14, 15, 16 and 17 be moved by exception and the recommendations contained therein be adopted.

ITEM-8

WHITLING AVENUE, CASTLE HILL - PROVISION OF DOUBLE CENTRELINE LINEMARKING

355 RESOLUTION

Subject to the endorsement of the Local Traffic Committee, Council approve the provision of double centreline BB linemarking in Whitling Avenue, Castle Hill between Cecil Avenue and Sherwin Avenue, and the removal of 20 metres of existing double centreline marking and the installation of 'No Stopping' signage as detailed in Figure 4 in the report.

ITEM-9

GAY STREET, CASTLE HILL - FURTHER REQUEST FOR EXTENSION OF WORKS ZONE

356 RESOLUTION

Council approve the retention of the temporary 26 metre long 'Works Zone 7am-5pm Monday to Friday and 7am to 12 noon Saturday' in Gay Street, Castle Hill for a period of up to 12 months as detailed in Figure 1 in the report with authority delegated to the General Manager to extend for a further 3 months if required.

ITEM-11

COUNCIL MEETING DATES SEPTEMBER - DECEMBER 2021 & STRATEGIC PLANNING PROCESS

357 RESOLUTION

Council adopt the meeting schedule from September to December 2021, and the Strategic Planning Process timetable outlined in this report.

ITEM-6	PROPOSED EMPLOYMENT ZONE REFORMS (FP85 AND FP245)
THEME:	Shaping Growth
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	13 JULY 2021 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
AUTHOR:	SENIOR TOWN PLANNER JESSIE WISEMAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

EXECUTIVE SUMMARY

The Department of Planning, Industry and Environment (the Department) has prepared a Position Paper and supporting material for proposed Employment Land Zone Reforms. The Position Paper and supporting material was released for public comment on 20 May 2021. A copy of the Position Paper and the supporting material is provided as Attachments 1 – 5 to this Report.

This report recommends that Council make a submission on the Position Paper for the proposed Employment Land Zone Reforms. The report also recommends that Council 'opt-in' on the optional objectives for the proposed E2 Commercial Centre and MU Mixed Use zones (detailed further within this report) and that Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

An overview of the proposal reforms is provided in Section 4 of this report. The reforms seek to provide greater certainty for key stakeholders, support Councils' long-term strategic planning objectives, enhance adaptability for businesses and the industry, facilitate innovative processes and support broader industry changes. The changes are intended to boost productivity and encourage the consistent application of land use zones, making it easier for the industry to interpret and to speed up assessment timeframes. The reforms also aim to better facilitate complying development.

Whilst there is merit in simplifying the planning system and reimagining the employment zone framework to boost productivity, the following key concerns are raised:

- Some elements of the proposed reforms could impact Council's ability to implement local policy and planning controls.

- The range of existing employment zones under the Standard Instrument are important to supporting Council's implementation of a hierarchy of centres. The proposed changes would erode this hierarchy by enabling overly flexible planning outcomes that may not necessarily be in keeping with the local character or strategic intent of an area.
- It is acknowledged that the Department is working to strict and ambitious timeframes to implement the proposed reforms. However, this may not enable sufficient time for the outcomes of community consultation to be meaningfully considered. Given the magnitude of the changes the proposed, adequate time should be given to properly consider the input of stakeholders and ensure that any and all consequences of the reforms have been considered.
- Whilst there is merit in mandating a greater number of permissible land uses, it is critical that the right balance is struck to ensure the proposed land uses are appropriate within the zone, align with the zone objective and prevent incidents of land use conflict. Whilst it is open to Council to initiate planning proposals to prohibit specific land uses in the future, this poses a significant administrative burden and there are no guarantees that Council would succeed with the prohibition of the use (as previously experienced within The Hills Shire). It would be prudent to allow time for Councils to properly consider potential local impacts and conflicts and nominate prohibited land uses as part of the implementation of the reforms, rather than awaiting for issues to arise and then requiring individual Councils to go through lengthy and resource-intensive planning proposal processes to rectify these issues.
- It is unclear whether Council will have the opportunity to provide meaningful input into the implementation of the proposed framework or whether this will be largely lead by the Department (with minimal Council involvement). This is particularly concerning given the proposed zones are not necessarily a direct translation from the existing framework.
- It is difficult to determine the full extent of impact to Council arising from some of the measures proposed within the Position Paper as specific detail is not provided for some of the proposed changes. Specific details and draft amendments to Environmental Planning Instruments should be the subject of further consultation.
- The proposed naming convention ('E') for the new zones is confusing and duplicates the environmental zones that are already in force (e.g. E1 National Parks, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living).
- It is critical that any proposed reforms also address issues relating to State Environmental Planning Policy (Sydney Region Growth Centres), rather than simply amending the Standard Instrument LEP.

1. REPORT

This report provides Council with an overview of the Department's Position Paper and supporting material for changes to the existing employment zone framework. It identifies the key issues for Council's consideration and recommends that Council makes a submission on the proposal.

The Position Paper and supporting material were publicly exhibited from 20 May 2021 to 30 June 2021. Given the magnitude of the reforms and potential implications, Council was granted an extension of time to make a submission on the package, in order to allow for the elected Council to consider the matter.

2. OVERVIEW OF PROPOSED REFORMS

a) Planning Reform Action Plan

In August 2020, the NSW Government announced the Planning Reform Action Plan, which seeks to cut red tape, reduce time and costs associated with the planning system and make the system more transparent and easier to use.

In response to the Planning Reform Action Plan and the preliminary investigations undertaken to date, the NSW Government is now introducing a suite of reforms the intent of which is to create jobs, boost industry confidence and stimulate the economy. These two (2) areas of reform include:

- **Complying Development Reform:** A program that seeks to expand the complying development scheme to fast-track development approvals, stimulate economic activity and encourage capital investment in employment zones. It is noted that Council previously considered a report on the complying development reforms on 11 May 2021 and resolved to make a submission to the Department. For reference, a copy of Council's submission is provided as Attachment 7.
- **Employment Zone Reform:** A program that is expected to condense and simplify the current employment zone framework (e.g. reforms to the existing industrial and business zones). The Employment Zone Reform package is the subject of this report.

While both projects are still in the early consultation stages, the Department is working towards an ambitious timeframe, with staged implementation of the proposed changes set to occur from late 2021 until mid-2022.

3. COUNCIL'S CURRENT EMPLOYMENT ZONE POLICY SETTINGS

Council has adopted and implemented a centres hierarchy that essentially classifies each centre based on its size, geographic area of influence and role and function in relation to other centres. Protecting and strengthening the hierarchy of centres through the LEP and land use permissibility is an important policy objective of Council, which is clearly articulated within Council's Productivity and Centres Strategy.

In particular, Council's Strategy states that the zoning of land should have regard to the following:

- *Continuation of zoned business land to communicate its role and current or intended land use, consistent with the hierarchy of centres.*
- *Allow for a diverse range of shopping uses in centre zones.*
- *There will be likely longer-term demand for specialised retail floor space by 2036.*
- *Reinforce the hierarchy of centres in decision making.*

Overall, there are a total of 26 land use zones currently applied across The Hills Shire under The Hills LEP and the Growth Centres SEPP. Within those 26 zones, employment zones apply to 741 hectares of land and consist of six (6) business zones and two (2) industrial zones:

- B1 Neighbourhood Centre;
- B2 Local Centre;
- B4 Mixed Use;
- B5 Business Development;
- B6 Enterprise Corridor;
- B7 Business Park;
- IN1 General Industrial; and
- IN2 Light Industrial.

The most widely utilised employment zone is the B7 Business Park zone, which currently comprises nearly 33% of employment zoned land (being the Norwest Business Park, Bella Vista Employment Area along Lexington Drive, Circa Commercial Precinct and the future Box Hill Business Park). This was followed by IN2 Light Industrial Zoned Land, comprising nearly 20% of employment zoned land.

The distribution of the existing employment zones is shown in the following figures.

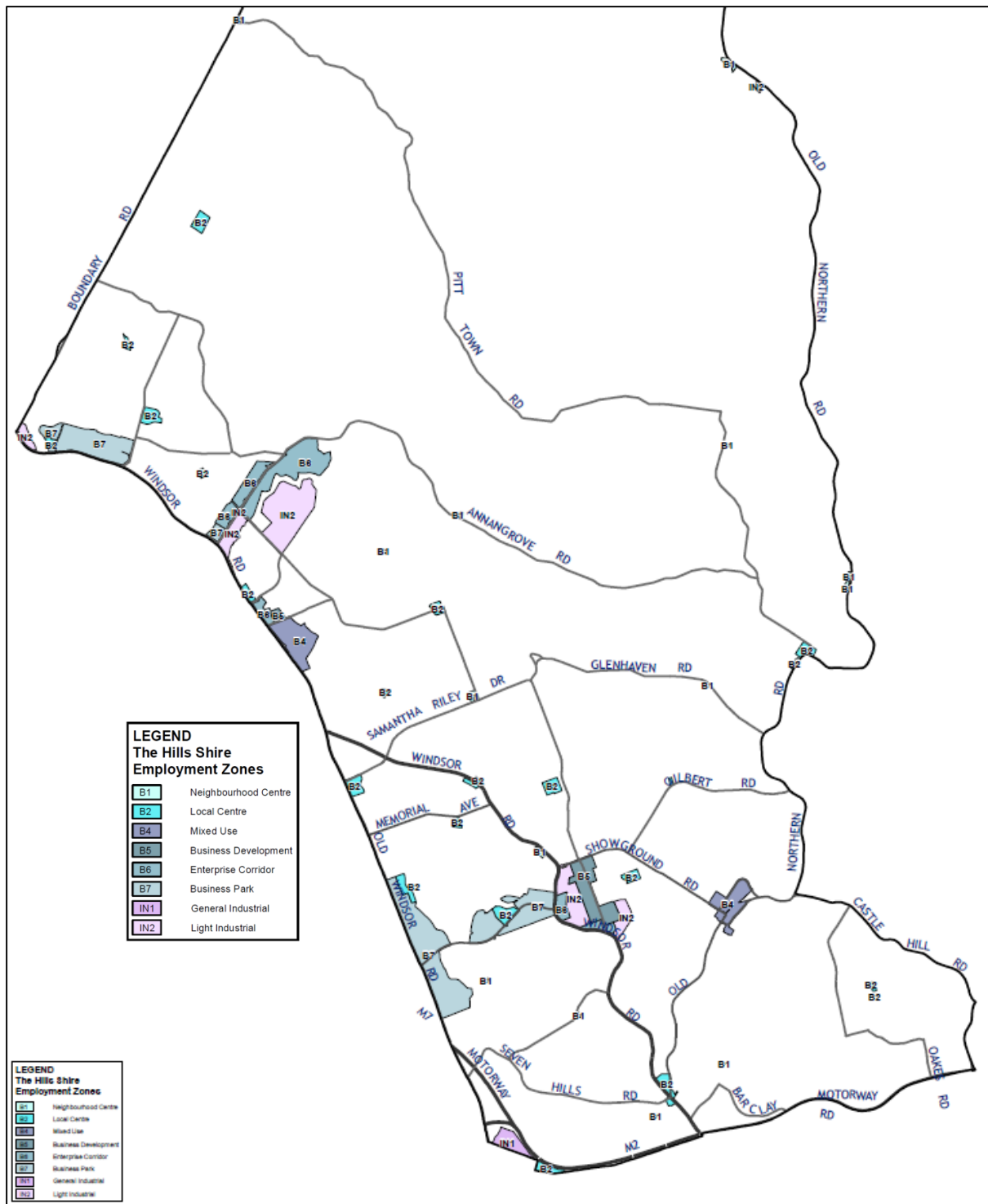


Figure 1
Map of Existing Employment Zones within The Hills Shire

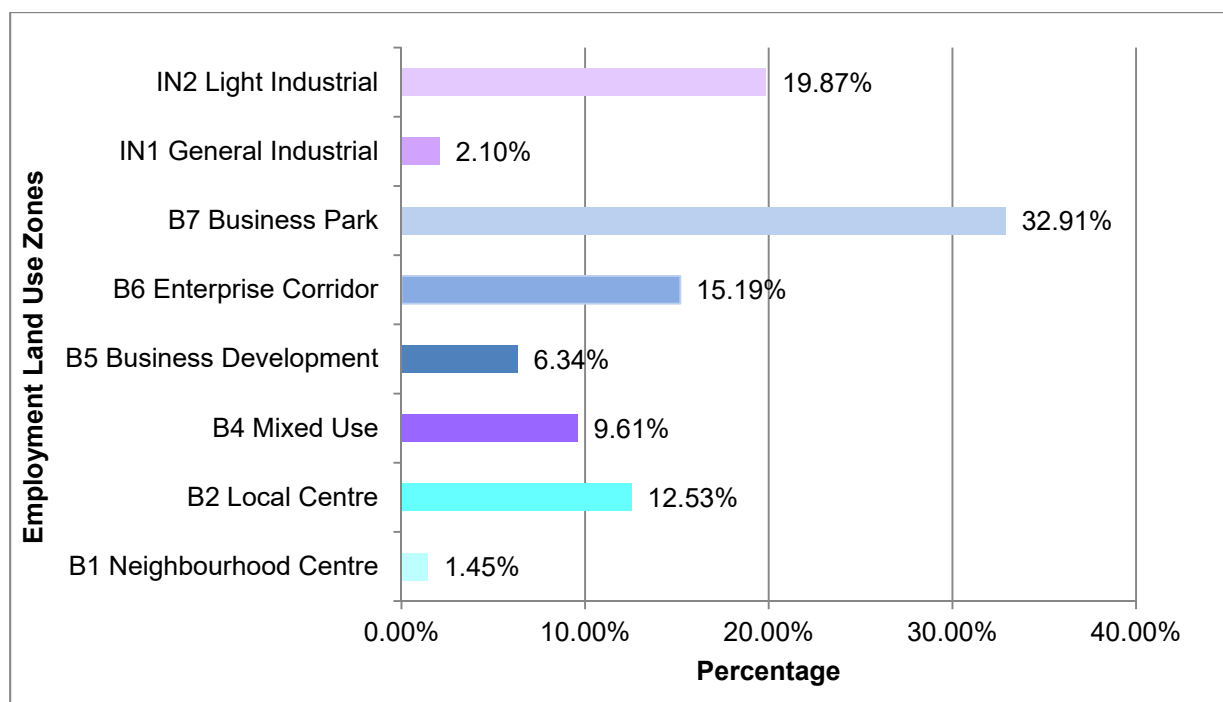


Figure 2
Breakdown of Existing Employment Zones

4. PROPOSED AMENDMENTS

The proposed employment zone reforms seek to:

- Condense the number of business and industrial zones to three (3) jobs-focussed ('business') zones and two (2) industrial zones;
- Provide three (3) supporting zones that capture land uses and locations that have a focus beyond jobs (mixed uses, local enterprise and waterways);
- Establish a clear strategic intent for each zone that builds on strategic work by the State Government and Councils over the past five (5) years;
- Mandate an additional 97 permitted uses within the employment zones;
- Encourage the retention of core retail uses in centres;
- Support urban services uses by providing a dedicated zone; and
- Update, amend and introduce new land use terms.

A copy of the Position Paper and the supporting attachments are provided as Attachments 1 - 5 to this report. The key amendments proposed are summarised below, along with comments on the proposed changes.

a) Proposed New Zone - E1 Local Centre Zone

Proposed Zone	E1 Local Centre
Existing Zones Replaced	B1 Neighbourhood Centre B2 Local Centre
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ Provides for a range of retail, business, entertainment and community uses that serve the needs of people who live, work or visit the local area. ▪ Supports a centre that is smaller than a Commercial Centre in the centre's hierarchy. ▪ Supports a scale of development that will vary from small-scale neighbourhood centres containing a handful of local shops to larger local centres. ▪ Residential uses will generally be in the form of shop-top housing and boarding houses.

Table 1
Proposed E1 Local Centre

Comments:

The proposed E1 Local Centre Zone essentially seeks to merge the existing B1 Neighbourhood Centre and B2 Local Centre Zones. It is anticipated that this zone may be applied to smaller strip retail and rural villages (such as Dural, Kenthurst and Glenorie), smaller town centres (such as North Kellyville, Box Hill, Box Hill North, Winston Hills and Wrights Road) and some portions of Precincts along the Sydney Metro Northwest line.

Concern is raised that the proposed amalgamation of these zones would remove an effective tool for managing a hierarchy of local centres and differentiating between different scales. Particularly given considerably more intense uses would be mandated as permissible uses, compared to the uses currently permitted within the B1 Neighbourhood Centre zone. The B1 zone is an effective policy setting that typically applies to smaller strip retail and rural villages (for example, Dural, Kenthurst and Glenorie), which have a very distinctive character, role and function when compared to more urbanised areas. These centres uphold an important role within the centres hierarchy, providing the 'day-to-day' needs for the local community. Maintaining the character of rural villages is a high priority in region, district and local plans and it is difficult to see how this proposed change would provide a better mechanism to deliver those outcomes.

The following comments are also raised regarding the proposed E1 Local Centre zone:

- It is noted that 'roads' are not listed as a mandated use within the proposed E1 Local Centre Zone. Further clarification is needed on why this has occurred.
- Given the proposed reforms seek to provide increased flexibility, concern is raised that the reforms do not enable home businesses to occur without consent.
- Suitability of home industries within this zone is questioned, particularly given there are a limited range of proposed residential uses (e.g. shop top housing, boarding houses etc.). It is understood that Council will have discretion to tailor the permissible land uses, particularly in regards to the extent of residential land uses that are permissible (or alternatively prohibited). It is critical that discretion be enabled to ensure that land uses are compatible within each other and with the strategic intent of the zone, particularly given the unique local characteristics within The Hills Shire.

- The proposed reforms seek to mandate ‘oyster aquaculture’ and ‘tank-based aquaculture’. Concern is raised with the inclusion of these uses within the E1 Local Centre Zone (along with the other proposed employment zones), as they are generally better suited to designated environmental or agricultural zones (where they are already permitted under the Standard Instrument), rather than in local centres where amenity impacts are more likely.
- Concern is raised with the inclusion of ‘entertainment facilities’ and ‘function centres’ within neighbourhood centres, as these are typically quite large in size and often associated with significant traffic generation and noise impacts that would be more difficult to manage (particularly in areas such as Dural, Kenthurst and Glenorie).
- Suitability of large scale ‘car parks’ within neighbourhood centres is questioned. As these centres aim to be highly walkable with a high level of connectivity and amenity to the surrounding local community, there should be a greater focus on improving road and footpath environments rather than simply mandating car parks as permissible in these areas.

Whilst the proposed zone objectives seek to ensure development is compatible, mandating potentially incompatible uses such as vehicle body repair workshops, the full range of commercial premises, function centres, entertainment facilities, and the full suite of tourist and visitor accommodation creates an expectation for business and industry that is unlikely to be achievable once community consultation occurs and the merits of individual proposals are properly assessed.

Mandating permissible uses in a zone that are, practically, unlikely to be approvable or appropriate through the development assessment process will not foster confidence in the planning system as this would result in considerable intervention during the development assessment process to appropriately avoid and manage potential conflicts. More consideration and guidance is needed on how it is intended to manage scale and amenity issues in low density and rural areas, particularly for land currently zoned B1 Neighbourhood Centre within The Hills Shire.

b) Proposed New Zone - E2 Commercial Centre Zone

Proposed Zone	E2 Commercial Centre
Existing Zones Replaced	B3 Commercial Core B2 Local Centres (larger) B4 Mixed Use (partly) B7 Business Park
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ <i>Provides for large-scale commercial, retail, business and compatible associated uses like community uses, recreational and health care services.</i> ▪ <i>Emphasises a centre’s business and employment focus.</i> ▪ <i>Supports council community facilities to create a central community hub (e.g. with main libraries, community and cultural facilities and council offices).</i> ▪ <i>Supports an area’s night-time economy.</i> ▪ <i>Avoids mandating residential uses although higher density residential may be appropriate in some areas so long as the primary employment focus is preserved.</i>

Table 2

Proposed E2 Commercial Centre

Comments:

The intended role of this zone is to emphasise a centre’s business and employment focus, essentially replacing the B3 Commercial Core, larger B2 Local Centres, some B4 Mixed Use areas and the B7 Business Park zones. It is anticipated this zone would be the most appropriate translation for the Shire’s three (3) strategic centres (being Norwest, Castle Hill and Rouse Hill) which are currently zoned B4 Mixed Use and B7 Business Park under The Hills LEP.

This proposed zoning would uphold an integral role in enabling Council’s Strategic Centres to reach their full potential as employment hubs, particularly for Rouse Hill and Castle Hill that have traditionally been renowned for their predominately retail focus. The structure plans for these centres presented within Council’s Local Strategic Planning Statement (LSPS) had envisaged similar outcomes and signalled the potential for designated commercial cores within these areas (as shown in the figures below). The Central City District Plan and Council’s LSPS both recognise that the designation of a commercial core may be necessary to manage the impact of residential developments and encouraging commercial activity within strategic centres.

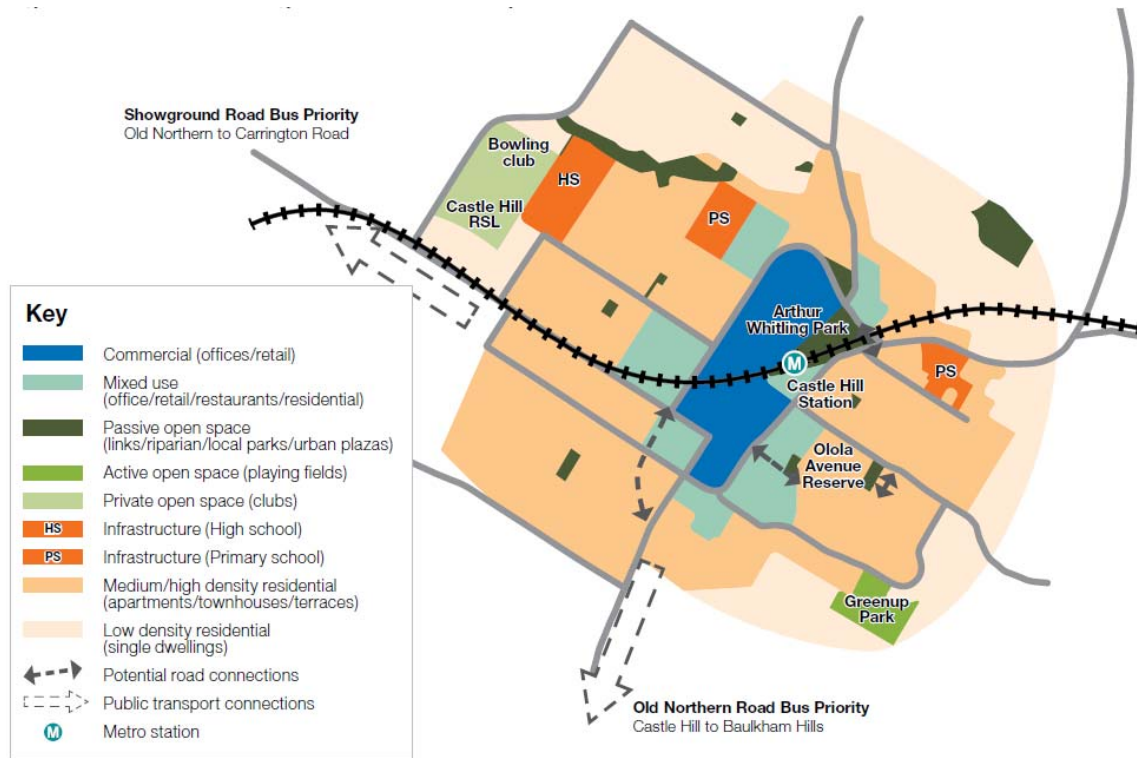


Figure 3
Castle Hill Strategic Centre Structure Plan – Hills Future 2036

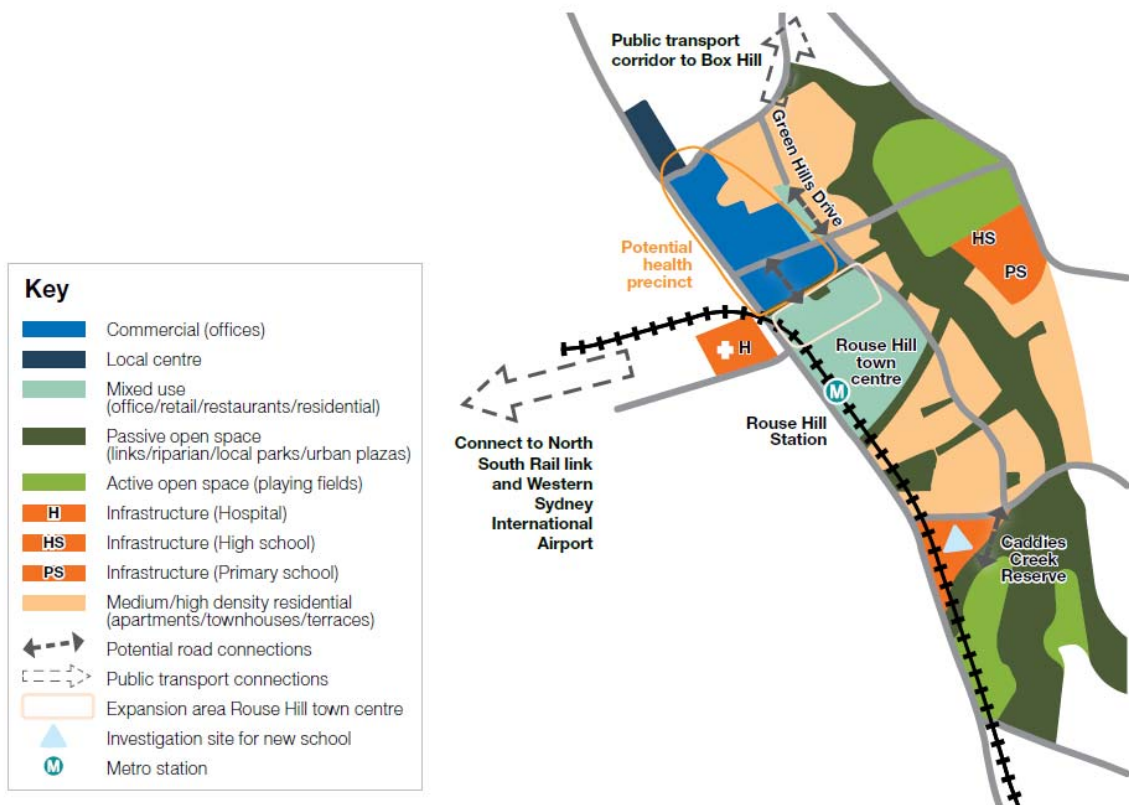


Figure 4
Rouse Hill Strategic Centre Structure Plan – Hills Future 2036

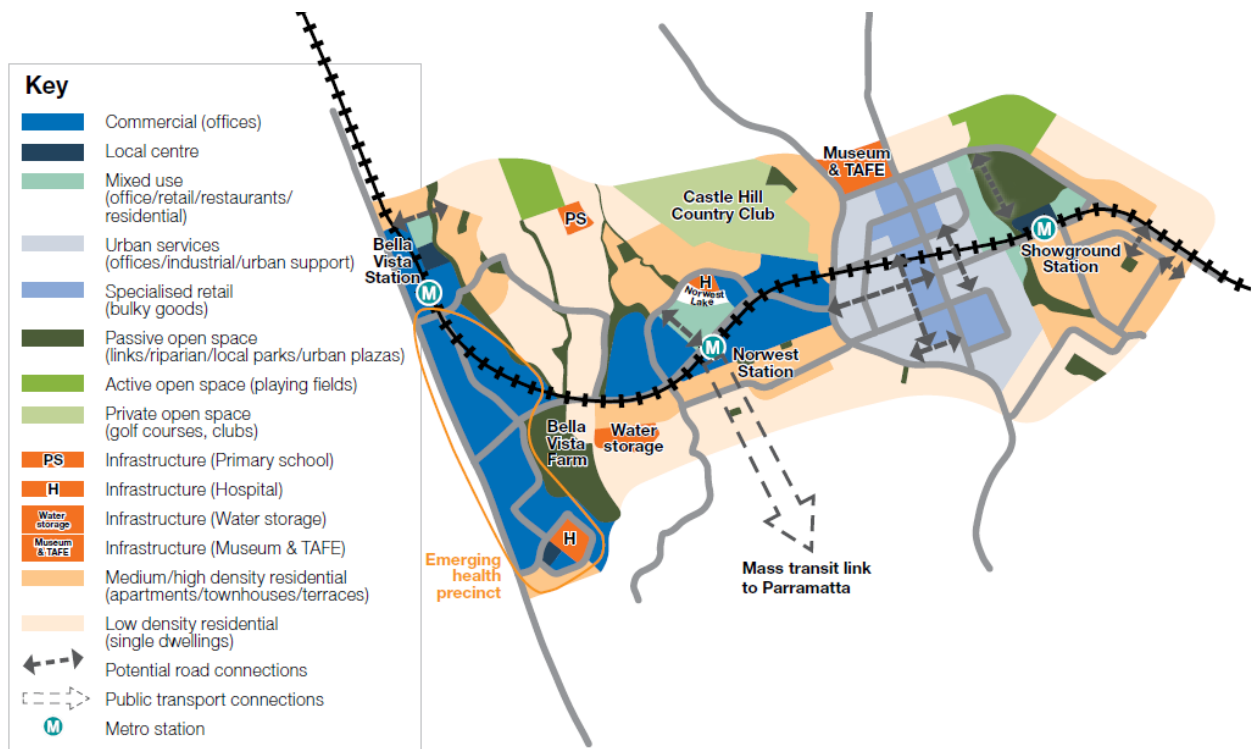


Figure 5
Norwest Strategic Centre Structure Plan – Hills Future 2036

Of particular note, this zone could replace the existing B7 Business Park zone that currently applies to Norwest Business Park (being a major component of the Norwest Strategic Centre). The B7 Business Park Zone has been an effective tool used by Council to protect land for higher order employment and office uses. Norwest is one of nine (9) commercial office precincts identified in the Greater Sydney Region Plan and is targeted to deliver more than 20,000 additional jobs by 2036, second only to Parramatta in the Central City District. Concern is raised that the proposed new zone may not be sufficient to enable the Norwest Strategic Centre to realise its full potential and attract the types of knowledge intensive and innovative industries needed to transform the business park to the intended major employment precinct for the rapidly growing North West Region.

At face-value, the name and objectives of the proposed zone would appear to encourage job growth and economic activity. However, concern is raised that the predominance of permitted retail uses would crowd out commercial/office outcomes within key employment areas. The wide range of proposed mandated retail uses poses a significant risk in enabling the Norwest Strategic Centre to fulfil its role within the centres hierarchy as a commercial office precinct (or strategic centre). This could also decrease the viability and desirability of future commercial investments within Norwest. While it is acknowledged that the changing retail landscape and market may ultimately determine the likelihood of retail opportunities being taken up, it remains critical that prime employment land is safeguarded for solely commercial outcomes, in order to enable centres to achieve the job targets set within the Central City District Plan.

The Department has also exhibited various optional objectives that Council may wish to include within The Hills LEP, including the following:

- **Option 1:** *To encourage employment opportunities and business investment;*
- **Option 2:** *To encourage employment opportunities and business investment in the regional centre;*
- **Option 3:** *To encourage employment opportunities and business investment in the Strategic Centre.*

The inclusion of these optional objectives is supported in principle, as they will reiterate that employment growth is the principle underlying land use and economic goal within these areas. However, the exact wording will be contingent upon where the zone is applied. It is considered that the wording of these objectives could be strengthened to enable the specific role and focus of a centre to be more accurately communicated.

The following concerns are also raised with the proposed E2 Commercial Centre Zone:

- The inclusion of the group term 'tourist and visitor accommodation' could undermine the overarching objectives of the commercial core. By way of example, backpackers' accommodation would not be suitable within a business park setting and may ultimately limit the centre's competitiveness. It may also be appropriate to mandate additional LEP measures for serviced apartments to ensure that commercial outcomes within the zone are not compromised, as detailed within Council's LSPS.
- Concern is raised with the inclusion of aquaculture land uses as permitted, which are better suited for agricultural or environmental zoned areas.
- Mandating home industries as permitted within this zone is questioned, given residential accommodation is not proposed to be permitted within the zone.

c) Proposed New Zone - E3 Productivity Support Zone

Proposed Zone	E3 Productivity Support
Existing Zones Replaced	B5 Business Development B6 Enterprise Corridor B7 Business Park (partly) IN2 Light Industrial (where not functioning as traditional industrial precincts)
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ <i>Allows for a mix of services, low impact industry, creative industry, manufacturing, warehousing, office and limited supporting retail.</i> ▪ <i>Suits locations near catalyst development (such as health and education) to support those uses through development such as a larger campus style business park.</i> ▪ <i>Suits emerging and new industries that need larger floorplates.</i> ▪ <i>Limits retail to uses requiring larger lots/floorplates (e.g. specialised retail premises), or that meets workers' or businesses' daily needs, or that sells products manufactured on site.</i>

Table 3

Proposed E3 Productivity Support

Comments:

The proposed E3 Productivity Support zone has been designed to replace the B5 Business Development, B6 Enterprise Corridor and some B7 Business Park zones. It is envisaged that this new zone would be the logical translation for some areas within the Annangrove Road Employment Area and Castle Hill Employment Area, where higher order employment outcomes are anticipated.

It is recognised within Council's Productivity and Centres Strategy that increased flexibility is needed for light industrial areas. However, it is critical that this is coupled with appropriate policy settings to ensure the continuation and growth of urban support functions can be effectively managed. Council's existing zones uphold an integral role in the centres hierarchy, each performing a unique role and function. The B5 Business Development zone has proved a useful and simple tool for clustering of specialised retail, which are typically located in highly visible areas and are easily accessible for shoppers. The B6 Business Enterprise zone has typically been applied to broaden the type of land uses to include additional commercial opportunities (generally featuring a higher density built form).

It is acknowledged that the range of uses and flexibility will have some benefits for start-up businesses as it will enhance accessibility to premises that have lower entry costs. However, it is unclear how each of these unique characteristics will be translated (or enforced) under the proposed reforms, particularly given the proposed zones are highly flexible.

Further clarification is also sought on how the Department intends to strike an appropriate balance between low-impact urban support uses (e.g. offices, warehouses, childcare centres, storage facilities) and higher impact uses (e.g. vehicle repairs, depots and recreational facilities), with both types being critical to meeting the needs of a growing residential population within the Shire.

Expanding the employment zone framework to permit these uses more widely is likely to pose a significant issue when managing land use conflicts, particularly for larger developments in close proximity to more sensitive areas. It is considered that some of these uses are better suited to bespoke or more industrialised zones that are tailored to meet these needs and safeguarded against land use conflicts. The strategic planning framework is clear on its overarching objective to retain and manage valuable industrial and urban services

land, striving to ensure that these areas are well located close to where people live, whilst simultaneously managing amenity impacts.

Given there has been an increased demand for industrial and urban services land to be converted to residential or retail uses, concern is raised with the proposed expansion of land uses within this zone (especially for aquaculture, animal boarding and training establishments, rural supplies, function centres, depots and major recreational facilities). Careful consideration needs to be given to the impact of permitting a greater number of land uses in these areas as the permissibility of some uses will ultimately increase underlying land values to the point where other uses are unlikely to remain feasible (despite being permitted). This is a particular issue in considering the appropriate conversion of some areas currently zoned B6 Enterprise Corridor which have a unique role and function of accommodating urban support services and the risks of applying the proposed E3 zone to this land.

Further clarification is required on how the Department intends to protect the viability for these uses to occur over time, particularly as the demand for these uses increases as a result of rapid population growth. This is also an action of Council's Productivity and Centre Strategy and will be a key consideration as precinct planning progresses for strategic centres (specifically Norwest).

d) Proposed New Zone - E4 General Industrial Zone

Proposed Zone	E4 General Industrial
Existing Zones Replaced	IN1 General Industrial IN2 Light Industrial
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ <i>Primarily accommodates light and general industrial uses and warehousing uses.</i> ▪ <i>Allows for infrastructure and utilities</i> ▪ <i>Limits general retailing to meet workers' daily needs or to sell products manufactured on site</i> ▪ <i>Does not support residential uses</i>

Table 4

Proposed E4 General Industrial

Comments:

The Position Paper indicates that this zone generally replaces the IN1 General Industrial and IN2 Light Industrial zones, and is designed to accommodate light and general industrial uses and warehousing uses. It is envisaged that this could be applied to most existing industrial zoned land within The Hills Shire, including parts of the Castle Hill Employment Area, Annangrove Road Employment Area, Box Hill Industrial Area and Glenorie.

It is imperative that prime industrial land within The Hills Shire is safeguarded from competing pressures, as these land uses often cannot compete with higher value land uses typically found in centres. This is particularly important near mixed use or residential areas, whereby there is often demand for these uses to encroach on prime industrial land and the viability of redevelopment tends to favour the 'highest and best use'. This ultimately pushes out certain uses which, despite being essential for urban support, may not be the highest and best use within the zone. Accordingly, the retention of dedicated industrial zones within the proposed framework is appropriate.

The following comments are raised on the proposed E4 General Industrial zone:

- It appears to allow for a reasonable level of flexibility for other uses to be added within The Hills LEP to cater for local circumstances (including food and drink premises, timber yards, vehicle sales or hire premises, registered clubs, service stations, veterinary hospitals and wholesale supplies, some sewerage systems uses, some community infrastructure uses, recreational facilities and environmental protection works).
- It is noted that 'hotel or motel accommodation' and 'serviced apartments' will no longer be permitted with consent in this zone, which is supported in principle as such uses are generally not compatible with industrial developments.
- It is also noted that heavy storage establishment uses will also not be permitted within this zone, which is supported in principle given these uses are better suited to the heavy industrial zone.
- Concern is raised that some uses that are more industrial in nature are better suited to this zone, rather than the proposed business focused zones (such as boat building and repair facilities, vehicle body and repair workshops, and vehicle repair stations, timber yards).
- The proposed reforms would also enable general industries in areas currently zoned for light industrial purposes.
- It is suggested that consideration be given to including 'self-storage units' as a permitted use within this zone. Council has experienced significant demand for these facilities in recent years, particularly within the Annangrove Road Employment Area.
- It is critical that potential land use conflicts are appropriately considered when mandating uses within this zone, particularly as they are often located near mixed use and well-established residential areas.
- When rezoning land to reflect the framework, it is prudent that there is a sufficient quantum of industrial and urban services land remains available within The Hills Shire. This is particularly important within the Castle Hill Employment Area, whereby these landholdings are integral in providing (and encouraging) specialised retail services for the residential population.

e) Proposed New Zone - E5 Heavy Industrial Zone

Proposed Zone	E5 Heavy Industrial
Existing Zones Replaced	IN3 Heavy Industrial IN1 General Industrial (partly)
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ <i>Primarily accommodates heavy industry (i.e. hazardous and offensive industry) and associated storage and depot</i> ▪ <i>Replaces IN3 Heavy Industrial Zone and potentially some IN1 General Industrial zones.</i> ▪ <i>Does not support residential or retail uses</i> ▪ <i>Excludes incompatible development to ensure the efficient and productive use of the land and its long-term viability as heavy industrial land.</i>

Table 5

E5 Heavy Industrial Zone

Comments:

It is understood that this is intended to replace IN3 Heavy Industrial zoned land, along with some IN1 General Industrial zoned land. It is noted that there is currently no IN3 Heavy Industrial zoned land within The Hills Shire. Under the proposed reforms, this zone would facilitate land uses such as some aquaculture uses, hazardous and offensive industries, data centres, general industries, some heavy industrial storage establishments, depots, warehouses and distribution centre, freight transport facilities, industrial training facilities and some signage.

Enabling industrial developments of this scale and intensity could have potential implications for the pocket of IN1 General Industrial zoned land adjoining Gibbon Road, Winston Hills (as shown in the figure below). Whilst this is located on the periphery of The Hills Shire, it directly adjoins residential areas within neighbouring Council areas and as such, could have detrimental impacts if more intense industrial uses were permitted under the reforms (as suggested within the proposed E5 Heavy Industrial Zone).



Figure 6
IN1 General Industrial zoned land in Winston Hills

These concerns are further exacerbated by the Department's recently exhibited complying development reforms ('Building Business Back Better'), which could potentially enable excessive developments to occur as complying development on industrial zoned land. By way of example, it could facilitate an industrial development of up to 50,000m² Gross Floor Area (GFA) with minimal (if any) community consultation.

Similar to the other land use zones, concern is raised from an environmental planning perspective regarding the inclusion of oyster aquaculture and tank based aquaculture within industrial zones (especially within a heavy industrial area). As detailed within the Position Paper, it is critical that hazardous and offensive land uses are clearly delineated to manage potential risks.

f) Proposed New Zone - MU Mixed Use Zone

Proposed Zone	MU – Mixed Use
Existing Zone	B4 Mixed Use B2 Local Centres (partly) B8 Metropolitan Centre (partly)
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ Supports a mix of residential, retail, light industry and tourist accommodation. ▪ Supports genuine mixed use development rather than one dominant use. ▪ Promotes and encourages activities at ground floor and on street fronts. ▪ Considers the role and purpose of mixed use relative to other commercial and high density residential zones within the LGA.

Table 6

Proposed MU Mixed Use Zone

Comments:

Genuine mixed use areas generally feature commercial or retail development that is co-located with apartment developments, providing a mix of uses close to busy, walkable areas. As detailed within the Department's Position Paper, there is significant place-making and productivity value in providing a 'true mixed use zone'.

This proposed zone is intended to generally replace the existing B4 Mixed Use zone, which is utilised within The Hills Shire to implement the role of strategic centres (Castle Hill and Rouse Hill) in the centres hierarchy. It mostly aligns with how the B4 Mixed Use zone has been applied in the Hills, with the addition of light industries, local distribution centres and the full range of tourist and visitor accommodation. The proposed objectives could better reflect the desired outcomes for strategic centres and also encourage a range of complementary uses including recreation, leisure, entertainment facilities and the night time economy.

The Department has also proposed three (3) optional objectives for this zone, including:

- **Option 1:** To provide a range of business, community, light industrial, retail and residential land uses;
- **Option 2:** To provide a range of retail, business, and community uses; and
- **Option 3:** To provide a range of business, community, retail and residential land uses.

It is recommended that Council opt-in on Option 2, which would provide more clarity regarding the types of developments within mixed use areas. While residential uses would be permitted, these should ultimately be in support of the vision for Council's mixed use centres and not at the expense of realising the core economic, employment and retail functions.

Concern is raised that a genuine mixed use vision is increasingly difficult to achieve in practice, especially given the use of the mixed use zone is increasingly changing over time and being used by developers to facilitate predominantly residential outcomes over business-focused development. By way of example, the Rouse Hill Strategic Centre is an existing mixed use (and largely undeveloped) area where employment growth is the principle underlying strategic goal. Despite this being emphasised within the strategic planning framework, Council has received major applications for predominately residential outcomes at the expense of key employment outcomes.

To combat these issues, rather than applying the Mixed Use zone broadly, it may be more appropriate to co-locate mixed use zoned land with commercial centre zoned land to enable these centres to reach their full potential. This will be a key consideration for Council and the Department as precinct planning progresses for strategic centres and throughout the implementation of the employment zone reforms moving forward. This is also signalled within the Rouse Hill Strategic Centre Structure Plan contained within Council's LSPS, as previously shown within Section 4 (b) of this report.

The following points regarding the MU Mixed Use zone are also raised for consideration:

- The proposed reforms seek to mandate light industries within this zone. It is questioned whether permitting both residential and industrial uses within the same zone is appropriate and concern is raised that it will detract from the overarching vision for the zone (being a true mixed use zone). It is requested that Council be afforded discretion to tailor the land uses within the zone depending on local circumstances and character and objectives of different centres where it may be applied.
- Similar to the E2 Commercial Centre Zone, concern is raised in regards to mandating the full range of 'tourist and visitor accommodation' land uses as permissible.
- It is acknowledged that the Department has indicated this zone could be applied to larger local centres. However, this should be carefully considered and approached with caution to ensure the centres hierarchy is protected (particularly in regards to the Baulkham Hills Town Centre).

g) Proposed New Zone - W4 Working Foreshore Zone

Proposed Zone	W4 – Working Foreshore
Existing Zone	IN4 Working Waterfront
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	▪ <i>Direct translation of IN4 Working Waterfront.</i>

Table 7

Proposed W4 Working Foreshore Zone

Comments:

The proposed W4 Working Foreshore is a direct translation of IN4 Working Waterfront. Given there is currently no IN4 working Waterfront zoned land within The Hills Shire this will have no impact.

h) Proposed New Zone - SP4 Local Enterprise Zone

Proposed Zone	SP4 – Local Enterprise
Existing Zone	N/A
Comparison of Permitted Land Use	Refer to Attachment 6
Strategic Intent	<ul style="list-style-type: none"> ▪ <i>Provides a future home for planned precinct processes, special activation precincts and regional jobs precincts should these areas and processes ever be brought across into the SI LEP.</i> ▪ <i>Recognises that these precincts and their proposed land use activities have a special purpose that cannot be accommodated in other zones. Investment in enterprise should be the core objective of the zone where the application of another zone is not appropriate.</i> ▪ <i>Application for limited existing developed or partially developed areas where development does not meet the strategic intent and/or objectives of any of the new zones (e.g. parts of the B8 Metropolitan Centre in the City of Sydney LGA or large planned commercial office parks).</i> ▪ <i>Offers flexibility for the planning authority to set uses within the land use table.</i> ▪ <i>Only applies in unique and predetermined circumstances subject to meeting strict established criteria and Department endorsement.</i>

Table 8

Proposed SP4 Local Enterprise

Comments:

The proposed Local Enterprise zone is designed to cater for planned precinct processes, special activation precincts and regional jobs. It is unclear whether the three (3) strategic centres would qualify for this zone given they are undergoing detailed Council-led precinct planning.

It is understood that this zone will offer flexibility for Council to set the prescribed land uses, subject to meeting a strict criteria and endorsement from the Department. However, it is difficult to determine how this proposed zone would work in practice (and understand the full implications for Council and the broader industry) given very limited detail has been provided. Unlike the other proposed zones, this zone has not been included within the Draft Amendment Order (provided as Attachment 2) to this report, as the Department is seeking further feedback on the strategic intent of this zone.

Whilst there are merits in providing a bespoke zone whereby Council has the flexibility to tailor the policy settings to meet the needs of the local area, Council officers are not in a position to provide meaningful or comprehensive feedback at this stage given the limited detail available within the exhibition package. Concern is also raised that Council will not have the opportunity to provide further comment on this zone given no further public exhibition periods are expected (as indicated within Attachment 5).

i) Land Use Definitions

The proposed reforms seek to amend, consolidate and introduce new land use definitions (as shown in the table below).

New Definitions	Amended Definitions	Consolidated Definitions* <i>(*Note: potential changes)</i>
<ul style="list-style-type: none"> ▪ Circular Economy Facility ('domestic goods repair and reuse facility') ▪ Creative Industry ▪ Data Centre 	<ul style="list-style-type: none"> ▪ Business Premises ▪ Crematorium ▪ Industrial Retail Outlet ▪ Kiosk ▪ Local Distribution Premises ▪ Neighbourhood Shop ▪ Shop-top Housing ▪ Warehouse or Distribution Centre 	<ul style="list-style-type: none"> ▪ Home Improvement Retail Premises ▪ Trades Retail Premises ▪ Storage and Distribution Premises ▪ Self-storage Units

Table 9
New, Amended and Consolidated Definitions

Whilst these definitions are generally supported in principle, concern is raised with the proposed application of these land uses within the Land Use Matrix (as previously discussed within this report). These terms should also be considered from an industry perspective to ensure they are easy to interpret and apply in practice.

j) General Comments

The following general comments are also raised on the proposed reforms:

- The proposed reforms also seek to enable build to rent housing (BTR) in areas where residential flat buildings are permitted, as well as in the areas currently zoned B3 Commercial Core, B4 Mixed Use and B8 Metropolitan Centre (once translated to their new respective zones). Allowing residential developments to encroach upon key employment areas may detract from employment generating opportunities and limit the centre's ability to develop into a thriving employment hub.
- Concern is raised that the Department is still in the midst of preparing a cost benefit analysis to examine zoning options and provide a baseline costing of the preferred approach. It is questioned why the suite of employment zone reforms was publicly exhibited (including draft amendments to the Standard Instrument LEP) without Government first holistically considering the potential impacts or providing stakeholders the opportunity to review and comment on the cost benefit analysis of the reforms.
- Further clarification is required on the other potential options being explored by Government, given only one option has been publicly exhibited at this time.
- Concern is raised that the proposed zones are not necessarily a direct translation from the existing zones. As such, there is a level of ambiguity in where the new zones should be applied. It is imperative that Councils are given input on the application of the zones to different areas, particularly given they have localised knowledge and an understanding of the challenges currently experienced within The Hills Shire.
- It is acknowledged that the Department is working to strict and ambitious timeframes to implement the proposed reforms. However it may not enable enough time for the community consultation outcomes to be meaningfully considered. Given the magnitude of the changes the proposed, complying with finalisation timeframes should not be given precedence over properly considering and resolving issues associated with the reforms.

- The proposed naming convention ('E') is confusing and duplicates the environmental zones that are already in force (e.g. E1 National Parks, E2 Environmental Conservation, E3 Environmental Management and E4 Environmental Living).
- Further consideration should be given to expanding the proposed toolkit to include communication and marketing advice that assists businesses in interpreting how the zones and land use definitions will apply to their businesses. It is critical that the toolkit provides resources for both councils and industries.

k) Implementation of Proposed Reforms

The Department's Position Paper on the proposed reforms acknowledges that the implementation is set to be a complex process given it will need to be tailored to each Local Government Area (LGA) and will include the following:

- Amend the Standard Instrument LEP Order (provided as Attachment 2 of this report);
- Update all Standard Instrument LEPs; and
- Amend any Environmental Planning Instrument that relies on the Standard Instrument Principal LEP either through land use tables, model provisions or dictionary will need to be amended.

Implementation of the proposed reforms is set to occur by way of a self-repealing SEPP, which is a document intended to amend an LEP and be removed from the legislation once complete. It is also intended to be staged across two (2) 'tranches' of Councils. This is further detailed within the Department's Implementation Plan provided as Attachment 3 of this report.

The Department have also indicated that they intend to hold briefing sessions with newly elected Councils to ensure that they are brought up to speed with the proposed reforms.

Concern is raised that Council will not have meaningful involvement in the initial drafting of the mapping and land use tables, particularly given the magnitude of the changes and potential implications for key employment areas within The Hills Shire. Rather they will simply have the opportunity to comment on the draft versions once prepared by the Department.

Application to Growth Centres

It is critical that the proposed reforms also have regard for Growth Centres precincts where the zoning is prescribed under the *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*. Definitions and group terms under the State Policy, whilst based on an early version of the Standard Instrument, have not been updated by Government each time changes have been made to the Standard Instrument. This lack of clarity is causing challenges and uncertainty for local business and impacting on the delivery of jobs and economic activity, as there are different and conflicting land use planning frameworks applying to land within the Shire. To ensure greater consistency in the application of zones, there is a need to reconcile definitions and permissible land uses across the two instruments in addition to considering how the growth centres employment zones translate to the new framework. Whilst this has already been raised informally from a Council officer perspective, it is recommended that these concerns be reiterated as part of a formal submission on the proposed reforms.

Implications for Existing Planning Proposals and Development Applications

It is understood that savings and transitional arrangements will be prepared by the Department. In regards to planning proposals, the Department has advised they will work with Councils (and Proponents if required) to translate the existing zones to reflect the proposed framework.

Implications for Infrastructure Planning

Council’s infrastructure planning has been undertaken based on the parameters of the existing employment zone framework (based on permissible uses and the likely development yields to occur within those zonings). Consideration should be given to how the proposed reforms may impact on the overall scale and density of development within areas and the subsequent infrastructure demand and provision implications. For example, in the Annangrove Road Employment Area, infrastructure demand has been calculated based on expected traffic generation land uses currently permitted within the precinct. Substantially increasing permissible uses may impact these types of assumptions and potentially result in an under-provision of infrastructure within an area, especially in areas which are part way through their development horizon.

I) Next Steps for Council

Whilst it is acknowledged that there are merits in revisiting the employment zone framework, it will undoubtedly be a significant administrative burden for Council in the short to medium term, particularly during the initial transition phases. In preparation of the proposed changes, Council will need to review land use permissibility within centres. It may also be necessary to initiate Council-led planning proposals to ensure employment areas continue to achieve Council’s strategic vision for The Hills Shire moving forward. This may encompass the inclusion of additional local clauses or additional permitted uses (or prohibition of uses).

Given the increased flexibility proposed under the reforms, Council may also wish to initiate amendments to The Hills Development Control Plan 2012, to provide further guidance and certainty on development outcomes that should be provided in specific areas. Whilst the DCP (along with Council’s LSPS and supporting strategies) does not share the same statutory weight as the LEP or equivalent environmental planning instruments, it comprises important policy settings that guide future development within The Hills Shire.

A summary of the next steps for Council is shown in the following figure. It should be noted that this is based upon the “Tranche 1” timelines. Should Council fall within “Tranche 2”, this would slightly delay the steps by 1-2 months.



Figure 7
Indicative Next Steps for Council

IMPACTS**Financial**

Whilst the exact financial impacts are difficult to quantify at the current time, the proposed reforms will result in additional administrative costs to Council and would require additional resources from Council staff in the short to medium term to implement the changes and then rectify any issues which may arise as a result (through further planning proposals or DCP amendments).

Strategic Plan - Hills Future

The stated objective of the proposed complying development reforms is to simplify the employment zone framework and boost productivity within NSW. The formulation of a submission will ensure that the community is effectively represented, governed and managed at all levels of government, and that there is input into new legislation that affects local areas.

RECOMMENDATION

1. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Employment Land Zone Reforms, in accordance with the comments contained within this report.
2. Council 'opt-in' on the optional objectives for the proposed E2 Commercial Centre and MU Mixed Use zones, as detailed within this report.
3. Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

ATTACHMENTS

1. Position Paper – Employment Land Zone Reforms (34 pages)
2. Draft Standard Instrument Principal LEP Amendment Order (10 pages)
3. Employment Zones Implementation Plan (11 pages)
4. FAQ – Community (2 pages)
5. FAQ – Stakeholders and Local Government (3 pages)
6. Comparison of Proposed and Existing Land Use Matrix (4 pages)
7. Comply Development Reforms – Council Submission (27 pages)



Planning Reform

Proposed Employment Zones Framework

Position Paper

May 2021



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Introduction

This position paper and legislative outline propose a new employment zones framework for NSW that will:

- 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.

The proposed framework responds to various trends, exacerbated by the COVID-19 pandemic, including the growth of online retail, reliance on freight and logistics, the importance of local centres, flexible working arrangements and the continued rise of multi-use businesses and the experience economy.

The proposed framework aims to better align to the way cities and regions are evolving. It includes:

- three jobs-focused zones and two industrial zones (down from 12 currently)
- three supporting zones that capture land uses and locations that have a focus beyond jobs (mixed uses, local enterprise and waterways)
- A clear strategic intent for each zone that builds on strategic work by the State and councils over the past five years
- Across the proposed employment zones framework an additional 97 mandated permitted uses from what is currently mandated.
- the retention of core retail uses in centres
- support for urban services uses by providing a dedicated zone
- three new land use terms and an update to six existing terms to meet contemporary needs.

Detail on the new framework as well as the rationale and evidence base are outlined in the following sections.

We welcome your feedback on the proposed framework as we seek to improve the NSW planning system for all.

Background

What is an employment zone?

An employment zone is a zone in which the primary objective is to promote employment-generating activities.

Other zones including the rural, special purpose and residential zones, may permit employment generating activities as secondary to their primary objectives. This position paper focuses on the current B and IN zones, as well as a review of the application of the RU5 Village zone in regional areas, as the RU5 often operates as an employment zone. No change is proposed to the RU5 zone.

The Department of Planning, Industry and Environment (the Department) is reforming the employment focused zones under *Standard Instrument Principal Local Environmental Plan (2006)* (SI LEP). The SI LEP currently includes eight business (B) zones and four industrial (IN) zones.

This reform was announced as part of the NSW Budget in November 2020, and builds on ongoing work by the Department, reviews by both the Australian and NSW productivity commissions and broader planning reforms to support economic growth and productivity.

Changes to cities and regions and businesses

Since the SI LEP was prepared 15 years ago, it has not been subject to significant review despite changes to planning processes, business operations, technology and how cities and regions function. Emerging businesses blur historically distinct land uses and technological improvements reduce traditional land use conflicts.

Online retailing, advanced and small-scale manufacturing and the growth of dense, mixed use centres have fundamentally reshaped the planning for centres and industrial precincts.

The need for flexibility

Within the context of changing employment functions and land uses, the framework for managing employment land uses must be flexible and able to respond to unexpected challenges – such as the COVID-19 pandemic and subsequent job losses and economic contraction.

The NSW planning system needs to be ready to support business adaptation, especially to support continued productivity, investment and community wellbeing in difficult times.

The proposed employment zones framework is one of several planning reforms – more information on these is available [here](#).

Inconsistent application of zone

The SI LEP was introduced with a practice note that gave some direction on the intended application of each zone. Since then, the rationale for how zones were applied and how they were adapted within individual LEPs is such that any clarity around the strategic intent of the zones has been lost. Upfront engagement with stakeholders and councils identified that inconsistent application of the zones across LEPs is an issue.

Differences between centres and precincts across NSW are recognised; this reform aims to continue the existing SI LEP requirements to achieve place-based needs however there are gains from having greater consistency in how and where a certain zone is applied. The proposed framework sets out clear strategic intent to support the interpretation of the strategic vision for a particular area.

This will bring consistency, making it easier for industry to navigate different LEPs, and providing a clear market signal to support short-and long-term investment and development. This should also help facilitate complying development, a faster assessment pathway.

Further, the proposed employment zones framework can support the direction set in State and local strategic planning, which sets the future vision for centres, precincts, cities and regions.

The new framework is expected to be introduced through an amendment to the SI Principal LEP Order by September 2021, which will then be incorporated into updated SI LEPs by mid-2022.

Developing the new framework

The proposed framework is informed by the best available evidence, data, knowledge and information.

We commenced with a **review of past policy** and previous employment lands initiatives in the retail and industrial sector, including:

- *Planning for the Future of Retail* – Discussion Paper (2018)
- Retail Expert Advisory Committee (REAC) – Independent Report (2016)
- *A New Planning System for New South Wales – Green Paper* (2012)
- *A New Planning System for New South Wales – White Paper* (2013)
- *White Paper Feedback Report* (2013)
- SI LEP establishment and subsequent evolution (2006 – present)
- thought leadership and research from the Greater Sydney Commission.

We commissioned **background analysis** to gain an insight on new and emerging industries. This work covered:

- the role, function and operation of the B6 Enterprise Corridor zone, including its intent, application, issues and potential inefficiencies
- the needs of workers in out-of-centre developments, including the policy context of complementary land uses, the type of land uses needed to support workers and any issues related to permitting additional worker support focused land uses
- how creative industries are accommodated in the NSW planning framework, where and how creative industries are located and any current inefficiencies
- the role, function and operation of the B4 Mixed Use zone
- how the current operation of the RU5 Village zone might inform whether rural zones should be captured as part of this reform (given the zone is working effectively no changes are proposed).

We **reviewed all local strategies** relating to business and industrial zoned land, including local strategic planning statements, employment land strategies and centres strategies. This captured the strategic direction set out by each council.

We also audited all LEPs established under the SI LEP to understand which business and industrial zones are used and the land uses permitted in the zones.

We commenced an **extensive consultation process in late 2020** that included a webinar to launch the reforms, as well as online surveys and workshops for councils and meetings with other stakeholders.

We received responses from 30 metropolitan and 67 regional councils to the survey, which sought an initial understanding how the employment zones work in each local government area and the status of local strategic planning and LEP reviews. These findings informed council workshops in early 2021. Appendix B details the findings of the workshops.

We provided a preliminary framework paper that detailed the likely policy direction and allowed council officers to provide input prior to public exhibition. 40 officers provided valuable feedback. We have incorporated aspects of that feedback into the proposed framework, other comments will be reviewed alongside broader submissions on this position paper.

We met with relevant State agencies, and key peak and industry groups to understand the specific issues of each group. Peak and industry groups included the Planning Institute of Australia, Urban Development Institute of Australia, Urban Taskforce, Shopping Centre Council of Australia, Local Government NSW, Large Format Retail Association, Australian Retailers Association, Advanced Manufacturing and Cement Concrete Aggregates Australia.

A full list of all groups is held at Appendix B.

An **Expert Advisory Group** gives us high-level independent advice and expertise on emerging trends in commercial, creative, retail and industrial business, employment lands (metropolitan and regional), domestic and global logistics, economics and land use planning.

Group members are:

- Alice Thompson, CEO, Committee for the Hunter
- Richard Pearson, Director, Pearson Planning Solutions
- Kate Murray, Director, Kingfisher & Co
- Marcus Spiller, Principal & Partner, SGS Economics and Planning
- Gary Mortimer, Professor, Queensland University of Technology Business School

This Group also contributes and advises on the evidence base and provides a sounding board to explore ideas and capture data and approaches.

Ongoing work

A cost benefit analysis is underway to examine zoning options and provide a baseline costing of our preferred approach. A social impact assessment is examining the social impacts of the proposed employment zones framework.

The final framework will be informed by this work.

Findings of the LEP review

A review of LEPs across NSW revealed the following finding:

- The restricted number of permissible land uses in the B1 zone inhibits the evolution of centres. Density controls will continue to manage the scale of development; however, businesses should be able to deliver business types to meet community expectations.
- Councils interchangeably use B3 and B4 in strategic and regional centres. The supremacy of a commercial centre and its importance for supporting jobs is not clear across LEPs.
- The B4 zone, while applied differently, predominantly operates as a residential rather than business zone. There is place-making and productivity value in providing a true mixed use zone in a contemporary zoning framework.
- B5 and B6 are largely applied uniformly. The purpose of B6 is unclear, lacking in strategic clarity. Land use activities commonly found in areas zoned B6 are generally classified as urban support or mixed use.
- There is no clear home for urban services land uses in the existing zones framework. Urban services are critical to a sustainable and well-functioning city. These uses typically cannot compete with higher value land uses commonly found in centres.
- Industrial lands have a critical value to cities and regions. Industrial land should be defined and separated from other higher value or sensitive land uses so industrial activities are not impacted operationally or available land eroded.
- Hazardous and offensive land uses need to be clearly delineated to adequately manage significant risks.
- 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.

Utilisation of existing zones across NSW SI LEPs

Business

- Only 5% of LEPs utilise all available business zones.
- 52% of LEPs use fewer than 3 business zones.
- 43% use between 4 – 6 business zones
- Only 39% of strategic or regional centres have a B3 zoning

Industrial

- 11% of LEPs have no industrial zones
 - 33% use 1 industrial zone
 - 44% use 2 industrial zones
 - 11% use 3 industrial zones
 - Only 2% of LEPs use all industrial zones
-

Proposed employment zones framework

The proposed framework is an entirely new employment zones framework rather than a collapsing or combining of current zones.

Five new employment zones are proposed:

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- E4 General Industrial
- E5 Heavy Industrial¹

The Local Centre and Commercial Centre zones represent zoning for centres; the General Industrial and Heavy Industrial are the key industrial zones; and Urban Support provides a transition between the centres and industrial zones.

To accommodate land uses in existing B or IN zones that are not primarily productivity related, **two further zones are proposed:**

- MU Mixed Use
- W4 Working Foreshore

The MU Mixed Use zone is generally used where a range of land uses are to be encouraged.

To introduce a flexible mechanism to allow for bespoke planning for unique precincts **a new Special Purpose zone is proposed:**

- SP4 Local Enterprise

Introducing the SP4 Local Enterprise zone recognises that certain precincts and their proposed land use activities are unique and cannot be accommodated in another proposed zone. The SP4 zone will allow a planning authority to set the land use table.

The W4 Working Foreshore zone is a direct translation of the IN4 Working Waterfront yet due to the alignment of land uses and land application, is better grouped with waterways zones.

Strategic intent

Local Centre zone

- Provides for a range of retail, business, entertainment and community uses that serve the needs of people who live, work or visit the local area.
- Supports a centre that is smaller than a Commercial Centre in the centre's hierarchy.
- Fundamentally replaces B1 Neighbourhood Centre and most B2 Local Centres.
- Supports a scale of development that will vary from small-scale neighbourhood centres containing a handful of shops to larger local centres.
- Residential uses will generally be in the form of shop-top housing and boarding houses.

Commercial Centre zone

- Provides for large-scale commercial, retail, business and compatible associated uses like community uses, recreational and health care services.

¹ There may be consequential amendments to the naming of other SI LEP zones that follows from this reform.

- Essentially replaces B3 Commercial Core, could extend to larger B2 Local Centres and some B4 Mixed Use where there is a focus on jobs, and may be appropriate for B7 Business Park areas.
- Emphasises a centre's business and employment focus.
- Supports council community facilities to create a central community hub (e.g. with main libraries, community and cultural facilities and council offices).
- Supports an area's night-time economy.
- Avoids mandating residential uses although higher density residential may be appropriate in some areas so long as the primary employment focus is preserved.

Productivity Support zone

- Allows for a mix of services, low impact industry, creative industry, manufacturing, warehousing, office and limited supporting retail.
- Essentially replaces B5 Business Development, B6 Enterprise Corridor, some B7 Business Parks and in exceptional circumstances limited areas of IN2 Light Industrial zones that no longer function as traditional industrial precincts.
- Suits locations near catalyst development (such as health and education) to support those uses through development such as a larger campus style business park.
- Suits emerging and new industries that need larger floorplates.
- Limits retail to uses requiring larger lots/floorplates (e.g. specialised retail premises), or that meets workers' or businesses' daily needs, or that sells products manufactured on site.
- Generally does not support residential uses.

General Industrial zone

- Primarily accommodates light and general industrial uses and warehousing uses.
- Allows for infrastructure and utilities.
- Generally replaces IN1 General Industrial and IN2 Light Industrial zones.
- Limits general retailing to meet workers' daily needs or to sell products manufactured on site.
- Does not support residential uses.

Heavy Industrial zone

- Primarily accommodates heavy industry (i.e. hazardous and offensive industry) and associated storage and depot.
- Allows for infrastructure and utilities.
- Replaces IN3 Heavy Industrial zone and potentially some IN1 General Industrial zones.
- Does not support residential or retail uses.
- Excludes incompatible development to ensure the efficient and productive use of the land and its long-term viability as heavy industrial land.

MU – Mixed Use zone

- Supports a mix of residential, retail, light industry and tourist accommodation.
- Supports genuine mixed use development rather than one dominant use.
- Replaces B4 Mixed Use, some B2 Local Centres and potentially B8 Metropolitan Centre.
- Promotes and encourages activities at ground floor and on street fronts.

- Considers the role and purpose of mixed use relative to other commercial and high density residential zones within the local government area.

W4 Working Foreshore zone

The W4 Working Foreshore zone is a direct translation of IN4 Working Waterfront. Land to which this zone applies has more in common with the zone grouping of waterways than it does to employment zones.

SP4 – Local Enterprise zone²

- Provides a future home for planned precinct processes, special activation precincts and regional jobs precincts should these areas and processes ever be brought across into the SI LEP.
- Recognises that these precincts and their proposed land use activities have a special purpose that cannot be accommodated in other zones. Investment in enterprise should be the core objective of the zone where the application of another zone is not appropriate.
- Application for limited existing developed or partially developed areas where development does not meet the strategic intent and/or objectives of any of the new zones (e.g. parts of the B8 Metropolitan Centre in the City of Sydney LGA or large planned commercial office parks).
- Offers flexibility for the planning authority to set uses within the land use table.
- Only applies in unique and predetermined circumstances subject to meeting strict established criteria and Department endorsement.
- Wide use not expected at the commencement of the new framework.

How will the SP4 Local Enterprise zone work

The proposed new Special Purpose zone is an endeavour to introduce a flexible mechanism within the SI LEP that will allow for a bespoke planning response for unique precincts.

Similar to the 'regional enterprise zone' in the Activation Precincts SEPP, the Local Enterprise zone is proposed to have investment in enterprise at the core of its objective however it could be broadened to allow additional focuses. It would be a flexible zone where the council/government could set all the uses within the land use table however it could only be applied in unique and predetermined circumstances in accordance with the objectives and criteria set through a potential direction applying to this zone (similar to the directions that currently exist within the SI LEP Order).

Where SP4 is proposed to be applied within an LEP, precinct-specific land use tables will be provided potentially through use of a new LEP schedule. The permitted land uses could be provided similar to how they are laid out currently within SEPPs i.e. within the Activation Precincts SEPP or the State Significant Precincts SEPP. SP4 zoned sites could be mapped as SP4 with an identifier that links to the land use table in the new SP4 LEP schedule similar to how Schedule 1 sites are currently identified within SI LEPs.

² Please note that the SP4 Local Enterprise zone has not been included within the Draft Amendment Order, we would appreciate feedback on the intent of this proposed zone.

New, updated or consolidated land use definitions

We propose **updated definitions** for

- Business premises
- Industrial retail outlet
- Kiosk
- Neighbourhood shop
- Shop top housing
- Crematorium.

We also propose **new definitions**:

- Circular economy facility
- Creative industries
- Data centre.

Local distribution premises will become a separate land use decoupled from the parent term 'warehouse or distribution centres'.

Updated and new definitions

Land Use	Intent	Rationale
<p>Business premises</p> <p>Amends existing definition</p>	<p>Update the definition to remove reference to outdated land uses (internet access facilities) and make it clear that business premises do not include a 'shop'.</p>	<p>'Business premises' and the uses that are captured under the definition are subject to technological evolution and changes to business practices. Accordingly</p> <p><i>Internet access facilities</i> are a redundant type of business that should not be included within the definition as it no longer provides clarity.</p> <p>We have received feedback that there is some misunderstanding as to whether a 'business premises' includes a <i>shop</i> and so to put this beyond doubt and to reduce the overlap with the existing land use term 'shop' we are seeking to specifically include shop within the list of land uses that a 'business premises' is not. This is an important distinction as business premises are included as a mandated permitted use within the Productivity Support zone.</p>

Land Use	Intent	Rationale
<p>Circular economy facility ('domestic goods repair and reuse facility')</p> <p>New definition</p> <p>Sub-term of 'light industry' or potentially 'business premises'</p>	<p>Insert a new definition that provides for a facility that allows for the collection, repair, refurbishment, dismantling, sharing and redistribution of goods found commonly in households.</p> <p>These facilities should not be confused with waste recovery facilities that have amenity impacts. These facilities are low in impact and suited to local neighbourhood collection of waste materials.</p>	<p>The 20-year waste strategy identifies the need for a new waste definition to support the circular economy.</p> <p>The definition intends to support the proposed amendments to the Codes SEPP.</p>
<p>Creative industry</p> <p>New definition</p> <p>Sub-term of 'light industry'</p>	<p>Insert a new definition that provides a catch all definition for the creative industries and their activities and outputs.</p> <p>The definition will capture occupations that commonly identify as creative including:</p> <ul style="list-style-type: none"> • traditional and digital media; • fine arts and crafts; • design; and • creative products <p>and extends to the activities carried out including production, workshops, display/performance and sale of items.</p>	<p>Creative industries are currently not defined under the SI LEP and therefore these uses are not captured clearly under the planning system. The intent of the new definition is to recognise the individual industries and activities that identify as creative.</p> <p>This definition builds on definitions in local creative industries strategies and plans. Please note creative industries may include an 'industrial retail outlet'</p>
<p>Crematorium</p> <p>Amend existing definition</p>	<p>Update the definition to include the additional process for inurnment known as aquamation.</p>	<p>Meets demand for new and emerging means of inurnment that do not involve burning (aquamation).</p>
<p>Data centre</p> <p>New definition</p> <p>Sub-term of 'High technology industry'</p>	<p>Insert a new definition to cover a building used for the collection, storage, process and distribution of electronic data,</p>	<p>Data centres are currently defined in part under the Infrastructure SEPP as 'data storage'. To make data centres complying development requires a broader definition to capture how data centres are planned and built.</p>

Proposed Employment Zones Framework

Land Use	Intent	Rationale
Industrial retail outlet Amend existing definition	Update the definition to allow industrial retail outlet to sell the outputs of a creative industry,	Amendments allow for a creative industry to display and sell goods manufactured on site. The retail floor area size will be controlled through Clause 5.4 <i>Controls relating to miscellaneous permissible uses</i> under the relevant LEP.
Kiosk Amend existing definition	Update the definition to remove reference to products that are no longer convenience items (camera film)	Kiosks currently reflect a land use activity that has limited application (e.g. selling film) rather than selling fruit and vegetables, phone chargers, stationery, batteries etc.
Local distribution premises Retain existing definition Remove from parent term 'warehouse or distribution premises'	Retain existing definition however make 'local distribution premises' a stand-alone definition so that it no longer falls under the parent term 'warehouse or distribution premises'.	'Local distribution premises' are appropriate on land where 'warehouse and distribution premises' are not otherwise permitted. Decoupling permits this land use in zones where the use is mandated as well as within open zones. This change will support the expansion of last mile freight and logistics including parcel lockers and click and collect.
Neighbourhood Shop Amend existing definition	Update the definition to make it less ambiguous regarding ancillary services. Remove reference to products that are no longer frequent convenience items (newspapers) and replace the concept of personal care products with day to day needs.	The current definition of 'neighbourhood shop' is outdated, ambiguous and unnecessarily limiting. This broader application relies on the test of meeting day-to-day needs.
Shop-top housing Amend existing definition	Update the definition to allow ground floor commercial premises and health services facility providing more opportunity for local services, viable uses on the ground floor and employment generation.	It is appropriate and desirable to allow additional uses on the ground floor of shop top housing. The definition expands the ground floor use to allow health service facilities e.g. medical centre or light industry. The Department would also welcome feedback on whether the existing definition needs updating to allow for more than just ground floor commercial use.

Land Use	Intent	Rationale
Warehouse or distribution centre Amend existing definition	Update the definition to remove inclusion of local distribution premises as part of a consequential amendment reflecting the decoupling of local distribution premises from the parent term.	Amend to acknowledge that local distribution centre has been decoupled from the parent term warehouse and distribution centre.

Potential consolidation of existing definitions

As part of this Position Paper we are seeking feedback on the potential consolidation of a number of existing land use terms. These land use terms have a shared or overlapping strategic intent with another land use term. These land uses have been recommended for consolidation as there are similarities in how these land uses operate and often the zones where they are permitted with consent. This consolidation allows for streamlining of definitions and reduces potential misinterpretation where a land use term could fall into multiple definitions and depending on interpretation, result in ambiguity as to permissibility.

The potential land use term consolidation was not discussed as part of upfront engagement and therefore are not included in *Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021* as they have not been the subject of preliminary feedback. These potential land terms are not shown in the Land Uses Matrix. Input is specifically sought in any instances where the current land use terms have different permissibility within individual land use tables. Additionally, if there are any other land use terms that could be consolidated we would be interested in hearing those suggestions.

Potential consolidated definitions

Land Use	Intent	Rationale
Home improvement retail premises Potential definition Sub-term of 'commercial premises' The new land use term would be permitted with consent in E1-E4 and MU1 zones.	To provide a land use term that enables the retailing of materials that are used in home improvements. The definition would be formed by combining the existing definitions of 'hardware and building supplies' and 'garden centres' into a single 'home improvement retail premises' definition. 'Hardware and building supplies' and 'garden centres' would be deleted from the Dictionary, Direction 5 and land use tables.	'Hardware and building supplies' and 'garden centres' are similarly applied within land use tables and the business functions are comparable.

Proposed Employment Zones Framework

Land Use	Intent	Rationale
<p>Trades retail premises</p> <p>Potential definition</p> <p>Sub-term of 'commercial premises'</p> <p>The new land use term would be permitted with consent in E1-E3 and MU1.</p>	<p>To provide a land use term that enables the retailing of trade materials that are used in construction, farming, primary production and landscaping.</p> <p>The definition would be formed by combining the existing definitions of 'landscaping material supplies', 'rural supplies' and 'timber yards' into a single 'Trades retail premises' definition.</p> <p>'Landscaping material supplies', 'rural supplies' and 'timber yards' would be deleted from the Dictionary, Direction 5 and land use tables.</p>	<p>'landscaping material supplies', 'rural supplies' and 'timber yards' are similarly applied within land use tables and the business functions are comparable.</p>
<p>Storage and distribution premises</p> <p>Potential definition.</p> <p>The new land use term would be permitted with consent in E3-E5.</p>	<p>To provide a land use term that facilitates freight and logistics. This definition groups storage, warehousing and distribution centres uses under the one land use activity.</p> <p>The definition would be formed by combining the existing definitions of 'storage premises' and 'warehouse or distribution centre'.</p> <p>'storage premises' and 'warehouse or distribution centre' would be deleted from the Dictionary, Direction 5 and land use tables.</p>	<p>Freight and logistics are an expanding sector. Providing a single, broad definition will allow greater flexibility and enable expansion of storage, warehousing and distribution centres within the one operation.</p>
<p>Self-storage units</p> <p>Retain existing definition</p> <p>Decouple 'self-storage units' from parent term 'storage premises'</p> <p>No change is proposed to where 'self-storage units' would be permitted with consent (see Land-Use Matrix).</p>	<p>To reflect that 'self-storage units' are not part of the freight and logistics network unlike 'storage premises'</p>	<p>Recognising that 'self-storage units' are not part of freight and logistics it is not an appropriate fit to have this land use fall under the parent term 'storage premises'. Additionally, decoupling the land use from the parent term will enable a council to individually list 'self-storage units' into any zone where the land use is deemed appropriate i.e. a local centre.</p>

Land use tables

The proposed land use tables identify mandated permissible and prohibited uses within each of the new zones. Councils will still be able to permit or prohibit other land uses as they see fit and in alignment with relevant strategic plans.

Mandated permissible uses are expanded to clearly delineate the intent of the zones and allow greater consistency in application. Increasing the range of permissible uses while also managing contemporary land use conflicts is a key productivity gain. Increasing the range of permitted uses should reduce the need for a planning proposal for a development that is appropriate within the zone, but not within the list of permitted uses currently set within the SI LEP.

Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 details the draft land use tables of the proposed employment and supporting zones other than for SP4 Local Enterprise zone.

Variation in objectives

Proposed objectives are intended to reflect the strategic intent of the proposed zones to support councils in development assessment. We propose allowing variation on certain objectives to ensure they reflect strategic planning. This means objectives can vary when applied in metropolitan versus regional areas. A decision on which objective is to be applied will be made as land use tables are prepared and reviewed by councils. Other proposed objectives are outlined in the *Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

Proposed zone	Proposed optional objectives
Commercial centre	<ul style="list-style-type: none"> • To encourage employment opportunities and business investment OR <ul style="list-style-type: none"> • To encourage employment opportunities and business investment in the regional centre OR <ul style="list-style-type: none"> • To encourage employment opportunities and business investment in the Strategic centre.
Mixed use	<ul style="list-style-type: none"> • To provide a range of business, community, light industrial, retail and residential land uses. OR <ul style="list-style-type: none"> • To provide a range of retail, business, and community uses; OR <ul style="list-style-type: none"> • To provide a range of business, community, retail and residential land uses.

* SI LEPs will still be able to add additional local objectives.

Land uses permitted under State Environmental Planning Policies

In addition to the mandated land uses in the SI LEP, a number of State Environmental Planning Policies (SEPPs) also set land use permissibility. These land uses are generally not listed in LEPs. We do not propose a change to this approach.

If you refer to the Land Uses Matrix provided as part of the exhibition documents most of these SEPP-based land uses are identified.

Parent terms to identify land uses

Currently, if a parent term is identified as a mandated permitted use there is no need to identify child terms under this as a mandated permitted use. No change to this approach is proposed. The proposed land use tables therefore do not list child terms.

If you refer to the Land Uses Matrix provided as part of the exhibition documents all mandated permitted and prohibited land uses are identified.

Benefits of the proposed framework

Greater land uses within individual zones

The reduced number of zones provides clear delineation of the purpose of each zone within the SI LEP and provides greater diversity of mandated permissible uses.

The increase in mandated permissible provides greater consistency and opportunity for new uses. This makes it easier for new businesses to understand where they are permitted or prohibited, to

enter local markets and for existing businesses to expand. It also enables the planning system to respond more flexibly to changing business and household needs and external market forces.

The opportunity for complementary businesses to co-locate where appropriate, especially important for emerging industries, is supported through the new definitions, such as the new definition of 'circular economy facility'.

Consistency in strategic intent

The mismatch in zone application creates mixed signals for market, industry and community. The proposed framework embeds clarity, boosting certainty which then supports industry to invest or establish a pipeline of investment.

For communities, consistency in the application of zones contributes to a legible planning system – meaning people can anticipate future development based on an area's zoning.

Response to key policy questions

Planning for a centres hierarchy

Councils and community generally support a hierarchy of centres via either the setting of scale through height and floor space ratio controls or by limiting which land uses are permitted depending on the size of the centre. The changing nature of retail and the evolution of our centres to meet community needs means that flexibility around land uses can make for great places, relying on development controls to set the appropriate scale of development and to maintain existing and desired future character.

In the setting of additional permitted land uses within the land use table for the Productivity Support zone, councils should determine their approach to managing out of centre development. As part of implementation we will provide guidance within a toolkit on balancing worker convenience retail and out of centre development.

Planning for industrial land

The value placed on industrial lands shifts over time particularly where there are competing land uses and limited land supply within cities and regions. Every region needs a location to accommodate its uses that require more physical space or access to freight networks, have an amenity or environmental impact or are priced out of other markets. Cities where there is no place for these back-of-house or impacting uses close to the population centre are less sustainable as businesses and communities need to travel further to access supporting infrastructure and activities.

Within parts of Greater Sydney and particularly the Eastern Harbour City, there is limited industrial land and strong pressure to adapt this land to mixed uses to meet the supply demands of other higher order land uses. While there will always be transition of land between land use activities, once industrial land flips to commercial or residential, that land is unlikely to ever revert to an industrial use. From a productivity perspective, industrial areas often yield low job ratios, but these operations are often critical to a well-functioning city i.e warehousing.

Given the finite amount of industrial land in many districts and regions, it is appropriate to provide a range of zones that respond to the different priorities of these industrial precincts. In the review of which is the appropriate zone for industrial precincts, councils should be guided by their employment lands strategy and how that aligns to the strategic intent of the proposed zone. Councils should also be cognisant of the long-term operational value and supply of their industrial land. In the setting of permitted uses in land use tables, councils should determine their approach to out of centre development and worker amenity/needs.

The outlined strategic intent, objectives and mandated permissible uses of the proposed framework, as a baseline, preserve industrial land for the uses that need to locate in industrial locations. Councils can choose to open industrial land to additional uses based on a strategic plan.

Simpler and more flexible planning systems

The Federal Productivity Commission outlined in its report *Shifting the Dial: 5-year productivity review* three areas that remain priorities across jurisdictions to support the productivity potential of urban lands:

1. reducing the number and complexity of restrictions on land use created by prescriptive zoning systems
2. better planning and provision for growth
3. the need to continue moves towards a risk-based approach to assessing development proposals.

The Productivity Commission is preparing case studies to focus on the three priority areas. The first case study, relating to the first priority area, was of Victoria's 2013 reform of the Commercial Land Use zoning³. The findings of the case study informed the development of this proposed employment zones framework.

Victoria undertook a reform of its commercial zones reducing the number from five to two. A third commercial zone was reinstated in 2018. Distinct from this employment zones reform, Victoria limited its reform to 'commercial' zones meaning it did not capture industrial, special activation or township centre/capital city zones.

The NSW reforms take a wider scope and go further than Victoria, but also seeks to deliver a framework that is appropriate to the nuances of the NSW planning system.

The NSW and Victoria planning systems are very different. Victoria mandates all prohibited and permitted land uses (councils cannot choose to allow additional permitted uses) and has extensive reliance on overlays to achieve local strategic provisions. The Federal Productivity Commission in its case study acknowledged that the benefits of the reform arise from increased flexibility within zones (additional permitted uses) rather than a decrease in the overall number of zones. Accordingly, this employment zones framework seeks to provide a fit for purpose framework as well as allowing increased flexibility.

³ Productivity Commission 2020, *Victoria's Commercial Land Use Zoning, Productivity Reform Case Study*, Canberra.

NSW proposed employment zones compared to Victoria	
NSW proposed	Victoria current
E1 Local Centre	Commercial 1 (Mixed use commercial)
E2 Commercial Centre	Commercial 2 (Commercial offices)
E3 Productivity Support	Commercial 3 (Employment generating/urban services uses)
E4 General Industrial	Industrial 1 (Light industry)
	Industrial 2 (General industry)
E5 Heavy Industrial	Industrial 3 (Heavy industry)
W4 Working Foreshore	Port
SP4 Local Enterprise Zone	Activity Centre (support activity centres)
	Capital City (City of Melbourne zone)
MU1 Mixed Use	Mixed Use
8 zones	10 zones

Relationship to other planning reforms

The proposed employment zones framework is part of a substantial reform program relating to elements such as planning proposals, updates to regional plans, State planning principles and reviews of SEPPs.

Additionally, other projects underway are related to these proposals:

- The Greater Sydney Commission is reviewing the effect of the 'retain and manage'⁴ policy in the Greater Sydney Region Plan and district plans. This review will inform an update to the Greater Sydney Region Plan. The employment zones framework will align to the review work of the Greater Sydney Commission.
- The Department has exhibited an Explanation of Intended Effect Building Business Back Better for changes to the employment codes under *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008*. Employment zones reform and the proposed changes to complying development codes together will grow jobs and support productivity. The interrelationships between the two reforms, public exhibition comments and implications for implementation will inform the final policy position of both reforms. This is anticipated to include specific guidance and mechanisms that will ensure the intent of local strategic planning is reinforced.
- The proposed Design and Place State Environmental Planning Policy Explanation of Intended Effect has recently been on public exhibition. The employment zones reform does not intend to impact on the application of the proposed Design and Place SEPP.

⁴ The Greater Sydney Region Plan includes principles for managing industrial and urban services land. One of these principles is 'retain and manage'. Existing industrial and urban services land identified as 'retain and manage' should be safeguarded from competing pressures, especially residential and mixed-use zones. For more information see here: <https://www.greater.sydney/metropolis-of-three-cities/productivity/jobs-and-skills-city/industrial-and-urban-services-land>

Implementation

The NSW zoning system, while standardised, enables a level of tailoring to support strategic objectives. This non-conformity will make the implementation of the new framework more complex.

Implementation will require work to translate existing B and IN zoned areas into the new framework; while this process will draw from strategic planning, it should not require councils to review or undertake additional strategic planning. Councils that have not completed strategic planning may wish to flag future rezoning of areas if they anticipate a need to align with employment and centres strategies.

For the proposed new employment zone framework to take effect:

- an amendment to the SI Principal LEP Order will be required
- all SI LEPs will need to be updated
- any other environmental planning instrument that relies on the SI Principal LEP either through land use tables, model provisions or dictionary will need to be amended.

We will support councils by driving much of the upfront process, including:

- consolidating amendments to all SI LEPs through State-led self-repealing SEPPs (prepared and exhibited to clearly outline and communicate individual LEP amendments)
- preparing the first draft of zone application maps and land use tables
- providing policy guidance and support.

Councils will have sufficient time to review the proposed translation into the new framework and will be able to make changes to land use tables, mapping, local provisions and schedule 1 additional permitted uses.

Implementation will not require councils to prepare individual planning proposals. The self-repealing SEPPs will be prepared and exhibited with the level of detail necessary to clearly outline and communicate individual LEP amendments and to then make the legislative change to individual LEPs.

An implementation plan outlines key timing for the employment zones. This is available as part of public exhibition.

The implementation approach is informed by council consultation and we will continue to refine the approach. Resourcing capacity will be balanced against the need to complete the reforms quickly to support economic recovery and to minimise uncertainty for local land use planning as zones are a key gateway into the NSW planning system.

Support

We will develop a **toolkit** of detailed information on the following topics. This may be expanded based on continued feedback from local government and stakeholders.

- Supporting local provisions: A review of existing local provisions introduced by councils to deliver strategic objectives has been undertaken. The Department will look to prepare a set of model local provisions to assist councils who wish to add similar provisions within their LEPs.
- Characterisation of zones: A detailed explanation on the intent and characterisation of each zone will be provided to make it easier for councils, the community and industry to understand where the zone should be applied, the type of permissible land uses and the strategic objective it will deliver. This will also include illustrative case studies.

- Discussion on open zones: We will encourage open zones rather than a closed approach to foster flexibility and innovation in employment zones. We will provide further information on the benefits of open zones and how they can be applied.
- Guidance on amending local plans: We will provide guidance on how strategic planning aims can be achieved through the new framework including planning for a centres hierarchy, supporting business parks, managing out of centre development and planning for precincts under transition (e.g. increasing densities in industrial areas.)

We are investigating options to provide **tangible planning support**; however, there is limited capacity to give funding directly to councils. Utilising a flying squad of policy planners engaged by the State and deployed to councils to undertake the detailed review work is being considered. We are also considering options to provide communications and engagement assistance to support public exhibition and consultation with communities and recently elected local government officials.

We will utilise **ePlanning** to prepare new zone application maps delivered through the spatial viewer. Councils will no longer be required to prepare PDF maps for LEPs. We will prepare the first round of mapping based on the findings of our consultation and analysis – these will then be provided to councils for review. We can also prepare final zone application maps for councils with little or no GIS capabilities. For councils with better GIS capabilities the Department will assist to the degree that is required to support delivery of the maps within the spatial viewer.

We will prepare **draft land use tables** for all LEPs having regard for local circumstances. This will include permitted and prohibited land uses under the new employment zoning framework and any additional permitted uses currently incorporated into LEPs. Councils can then review and confirm these tables.

These initiatives will enable councils to focus on complex or contentious areas that require more detailed consideration to align with their strategic planning.

Next steps

A final framework will be introduced into the Principal Standard Instrument in September 2021, drawing from feedback to this position paper. It is intended that the new zones will sit alongside the existing land use tables until such time as the changes are introduced into all relevant LEPs.

Amendments to individual SI LEPs is planned to occur in two tranches and be facilitated by self-repealing SEPPs. All LEPs are intended to be updated by mid-2022. This timing aligns to milestones set by the NSW Government when this reform was established.

Councils are already progressing LEP reviews following preparation of local strategic planning statements. This work should continue while the employment zones framework is being finalised. We are working through savings and transitional arrangements for planning proposals currently underway and will provide information as the arrangements are finalised.

For councils that are yet to undertake the review or are in the preliminary stages of the review, consideration should be given to how that work could progress under the proposed employment zones framework.

A **comprehensive list of consequential amendments** is being prepared for environmental planning instruments that interact with the SI LEP zones and/or dictionary. Where an instrument – such as the Growth Centres SEPP – uses the SI LEP zones and dictionary in name only, there is no intention to translate it into the new framework.

Savings and transitional arrangements will also be prepared for the continuation of the existing zones during implementation.

Planning proposals already underway should be unimpeded by the proposed framework – they should continue to progress through the LEP plan-making process. We will work with individual councils and, where relevant, proponents to work through translation of existing B and IN zones into the new framework.

Savings and transitional arrangements will extend to undetermined development applications. Further information on these arrangements will be provided as the reforms progress.

Potential future reform

During engagement there was discussion around other mechanisms to support flexibility and reduce the need for a planning proposal for undefined land uses that were consistent with the objectives of the zone. We are continuing to look into this aspect of the planning system to improve agility and respond to emerging land uses in a time critical manner.

Have your say

We want to continue the discussions on this important reform and build on the issues and opportunities that were raised during early consultation.

When reviewing the proposed framework, we encourage councils and landowners to consider the strategic intent of each proposed zone and where that intent aligns with the strategic vision contained within strategic plans for centres, areas and precincts.

Consider that the framework intends to provide a 'home' for all types of land use activities and how they exist within a regional or urban environment.

As part of this public exhibition councils and landowners are encouraged to anticipate how the new framework could be applied to particular areas or sites.

How to get involved

The Department welcomes your feedback about the proposals outlined in this paper, the draft SI (LEP) Amendment (Land Use Zones) Order 2021 and the Implementation Plan. To make a submission on the reform proposed in these documents please go to <https://www.planningportal.nsw.gov.au/employment-zones-review> and complete the submission form, alternatively please email employment.zones@planning.nsw.gov.au.

All submissions will be made public in line with our objective to promote an open and transparent planning system. If you do not want your name published, please state this clearly at the top of your submission. The Department will publish all individual submissions and an assessment report on all submissions shortly after the exhibition period has ended.

Appendices

- a) LEP Audit summary tables
- b) Upfront stakeholder and council engagement.

Appendix A - LEP audit

Table: Zone audit of business zones

Zone	Total Number of SI LEPs utilising the zone (160 SI LEP)	%	Metropolitan Councils (46 SI LEP)	%	Regional Councils (114 SI LEP)	%
B1						46%
B2	127	79%	38	83%	89	78%
B3	56	35%	20	43%	36	32%
B4	98	60%	39	85%	59	52%
B5	61	38%	23	50%	38	33%
B6	64	40%	25	54%	39	34%
B7	44	28%	20	43%	24	21%
B8	1	1%	1	50%*	n/a	n/a

*B8 Metropolitan Centre is only available to North Sydney and City of Sydney.

Table : Total number of SI LEP business zones and the quantum of zones utilised by council

Business Zones used within the LEP	Number of SI LEPs that utilise the specific number of zones	%	Metropolitan	% Metro Councils (46 SI LEP)	Regional	% Regional Councils (114 SI LEP)
8*						0%
7	6	4%	2	4%	4	4%
6	27	17%	14	31%	13	11%
5	20	13%	5	11%	15	13%
4	23	14%	12	26%	11	10%
3	23	14%	8	17%	15	13%
2	30	19%	2	4%	28	25%
1	13	8%	2	4%	11	10%

Proposed Employment Zones Framework

0						
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*B8 Metropolitan Centre is only available to North Sydney and City of Sydney.

Table: Zone audit of industrial zones

Zone	Total Number of SI LEPs utilising the zone (160 SI LEP)	Percentage	Metropolitan Councils (46 SI LEP)	Percentage of Metro Councils that utilise the zone	Regional Councils (114 SI LEP)	Percentage of regional councils that utilise the zone
IN1	122	76%	25	54%	97	85%
IN2	94	59%	34	74%	60	53%
IN3	20	13%	4	9%	16	14%
IN4	22	14%	8	17%	14	12%

Total number of SI LEP industrial zones and the quantum of zones utilised by council

Industrial Zones used within the LEP	Number of SI LEPs	Percentage	Metropolitan Councils (46 SI LEP)	% Metro Councils	Regional Councils (114 SI LEP)	% Regional Councils
4	3	2%	1	2%	2	2%
3	18	11%	4	9%	14	12%
2	69	43%	22	48%	47	41%
1	54	34%	11	24%	43	38%
0	16	10%	8	17%	8	7%

B1 and B2

	SI LEPs utilising the zone or combination	Metro SI LEP	Regional SI LEP
B1 and B2	85 (53%)	37	48
B1 only	10 (6%)	6	4
B2 only	41 (26%)	0	41
None	23 (15%)	2	20

B3 and B4

Zone	Numbers (%)
B3 only	7 (4%)
B4 only	47 (29%)
B3 and B4	52 (33%)
None	54 (34%)

B5, B6 and B7

			Number of SI LEPs utilising the zone or combination	Metro SI LEP	Regional SI LEP
B5	B6	B7	11	7	4
B5	B6		15	7	8
B5		B7	15	5	10
	B6	B7	11	4	7
B5			18	3	15
	B6		28	8	20
		B7	8	2	6
None			54	8	46

Appendix B - Upfront stakeholder and council engagement

CONSULTED TO DATE	
Peaks & Industry groups	
Planning Institute of Australia	Retail Guild of Australia
UDIA	Australian Retailers Association
Urban Taskforce	Better Planning Network
Property Council of Australia	Advanced Manufacturing Growth Centre
Local Government NSW	The Australian Industry Group
Large Format Retail Association	Australian Logistics Council
Woolworths	Amazon (emerging retail)
Cement Concrete Aggregates Australia	Local government
Sydney Airport	118 NSW councils metro & regional councils across 28 workshops
Shopping Centre Council of Australia	

Key findings: consultation

The following themes and the issues/opportunities were consistent across all stakeholder groups.

- The reduction of zones is supported if it supports a strategic purpose and employment and economic uses can be prioritised and protected. Community representatives expressed concern that broadening permissible uses may be harder to regulate.
- Creating flexibility and adaptability for suitable uses in employment zones and being able to support new activities and innovation is a priority for councils and industry. How that flexibility could be delivered varies between industry, councils and the community.
- Supporting a strong centres hierarchy through the planning framework is important to councils, as is enabling fine gran retail and commercial uses within centres.
- Interpretation of zone purpose and alignment to local strategic direction are the key inconsistencies in application.
- The profile of and uses in industrial lands is changing, while land for urban services and industrial activities should be located near where people live.
- In regional and rural areas, economic success relies on adequate infrastructure servicing and a supportive planning framework. The key challenge in metropolitan areas is land availability.
- Within metro areas, the B4 Mixed Use Zone is problematic and has become a pseudo residential zone with ground floor shops. The effectiveness of the B4 zone as a centres zone is varied in regional areas, with most calling for a review of its intent and objectives.
- Zone objectives and development controls plans could be given greater statutory weight to strengthen controls for employment. Land use definitions in the planning system are not keeping pace with emerging uses.

Greater Sydney councils: Key themes

- Councils support retaining and managing industrial lands, due to a significant loss of urban services lands in urban centres and the pressure on land for residential uses.
- Most councils report that the B4 was problematic. Several councils have implemented local provisions such as minimum non-residential floor space to manage residential creep.
- The flexibility of the specialised retail premises is creating issues – the definition means that uses are not limited to bulky goods, which is leading to out-of-centre development.
- Future land uses in industrial zones will include data centres and automation. These uses could limit the productivity of industrial zones.
- The most important objectives when applying employment zones are:
 - enabling fine grain high street retail and commercial
 - providing small-scale warehouse uses, spaces and light industrial/urban services
 - providing for large scale industrial and logistics activities.

Regional NSW councils: Key themes

- The RU5 Rural Village zone is flexible and functions and supports productivity in rural villages and centres.
- Employment uses occur in rural zones, special infrastructure zones and residential zones and should be considered as part of the reform.
- Infrastructure limitations in rural areas inhibits productivity in employment zones.
- While there is demand for temporary worker accommodation across regional and rural NSW, that accommodation and housing is limited in most local government areas.

- The B4 Mixed Use zone supports commercial development in some town centres, but in others a dispersing employment uses out of main towns or centres limits economic development.
- The most important objectives when applying the employment zones are:
 - supporting agricultural activities and products
 - providing small scale warehouse uses, spaces and light industrial/urban services
 - providing for small businesses.

Industry stakeholders: Key themes

- While there is uncertainty, businesses will continue to evolve with technological advances such as click and collect. This will see the emergence of smaller distribution hubs.
- Mixed use should be more clearly defined. The future blending of land uses and business types will make mixed use an important part of the conversation. Stakeholders emphasised that the need to open up mixed use to be more creative and amenable to new uses.
- Activation on the street is an issue for mixed use given often high vacancy rates for ground floor commercial or retail shop fronts. It is important to understand the strategic intent of the mixed use zone and to look into how to achieve that strategic intent.
- The planning system needs to be more flexible and should recognise the need to protect industrial lands in Greater Sydney. While it is agreed that the system should have more flexibility to facilitate innovation, the extent to which flexibility should be introduced into the planning system is contested.
- Height controls for industrial lands need to increase to facilitate new and emerging uses such as robotics and automation.

Other feedback

- Several councils raised the idea of a precinct master planning approach to cater to transitioning and emerging industries.
- Others called for reforms to create 'flexible certainty' by providing clear statements of intent for each zone, objectives, permissible uses and definitions that do not create barriers.
- Several councils agreed to differentiation between regional and metropolitan objectives and to allow for more choice so that councils can tailor how they translate strategic directions within their LEP.

public consultation draft

Attachment 2



New South Wales

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021

under the

Environmental Planning and Assessment Act 1979

, Governor

I, the Honourable Margaret Beazley AC QC, Governor of New South Wales, with the advice of the Executive Council, make the following Order under the *Environmental Planning and Assessment Act 1979*, section 3.20.

Dated, this day of 2021.

By Her Excellency's Command,

Minister for Planning and Public Spaces

e2021-110.d08 14 May 2021

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]

**Standard Instrument (Local Environmental Plans) Amendment
(Land Use Zones) Order 2021**

under the

Environmental Planning and Assessment Act 1979

1 Name of Order

This Order is *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

2 Commencement

- (1) This Order commences on [*date to be inserted*], except as provided by subclause (2), and is required to be published on the NSW legislation website.
- (2) Schedule 2 commences on [*date that is 1 year after date in subclause (1) to be inserted*].

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

Consultation note— If the proposed Employment Zones are adopted, the names of the Environment Protection Zones (E1–E4) will be changed.

[1] Clause 2.1 Land use zones [compulsory]

Insert after the matter relating to **Residential Zones**—

Employment Zones

- E1 Local Centre
- E2 Commercial Centre
- E3 Productivity Support
- E4 General Industrial
- E5 Heavy Industrial

Mixed Use Zones

- MU1 Mixed Use

[2] Clause 2.1

Insert at the end of the matter relating to **Waterway Zones**—

- W4 Working Foreshore

[3] Land Use Table

Insert “Creative industries;” “Data centres;” and “Domestic goods repair and reuse facilities;” in alphabetical order in Direction 5.

[4] Land Use Table, Direction 7

Insert after Direction 6—

Direction 7— At least 1 type of commercial premises or health services facilities must be permitted wherever shop top housing is permitted in the Land Use Table.

[5] Land Use Table

Insert after the matter relating to **Zone R5 Large Lot Residential**—

Zone E1 Local Centre

Direction— The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Roads

1 Objectives of zone

- To provide a range of retail, business and community uses that meet the needs of people who live, work or visit the area.
- To encourage employment opportunities and business investment.
- To enable residential development if it will encourage a vibrant Local Centre.
- To ensure that development is compatible with the amenity, character and scale of surrounding neighbourhoods.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

2 Permitted without consent

3 Permitted with consent

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Domestic goods repair and reuse facilities; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Information and education facilities; Local distribution premises; Medical centres; Oyster aquaculture; Places of public worship; Public administration buildings; Recreation areas; Recreation facilities (indoor); Respite day care centres; Service stations; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

4 Prohibited

Pond-based aquaculture

Zone E2 Commercial Centre

Direction— The following must be included as either “Permitted without consent” or “Permitted with consent” for this zone—

Roads

1 Objectives of zone

- To provide the principal commercial centre for surrounding areas.
- To provide a range of business, office, retail, community, entertainment and other land uses that meet the needs of the community.
- To encourage employment opportunities and business investment.
- To promote vibrant and active street frontages, including during evenings and weekends.

2 Permitted without consent

3 Permitted with consent

Amusement centres; Artisan food and drink industries; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Domestic goods repair and reuse facilities; Educational establishments; Entertainment facilities; Function centres; Home businesses; Home industries; Home occupations; Information and education facilities; Local distribution premises; Medical centres; Mortuaries; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Registered clubs; Respite day care centres; Restricted premises; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations; Veterinary hospitals

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
 Plans) Order 2006

- 4 Prohibited**
 Pond-based aquaculture

Zone E3 Productivity Support

Direction— The following must be included as either “Permitted without consent” or
 “Permitted with consent” for this zone—

Roads

- 1 Objectives of zone**
- To provide a range of facilities and services, light industries, warehouses and offices.
 - To provide for land uses that meet the needs of the community, businesses and industries that are not suited to locations in other employment zones.
 - To provide for land uses that are compatible with, but do not compete with, land uses in surrounding local and commercial centres.
 - To encourage employment opportunities.
 - To provide opportunities for new and emerging industries.
 - To enable limited retail uses to meet the day to day needs of workers or to sell goods of a large size, weight or quantity or goods manufactured on-site.

- 2 Permitted without consent**

- 3 Permitted with consent**

Animal boarding or training establishments; Boat building and repair facilities; Building identification signs; Business identification signs; Business premises; Centre-based child care facilities; Community facilities; Depots; Function centres; Garden centres; Hardware and building supplies; Hotel or motel accommodation; Industrial retail outlets; Industrial training facilities; Information and education facilities; Landscaping material supplies; Light industries; Local distribution premises; Markets; Mortuaries; Neighbourhood shops; Office premises; Oyster aquaculture; Passenger transport facilities; Places of public worship; Plant nurseries; Recreation areas; Recreation facilities (indoor); Recreation facilities (major); Recreation facilities (outdoor); Research stations; Respite day care centres; Rural supplies; Service stations; Specialised retail premises; Storage premises; Take away food and drink premises; Tank-based aquaculture; Timber yards; Vehicle body repair workshops; Vehicle repair stations; Vehicle sales or hire premises; Veterinary hospitals; Warehouse or distribution centres; Wholesale supplies

- 4 Prohibited**
 Pond-based aquaculture

Zone E4 General Industrial

Direction— The following must be included as either “Permitted without consent” or
 “Permitted with consent” for this zone—

Roads

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

1 Objectives of zone

- To provide a range of industrial, warehouse and related land uses.
- To support the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.
- To enable limited non-industrial land uses that provide facilities and services to meet the needs of businesses and workers.

2 Permitted without consent**3 Permitted with consent**

Building identification signs; Business identification signs; Depots; Freight transport facilities; Garden centres; General industries; Hardware and building supplies; Industrial retail outlets; Industrial training facilities; Light industries; Local distribution premises; Neighbourhood shops; Oyster aquaculture; Take away food and drink premises; Tank-based aquaculture; Warehouse or distribution centres

4 Prohibited

Pond-based aquaculture

Zone E5 Heavy Industrial

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

1 Objectives of zone

- To provide areas for industries that need to be separated from other land uses.
- To support the efficient and viable use of land for industrial uses.
- To minimise any adverse effect of industry on other land uses.
- To encourage employment opportunities.

2 Permitted without consent**3 Permitted with consent**

Building identification signs; Business identification signs; Data centres; Depots; Freight transport facilities; General industries; Hazardous storage establishments; Heavy industries; Industrial training facilities; Offensive storage establishments; Oyster aquaculture; Tank-based aquaculture; Warehouse or distribution centres

4 Prohibited

Pond-based aquaculture

Zone MU1 Mixed Use

Direction— The following must be included as either "Permitted without consent" or "Permitted with consent" for this zone—

Roads

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental Plans) Order 2006

1 Objectives of zone

- To provide a range of business, community, light industrial, retail and residential land uses.
- To encourage vibrant, active and safe areas.
- To minimise conflict between land uses within this zone and land uses within adjoining zones.

2 Permitted without consent**3 Permitted with consent**

Amusement centres; Boarding houses; Building identification signs; Business identification signs; Car parks; Centre-based child care facilities; Commercial premises; Community facilities; Educational establishments; Entertainment facilities; Function centres; Information and education facilities; Light industries; Local distribution premises; Medical centres; Oyster aquaculture; Passenger transport facilities; Places of public worship; Recreation areas; Recreation facilities (indoor); Registered clubs; Respite day care centres; Restricted premises; Seniors housing; Shop top housing; Tank-based aquaculture; Tourist and visitor accommodation; Vehicle repair stations

4 Prohibited

Pond-based aquaculture

[6] Land Use Table, Zone E2 Environmental Conservation, item 4

Insert “Local distribution premises;” in alphabetical order.

[7] Land Use Table, Zone E3 Environmental Management, item 4

Insert “Local distribution premises;” in alphabetical order.

[8] Land Use Table, Zone E4 Environmental Living, item 4

Insert “Local distribution premises;” in alphabetical order.

[9] Land Use Table, Zone W1 Natural Waterways, item 4

Insert “Local distribution premises;” in alphabetical order.

[10] Land Use Table, Zone W2 Recreational Waterways, item 4

Insert “Local distribution premises;” in alphabetical order.

[11] Land Use Table

Insert in appropriate order—

Zone W4 Working Foreshore**1 Objectives of zone**

- To retain and encourage industrial and maritime activities on foreshores.
- To identify sites for maritime purposes and for activities requiring direct foreshore access.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
 Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
 Plans) Order 2006

- To ensure that development does not have an adverse impact on the environment and visual qualities of the foreshore.
- To encourage employment opportunities.

2 Permitted without consent

3 Permitted with consent

Aquaculture; Boat building and repair facilities; Boat launching ramps; Jetties; Light industries

4 Prohibited

[12] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

Insert “Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Foreshore or” after “Plan in” in clause 5.4(10).

[13] Dictionary

Insert “Zone E3 Productivity Support, Zone E4 General Industrial, Zone E5 Heavy Industrial, Zone W4 Working Foreshore or” after “controls in” in the note to the definition of *artisan food and drink industry*.

[14] Dictionary, definition of “business premises”

Omit “internet access facilities,”.

[15] Dictionary

Omit the definition of *crematorium*. Insert instead—

crematorium means a building or place in which deceased persons or pets are cremated or processed by alkaline hydrolysis, whether or not the building or place contains an associated building for conducting memorial services.

[16] Dictionary

Insert in alphabetical order—

creative industry means a building or place mainly used to produce arts, crafts, design, media or other creative products, and includes artists’ studios, recording studios, and set design and production facilities.

Note— Creative industries are a type of *light industry*—see the definition of that term in this Dictionary.

data centre means a building or place mainly used to collect, distribute, process or store electronic data using information technology.

Note— Data centres are a type of *high technology industry*—see the definition of that term in this Dictionary.

domestic goods repair and reuse facility means a building or place mainly used to collect, repair or refurbish domestic goods, including furniture and appliances, for the purposes of sale, lease or swap, but does not include a shop that is an op shop.

Note— Domestic goods repair and reuse facilities are a type of *light industry*—see the definition of that term in this Dictionary.

[17] Dictionary, definition of “high technology industry”

Insert “and includes a data centre,” before “but”.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 1 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
Plans) Order 2006

[18] Dictionary, definition of “kiosk”

Omit “such as newspapers, films and the like”.

[19] Dictionary, definition of “light industry”

Insert after paragraph (c)—

- (d) creative industry,
- (e) domestic goods repair and reuse facilities.

[20] Dictionary, definition of “local distribution premises”

Omit the note.

[21] Dictionary, definition of “neighbourhood shop”

Omit “and may include ancillary services such as a post office, bank or dry cleaning.”.

[22] Dictionary, definition of “shop top housing”

Omit “retail premises or business premises”.

Insert instead “commercial premises or health services facilities”.

[23] Dictionary, definition of “storage premises”

Insert “, local distribution premises” after “establishment”.

[24] Dictionary, definition of “warehouse or distribution centre”

Omit “, and includes local distribution premises”.

Insert instead “, but does not include local distribution premises”.

public consultation draft

Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 [NSW]
Schedule 2 Amendment of Standard Instrument prescribed by Standard Instrument (Local Environmental
Plans) Order 2006

**Schedule 2 Amendment of Standard Instrument prescribed
by Standard Instrument (Local Environmental
Plans) Order 2006**

[1] Clause 2.1 Land use zones [compulsory]

Omit the matter relating to **Business Zones** and **Industrial Zones**.

[2] Land Use Table

Omit the matters relating to Zones B1–B8 and IN1–IN4.

[3] Clause 5.4 Controls relating to miscellaneous permissible uses [compulsory]

Omit “an industrial or” from clause 5.4(10). Insert instead “a”.

**[4] Clause 5.18 Intensive livestock agriculture [compulsory if intensive livestock
agriculture permitted with consent]**

Omit “Zone B4 Mixed Use, Zone B6 Enterprise Corridor,” from clause 5.18(7), definition
of *residential zone*.

[5] Dictionary

Omit “industrial or” from the note to the definition of *artisan food and drink industry*.

Attachment 3



Document Title: [illegible]
Version: [illegible]
Version Date: 20/05/2021

Contents

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2	Overview of the implementation plan	2
3	Further detail on implementation plan actions.....	6
4	Glossary	9

DRAFT

1 Introduction

The Department of Planning, Industry and Environment (the department) is reviewing and rationalising the employment zones, i.e. business (B1–B8) and industrial (IN1–IN4) zones, under the Standard Instrument - Principal Local Environmental Plan (SI LEP). The reform will better accommodate the changing needs of business, improve strategic alignment, boost productivity and strengthen the economy. The proposed changes to the business and industrial zones are outlined in the *Proposed Employment Zones Position Paper*.

This document outlines the broad implementation approach and detailed steps to deliver the proposed employment zones framework. The proposed framework will balance State-wide consistency with local tailoring. Councils will be actively supported throughout the employment zones reform, with delivery in two tranches.

State-wide consistency with local tailoring

The department will publish the new employment zones framework in an Amendment Order to the Principal SI LEP. The Order enables a council to include additional permitted uses, additional objectives and local provisions to further refine the strategic intent of their Local Environmental Plan (LEP). When the Amendment Order is Published (introducing the new employment zones framework into the SI LEP), the department will support each council by creating a first draft land use table (LUT), and mapping through the spatial viewer for each LEP. This will be informed by existing LEPS, existing local plans and conversations the department has and will continue to have with individual councils. Councils will be asked to review the draft LUTs and maps and provide any changes to LUTs, additional permitted uses, local objectives, or local provisions in accordance with an Implementation Toolkit that will be provided to guide the translation of existing zones into the new employment zones framework.

The SI LEP will deliver a consistent State-wide set of zones and land uses with additional land uses, objectives and local provisions within individual LEPS to respond to local strategic planning priorities.

The department will utilise self-repealing State Environmental Planning Policies (SEPPs) to make and publish the amendments of individual LEPS. This will remove the need for councils to prepare individual Planning Proposals, though still allow councils to review, edit and sign off on tailorable aspects of their LEP ahead of and following public exhibition.

Delivery in two tranches

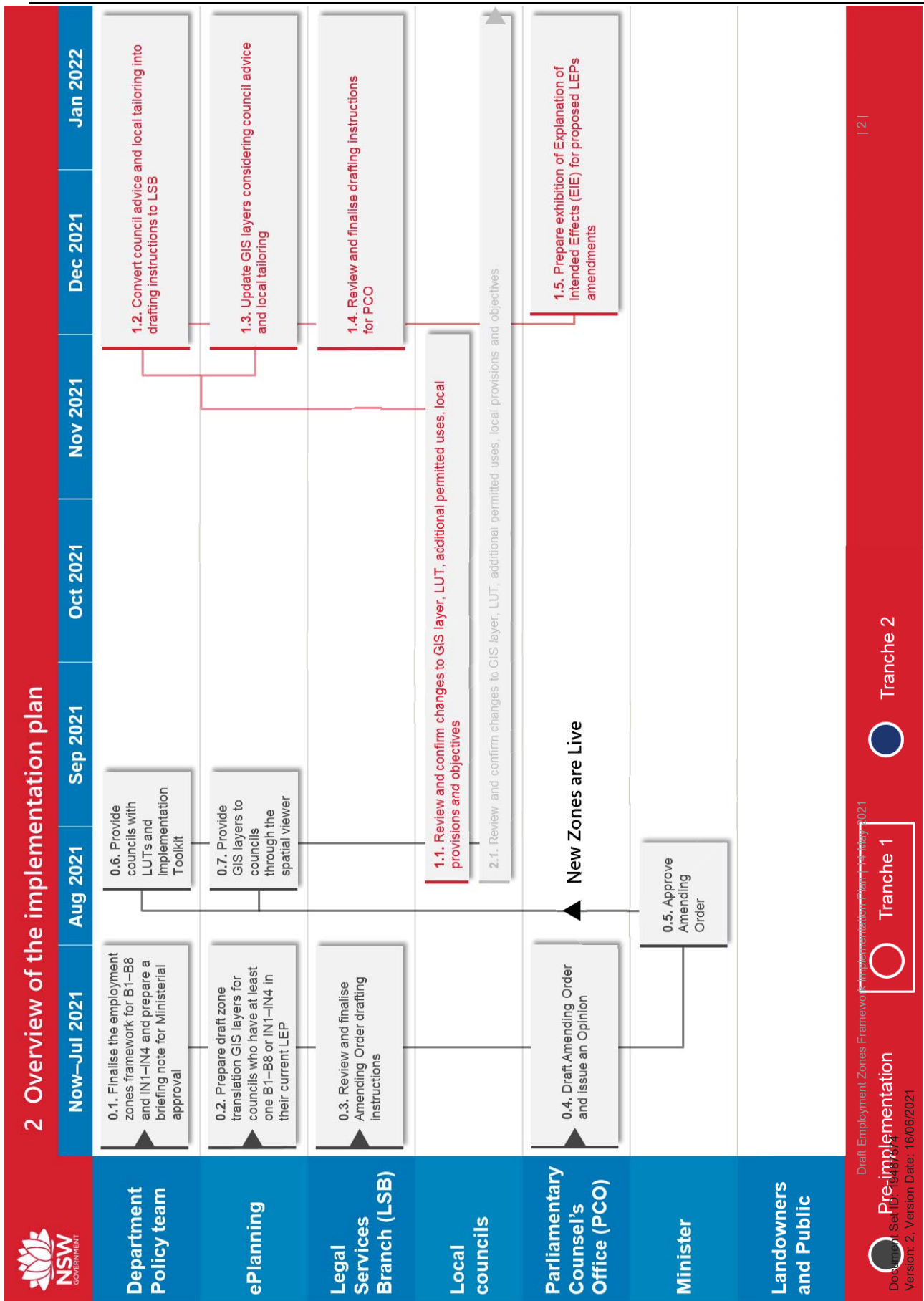
The implementation plan will be delivered through two tranches to best support councils during implementation. The zone translation self-repealing SEPPs will be utilised to publish the new zones in the following tranches:

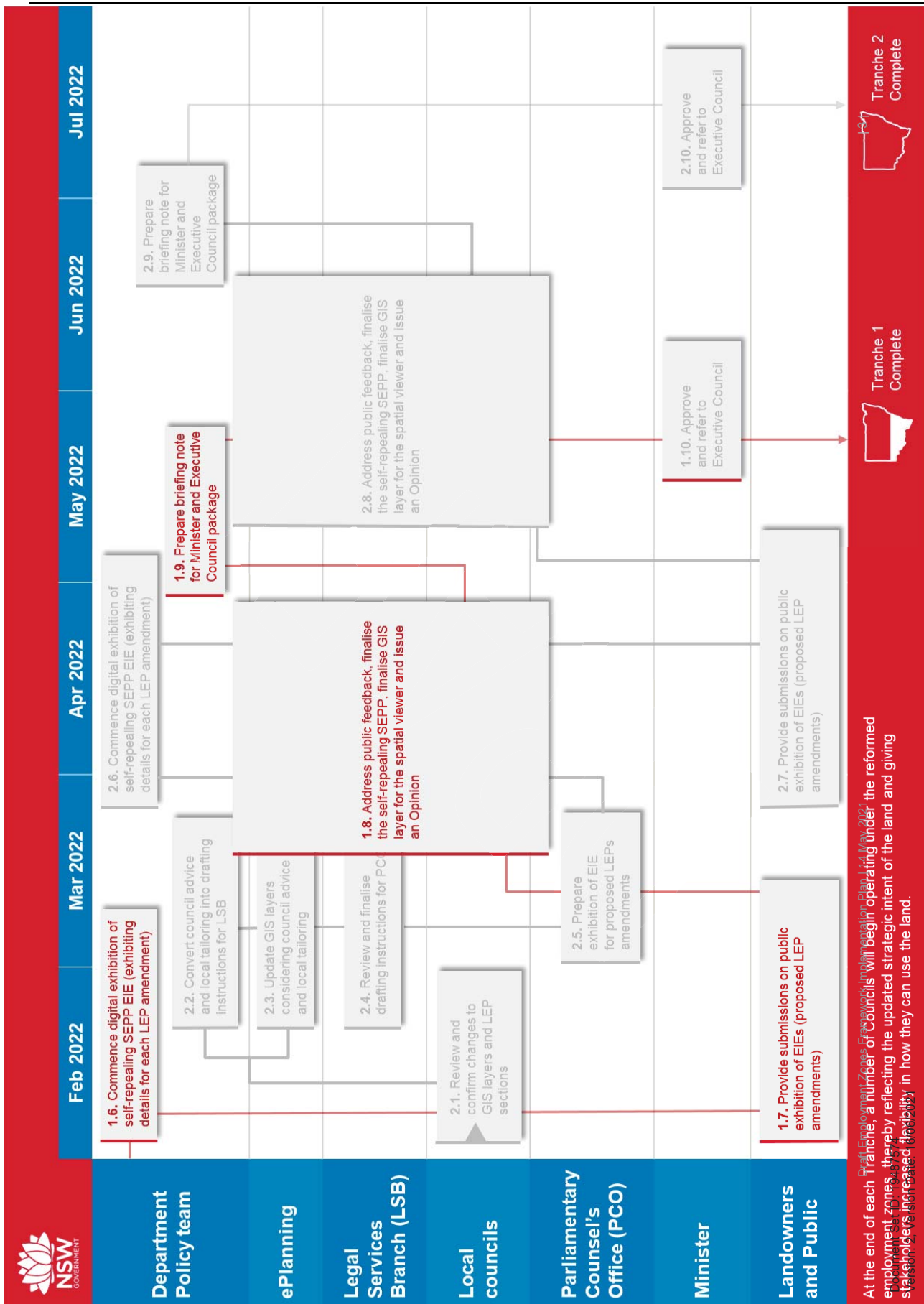
- Tranche 1 Councils who are able to review the provided translation content to meet the key dates in the project plan. These might include councils wanting to align the translation to an underway LEP review planning proposal or who have a relatively straight forward translation.
- Tranche 2 will be used to support remaining councils to transition. The commencement dates within the draft Amendment Order propose that all remnant B and IN zones will be omitted from the Order to coincide with the making of Tranche 2 self-repealing SEPP.

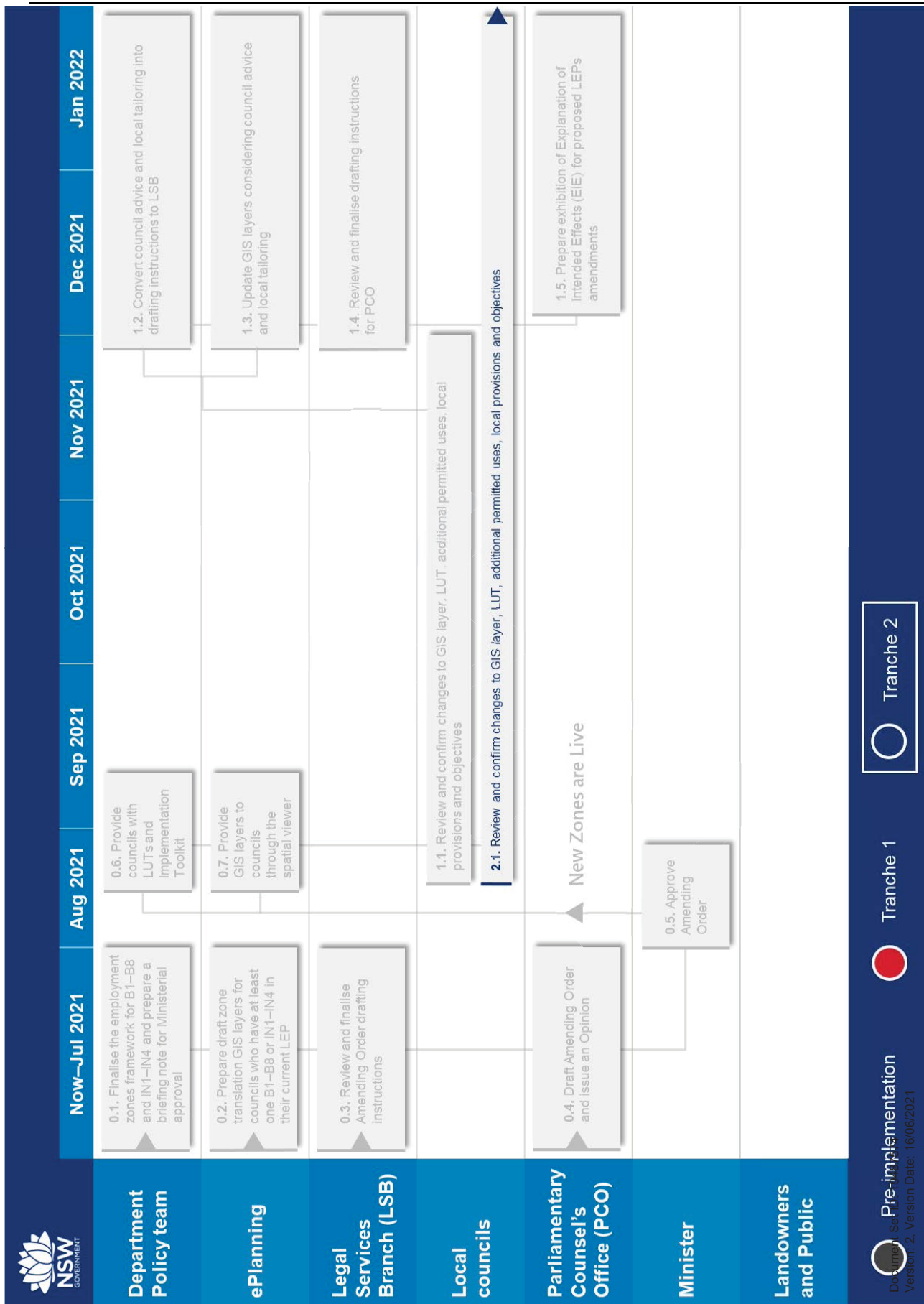
Support for councils

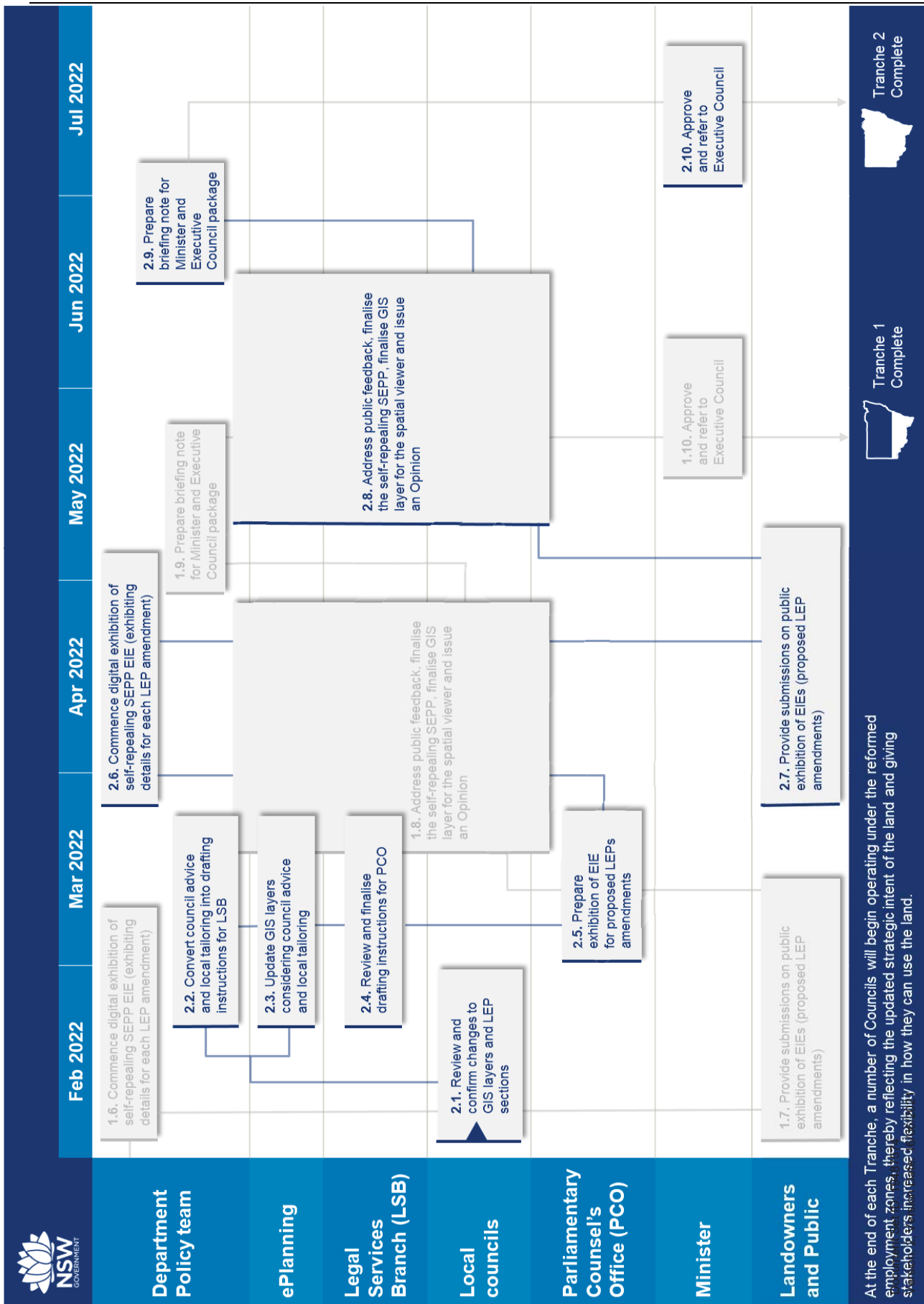
The department will support councils by:

- Mapping anticipated zone translation (anticipated to capture, on average, 70% of zones) so councils will be able to focus on validating the translation, refining zone application, additional permitted uses, local objective and local provisions.
- Providing an Implementation Toolkit that councils can use to interpret the new zones and their strategic intent; effectively manage the implementation timeline; and update the spatial viewer maps and LUTs and craft local objectives, additional permitted uses and local provisions.
- Exhibiting the self-repealing SEPPs through a single central digital platform (where appropriate).
- Supporting councils with GIS capability and planning expertise (as required).









3 Further detail on implementation plan actions

The following table provides further detail on the actions in the implementation plan.

Ref #	Action	Key outputs	Responsible	Timeline
0.1	<ul style="list-style-type: none"> ✓ Exhibit, seek feedback and finalise the draft employment zones framework for B1–B8 and IN1–IN4. ✓ Provide informal direction to councils on timelines, likely changes to zones and land uses. ✓ Prepare briefing note for the Ministerial approval of the Amending Order once the employment zone framework has been finalised. 	Draft employment zones framework Briefing note with final Amending Order and PCO Opinion	Department Policy Team	Prior to 1 Aug 2021
0.2	<ul style="list-style-type: none"> ✓ Prepare draft zone translation GIS layers (for spatial viewer delivery) for all councils who have at least one B1–B8 or IN1–IN4 in their current LEP. 	Shapefiles with previous and draft zone conversion	ePlanning	
0.3	<ul style="list-style-type: none"> ✓ Review and finalise Amending Order drafting instructions. 	Final drafting instructions for PCO	LSB	
0.4	<ul style="list-style-type: none"> ✓ Draft the Amending Order and issue an Opinion. 	Draft Amending Order PCO Opinion	PCO	
0.5	<ul style="list-style-type: none"> ✓ Review briefing note and PCO Opinion to approve final Amending Order and refer to Executive Council. 	Final Amending Order Updated Principal SI LEP	Minister	1 Aug–15 Aug 2021
0.6	<ul style="list-style-type: none"> ✓ Formally share the new employment zones framework through updated SI Principal LEP. ✓ Provide an Implementation Toolkit for all councils who have at least one current B1–B8 or IN1–IN4 in their LEP and will go through the process. ✓ Obtain Ministerial approval for the two upcoming exhibitions. 	Employment zones framework Implementation Toolkit for councils Briefing note for Minister	Department Policy Team	16 Aug
0.7	<ul style="list-style-type: none"> ✓ Provide GIS layers through the spatial viewer for all councils who have at least one B1–B8 or IN1–IN4 in their LEP. 	Shapefiles with previous and draft zone conversion	ePlanning	16 Aug

Ref #	Action	Key outputs	Responsible	Timeline
1.1 2.1	<ul style="list-style-type: none"> ✓ Review changes to employment zone framework: <ul style="list-style-type: none"> • Tranche 1: Councils that have reviewed the translation. • Tranche 2: Remaining councils. ✓ Confirm and/or update GIS layers. ✓ Confirm and/or update LEP sections (LUTs, additional permitted uses and local provisions) with changes required for the council. ✓ Seek GIS support from ePlanning if additional capacity/capability required to update GIS layers. 	Updated GIS layers/shapefiles Updated LEP sections (e.g., LUTs, Schedule 1, local provisions)	Councils ePlanning, as required	
1.2 2.2	<ul style="list-style-type: none"> ✓ Review councils' updates to LEPs and convert their changes into policy drafting instructions. ✓ Seek further clarification, as required, to ensure State-wide consistency. Note that the drafting instructions will be developed and passed to the LSB and then the PCO in a staggered way, as they are received by the councils. ✓ Inform councils who have not been able to provide updates to their LEPs by this date that they will be required to use the translation provided by DPIE: ✓ Test changes and GIS maps with the department's regional teams. ✓ Develop EIE for exhibition. The EIE summarises the proposed amendments to the council SI LEPs. 	Drafting instructions Drafted EIE	Department Policy Team	<p><i>overlap between step 2.1 and 2.2</i></p> <p><i>department Policy Team may commence step 2.2 as early as</i></p> <p><i>send through their updates, which may be before cut-</i></p>
1.3 2.3	<ul style="list-style-type: none"> ✓ Update GIS layers considering council advice. ✓ Ensure State-wide consistency and alignment with the drafting instructions. 	Final GIS maps	ePlanning	<ul style="list-style-type: none"> ● Tranche 1: 29 Nov 2021–28 Jan 2022 ● Tranche 2: 14 Feb 2022–28 Mar 2022
	<ul style="list-style-type: none"> ✓ Review drafting instructions from the department Policy Team, advise on any changes needed, and finalise drafting instructions for PCO. 	Drafting instructions summarising changes to LEPs for each council	LSB	<ul style="list-style-type: none"> ● Tranche 1: 29 Nov 2021–28 Jan 2022 ● Tranche 2: 14 Feb 2022–28 Mar 2022

Ref #	Action	Key outputs	Responsible	Timeline
1.5 2.5	✓ Prepare exhibition of self-repealing SEPP EIE for proposed LEP amendments.	EIE	department Policy Team /PCO	<p>● Tranche 1: 1 Dec 2021–28 Jan 2022</p> <p>● Tranche 2: 1 Mar–25 Mar 2022</p>
1.6 2.6	<p>✓ Commence centralised, digital public exhibition of the EIE for the self-repealing SEPP with details for each LEP amendment. As per the department's Community Participation Plan, the exhibition will be for six weeks.</p> <p>✓ Review exhibition feedback as it is submitted and respond as appropriate and share with the relevant council.</p>	Digital exhibition	department Policy Team	<p>● Tranche 1: 31 Jan–13 Mar 2022</p> <p>● Tranche 2: 28 Mar–8 May 2022</p>
1.7 2.7	✓ Provide submissions on the public exhibition of EIEs (proposed LEP amendments).	NA	Landowners/stakeholders and public	<p>● Tranche 1: 31 Jan–13 Mar 2022</p> <p>● Tranche 2: 28 Mar–8 May 2022</p>
1.8 2.8	<p>✓ Address public feedback through an iterative process and finalise the self-repealing SEPP and GIS layers.</p> <p>✓ Obtain PCO Opinion on the final self-repealing SEPP for Minister/ExCo approval.</p>	Final SEPP PCO Opinion	Department Policy Team (accountable) LSB ePlanning PCO Councils	<p>● Tranche 1: 14 Mar–22 Apr 2022</p> <p>● Tranche 2: 9 May–17 Jun 2022</p>
1.9 2.9	✓ Prepare briefing note for the Minister including Executive Council minute.	Briefing note for the Minister comprising the minute for the Executive Council, final SEPP PCO Opinion	Department Policy Team	<p>● Tranche 1: 25 Apr–6 May 2022</p> <p>● Tranche 2: 20 Jun–1 Jul 2022</p>
1.10 2.10	✓ Review briefing note, PCO Opinion and ExCo minute to approve final SEPP. Forward the package to Executive Council.	NA	Minister	<p>● Tranche 1: 9 May–20 May 2022</p> <p>● Tranche 2: 4 Jul–15 Jul 2022</p>

The success of the implementation plan will require all activities to be completed on schedule as every step is dependent on the completion of the previous step. This means that councils will be asked to provide their required changes to their LEPs within allocated time frames.

4 Glossary

Term	Definition
Employment Zones Framework	The proposed zones that will replace the previous business and industrial zones known as the 'employment zones'. These new zones will be hosted in the Standard Instrument Principal Local Environmental Plan.
Environmental Planning Instrument (EPI)	EPI is the collective name for Local Environmental Plans, State Environmental Planning Policies and Regional Environmental Plans. The collective term also covers the <i>Environmental Planning and Assessment Act</i> and Environmental Planning and Assessment Regulation and their amendments. A full list of these is here .
Explanation of Intended Effect (EIE)	An EIE outlines the impact of proposed amendments to the NSW planning system. It summarises proposed amendments to Standard Instruments, Orders and State Environmental Planning Policies, and their intended effects.
Geographic Information System (GIS) maps and layers	A GIS map overlays many different layers of spatial location to show different data points in a single visualisation. This has the advantage of creating and sharing interactive maps of land zones through an online spatial viewer instead of offline pictures or PDF documents.
Land Use Table (LUT)	LUTs are part of a council's Local Environmental Plan and describe what land uses are: permitted without consent; permitted with consent; and prohibited for each zone. There are mandated land uses for each of these categories set under the Standard Instrument Principal Local Environmental Plan.
Local Environmental Plan (LEP)	LEPs guide planning decisions for local government areas. The zoning and development standards within the LEP provide a framework for the way land can be used. LEPs are the primary local planning legislation (an Environmental Planning Instrument) to shape the future of communities and ensure appropriate local development.
Parliamentary Counsel's Office (PCO)	The PCO is responsible for drafting most of the legislation for NSW. This includes all Bills for Acts required for introduction into Parliament. The PCO also draft a wide range of statutory instruments, including regulations, rules, proclamations, orders and Environmental Planning Instruments. The PCO also manage the NSW legislation website, which provides public access to legislation.
Self-repealing State Environmental Planning Policy (SEPP)	SEPPs are environmental planning instruments that deal with matters of state or regional environmental planning significance. SEPPs are also used as a tool by the Minister for Planning to make operational changes to lower order Environmental Planning Instruments such as Local Environmental Plans. A self-repealing SEPP can cover amendments to Local Environmental Plans and be removed from legislation (repealed) once this purpose is complete. This mechanism removes the need for a council to prepare a planning proposal to amend their Local Environmental Plan.
Standard Instrument Principal Local Environmental Plan (SI Principal LEP)	The SI Principal LEP prescribes the sections that are mandatory or optional to include in a council LEP and provides a standard response under each section. The SI Principal LEP Order establishes what aspects of the SI LEP are compulsory, optional or can be modified.

Employment zones reform

Frequently asked questions



May 2021

Frequently asked questions for members of the community

This document answers frequently asked questions regarding the proposed employment zones reform.

What is this reform intending to do?

The employment zones reform will deliver a simplified framework that:

- is fit for purpose
- supports the future of work
- promotes productivity and jobs growth, and
- delivers the community's objectives set through strategic plans and planning priorities.

This reform aims to support the long-term economic recovery from the impacts of the COVID-19 pandemic through job creation and encourage increased productivity in NSW.

A key outcome of the project is that employment zones provide clarity around their application, increase flexibility around land uses and support the delivery of strategic plans.

The reform does not seek to up zone land as it remains the prerogative of councils to set development standards and controls for height and density.

Why introduce a new employment zones framework?

The way our cities and regions function and businesses operate has changed considerably since the Standard Instrument Local Environmental Plan was prepared over 15 years ago.

The continued rise of online retailing, the emergence of advanced and small-scale manufacturing and the growth of dense, mixed use centres have fundamentally reshaped how we plan for centres and industrial precincts.

It is timely to update the current business and industrial zone framework to better support the community and businesses, and ensure the zones are better able to adapt as circumstances change to ensure continued productivity, investment and community benefit.

What are the benefits of the proposed employment zones framework?

The new framework will provide greater certainty for the community, local government and the development industry. It will better support the delivery of long-term strategic objectives and facilitate innovation and changes in business processes now and into the future.

One of the key outcomes is reducing the number of employment zones. This will provide greater consistency and certainty, increase the number of land uses allowed in each zone and provide more flexibility for new businesses to establish and existing businesses to expand or change depending on the circumstances.

One of the key problems with the current framework is that the zones are applied differently throughout the State creating confusion about what development can be anticipated to occur in any

Employment zones reform

Frequently asked questions



given area. The new framework seeks to improve consistency clearly outlining what development can be anticipated based on how an area is zoned.

How is the reform supporting my local centre and ensuring good planning outcomes?

Councils can still plan for their centres using development standards and controls that manage the height and scale of development rather than unnecessarily restricting specific business types and land uses. This ensures the different scale and character of neighbourhood and local centres can be maintained, delivering on community objectives.

The department will support councils through implementation in planning for their centres.

How will this be implemented?

The department will provide an overview of implementation following public exhibition which will explain the approach, key milestones and next steps.

Resourcing for councils

The department recognises that a significant amount of reform is occurring which councils are having to engage with and implement with finite resources. We will support councils through a number of measures designed to reduce the burden on their resources and provide for the best possible outcome. More information is provided here ([link to the position paper](#)).

When will this reform take effect? What happens from here?

The department will consider all feedback received during exhibition and finalise the proposed employment zones framework. The new framework will be introduced into the Standard Instrument Principal Local Environmental Plan in September 2021. The department in collaboration with councils, will then introduce these changes into Local Environmental Plans by mid-2022.

How does this relate to the other planning reforms?

The NSW Government is undertaking a significant reform program to improve efficiency, support productivity and jobs growth as well as to facilitate good planning outcomes. More information on the broader reforms can be found [here](#).

I have an existing development application (DA) or planning proposal in the system, will this impact it?

The employment zones reform will not delay or defer development applications or planning proposals that are currently underway.

The department will work with proponents and local government to facilitate translation into the new framework, building on the strategic work that has already been undertaken.

Individual landowners and proponents with applications underway should in the first instance seek help from their consultant planners, council staff or DPIE.

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Employment zones reform

Frequently asked questions

Attachment 5



May 2021

Frequently Asked Questions for Stakeholders & Local Government

This document answers frequently asked questions regarding the proposed employment zones reform.

How does this relate to other reforms?

The NSW Government is undertaking a significant reform program across the planning system to improve assessment time frames, reduce red tape, eliminate double-handling and fast-track projects that deliver great public benefits to the people of NSW. A number of these reforms are directly related to the employment zones reform, these include expanding complying development and the Greater Sydney Commission's review of the 'retain and manage' industrial lands policy. More information [can be found in the position paper here](#).

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.

How is build to rent housing being included in the new framework?

Build to rent (BTR) housing is large-scale, purpose-built rental housing that is held in single ownership and professionally managed. BTR is allowed anywhere where residential flat buildings are permitted, as well as in the current zones of B3 Commercial Core, B4 Mixed Use zones and B8 Metropolitan Centre zones. The provisions for BTR will also apply under the employment zones. More information about BTR is available [here](#).

How to manage existing planning proposals or DAs in the system?

The employment zones reform will not delay or defer planning proposals that are currently underway. Comprehensive Local Environmental Plan amendments or a site-specific rezoning will proceed unimpeded by the changes. The department will work with proponents and local government to facilitate translation into the new framework when it is introduced, building on the strategic work that has already been undertaken.

The department is working through savings and transitional arrangements for planning proposals that are currently underway.

For councils who are yet to undertake their comprehensive LEP review, or are in the preliminary stages of the review, consideration should be given to how that work could progress under the proposed employment zones framework.

Employment zones reform

Frequently asked questions



Savings and transitional arrangements will extend to undetermined development applications. Further information on these arrangements will be provided as the reforms progress.

What do the upcoming local government elections mean for this reform?

The department has been working closely with councils to determine the timing of the reform to facilitate briefing of councillors and provide a formal council submission on the position paper prior to the commencement of the caretaker period for Local Government Elections in September.

After the elections, the department will work with local government to brief incoming councillors on the reforms to ensure they are brought up to speed quickly and the benefits of the reforms are not delayed.

My council does not have resources to implement this reform. What help is the department providing to implement this reform for councils?

The department recognises the impact the new employment zones framework will have on councils who have been actively participating in the development and implementation of other reform programs, and dealing with the impacts of natural disasters and the global pandemic.

The department will provide support to councils through measures designed to reduce the burden on council resources and provide for the best possible productivity and planning outcomes. These include:

- Toolkits providing detailed information on topics important to councils, community and industry such as:
 - Supporting local provisions
 - Characterisation of zones
 - Discussion on open zones, and
 - Guidance on amending local policies.
- Moving map delivery to the spatial viewer so that councils will no longer be required to prepare individual PDF maps.
- The department will prepare the first round of mapping and draft land use tables based on feedback we have received through workshops, survey results and local strategic plans. These plans and tables will be provided to councils for review. The department will help all councils to support delivery of the maps within the spatial viewer.

The department has heard that councils would appreciate more technical planning support in the zone translation process. The department is investigating options to provide meaningful planning support.

How has my previous comments/input informed this paper?

The team has considered all feedback provided by stakeholders and councils through the online survey, meetings, workshops and correspondence. This reform seeks to balance the interests of all stakeholders, generate productivity gains and deliver good planning outcomes.

Employment zones reform

Frequently asked questions



Will we get to see a draft before it is finalised?

The department has engaged extensively with local government and stakeholders on the policy and substance of these reforms. The position paper outlines the intent of the zoning framework as well as the detailed changes required to the Standard Instrument - Principal LEP. Now is the opportunity to review the detail of the reforms and provide comment.

What happens if we want implementation to occur at a specific time?

The department is coordinating implementation so that councils will not be required to prepare individual planning proposals. Please contact the Employment zones reform team to discuss timing and any preferred approach for implementation.

All Local Environmental Plans are intended to be brought across to the new employment zones framework by mid-2022. This is to avoid uncertainty for businesses and communities created by having a dual zoning system.

What about non-SI LEPs i.e. previously deferred areas?

Non-standard LEPs will not be impacted by the amending order. If, however the instrument calls up the Standard Instrument Dictionary or land use zones, any required changes will be managed through consequential amendments in consultation with councils.

How to manage retail uses in areas that allow urban services and creative industries?

We recognise that in certain locations, where permitted, retail land uses may form the highest and best use and out-compete other businesses for land.

Councils will maintain the ability to control the permissibility, size and scale of specific retail uses in accordance with their strategic plans. In some instances, additional local provisions may be developed.

Why are some policy initiatives included in the position paper not reflected in the draft legislation, such as the consolidation of land use terms?

The employment zones framework is informed by a qualitative and quantitative evidence base including upfront stakeholder and local government engagement. The potential land use term consolidation was not the discussed as part of upfront engagement therefore it is not as well developed as other aspects of the framework. Accordingly, it has not been included in *Draft Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021*.

We are continuing to receive comments from stakeholders which will inform the draft framework. Where the policy intent has been developed, it has been included in the exhibited position paper for public comment. If supported these changes will be included in the Amendment Order.

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The Hills Local Environmental Plan 2019 Land Use Matrix [DoP version 3.0]	Business							Industrial											
	E1 Local Centre	B1 Neighbourhood Centre	B2 Local Centre	E2 Commercial Centre	B3 Commercial Core	MU Mixed Use	B4 Mixed Use	E3 Productivity Support	SP4 Local Enterprise	B5 Business Development	B6 Enterprise Corridor	B7 Business Park	E4 General Industrial	IN1 General Industrial	IN2 Light Industrial	E5 Heavy Industrial	IN3 Heavy Industrial	W4 Working Foreshore	IN4 Working Waterfront
Legend																			
o permitted without consent [mandated under the SI].																			
o permitted without consent.																			
c permitted with consent [mandated under the SI].																			
c permitted with consent.																			
x prohibited [mandated under the SI].																			
x prohibited.																			
A permitted under SEPP (Affordable Rental Housing) 2009.																			
I permitted under SEPP (Infrastructure) 2007.																			
fill colours in green or red mandated under the SI.																			
fill colour in purple public infrastructure permitted under a SEPP.																			
Is the zone used? [please select Y/N for each zone]																			
(LAND USE terms WITHIN agriculture group term)																			
agriculture	x	x					x			x	x	x		x	x				
aquaculture	x	x					x			x	x	x		x	x				
Oyster aquaculture	c			c		c		c	c				c				c		
Pond-based aquaculture	x			x		x		x	x								x		c
Tank-based aquaculture	c			c		c		c	c				c				c		c
extensive agriculture [eg. grazing of livestock etc.]	x	x					x			x	x	x		x	x				
bee keeping	x	x					x			x	x	x		x	x				
dairy (pasture-based)	x	x					x			x	x	x		x	x				
intensive livestock agriculture [eg. poultry farms, etc.]	x	x					x			x	x	x		x	x				
feedlots	x	x					x			x	x	x		x	x				
dairies (restricted)	x	x					x			x	x	x		x	x				
intensive plant agriculture [eg. cultivation of irrigated crops]	x	x					x			x	x	x		x	x				
horticulture	x	x					x			x	x	x		x	x				
turf farming	x	x					x			x	x	x		x	x				
viticulture	x	x					x			x	x	x		x	x				
(LAND USE terms OUTSIDE agriculture group term)																			
animal boarding or training establishments	x	x					x	c		x	x	x		x	x				
farm buildings	x	x					x			x	x	x		x	x				
forestry	x	x					x			x	x	x		x	x				
(LAND USE terms WITHIN residential accommodation group term)																			
residential accommodation	x	x					x			x	x	x		x	x				
attached dwellings	c	c					x			x	x	x		x	x				
boarding houses	c	c	c				c	c											
dual occupancies	x	x					x			x	x	x		x	x				
dual occupancies (attached)	x	x					x			x	x	x		x	x				
dual occupancies (detached)	x	x					x			x	x	x		x	x				
dwelling houses	x	x					x			x	x	x		x	x				
group homes	x	x					A	A		x	x	x		x	x				
group homes (permanent)	x	x					A	A		x	x	x		x	x				
group homes (transitional)	x	x					A	A		x	x	x		x	x				
hostels	x	x					x			x	x	x		x	x				
multi dwelling housing	x	c					x			x	x	x		x	x				
residential flat buildings	x	c					c			x	x	x		x	x				
rural worker's dwellings	x	x					x			x	x	x		x	x				
secondary dwellings	x	x					x			x	x	x		x	x				
semi-detached dwellings	x	x					x			x	x	x		x	x				
seniors housing	x	x					c	c		x	x	x		x	x				
residential care facilities	x	x					c	c		x	x	x		x	x				
shop top housing	c	c	c				c	c		x	x	x		x	x				
(LAND USE terms OUTSIDE residential accommodation group term)																			
home-based child care	c	c					c			x	x	x		x	x				
home business	c	o	o	c			o			x	x	x		x	x				
home occupations	c	o	o	c			o			x	x	x		x	x				
home occupation (sex services)	x	x					x			x	x	x		x	x				
(LAND USE terms WITHIN tourist and visitor accommodation group term)																			
tourist and visitor accommodation	c	x	c	c			c	x		x	x	x		x	x				
backpackers' accommodation	c	x	c	c			c	c		x	x	x		x	x				
bed & breakfast accommodation	c	x	c	c			c	x		x	x	x		x	x				
farm stay accommodation	c	x	c	c			c	x		x	x	x		x	x				
hotel or motel accommodation	c	x	c	c	c	c	c	c		c	c	c		c	c	c	c	c	c
serviced apartments	c	x	c	c			c	c		c	c	c		c	c	c	c	c	c
(LAND USE terms OUTSIDE tourist and visitor accommodation group term)																			
camping grounds	x	x					x			x	x	x		x	x				
caravan parks	x	x					x			x	x	x		x	x				
eco-tourist facilities	x	x					x			x	x	x		x	x				
(LAND USE terms WITHIN commercial premises group term)																			
commercial premises	c	x	c	c	c	c	c			x	x	x		x	x				
business premises [eg. banks, post offices, hairdressers, etc.]	c	c	c	c	c	c	c	c		x	c	c		x	x				
funeral homes	c	c	c	c	c	c	c	c		x	c	c		x	x				
office premises	c	x	c	c	c	c	c	c		x	c	c		x	x				
retail premises	c	x	c	c	c	c	c	c		x	x	x		x	x				
cellar door premises	c	c	c	c	c	c	c	c		x	x	x		x	x				
food & drink premises	c	x	c	c	c	c	c	c		c	c	c		c	c	c	c	c	c
pubs	c	x	c	c	c	c	c	c		c	c	c		c	c	c	c	c	c

The Hills Local Environmental Plan 2019 Land Use Matrix [DoP version 3.0]		Business										Industrial							
		E1 Local Centre	B1 Neighbourhood Centre	B2 Local Centre	E2 Commercial Centre	B3 Commercial Core	MU Mixed Use	B4 Mixed Use	E3 Productivity Support	SP4 Local Enterprise	B5 Business Development	B6 Enterprise Corridor	B7 Business Park	E4 General Industrial	IN1 General Industrial	IN2 Light Industrial	E5 Heavy Industrial	IN3 Heavy Industrial	W4 Working Foreshore
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I permitted under SEPP (Infrastructure) 2007.																			
fill colours in green or red mandated under the SI.																			
fill colour in purple public infrastructure permitted under a SEPP.																			
Is the zone used? [please select Y/N for each zone]																			
restaurants and cafes	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
small bars	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
take-away food & drink premises	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
garden centres	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
hardware & building supplies	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
kiosks	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
landscaping material supplies	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
markets	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
plant nurseries	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
roadside stalls	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
rural supplies	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
shops	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
neighbourhood shops	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
neighbourhood supermarket	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
specialised retail premises	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
timber yards	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
vehicle sales or hire premises	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
(LAND USE terms OUTSIDE commercial premises group term)																			
amusement centres	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
entertainment facilities	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
function centres	c	x	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
highway service centres	x	x						x											
industrial retail outlets																			
registered clubs																			
restricted premises																			
service stations	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
sex service premises																			
veterinary hospitals	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c	c
wholesale supplies																			
(LAND USE terms WITHIN rural industry group term)																			
rural industries (eg. use of composting facilities and works)																			
agricultural produce industries																			
livestock processing industries																			
sawmill or log processing industries																			
stock & sale yards																			
(LAND USE terms WITHIN industry group term)																			
industries																			
heavy industries																			
hazardous industry																			
offensive industry																			
light industries																			
high technology industries																			
data centres																			
home industry																			
artisan food and drink industry																			
creative industries																			
domestic goods repair and reuse facilities																			
general industries																			
(LAND USE terms OUTSIDE industry group term)																			
boat building and repair facilities																			
vehicle body repair workshops																			
vehicle repair stations																			
(LAND USE terms WITHIN heavy industrial storage establishment group term)																			
heavy industrial storage establishments																			
hazardous storage establishments																			
liquid fuel depots																			
offensive storage establishments																			
(LAND USE terms WITHIN heavy storage premises group term)																			
storage premises																			
self storage units																			
(LAND USE terms OUTSIDE storage premises group term)																			
depots																			
warehouse or distribution centre																			
local distribution premises																			
(LAND USE terms WITHIN sewerage system group term)																			

The Hills Local Environmental Plan 2019 Land Use Matrix [DoP version 3.0]		Business										Industrial								
		E1 Local Centre	B1 Neighbourhood Centre	B2 Local Centre	E2 Commercial Centre	B3 Commercial Core	MU Mixed Use	B4 Mixed Use	E3 Productivity Support	SP4 Local Enterprise	B5 Business Development	B6 Enterprise Corridor	B7 Business Park	E4 General Industrial	IN1 General Industrial	IN2 Light Industrial	E5 Heavy Industrial	IN3 Heavy Industrial	W4 Working Foreshore	IN4 Working Waterfront
Legend																				
o permitted without consent [mandated under the SI].																				
o permitted without consent.																				
c permitted with consent [mandated under the SI].																				
c permitted with consent.																				
x prohibited [mandated under the SI].																				
x prohibited.																				
A permitted under SEPP (Affordable Rental Housing) 2009.																				
I permitted under SEPP (Infrastructure) 2007.																				
fill colours in green or red mandated under the SI.																				
fill colour in purple public infrastructure permitted under a SEPP.																				
Is the zone used? [please select Y/N for each zone]																				
sewerage systems																				
biosolids treatment facilities		x	x									x	x	x						
sewerage reticulation systems	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I	I
sewerage treatment plants		x	x									x	x	x						
water recycling facilities		x	x									x	x	x						
(LAND USE terms WITHIN water or resource management facility group term)																				
water or resource management facilities																				
resource recovery facilities		c	c									c	c	c	I	I	I	I	I	I
waste disposal facilities		x	x									x	x	x						
waste or resource transfer stations		c	c									I	I	I	I	I	I	I	I	I
(LAND USE terms WITHIN water or resource management facility group term)																				
water supply systems																				
water reticulation systems		x	x									x	x	x						
water storage facilities		x	x									x	x	x						
water treatment facilities		x	x									x	x	x						
(LAND USE terms WITHIN air transport facility group term)																				
air transport facilities																				
airport		x	x									x	x	x						
helipad		x	x									x	x	x						
(LAND USE terms OUTSIDE air transport facility group term)																				
airstrip		x	x									x	x	x						
helipad		x	x									x	x	x						
(Other LAND USE terms relating to infrastructure)																				
car parks		c	x	c	c	c	c	c				c	c	c						
electricity generating works		x	x									x	x	x	I	I	I	I	I	I
freight transport facilities		x	x									x	x	x	c	c	x	c	c	
passenger transport facilities		x	c	c	c	c	c	c				c	c	c						
port facilities		x	x									x	x	x	I	I	I	I	I	I
roads		x	c	c	c	c	c	c				x	x	x	c	c	x	c	c	
transport depots		x	x									c	x	x						
truck depots		x	x									c	c	c						
wharf or boating facilities		x	x									x	x	x						
(LAND USE terms WITHIN educational establishment group term)																				
educational establishments (eg. TAFE establishment, etc.)																				
schools		c	I	c	c	c	c	c	E			I	I	I						
(LAND USE terms WITHIN health services facility group term)																				
health services facilities																				
hospitals		I	x	I	I	I	I	I				I	I	I						
medical centres		c	c	c	c	c	c	c	I			I	I	I						
community health service facilities		I	I	I	I	I	I	I				I	I	I						
health consulting rooms		I	I	I	I	I	I	I				I	I	I						
patient transport facilities, including helipads and ambulance fac		I	I	I	I	I	I	I				I	I	I						
(Other LAND USE terms relating to community infrastructure)																				
Early Education and care facilities																				
centre-based child care facilities		c	c	c	c	c	c	c				c	c	c						
school-based child care facilities		E		E		E		E												
community facilities		c	c	c	c	c	c	c				c	c	c						
correctional centres		x	x									x	x	x						
emergency services facilities		I	I	I	I	I	I	I				I	I	I						
industrial training facilities		x	x									x	x	x	c	c	c	c	c	
information and education facilities		c	c	c	c	c	c	c				c	c	c						
places of public worship		c	c	c	c	c	c	c				c	c	c						
public administration building		c	c	c	c	c	c	c				c	c	c						
research stations		x	x									x	x	x						
respite day care centres		c	c	c	c	c	c	c				c	c	c						
(LAND USE terms WITHIN signage group term)																				
signage																				
advertising structure		x	x									x	x	x						
building identification sign		c	c	c	c	c	c	c				c	c	c	c	c	c	c	c	
business identification sign		c	c	c	c	c	c	c				c	c	c	c	c	c	c	c	
(Other LAND USE terms relating to recreation)																				
boat launching ramps		x	x									x	x	x						
boat sheds		x	x									x	x	x						
charter tourism boating facilities		x	x									x	x	x						
environmental facilities		x	x									x	x	x						

The Hills Local Environmental Plan 2019 Land Use Matrix [DoP version 3.0]	Business										Industrial								
	E1 Local Centre	B1 Neighbourhood Centre	B2 Local Centre	E2 Commercial Centre	B3 Commercial Core	MU Mixed Use	B4 Mixed Use	E3 Productivity Support	SP4 Local Enterprise	B5 Business Development	B6 Enterprise Corridor	B7 Business Park	E4 General Industrial	IN1 General Industrial	IN2 Light Industrial	E5 Heavy Industrial	IN3 Heavy Industrial	W4 Working Foreshore	IN4 Working Waterfront
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I permitted under SEPP (Infrastructure) 2007.																			
fill colours in green or red mandated under the SI.																			
fill colour in purple public infrastructure permitted under a SEPP.																			
Is the zone used? [please select Y/N for each zone]																			
jetties		x	x					x				x	x	x				x	x
marinas		x	x					x				x	x	x				x	x
mooring		x	x					x				x	x	x				x	x
mooring pens		x	x					x				x	x	x				x	x
recreational areas	c	c	c	c		c	c	c				c	c	c				c	c
recreation facilities (indoor)	c	c	c	c	c	c	c	c				c	c	c				c	c
recreation facilities major		x	x	x				x	c			x	x	x				x	x
recreation facilities (outdoor)		x	c	c				c	c			c	c	c				c	c
water recreation structures		x	x					x				x	x	x				x	x
(Other miscellaneous LAND USE terms)																			
cemetery		x	x					x				x	x	x				x	x
crematorium		x	x					x				x	x	x				x	x
environmental protection works		c	c					c				c	c	c				c	c
exhibition homes		x	x					c				x	x	x				x	x
exhibition villages		x	x					x				x	x	x				x	x
extractive industries		x	x					x				c	c	c				c	c
flood mitigation works		c	c					c				c	c	c				c	c
mortuaries		x	x	c				x	c			x	x	c				c	c
open cut mining		x	x					x				x	x	x				x	x
(OTHER LAND USES)																			
development which cannot be characterised into any land uses defined under the SI																			
Note 1.	Zone B8 Metropolitan Centre is not included in this matrix given this zone may only be used in two nominated LGAs. Zone E1 National Parks and Nature Reserves is not included given there is no need to add any additional uses to the zone. Zones SP1 Special Activities and SP2 Infrastructure are																		
Note 2.	A type of development referred to in the matrix is a reference to that type of development to the extent it is not regulated by an applicable State Environmental Planning Policy (SEPP). The following SEPPs in particular may be relevant to development on land covered by this Plan:																		
	SEPP (Housing for Seniors or People with a Disability) 2004																		
	SEPP (Exempt and Complying Development Codes) 2008																		
	SEPP (Infrastructure) 2007																		
	SEPP (Mining, Petroleum Production and Extractive Industries) 2007																		
	SEPP (Affordable Rental Housing) 2009																		
	SEPP No. 33 - Hazardous and Offensive Development																		
	SEPP No. 50 - Canal Estate Development																		
	SEPP (Primary Production and Rural Development) 2019																		
	SEPP No. 64 - Advertising and Signage																		
	SEPP (Educational Establishments and Child Care Facilities) 2017																		
Important note	This information does not constitute legal advice. Users are advised to seek professional advice to the relevant legislation, as necessary.																		
	agencies and employees, disclaim any and all liability to any person in respect of anything or the consequences of anything done or omitted to be done in reliance upon the whole or any part of this document.																		

Attachment 7



THE HILLS
Sydney's Garden Shire

THE HILLS SHIRE COUNCIL
3 Columbia Court, Norwest NSW 2153
PO Box 7064, Norwest 2153
ABN 25 034 494 656 | DX 9966 Norwest

13 May 2021

Ms Meagan Kanaley
Director – Codes Team
Department of Planning, Industry and Environment
Locked Bag 5022
PARRAMATTA NSW 2124

Our Ref: FP58

Dear Ms Kanaley,

PUBLIC SUBMISSION – EXPLANATION OF INTENDED EFFECT – BUILDING BUSINESS BACK BETTER (FP58)

I refer to the above matter and advise that at its Meeting of 11 May 2021, Council considered a report on the key issues and policy implications for Council and resolved that:

1. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Explanation of Intended Effect – 'Building Business Back Better', in accordance with the comments contained within this report.
2. Council does not 'opt-in' to the proposed Master Plan Complying Development Pathway.
3. Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

In accordance with this resolution, please find attached a submission from Council in the form of the Report and Minute from 11 May 2021. The report contains a summary of the key elements of the EIE, as well as comments in response to each. Please refer to individual sections titled "Comments", as well as Attachment 1 to the Council report, which collectively form the Council's submission.

While the opportunity for increased usage of the complying development pathway is supported, the following matters are of particular concern:

- The EIE does not address the differences between land use terms in growth centres versus the standard instrument, which creates complexity and a lack of clarity for certifiers and can make it difficult to achieve compliance.
- The proposed amendments go beyond the scope of what complying development is intended to facilitate, which is straight-forward, permissible development with minimal environmental impacts. In particular, concern is raised with the larger scale and higher intensity developments such as indoor recreational facilities, entertainment facilities, depots, function centres, vehicle repair stations and heavy industry uses.

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- The proposed amendments may result in a greater number of uses with higher potential for adverse impacts within The Hills Shire and place an unnecessary regulatory burden on Council moving forward.
- It is difficult to determine the full extent of impact to Council arising from some of the measures proposed within the EIE as specific detail is not provided for some of the proposed changes.
- Some elements of the proposed reforms could impact Council's ability to implement local policy and planning controls.
- It may reduce the ability for the community to have their say on certain developments occurring in their local area.

Should you require further information please contact Jessie Wiseman, Senior Town Planner on 9843 0122.

Yours faithfully



Nicholas Carlton
MANAGER FORWARD PLANNING

Attach: Council Report and Minute, 11 May 2021

MINUTES of the duly convened Ordinary Meeting of The Hills Shire Council held in the Council Chambers on 11 May 2021

5. Council approve the transfer of revenue from the sale of Proposed Lot 2 in a subdivision of Lot 1 DP 237578 (based on formal survey of land area at the rate of \$430/m²) as follows:
- a) Value equivalent to the original acquisition cost (based on formal survey of land area at the rate of \$390/m²), to the Capital Works Reserve in a future Budget Review.
 - b) The remaining sale revenue net of all associated subdivision and transaction costs, to Land Development Reserve in a future Budget Review.

7.15pm *Councillor Uno left the meeting and returned at 7.17pm during Item 2.*

ITEM-2 EXPLANATION OF INTENDED EFFECT - "BUILDING BUSINESS BACK BETTER" (FP58)

A MOTION WAS MOVED BY COUNCILLOR HASELDEN AND SECONDED BY COUNCILLOR COLLINS OAM THAT the Recommendation contained in the report be adopted.

THE MOTION WAS PUT AND CARRIED.

221 RESOLUTION

1. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Explanation of Intended Effect – 'Building Business Back Better', in accordance with the comments contained within this report.
2. Council does not 'opt-in' to the proposed Master Plan Complying Development Pathway.
3. Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

QUESTIONS WITHOUT NOTICE**222 WEEKDAY MORNING PEAK BUS SERVICES – WEST PENNANT HILLS VALLEY**

Councillor Haselden asked if the General Manager could provide an update on earlier investigations as to how weekday morning peak bus services could receive priority treatment through the West Pennant Hills Valley.

The General Manager advised he would take the matter on notice.

223 NAMED PARKS AND RESERVES

Councillor Haselden asked if the General Manager can confirm if all our Shire's named Parks and Reserves have names which are recognised by the Geographical Names Board.

The General Manager advised he would take the matter on notice.

ORDINARY MEETING OF COUNCIL**11 MAY, 2021**

ITEM-2	EXPLANATION OF INTENDED EFFECT - "BUILDING BUSINESS BACK BETTER" (FP58)
THEME:	Shaping Growth
OUTCOME:	5 Well planned and liveable neighbourhoods that meets growth targets and maintains amenity.
STRATEGY:	5.1 The Shire's natural and built environment is well managed through strategic land use and urban planning that reflects our values and aspirations.
MEETING DATE:	11 MAY 2021 COUNCIL MEETING
GROUP:	SHIRE STRATEGY, TRANSFORMATION AND SOLUTIONS
AUTHOR:	SENIOR TOWN PLANNER JESSIE WISEMAN
RESPONSIBLE OFFICER:	MANAGER – FORWARD PLANNING NICHOLAS CARLTON

EXECUTIVE SUMMARY

The Department of Planning, Industry and Environment (the Department) has prepared an Explanation of Intended Effect (EIE) – 'Building Business Back Better' for proposed reforms to the State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP). The EIE was released for public comment on 31 March 2021. A copy of the EIE and the supporting attachments are provided as Attachments 2 - 13 to this Report.

This report recommends that Council make a submission on the EIE for the proposed complying development reforms. It also recommends that Council does *not* opt-in to the proposed Master Plan Complying Development Pathway as the effects are still too uncertain, and there are already considered to be sufficient pathways available to facilitate complying development. This report also recommends that Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

The proposed reforms seek to expand the complying development pathways to create jobs, boost industry confidence and stimulate the economy. They also seek to simplify the existing framework so it can be more easily interpreted by landowners, developers and the broader industry. It should also be noted that the proposed complying development reforms only relate to business and industrial zoned land.

Complying development has the potential to generate many positive benefits for the industry, particularly for small businesses within The Hills Shire, as it does play a key role in streamlining the planning system, minimising approval timeframes and stimulating the local economy. Accordingly, increasing the ability for approvals through the complying development pathway is supported as a concept, provided the appropriate settings are in place with the capacity for the system to allow for adjustment to controls and parameters at a local level, to reflect local intent, character and expectations.

While the opportunity for increased usage of the complying development pathway is supported, the following concerns are raised:

- The EIE does not address the differences between land use terms in growth centres versus the standard instrument, which creates complexity and a lack of clarity for certifiers and can make it difficult to achieve compliance.
- The proposed amendments go beyond the scope of what complying development is intended to facilitate, which is straight-forward, permissible development with minimal environmental impacts. In particular, concern is raised with the larger scale and higher intensity developments such as indoor recreational facilities, entertainment facilities, depots, function centres, vehicle repair stations and heavy industry uses.
- The proposed amendments may result in a greater number of uses with higher potential for adverse impacts within The Hills Shire and place an unnecessary regulatory burden on Council moving forward.
- It is difficult to determine the full extent of impact to Council arising from some of the measures proposed within the EIE as specific detail is not provided for some of the proposed changes.
- Some elements of the proposed reforms could impact Council's ability to implement local policy and planning controls.
- It may reduce the ability for the community to have their say on certain developments occurring in their local area.

While there are obvious benefits to expanding the scope of complying development, the potential risks and concerns associated with doing so are the subject of this report, as well as in Attachment 1.

It is recommended that Council make a submission on the EIE to communicate these potential impacts early in the consultation process and recommend further considerations for the Department to consider throughout the drafting of the proposed reforms. Based upon preliminary discussions with officers at Local Government NSW ('LGNSW'), it is understood that LGNSW will also be making a submission on the matter. LGNSW's broader policy position regarding complying development is that "*complying development is to be limited to low risk or low impact development, with clearly defined parameters*". It is also noted that one of the resolutions from the 2021 LGNSW Annual Conference was that LGNSW would advocate to the NSW Government to amend the Codes SEPP to provide more discretion for Councils to amend a SEPP when applying it in their Local Government Area.

1. REPORT

The purpose of this report is to provide Council with an overview of the Department's EIE for changes to complying development for employment lands and identify the key matters for Council's consideration. The EIE is on public exhibition from 31 March 2021 to 9 May 2021.

2. BACKGROUND

In August 2020, the NSW Government announced the Planning Reform Action Plan, which seeks to cut red tape, reduce time and costs associated with the planning system and make the system more transparent and easier to use.

A copy of the Department's Market Sounding Report (prepared by Urbis) is provided as Attachment 3 to this report. This study concluded that key challenges experienced within the industry include difficulties interpreting the complex planning system, lack of flexibility for minor works and difficulties in obtaining development approvals. As expected, it also

ORDINARY MEETING OF COUNCIL**11 MAY, 2021**

revealed that complying development offers a faster alternative compared to the standard development application process, which can be quite a lengthy and expensive exercise.

In response to the Planning Reform Action Plan and the preliminary investigations undertaken to date, the NSW Government is now introducing a suite of reforms to create jobs, boost industry confidence and stimulate the economy. These two (2) areas of reform include:

- **Complying Development Reform:** A program that seeks to expand the complying development scheme to fast-track development approvals, stimulate economic activity and encourage capital investment in employment zones; and
- **Employment Zone Reform:** A program that is expected to reconsider and simplify the current employment zone framework (e.g. reforms to the existing industrial and business zones). Whilst the Employment Zone Reform program is a separate process, it is still directly linked with the complying development reforms (subject of this report). An EIE on these reforms is expected to be publicly exhibited in mid-2021, at which time Council will have the opportunity to provide comment on the reforms.

In terms of timing, these projects are still in their early consultation stages, with staged implementation of the proposed changes set to occur from September 2021 until mid-2022. This is expected to occur by way of self-repealing State Environmental Planning Policies that will amend all Council Local Environmental Plans.

3. PROPOSED AMENDMENTS

A copy of the EIE and the supporting attachments are provided as Attachments 2 - 13 to this report. The key amendments proposed are summarised below, along with comments on the proposed changes.

a) Land Use and Business Agility Improvements

Preliminary investigations undertaken on behalf of the Department revealed that various amendments were required to the Codes SEPP to enhance land use and business agility.

The Department's Fact Sheet on this particular component of the proposed SEPP amendments is provided as Attachment 2 to this report.

The proposed amendments seek to allow a wider range of land uses to be complying development and access the building allowances within the Codes SEPP, as detailed below:

New land uses that may be complying development include:	Land uses that may access the building allowances (existing and proposed) in the Codes SEPP include:
<ul style="list-style-type: none"> • data centres • recreational facilities (indoor) • local distribution premises • entertainment facility • artisan food and drink industry (subject to liquor licence requirements and any LEP floor area requirements) • veterinary hospitals or depots or health manufacturing facilities • heavy industry in heavy industry zones. NOTE: No hazardous or offensive land uses, as defined by State Environmental Planning Policy No. 33 (Hazardous and Offensive Development) would be allowed through the complying development pathway. 	<ul style="list-style-type: none"> • the new land uses listed to the left • commercial premises in a B5–B7 zone • function centres • health consulting rooms or medical centres • community facilities or health manufacturing facilities • vehicle repair station • wholesale suppliers • amusement centres • boat building and repair facilities • vehicle body repair workshops • vehicle repair stations • information and education facilities • food and drink premises greater than 50 seats • neighbourhood supermarkets.

Figure 1
Proposed New Complying Development Land Uses (Source: DPIE, 2021)

This amendment will effectively enable certifiers to authorise new builds, alterations and additions, and changes of uses.

The proposed reforms also seek to:

- Remove the distinction between first use and change of use.
- Enable Complying Development Certificates (CDCs) to permit change of uses to permissible land uses within the Codes SEPP.
- Extend the hours of operation and enable site facilities to be more easily reconfigured (including parking, loading bays, 'click and collect' bays and no contact store collection facilities).
- Reduce the burden of providing onerous documentation to prove previous land uses.

Comment:

It is recognised that the proposed reforms aim to increase flexibility for businesses seeking to utilise complying development pathways. However, further information is required on the proposed development criteria that will guide these developments.

Concern is raised with respect to the types of uses proposed to be enabled through the complying development pathway, given the scale of these uses and potential amenity impacts that may arise. Notably, objection is raised to permitting the construction of data centres, indoor recreation facilities, entertainment facilities, veterinary hospitals and depots as complying development.

Concern is also raised that the proposed reforms may result in adverse amenity impacts for the surrounding developments, in particular the proposed extension of hours of operation. The proposed amendments would enable developments to operate 24 hours a day within industrial zones and from 7am – 10pm within business zones (subject to noise assessment), irrespective of existing consent conditions. It is recognised that some amenity criteria is proposed, however future development is still likely to impact on the amenity of surrounding

ORDINARY MEETING OF COUNCIL**11 MAY, 2021**

uses. This is likely to in turn place an increased regulatory burden on Council when implementing and monitoring these complying development standards.

It should also be noted that Council's DCP includes controls that enable a broad range of operating hours, contingent upon the appropriate assessment of amenity impacts. Whilst extended hours may be appropriate in certain circumstances, a development application is considered to be the most appropriate pathway to assess these potential amenity impacts. This is further detailed within Attachment 1 to this report.

There are currently circumstances where industrial and business uses are impacting the amenity of residents due to activities being undertaken outside of the approved hours. There are also approvals which have been granted that are predicated on complying with noise criteria, even if the use is within the hours that have been conditioned. A use may meet the intrusive and amenity criteria contained in the Noise Policy for Industry (which is an EPA policy which Council applies for guidance when assessing development application). If Council receives a noise complaint, the complaint is then assessed under the offensive noise definition (POEO Act).

In business zones, development applications are assessed for acoustic compliance. In many cases the plant and use of loading docks limits the hours of operation of the development. If the proposed changes to the SEPP occur, Council will not be able to control the emission of offensive noise until after an operation has commenced and complaints are received.

The Beaumont Village Shopping Centre at 70 The Parkway, Beaumont Hills (DA 1952/2017/HA) is a relevant example of a development where noise complaints are currently being received. The development consent conditions stipulates hours of operation for the shopping centre generally (8am – 8pm), as well as specific limitations for individual uses for a medical centre (8am – 8pm), fitness centre (8am - 8pm), child care facility (7am - 6pm) and loading dock (7am – 8pm on Mon-Sat and 8am – 8pm Sunday and public holidays). Despite these restrictions, Council is currently dealing with ongoing complaints from adjacent residents. The proposed changes to the SEPP would actually expand these hours of operation and allow the operation of the main shopping centre to start one hour earlier (7am) and conclude two hours later (10pm). Concern is raised that the proposed changes would undermine existing conditions of consent, impact on the amenity of adjoining residents and exacerbate the prevalence of noise complaints into the future with an associated increased regulatory burden on Council.

At present, a change of use to a recreational facility cannot be undertaken with a CDC and requires a Development Application to be submitted to Council. Despite this, Council officers have been made aware of issues with change in use CDC's for recreational facilities (specifically gymnasiums) in established industrial/commercial areas. Some Privately Registered Certifiers have taken the view that a gym is a class 6 building (not 9b classification under the Building Code of Australia), and this has resulted in developments where there are insufficient sanitary facilities, inadequate accessible facilities and access, inadequate fire resistance levels of building elements and inadequate essential fire safety measures installed in the premises. As the Regulatory Authority, Council staff have been required to intervene and upgrade these buildings, creating additional impacts on business owners. However, under the proposed changes to the Codes SEPP, a change of use to an indoor recreational facility could occur as complying development. Having consideration for the issues detailed above, this poses significant issues from a regulatory and building safety perspective.

ORDINARY MEETING OF COUNCIL

11 MAY, 2021

b) Zone Based Building Controls

The amendments seek to introduce zone based building controls for industrial zoned land (IN1 General Industrial, IN2 Light Industrial and IN3 Heavy Industrial) and some business zoned land (B5 Business Development, B6 Enterprise Corridor and B7 Business Park). No changes are proposed for the B1 Neighbourhood Centre, B2 Local Centre, B3 Commercial Core or B4 Mixed Use land use zones.

The Department's Fact Sheet on this particular component of the proposed SEPP amendments is provided as Attachment 3 to this report.

Industrial Zones (IN1, IN2 and IN3)

- Increase the allowable floor area to 50,000m², subject to existing floor space ratio (FSR) standards. In instances where no FSR standards apply, an FSR of 1:1 will continue to be applied within the Codes SEPP.
- Increase the maximum height of building standards to 18m where the existing LEP standard is less than 18m and up to 45m where no LEP standard exists (subject to building separation and maximum floor area requirements).
- Increase ancillary land uses, such as offices and industrial retail outlets, from 20% to 30% of gross floor area.
- Increase the allowance for additions from 5,000m² to the maximum gross floor area (GFA) (subject to the LEP FSR standards).
- Introduce additional controls for land covered by the *State Environmental Planning Policy (Western Sydney Employment Area) 2009*.
- Introduce new separation distances for taller industrial buildings.

Business Zones (B5, B6 and B7)

- Allow new builds and additions up to 10,000m² and 5 storeys as complying development (subject to existing LEP height and FSR standards, and landscaped area controls).
- Introduce a Business Zone Design Guide to encourage high quality site planning and design outcomes. Most notably, it will include guidance on design principles, urban design and site planning, site access and parking, amenity, materials and environmental performance.
- Introduce a new design verification process.

Comment:

It is recognised that there are changing needs for industrial buildings, particularly due to the emergence of new models of industrial developments. However, the proposed amendments have the potential to facilitate large scale development under complying development pathways, by increasing the allowable floor area for complying development from 20,000m² to 50,000m² and increasing the additions allowance from 5,000m² previously to an uncapped amount up to the maximum permissible gross floor area (GFA). Development of this scale is inappropriate for complying development pathways. Further consideration should also be given to the scale of ancillary land uses, as the proposed controls may result in these ancillary uses becoming quite dominant and detracting from the role and function of the principle industrial land uses.

The Department is also seeking to revisit and increase the allowable maximum height of building controls under the Codes SEPP (as shown in the figure below).

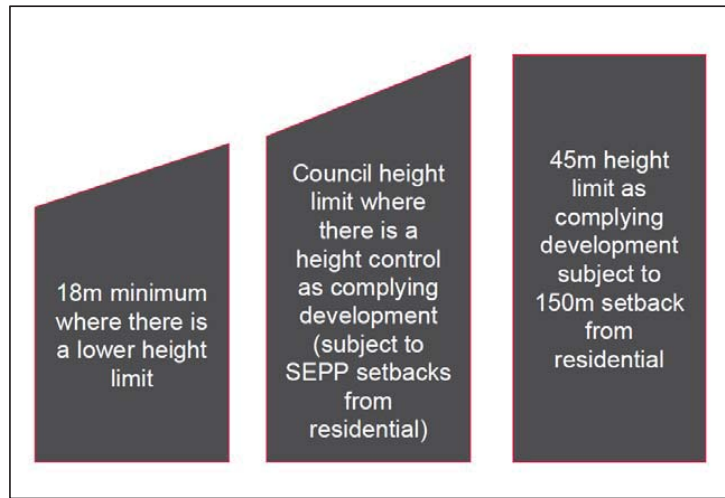


Figure 2

Proposed Complying Development Height Allowances (Source: DPIE, 2021)

There are various pockets of industrial zoned land within The Hills Shire which are subject to maximum height of building controls that range from 10m to 16m (as shown in the figures below). Under the proposed amendments, the maximum height of building controls for these sites would effectively be increased to a maximum of 18m. This would nearly double the allowable maximum height of building controls for some areas. Accordingly, concern is raised with the proposed amendments as they have the potential to substantially increase permissible building heights in certain locations, without any site specific consideration by the Department. The changes could lead to excessively intrusive designs being approved through the complying development pathway, with adverse impacts on the surrounding areas and outcomes that are inconsistent with the strategic planning that underpinned the determination of the applicable height controls for these locations.



Figure 3

Existing Industrial Zoned Land within Annangrove Road Employment Area (left) and Winston Hills (right) under The Hills LEP

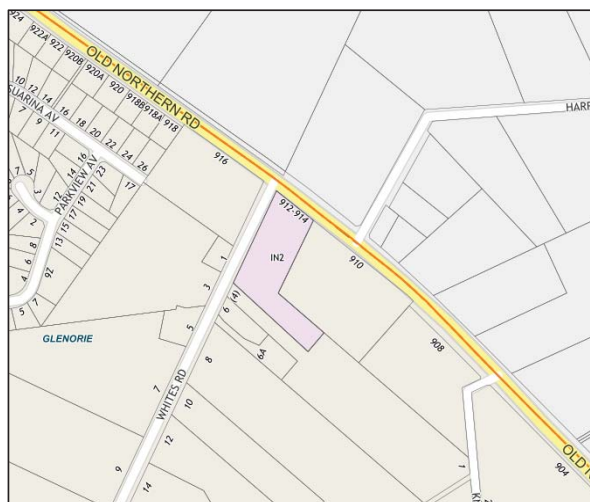


Figure 4

Existing Industrial Zoned Land within Glenorie under The Hills LEP

It is also noted that the proposed changes seek to allow building heights of up to 45m within some areas of industrial zones where no LEP height limit exists. Whilst this is considered excessive, all of the industrial areas within The Hills Shire are subject to height limits within the LEP and Growth Centres SEPP. Accordingly, this will have no impact within The Hills Shire.

It is noted that the industrial zoned land within the Norwest Service Sub-precinct (for example, along Victoria Avenue) is already subject to a maximum height of building control of 20m under The Hills LEP. Accordingly, the proposed changes to the building heights will have no bearing on these lots.

c) Increased Support for Neighbourhood and Local Centres

Various amendments are proposed to better support small to medium scale businesses within neighbourhood and local centres, including:

- Include additional land uses as detailed within Section 3(a) of this report.
- Increase the allowable seating capacity for food and drink premises from 50 to 100 seats (subject to BCA requirements).
- Where a change of use is proposed at a premises that has a floor area of less than 500m², there will be no requirement for the development to include additional parking or loading bay facilities.
- Enable minor external alterations to existing buildings in a heritage conservation area and on the site of listed local heritage items (but not the listed heritage item itself). For example, works may include minor shopfront and awning repairs and maintenance.
- Enabling neighbourhood circular economy uses (e.g. repair-shop cafes and swap-and-re-use centres) to occur as complying development.
- Enables ancillary complying development on lots within heritage conservation areas and draft heritage conservation areas, where the lot adjoins a lane or secondary or parallel road. There is currently a provision within the codes SEPP which prevents certain complying development on these sites.

Comment:

Concern is raised with these amendments as they are excessively flexible. From a practical perspective, the proposed amendments to increase seating allowances may pose difficulties for operators to meet demand for site parking. This will result in amenity implications as it will result in excessive on-street parking.

In regards to heritage items, development can already be undertaken without development consent in some instances under the provisions of Clause 5.10 – Heritage Conservation of The Hills Local Environmental Plan. However, as part of this process Council officers have the opportunity to provide comment whether the development will result in adverse impacts on the heritage item. It should also be noted that the assessment of heritage impacts are quite complex and are not limited to works to the heritage item itself. Rather, it should also have consideration to heritage curtilage, views and vistas, materials, overshadowing, its relationship with broader surrounding and the protection of heritage items during construction.

d) Master Plan Pathway

Council has the option to 'opt-in' on a 'Master Plan Complying Development Pathway', which would effectively require Council's to specify complying development on identified industrial or business zoned land through a master plan (excluding the B4 Mixed Use zone). Any Master Plan Complying Development Pathways would need to expand the existing operation of the Codes SEPP, rather than limiting or reducing it. It would also be subject to a Ministerial approval process.

Should Council decide to 'opt-in', Council would be responsible for the up-front strategic planning work, and may wish to liaise or partner with developers and landowners to undertake the relevant studies. This upfront strategic planning would ultimately be relied upon to manage any identified risks.

Comment:

Whilst this may free up Council resources in the longer term, by enabling additional complying development pathways, it will place additional pressure on Council resources in the short to medium term (given it is a Council-led exercise). It is also considered that the other changes already proposed as part of the reforms will enable adequate scope for the industry to utilise complying development pathways.

Accordingly, this report recommends that Council does not 'opt-in' on this potential complying development pathway. A copy of the Draft Guideline for Complying Development Master Plans is provided as Attachment 12 to this report.

e) Data Centres

Data centres are facilities for storing and processing large quantities of electronic data on computer servers. Demand for data centres has been increasing overtime, particularly having regard for recent technological advancements and reliance on the internet. Accordingly, there has been an increased quantum of development applications for data centres under assessment. These facilities typically require few onsite staff (thereby reducing the job density of key employment generating land) and have few truck movements, so impact from these activities can be viewed as minimal. However these facilities do require extensive mechanical cooling plant and backup power generators and batteries to cool the computer servers and ensure continuous operation. These systems can have noise and air quality impacts and fuel storage hazards.

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To keep pace with this increased demand for data centres, the proposed amendments seek to:

- Introduce a complying development pathway for data centres under the Codes SEPP (noting that it is already permissible under the *State Environmental Planning Policy (Infrastructure) 2007 in some zones*), provided certain threshold criteria is not triggered.
- Introduce a new constrained car parking rate and extend the hours of operation.
- Introduce various technical standards relating to noise, air quality, fuel and batteries.

Comment:

Concern is raised that the proposed technical standard does not require a very rigorous assessment process, which would ordinarily form part of the standard development assessment process. Notwithstanding this, the Department has not actually completed or publicly exhibited the full suite of consultant reports. Rather it has simply indicated that it will consult directly with key stakeholders once the Air Quality Impact Assessment is complete. To enable Council to provide meaningful and informed comments on the proposed amendments further information is required.

f) Circular Economy Uses

The proposed amendments also seek to introduce complying development pathways for Council-run community recycling drop-off centres on public land and community circular economy facilities.

Council-run Community Recycling Drop-off Centres

- The centre must operate below the prescribed tonnage threshold criteria.
- Stipulate that these centres are not designated development and do not require an Environmental Impact Statement (EIS).

Community Circular Economy Facilities

- Only permitted within industrial zones, along with areas where retail premises are permitted under the LEP.
- Subject to the zone-based controls detailed in Section 3 (b) of this report.
- Not permitted to process or remanufacture waste and could only receive a limited range of items and materials.
- The centre must operate below the prescribed tonnage threshold criteria.
- Stipulate that these centres are not designated development and do not require an Environmental Impact Statement (EIS).

Comment:

The introduction of complying development pathways for certain circular economy uses is likely to be mutually beneficial for both Council and the broader community. However, it is imperative that the right policy settings are put in place to guide these types of developments moving forward. The description provided within the EIE for community circular economy facilities is quite broad. The proposed changes would enable community circular economy facilities to occur as complying development in industrial zones, along with areas whereby retail premises are permitted under the LEP. Given retail premises are permitted in a number of zones this amendment is quite flexible. Further clarification is required on the type and scale of such uses in order to provide meaningful comments on the appropriateness of the amendments and the zones to which it applies.

g) Consequential Amendments

The proposed amendments seek to:

- Introduce various requirements into the *Environmental Planning and Assessment Regulation 2000* (Regulation) including:
 - Impose requirements for noise certificates, design verification statements, master plan endorsements and submission requirements.
 - Clarify certain circular economy land uses are not designated development.
- Introduce a definition for data centres into the *Standard Instrument – Principal Local Environmental Plan*.
- Introduce savings and transitional provisions to the Codes SEPP.

Comment:

A more detailed list of proposed changes, along with planning comments in response to each, is provided as Attachment 1 to this report. It is recommended that a submission be made to the Department, reflecting the comments contained within Attachment 1. The Department will consider submissions when drafting the proposed amendments to the Codes SEPP and it is anticipated that these would be subject to further consultation.

4. COUNCIL'S EXISTING APPROVAL PATHWAYS

As detailed throughout this report, Council's existing policy settings within The Hills Local Environmental Plan (LEP) and The Hills Development Control Plan (DCP) 2012 already provide a high level of flexibility for landowners, businesses and developers. The standard development application is a more rigorous and transparent process that is designed to properly assess these more significant types of development, to mitigate potential impacts, enable community input, deliver quality design and ultimately ensure that a proposal is in the public interest. This is discussed in more detail within Attachment 1 of this report.

Through the development assessment process, consent authorities have the discretion to impose conditions within development consents to ameliorate any impact on the adjoining land uses. This may include specific hours of operation, parking and occupancy requirements. By imposing conditions on an individualised and merit assessment basis, this provides appropriate balance between the need for applicants to have access to flexible planning controls whilst simultaneously mitigating potential amenity impacts for surrounding developments.

5. THE ROLE OF PRIVATE CERTIFIERS

The complying development pathway has already been in operation for a number of years, during which Council officers have identified several issues with the existing system. These issues are discussed in further detail below.

Consideration of Impacts

The expansion of complying development to include larger scaled industrial and commercial developments is not supported as this is a departure from the focused note of complying development assessment, which is straight-forward, permissible development with minimal environmental impacts. These applications are more suited to a merit based assessment, having regard to local character, amenity and environmental considerations which are ordinarily addressed by way of a development application.

Private certification of merit considerations is not considered to be in the community interest and does not provide any confidence of impartiality, nor do private certifiers necessarily have the means or pathways available to them to properly engage with the communities and other agencies and/or authorities.

Ideally, Council should maintain an assessment role for larger scale developments that have been identified as part of these complying development reforms, as the implications of such development often extend beyond the immediate vicinity of the property. In addition to this, it is questioned whether private certifiers are appropriately trained and equipped to properly assess these potential impacts, as they can often result in irreversible damage (particularly in instances whereby heritage items are involved or significant environmental sensitivities) or issues which are infinitely harder to resolve through the compliance process.

Consultation

The proposed amendments do not provide any certainty that adjoining and surrounding landowners will have the opportunity to have their say on future developments. Given the scale and extent of the proposed amendments, it is considered reasonable that the community be consulted, as they would ordinarily have the opportunity to provide meaningful comment as part of the standard development application process. It is unacceptable that a resident would be unable to make a submission (or have their views properly considered) with respect to development which may have an unreasonable impact on their property on the basis that the application fully complies with the code. This was not the intent of the code and may lead to frustrations in the community and further distrust in the planning system.

Council Enforcement Role

Concern remains in relation to the role of private certifiers and the implications for Council when errors are made. The private certification system has been a constant issue since its introduction in 1998. The inherent conflicts of interest, problems with accreditation and the lack of responsive investigation and enforcement have led to a lack of confidence in the system.

There are considered to be fundamental flaws in having privately commissioned individuals perform tasks on behalf of the public interest. Private certification of building approvals and inspections continue to raise concerns, particularly where Council staff become involved in an enforcement role as a result of non-compliances by private certifiers. It is the Councils who bear the costs of dealing with private certification going wrong and take the responsibility of resolving the issues. Furthermore, it should also be noted that a Certifier does not have any regulatory enforcement powers, as only Council has the power to issue Development Control Orders and penalty notices.

The NSW Government has also recently announced that Council's will no longer be able to impose a Compliance Levy on Development Applications after July 2021. This levy was introduced to better equip Council staff so that it can successfully respond to the broadening nature and increasing intensity of compliance and enforcement activity. The NSW Government's review of Compliance Levies imposed by Councils acknowledges that there is a need to support Councils, by proposing to impose a levy on CDC's to assist Councils in undertaking our increased compliance and enforcement role as a result of the expanded types and increased complexity of complying development.

Given the existing issues being experience, the notion of permitting an even greater scale and extent of development to occur through a complying pathway in the knowledge that Councils will be required to undertake regulatory action in the future to attempt to resolve

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issues does not represent prudent planning or governance and does not protect the interests of the community. Given the foregoing any greater role for private certifiers is strongly opposed.

To date, Council officers have identified various issues with the complying development system in regards to its implementation and enforcement, including the following:

- Issues with the permissibility of land uses;
- Complex definitions and group terms, which make it difficult for compliance to be achieved;
- When retrofitting existing buildings, there are often issues with building safety, fire safety and Building Code of Australia (BCA) requirements;
- Approval of outcomes with adverse amenity impacts.

There is no dispute about the need to make the planning system more efficient and effective. However, it is important that the streamlining of planning standards does not come at a cost to the lifestyles of residents or compromise the planning outcomes that are envisaged for key industrial and business areas within The Hills Shire, particularly within our local and neighbourhood centres. By increasing opportunities to undertake complying development, the role of private certifiers and the certification system will be increased. This has been objected to by Council on many occasions as it has inherent problems with conflicts of interest, accreditation and enforcement by the Building Professionals Board.

IMPACTS**Financial**

This matter has no direct financial impact upon Council's adopted budget or forward estimates. However, should Council resolve to 'opt-in' on the proposed Master Plan Pathway, it would likely incur additional administrative costs to Council and would require additional resources from Council staff in the short to medium term.

Strategic Plan - Hills Future

The stated objective of the proposed complying development reforms is to support economic recovery and resilience within New South Wales (NSW). The formulation of a submission will ensure that the community is effectively represented, governed and managed at all levels of government, and that there is input into new legislation that affects local issues.

RECOMMENDATION

1. Council make a submission to the Department of Planning, Industry and Environment in response to the exhibition of the Explanation of Intended Effect – 'Building Business Back Better', in accordance with the comments contained within this report.
2. Council does not 'opt-in' to the proposed Master Plan Complying Development Pathway.
3. Council forward a copy of its submission to Local Government NSW and neighbouring Councils.

ATTACHMENTS

1. Detailed Comments on Explanation of Indented Effects (10 pages)
2. Fact Sheet – Land Use and Business Agility Reform (2 pages)
3. Fact Sheet – Industrial and Commercial New Build and Alterations Reform (3 pages)
4. Explanation of Intended Effect – ‘Building Business Back Better’, March 2021 (50 pages)
5. Market Sounding Report, December 2020 (57 pages)
6. Reimagining Complying Development, December 2020 (50 pages)
7. Small to Medium Scale Business and Retail, December 2020 (61 pages)
8. Building Height Study (37 pages)
9. Quality Control Panel Report (3 pages)
10. Data Centres Noise Report (30 pages)
11. Data Centres Hazards Report (15 pages)
12. Draft Master Planning Guideline for Complying Development (28 pages)
13. Draft Business Zone Design Guide (85 pages)

Attachment 1


Attachment 1: Council Comment – Explanation of Intended Effect – ‘Building Business Back Better’


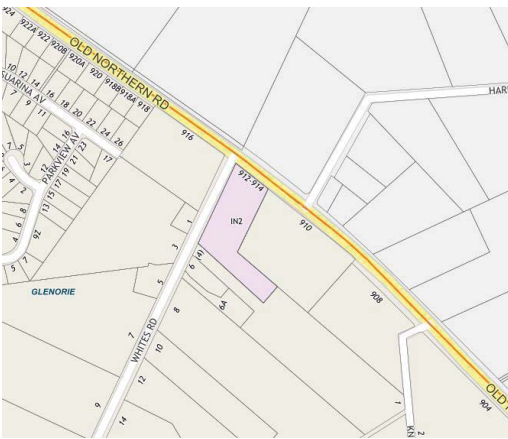
Proposed Amendment	Comment
1. Land Use and Business Agility	
<i>Remove the distinction between first use and change of use.</i>	No objection is raised in principle.
<p><i>Add new land uses to the existing list of land uses that may be complying development:</i></p> <ul style="list-style-type: none"> ▪ <i>Data centres;</i> ▪ <i>Recreational facilities (indoor);</i> ▪ <i>Local distribution premises;</i> ▪ <i>Entertainment facility;</i> ▪ <i>Artisan food and drink industry (subject to liquor licence requirements and any LEP floor area requirements);</i> ▪ <i>Veterinary hospitals;</i> ▪ <i>Depots;</i> ▪ <i>Health manufacturing facilities;</i> ▪ <i>Heavy industries in heavy industry zones.</i> 	<p>It is recognised that the inclusion of additional land uses will provide increased flexibility for businesses seeking to utilise complying development pathways, enabling them to be more agile in building, upgrading and leasing premises. However, further information is required on the proposed development criteria that will guide these developments.</p> <p>Concern is raised with respect to the types of uses proposed to be enabled through the complying development pathway, given the scale of these uses and potential amenity impacts that may arise. Notably, objection is raised to permitting the construction of data centres, indoor recreation facilities, entertainment facilities, veterinary hospitals and depots as complying development.</p> <p>The expansion of complying development to include larger scaled industrial and commercial developments is not supported as this is a departure from the focused note of complying development assessment, which is straight-forward, permissible development with minimal environmental impacts. These applications are more suited to a merit based assessment, having regard to local character, amenity and environmental considerations which are ordinarily addressed by way of a development application.</p> <p>It is also noted that the proposed reforms will place an increased regulatory burden on Council when implementing and monitoring compliance with standards or dealing with amenity complaints, particularly when requirements are not clearly articulated within the Codes SEPP and in the case of non-compliances by Certifiers.</p> <p>Further comments are provided within Section 3 (a) of the Council Report.</p>
<i>Allow CDC's to permit a change of use to a permissible land use that is already listed in the Codes SEPP, irrespective of the existing use of a premise.</i>	Concern is raised that the proposed reforms will place an increased regulatory burden on Council when implementing and monitoring compliance with these standards. Further comments and examples are provided in Section 3 (a) of the Council Report.
<p><i>Allow a wider range of land uses access to the building allowances in the Codes SEPP, including:</i></p> <ul style="list-style-type: none"> ▪ <i>New land uses listed above</i> ▪ <i>Commercial premises in B5-B7 zone</i> 	The proposed reforms will place an increased regulatory burden on Council when implementing and monitoring compliance with these standards, particularly when requirements are not clearly articulated within the Codes SEPP and in the case

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Proposed Amendment	Comment
<ul style="list-style-type: none"> ▪ <i>Function centres</i> ▪ <i>Community facilities</i> ▪ <i>Health manufacturing facilities</i> ▪ <i>Vehicle repair stations</i> ▪ <i>Wholesale supplies</i> ▪ <i>Amusement centres</i> ▪ <i>Boat building and repair facilities</i> ▪ <i>Vehicle body repair shops</i> ▪ <i>Vehicle repair stations</i> ▪ <i>Information and education facilities</i> ▪ <i>Food and drink premises greater than 50 seats</i> ▪ <i>Neighbourhood supermarkets</i> 	of non-compliances by Certifiers. Further comments are provided in Section 3 (a) of the Council Report.
<i>No hazardous or offensive land uses, as defined by the State Environmental Planning Policy No. 33 (Hazardous and Offensive Development), would be allowed through the complying development pathway.</i>	No objection to this amendment.
<p>Extend existing hours of operation, as follows:</p> <ul style="list-style-type: none"> ▪ <i>Permit hours of operation from 7am to 10pm, irrespective of existing consent requirements (such as the intrusiveness and amenity criteria from the Noise Policy for Industry).</i> ▪ <i>Permit 24-hour operation in industrial zones, irrespective of existing consent requirements.</i> 	<p>Objection is raised to broadening the complying development criteria to extend hours of operation to 24 hours within industrial zones and from 7am-10pm for business zones. Whilst there is proposed to be amenity criteria, future development is still likely to impact on the amenity of surrounding uses, which will create a regulatory burden on Council.</p> <p>Under Council's existing DCP there are controls which would enable a broad range of operating hours, contingent upon the appropriate assessment of amenity impacts. Whilst extended hours may be reasonable in certain circumstances, a development application is considered to be the most appropriate pathway to assess these potential amenity impacts.</p> <p>Furthermore, under Council's existing DCP, Council officers may impose conditions within the development consent to ameliorate any impact on the adjoining land uses. Concern is raised that these impacts may not be appropriately managed if these conditions are lifted retrospectively.</p> <p>This is discussed further in Section 3(a) of the Council Report.</p>
<i>Make it easier to reconfigure site facilities, such as parking, loading bays, and install drive through 'click-and-collect' bays and areas for no contact store pick up facilities (subject to the requirement that no parking, loading and collection occurs on a public road).</i>	Further information is required to understand the exact extent of the proposed changes.
<i>Reduce documentation requirements for previous land uses so there is no need to identify old development consents when changing to a use authorised by the Codes SEPP.</i>	No objection is raised.

Proposed Amendment	Comment
<i>Reduce duplication of other requirements within the code (for example, references to the Building Code of Australia and other standards).</i>	No objection is raised.
2. Zoned Based Controls	
Industrial Zones (IN1, IN2 and IN3)	
<i>Increase the allowable floor area from 20,000m² to 50,000m², subject to existing LEP floor space ratio (FSR) controls or continue to apply an FSR of 1:1 in the code where no FSR control exists.</i>	The EIE articulates that there are changing needs for industrial buildings, particularly due to the emergence of new models of industrial developments. Whilst it is recognised that some increases in the allowable floor area may be acceptable, an increase from 20,000m ² to 50,000m ² is excessive and would likely enable an inappropriate scale of development to be undertaken as complying development, without adequate merit assessment of amenity impacts and local character. This is further discussed in Section 3 (b) of the Council Report.
<i>Increase additions allowance from 5,000m² to the maximum gross floor area (GFA) (subject to the LEP FSR standards).</i>	It is recognised that there may be benefits in increasing the additions allowance from 5,000m ² , however Council officers question the new threshold presented in the EIE (being the maximum GFA). The standard development application is a more rigorous process that is designed to properly assess these more significant types of development, to mitigate potential impacts, deliver quality design and ensure the proposal is in the public interest. Accordingly, it is considered that larger scale industrial developments should continue to be subject to the standard development assessment process. This is further discussed in Section 3 (b) of the Council Report.
<i>Increase the maximum height of building standards to 18m where the existing LEP standard is less than 18m.</i>	This will result in minor impacts for industrial areas within The Hills Shire, as some areas are currently subject to a maximum height of building control of 16m (as shown in the figures below). It would effectively enable complying developments to occur with a building height of up to 18m in these areas.  A map of industrial zones in The Hills Shire. It shows two main areas: 'Box Hill Industrial' on the left and 'ROUSE HILL' on the right. Both areas are shaded in light purple and labeled 'IN2'. A road labeled 'WINDSOR RD' runs vertically through the center. Other roads shown include 'MILLERS PT RD' and 'WINDSOR'. A blue line representing a watercourse is visible on the right side of the map.

Proposed Amendment	Comment
	 <p>However, there is another pocket of light industrial land within Glenorie that is currently subject to a height limit of 10m (as shown in the figure below). The changes could lead to excessively intrusive designs being approved through the complying development pathway, with adverse impacts on the surrounding areas and outcomes that are inconsistent with the strategic planning that underpinned the determination of the applicable height controls for these locations.</p>  <p>This is further discussed in Section 3 (b) of the Council Report.</p>
<p>Permit a building height up to 45m, within industrial zones, where no LEP height limit exists, subject to:</p> <ul style="list-style-type: none"> ▪ A new separation distance of up to 150m to a residential zone boundary – noting there will be no increase where the existing LEP height limit is already 18m to 45m. ▪ A maximum floor area for any part of the building over 18m of up to 40% of the total floor area of the building. 	<p>It is understood that this change is proposed to cater for unique industrial developments (such as robotics in warehouse facilities and powerful sprinkler systems) that generally require increased building heights. Whilst 45m is considered to be excessive, all of the industrial areas within The Hills Shire are already subject to a height of building requirement within the LEP and Growth Centres SEPP. Accordingly, these areas will not</p>

Proposed Amendment	Comment
	be impacted by this change. This is discussed in Section 3 (b) of the Council Report.
<i>Increase ancillary land uses, such as offices and industrial retail outlets, from 20% to 30% of gross floor area.</i>	It is recognised that there may be merits in increasing the allowable gross floor area for ancillary land uses, as it would enable more flexibility for businesses and landowners. However, concern is raised that these uses could become quite dominant and detract from the role and function of the principle industrial land uses.
Introduce additional controls for land covered by the <i>State Environmental Planning Policy (Western Sydney Employment Area) 2009</i> .	Not applicable to The Hills Shire.
Introduce new separation distances for taller industrial buildings.	It is unclear what the proposed new building separation distances are for taller buildings. Additional details are required to enable an appropriate assessment of the proposed changes. Further consideration must be given to the proposed separation distances to ensure that they are both acoustically and visually effective. Consideration must also be given to potential implications for solar access on adjoining properties.
Business Zones (B5, B6 and B7)	
<i>Allow new builds and alterations and additions in business zones up to 10,000m² and five (5) storeys within the B5, B6 and B7 zones, subject to existing LEP height, FSR and landscaped area controls as complying development.</i>	Whilst these amendments would enable more flexibility for businesses and landowners, larger scale commercial developments are generally underpinned by various complexities (such as urban design, infrastructure, traffic and parking, and amenity impacts). Accordingly, the proposed amendments are not supported.
<p data-bbox="225 1223 730 1346"><i>Introduce a new Business Zone Design Guide and design verification process to manage site planning, good design and amenity impacts for larger buildings or sites.</i></p> <p data-bbox="225 1346 730 1948"><i>The Guide would only relate to developments and additions for specified development up to 10,000m² in floor area in zones B5 Business Development, B6 Enterprise Corridor and B7 Business Park.</i></p>	<p data-bbox="730 1223 1273 1435">The proposed Business Zone Design Guide will provide a framework to achieve quality site planning and design outcomes for new-build business zone building types proposed under the proposed complying development reforms. It essentially contains a set of design principles, supported by objectives and design criteria.</p> <p data-bbox="730 1435 1273 1503">It is understood the Business Zone Design Guide will address development types such as:</p> <ul data-bbox="730 1503 1273 1693" style="list-style-type: none"> ▪ Main road retail; ▪ 1-3 storey office and business uses; ▪ 4-6 storey office building; ▪ Self-storage facility; ▪ Motor vehicle showroom; ▪ Data centre. <p data-bbox="730 1693 1273 1839">For buildings of 3 or more storeys a registered architect is required to certify that the design of the development is consistent with the Design Criteria in the Design Verification Statement.</p> <p data-bbox="730 1839 1273 1948">Developments with open space of greater than 1,000m² will require a design by a registered landscape architect.</p>

Proposed Amendment	Comment
	<p>For all other developments a designer or a building designer that is accredited by the Building Designers Association of Australia is required to certify that the design of the development is consistent with the Design Criteria in the Design Verification Statement.</p> <p>Whilst it is recognised that a design verification process is proposed as part of the reforms, concern is raised regarding how the design criteria within the Design Guide will be implemented and enforced by Certifiers (despite the requirement for a template checklist and statement).</p>
3. Neighbourhood and Local Centres Support	
<p><i>Allowing a wider range of land uses to be complying development in B1 and B2 zones with development standards for these new land uses to mitigate amenity impacts.</i></p> <p>These land uses include:</p> <ul style="list-style-type: none"> ▪ Entertainment facilities; ▪ Indoor recreational facilities (such as dance studios); ▪ Function centres; ▪ Local distribution premises; ▪ Medical and veterinary centres; ▪ Health consulting rooms; ▪ Amusement centres; and ▪ Neighbourhood supermarkets. 	<p>The Hills LEP currently applies the B1 Neighbourhood Centre and B2 Local Centre land use zones across a wide variety of centre types from larger town centres like Baulkham Hills down to the smaller strip retail and our rural villages (for example, Dural, Kenthurst and Glenorie), which have a very distinctive local character, role and function when compared to more urbanised areas.</p> <p>Whilst it is recognised that businesses would benefit from increased flexibility within the complying development system, concern is raised as to how adverse amenity impacts will be mitigated for higher intensity land uses, particularly within our rural villages and local centres.</p> <p>The EIE does not provide an adequate level of detail on the proposed development standards that seek to mitigate amenity impacts. At the very minimum, these standards should address issues such as parking, noise, building separation and materials.</p>
<p><i>Introducing standard hours of operation from 7am to 10pm, irrespective of existing consent conditions (subject to noise controls such as the intrusiveness and amenity criteria from the Noise Policy for Industry).</i></p>	<p>Refer to previous comments in Section 1.</p>
<p><i>Increasing seating allowances for food and drink premises from 50 to 100 seats (subject to maximum floor area occupancy rates set by the Building Code of Australia).</i></p>	<p>Concern is raised that this could pose difficulties for operators to achieve compliance with the controls within Part C Section 1 – Parking of The Hills Development Control Plan (DCP) 2012.</p>
<p><i>Where a change of use is proposed at a premises that has a floor area of less than 500m², there will be no requirement for the development to include additional parking or loading bay facilities.</i></p>	<p>Concern is raised that this will not appropriately cater for higher traffic generating uses (e.g. indoor recreational facilities, function centres, community centres or amusement centres). It is considered that the standard development application is the appropriate planning pathway to assess these potential impacts.</p>
<p><i>Allowing minor external alterations (such as shopfront and awning repairs and maintenance) to existing buildings in a heritage conservation area and on the site of listed local heritage items (but not the listed heritage item itself).</i></p>	<p>Comments provided in Section 3 (c) of the Council Report.</p>

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Proposed Amendment	Comment
<i>Making new allowances for neighbourhood circular economy land uses, such as repair-shop cafes and swap-and-re-use centres.</i>	Comments provided in Section 6 of this attachment.
<i>Allows ancillary complying development for lots that adjoin a lane or secondary or parallel road, given many centres adjoin these types of roads. The current size limitations for ancillary development would remain.</i>	This amendment essentially seeks to delete an existing criterion which turns off complying development for ancillary development on lots within heritage conservation areas and draft heritage conservation areas, if the lot adjoins a lane or secondary or parallel road. No objection is raised to this amendment.
4. Master Plan Pathway	
<p>Council has the option to 'opt-in' on a 'Master Plan Complying Development Pathway', which would require Councils to specify complying development on identified industrial or business zoned land within a master plan (excluding the B4 Mixed Use zone). Any Master Plan Complying Development Pathways would need to expand the existing operation of the Codes SEPP, rather than limiting or reducing it. It would also be subject to a Ministerial approval process.</p> <p>Should Council decide to 'opt-in', Council would be responsible for the up-front strategic planning work, and may wish to liaise or partner with developers and landowners to undertake the relevant studies. This upfront strategic planning would ultimately be relied upon to manage any identified risks.</p>	<p>It is understood that the proposed master plan complying development pathway seeks to provide a simpler alternative to development applications, potentially revitalise precincts, assist in attracting emerging industries and economic development to industrial areas.</p> <p>Whilst this may free up Council resources in the longer term, by enabling additional complying development pathways, it will place additional pressure on Council resources in the short to medium term (given it is a Council-led exercise). It is also considered that the other changes already proposed as part of the reforms will enable adequate scope for the industry to utilise complying development pathways.</p> <p>Accordingly, it is recommended that Council does not 'opt-in' on this potential complying development pathway.</p> <p>However, it is acknowledged that Council may choose to 'opt-in' in the future, should the need arise.</p>
5. Data Centres	
Introduce a complying development pathway for data centres under the Codes SEPP.	Refer to Section 3(e) of the Council Report.
Introduce a definition for data centres into the <i>Standard Instrument – Principal Local Environmental Plan</i> .	No objection is raised with the introduction of a new definition into the <i>Standard Instrument – Principal Local Environmental Plan</i> . However, it should be noted that two (2) separate environmental instruments apply to The Hills Shire, specifically the State Environmental Planning Policy (Sydney Region Growth Centres) 2006 and The Hills Local Environmental Plan 2019. It is noted that there are various differences between land use terms in growth centres versus the standard instrument which creates complexity and lack of clarity for certifiers and can make it difficult to achieve compliance. Accordingly, further clarification is required on whether a new definition will be introduced into the Growth Centres SEPP that aligns with the Standard Instrument LEP.
<i>Introduce a new minimum on site car parking standard of 1 space per 450m² of gross floor area.</i>	The introduction of a more constrained parking rate may be reasonable given data centres have low traffic generation rates due to the small

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	number of staff involved. However, it is considered that the most appropriate pathway to assess the potential traffic impacts is by way of a standard development application.
Extend the hours of operation for data centres to 24 hours a day in both business and industrial zones.	Refer to previous comments regarding hours of operation in Section 2 of this attachment.
Technical Standards - Noise	
<p><i>Introduce a new online noise assessment tool that would produce a noise-compliance certificate to be submitted to the accredited certifier with a complying development application for a data centre. The tool considers the following factors:</i></p> <ul style="list-style-type: none"> ▪ <i>Pre-determined amenity criteria based on the Noise Policy for Industry;</i> ▪ <i>Manufacturer-certified sound power level of all plant and equipment, including any noise-reduction measures installed on the equipment;</i> ▪ <i>Noise-reduction measures located between the plant/equipment and affected properties, such as internalising the plan within the building and acoustic walls;</i> ▪ <i>The predicted noise at the nearest residential and non-residential properties, based on a standard noise-loss-over-distance formula.</i> 	Whilst the introduction of this online noise assessment tool is reasonable in principle, it is recommended that input be required from an acoustic engineer (or otherwise suitably qualified person) to ensure a comprehensive noise assessment, as acoustic compliance reports require a level of assessment and scrutiny. At the very minimum, it is expected that this assessment would address the requirements stipulated within Part B Section 7 – Industrial of The Hills DCP 2012. Further comments regarding noise impacts are also provided in Section 1 of this attachment.
Limiting the number of hour's backup generators can run to 200 hours per year and restricting their testing and maintenance to daytime hours only.	No objection is raised to this amendment.
Technical Standards – Air Quality	
Introduction of an air emissions compliance table or graph that would determine minimum separation distance to sensitive receivers.	Concern is raised that no technical information will actually be reviewed as part of the assessment process, which would typically form part of the Assessing Officer's role.
<i>Note: Once the air quality impact assessment is complete, the Department will consult directly with key stakeholders.</i>	Noted.
Technical Standards – Fuel and Batteries	
<i>The total quantity of diesel storage must be less than 2,000 tonnes.</i>	The justification for the volumes of fuels in the technical standard is simply to avoid having to apply the provisions of State Environmental Planning Policy No. 33 – Hazardous and Offensive Development (SEPP 33) and the standards are considered inadequate. Additional standards should be developed which addresses the management of stormwater in the vicinity of the fuel tanks and management and design of the bounded areas. There should also be a requirement to development spills and accident management plans and provide suitable hydrocarbon clean-up materials.

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<p>The total quantity of acid electrolyte in lead-acid batteries (classified as Class 8 dangerous goods under the Australian Code for the Transport of Goods by Road and Rail ("the ADG Code") must be less than:</p> <ul style="list-style-type: none"> ▪ 50 tonnes if the batteries are assigned Packing Group III in the ADG Code. ▪ 25 tonnes if the batteries are assigned Packing Group II in the ADG Code. 	<p>Concern is raised that no justification is provided other than ensuring the stored quantity of acid electrolyte in lead-acid batteries is below the threshold quantity listed in SEPP 33. It is also noted that the use of batteries is not currently common, as many data centres within The Hills Shire tend to rely upon generators.</p>
<p>The total quantity liquefied petroleum gas must be less than 10 tonnes if the storage tank is above ground or less than 40 tonnes if the storage tank is underground or mounted.</p>	<p>The development standards that apply to liquefied petroleum gas (LPG) as well as other standards for hazardous materials and noise should be refined to include consideration for the position of a data centre on the periphery of a business park or industrial area. Stricter controls should be applied based on proximity to residences.</p>
<p>Additional generalised comment relating to complaints</p>	<p>It is suggested that complaints relating to development undertaken under this Policy and relating to the Protection of the Environment Operations Act 1997 should be the responsibility of the NSW Environment Protection Authority (EPA).</p>
<p>6. Circular Economy Uses</p>	
<p>The proposed amendments also seek to introduce complying development pathways for Council-run community recycling drop-off centres on public land and community circular economy facilities.</p>	<p>No objection is raised to this amendment. The introduction of complying development pathways for certain circular economy uses is likely to be mutually beneficial for both Council and the broader community. However, it is imperative that the right policy settings are put in place to guide these types of developments moving forward. This is further discussed in Section 3 (f) of the Council Report.</p>
<p>a) Council-run Community Recycling Drop-off Centres</p>	
<p>The centre must operate below the prescribed tonnage threshold criteria.</p>	<p>Further clarification is required on the type and scale of such uses in order to provide meaningful comments on the appropriateness of the amendments and the zones to which it applies.</p>
<p>Stipulate that these centres are not designated development and do not require an Environmental Impact Statement (EIS).</p>	
<p>b) Community Circular Economy Facilities</p>	
<p>Only permitted within industrial zones, along with areas where retail premises are permitted under the LEP.</p>	<p>Given the zones where retail uses are permitted, this amendment is quite flexible. Further clarification is required on the type and scale of such uses in order to provide meaningful comments on the appropriateness of the amendments and the zones to which it applies.</p>
<p>Subject to the zone-based controls detailed in Sections 2 and 3.</p>	<p>Refer to previous comments in Sections 2 and 3 of this attachment.</p>
<p>Not permitted to process or remanufacture waste and could only receive a limited range of items and materials.</p>	<p>As above, further clarification is required on the type and scale of such uses in order to provide meaningful comments on the appropriateness of the amendments and the zones to which it applies.</p>
<p>The centre must operate below the prescribed tonnage threshold criteria.</p>	
<p>Stipulate that these centres are not designated development and do not require an Environmental Impact Statement (EIS).</p>	
<p>7. Consequential Amendments</p>	

Proposed Amendment	Comment
Introduce a definition for data centres into the <i>Standard Instrument – Principal Local Environmental Plan</i> .	Refer to comment in Section 5 of this attachment.
Introduce savings and transitional provisions to the Codes SEPP.	No objection to this amendment.
Amendments to the <i>Environmental Planning and Assessment Regulation 2000</i>	
<i>A noise-compliance certificate must be submitted with a complying development application for a data centre.</i>	Refer to previous comments in Section 1 of this attachment.
<i>A design verification statement must be submitted with a complying development application for certain new buildings and additions in business zones.</i>	Refer to previous comments in Section 2 of this attachment.
<i>A master plan for complying development must be endorsed by the Council before the Minister considers it.</i>	Refer to previous comments in Section 5 of this attachment.
<i>Specified documentation that must be submitted with a complying development application under a master plan for complying development.</i>	Refer to previous comments in Section 5 of this attachment.
<i>Amendments to Schedule 3 to clarify that certain circular economy land uses are not designated developments.</i>	Refer to previous comments in Section 6 of this attachment.