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Ms Aoife Wynter
Director Employment Zones, Local Government and Economic Policy
NSW Department of Planning, Industry and Environment
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Dear Ms Wynter

Submission on Employment Zones Reform

Thank you for the opportunity to review and comment on the proposed Employment Zones Reform package. We acknowledge the work that the Department of Planning, Industry and Environment (DPIE) have commenced to date, and the commitment expressed to assist in implementing the proposed reforms.

Our detailed submission on the reforms is attached to this letter. Our submission addresses the following:

- strategic overview
- the case for reform
- translation of zones
- policy issues around planning for a centres hierarchy
- implementation.

We are concerned that the Employment Zones Reform package narrowly focuses only on productivity outcomes without proper consideration of liveability and environmental implications. The reforms seek to implement universal changes across local government areas without proper consideration of local character and context. It also needs to recognise the important distinction, role and function between centres and industrial areas and the associated risk to the economic viability of centres from new land use models.

Imposing mandatory changes through this reform package is at odds with our requirement to prepare a Local Strategic Planning Statement and review our Local Environmental Plan in consultation with local communities. It is also inconsistent with increased emphasis that the State Government is putting on “place”.

A more holistic review of the long-term impacts of the reforms on local communities is required, as well as detailed consultation with communities before changes are made to local environmental plans.

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We are also concerned at the proposed timing for implementing the reforms. The proposed timeframe is inadequate given the scale and its impacts. It does not recognise the local government election in September, makes no allowance for councils' reporting timeframes, does not provide sufficient time to assess and respond to concerns raised through a meaningful consultation process, and has not factored in proper consultation with local communities.

Blacktown City is the largest populated local government area in New South Wales. It contains over 70 zoned business areas and the largest supply of industrial zoned land in New South Wales, covered under various environmental planning instruments. Implementing the proposed reforms across the Standard Instrument Local Environmental Plan but not State Environmental Planning Policies will further increase complexity and result in inconsistent outcomes across our City. Consideration needs to be given to the scale of change in our City and proper consultation is needed with our large community as part of any implementation.

We urge the NSW Government to consider the issues raised in our submission before deciding to proceed with the reform package and to ensure that any reforms to the Standard Instrument are consistently applied to all state instruments and policies.

If you would like to discuss this matter further, please contact [REDACTED]

Yours faithfully

[REDACTED]

Blacktown Council's submission on the Employment Zones Reform package

1. Proposed framework

a. Strategic overview

The Position Paper states that the reforms will support councils' long-term strategic planning objectives. It is unclear how it will achieve this as the proposed reforms do not support the principles of place-based planning prioritised by the State Government in documents such as the Greater Sydney Region Plan and District Plans.

Over decades, the NSW Government has established a zoning system based on a hierarchy of centres and uses according to context, need and availability of services. More recently, the Region and District Plans, and the Local Strategic Planning Statements, are the latest in a sequence of initiatives from the NSW Government designed to reflect the local character and attributes of areas. We are concerned that the reforms will erode the implementation of a place-based approach to planning advocated by the Greater Sydney Commission.

The reforms will blur the current distinction between zones to encourage new business models without addressing the associated risks to the economic viability of current businesses within centres. The reforms also do not address how amenity is to be protected at the interface of the new zones and adjacent residential uses.

b. The case for reform

The stated intent of the employment zones reforms is to enable the planning system to better respond to changes in how cities and regions function, and to facilitate integration of emerging businesses and processes, driven by technological improvements, that reduce the need for historically distinct zone boundaries.

However, the reforms package does not make a compelling case that the existing zoning framework is incapable of adaptation, and that a key issue is an excess of zones. Part of the case for reform is based on the findings of a Productivity Commission report, which advocated for reduced complexity and restriction on land uses. The reform Position Paper acknowledges that the benefits of reform described arose from increased flexibility within zones rather than a decrease in the overall number of zones.

The objectives of the review process can be achieved through:

- **Review of the current zone objectives and permissible uses**

Updating the objectives and review and updating of permissible and prohibited uses and definitions will enable greater flexibility through merits assessment. Consideration should be given to mandating prohibited land uses only and permitting all other uses, subject to a merits assessment process.

- **Inclusion of all state instruments in the review**

The proposed reform will require re-naming the Environmental zone group to allow for the proposed employment zone group and introducing changes to permissible uses and definitions. Introducing these changes through the Standard Instrument only whilst retaining the existing zone nomenclature, uses and definitions in state environmental planning policies (SEPPs) and other instruments introduces an additional layer of complexity into the planning system. Blacktown City is not alone in multiple SEPPs applying across our City. The proposed reforms must apply to all SEPPs and other state instruments to achieve consistency.

- **Supporting merits-based development assessment**

The complying development pathway for assessment is a valuable tool within the planning system, but it cannot be assumed that all development is suitable for this pathway. There is a growing and dangerous trend to move the complying development pathway away from a compliance assessment in relation to the building code, to a merits assessment of both design and technical elements that are outside of a certifier's area of expertise. The role of merits-based assessment within local government, including verification of technical recommendations, needs to be recognised and supported as a means of facilitating appropriate flexibility.

The Productivity Commission report has a specific focus on opportunities for growth in productivity. Strategic planning must take a more holistic view and balance economic factors with amenity, liveability and environmental considerations. It is short-sighted to push through reforms on purely economic grounds without sufficient assessment of the long-term impact of these reforms on local communities.

c. Translation of zones

In order to rationalise the number of zones, the range of mandated permitted uses within the proposed new zones has been expanded significantly. This methodology identifies similarities between zones, and suggests zones that may not be required. Whilst on face value zones may be similar, the distinction between objectives and key land uses is important to ensure that land uses are complementary to their context. This allows for creation of distinct places, with exceptional amenity and character.

The zones identified in the Position Paper and expanded on in the draft Order, are not a direct translation of *Blacktown Local Environmental Plan 2015* (BLEP2015). Advice from the DPIE showing how they achieved this position is urgently requested.

An additional 97 permitted employment land uses are proposed within the new zones. Further consultation is required with respect to the proposed permitted uses to better understand the long-term implications of the proposed changes on adjoining properties and nearby sensitive land uses including residential uses.

- **E1 Local Centre**

The proposed E1 Local Centre zone is proposed to replace the B1 Neighbourhood Centre zone and B2 Local Centre zone.

It is acknowledged that different councils may use the B1 Neighbourhood Centre zone differently to reflect the characteristics that are relevant to the local area. The consolidation of the B1 and B2 zones need to respect the work completed by councils, in consultation with local communities, when zone objectives and land uses were developed in preparation of Standard Instrument LEPs. The E1 Local Centre should therefore limit the number of mandatory uses, to enable councils to engage with its local communities to determine additional uses and objectives that may be relevant.

It is acknowledged that there are fewer issues associated with replacing the B1 Neighbourhood Centre zone and B2 Local Centre zone into a new E1 Local Centre zone. Nevertheless, we do not support the following proposed land uses being mandated as permitted with consent in the E1 zone, mainly due to the adverse impacts they will have on our local community:

Amusement centres

This use does not have any relationship to a centre, and would have significant impacts on the amenity and character of our neighbourhoods. This use can also require a larger floor plate, reducing opportunities for diversity in very small centres with limited sites and eroding the intent of a local centre at that location. It is currently prohibited in the B1 and B2 zones in Blacktown LEP 2015.

Local Distribution Premises

This use is likely to generate traffic, in addition to potentially eroding the intent of smaller local neighbourhood centres. This use is more located at the source, where storage facilities are located within industrial areas, not the end destination of a local centre.

Vehicle repair stations

This use increases traffic, creates clutter and introduces a land use within close proximity to residential uses which has the potential to detrimentally impact on neighbourhood amenity. It is currently prohibited in the B1 zone in Blacktown LEP 2015.

- **E2 Commercial Centre**

This zone replaces the B3 Commercial Core and potentially some areas zoned B2 Local Centre, B4 Mixed Use, and B7 Business Park. The range of land uses being compressed into this zone is concerning. This zone should not be applied to either existing mixed use areas or business parks.

Areas zoned B7 Business Park are locations that support large floor plate office and light industrial uses that are not suited to locating in a centre due to their bulk and scale. We are concerned that any expansion on the range of uses in areas currently zoned B7 will create 'out of centre' development that negatively competes with nearby centres, resulting in neither area being able to achieve its

potential to support viable business opportunities. The E2 Commercial Centre zone should not apply to areas zoned B7 Business Park.

In relation to land uses, we do support the following land uses being mandated as permitted with consent in the E2 zone:

“Home businesses”, “Home industries” and “Home occupations”

These land uses are prohibited in the B3 Commercial Core and B7 Business Park zones under Blacktown LEP 2015 as residential development is not permitted in these zones. It follows that if residential development is not permitted in the E2 Commercial Centre zone, then it is logical that “home” businesses, industries and occupations cannot be permitted. We therefore don’t support these land uses being permissible in the E2 zone.

Recreation facility (major)

This land use is prohibited in the B3 Commercial Core and B7 Business Park zones under Blacktown LEP 2015 as the scale of the use makes it impractical in a centre context. The definition of this land use refers to “large-scale sporting or recreation activities”, and includes themes parks, sports stadiums, showgrounds, racecourse and motor racing tracks. These activities are not centres and it is illogical to make this use permissible in a E2 Commercial Centre zone. This use appropriately needs its own recreation zone

Tourist and visitor accommodation

This land use is prohibited in the B3 Commercial Core and B7 Business Park zones under Blacktown LEP 2015. We acknowledge that a residential population near a commercial core is needed to maximise land use efficiency and to activate these spaces over longer periods, however, the commercial core must be focused on its primary purpose, which is not residential development.

Typically, commercial cores are well defined, with mixed use areas adjacent, which are more suitable for tourist and visitor accommodation. Serviced apartments are a type of tourist and visitor accommodation and historically this land use is used by developers as a ‘backdoor’ to achieve apartment buildings in locations where residential dwellings are not permissible. If the E2 zone is a true commercial zone, residential uses should not be permitted.

Inclusion of tourist and visitor accommodation in areas currently zoned B7 Business Park will act to further legitimise the establishment of centres in unsuitable areas with inadequate servicing, thus eroding our centres hierarchy.

Vehicle repair stations

This use is not an appropriate use in a E2 zone due to its impact on amenity. It is more appropriately located in other zones that provides better vehicular accessibility rather than a centre context. It is currently prohibited in the B3 Commercial Centre zone in Blacktown LEP 2015.

- **E3 Productivity Support**

The proposed E3 Productivity Support zone is the consolidation of the B5 Business Development zone, B6 Enterprise Corridor, and in some instances, the B7 Business Park zone and IN2 Light Industrial zone. Excluding the B6 Enterprise Corridor zone, the other zones are used in Blacktown LEP 2015 and are fundamentally distinct from each other.

We do not support any areas in Blacktown City currently zoned IN2 Light Industrial being upzoned to E3 Productivity Support. Confirmation is requested that any potential translation of zones prepared by DPIE will avoid zoning current IN2 Light Industrial Areas as E3 Productivity Support.

In relation to land uses, we do support the following land uses being mandated as permitted with consent in the E3 zone:

Animal boarding or training establishments

This use is currently prohibited in the B5 Business Development, B7 Business Park and IN2 Light Industrial zones under Blacktown LEP 2015 as it is not compatible with the objectives and other land uses in these zones. These types of activities are more suited to industrial zones. We do not support it as a mandated use in the E2 zone.

Business premises

This use is currently prohibited in the B5 Business Development and B7 Business Park zone under Blacktown LEP 2015 as it mainly involves activities that involves the provision of services directly to members of the public on a regular basis. In which case, they are more suited to a centre where we encourage activity as opposed to being a “support” service to a centre.

Recreation facilities (major)

This use is currently prohibited in the B5 Business Development, B7 Business Park and IN2 Light Industrial zones under Blacktown LEP 2015 due to its size and types of activities that fall within its definition. It does not satisfy any of the objectives of the zone. It requires its own recreation zone.

- **MU1 Mixed Use**

As a matter of principle, we are supportive of mixed-use zones, when used appropriately and with the right mix of land uses. We do not, however, support the MU1 Mixed Use zone potentially replacing some existing B2 Centres in Blacktown City.

We do not support mandating the mix of residential and industrial uses within the same zone due to the potential detrimental impact on the amenity of future residents from industrial uses. Industrial uses are likely to change the character of an area, making it potentially less desirable for residents due to loss of amenity. The permissibility of industrial uses in the MU1 zone should be considered by councils, in consultation with the community, relevant to the characteristics of local areas, rather universally mandated across all local government areas.

The structure of the proposed land use table locates the MU1 Mixed Use zone after the industrial zones. We suggest this zone is grouped with the business zones to ensure that the commercial and retail elements are elevated, rather than focuses on industrial land uses.

We therefore do support references to light industrial development in the proposed objectives of the zone. We also do not support the following land uses being mandated as permitted with consent in the MU1 zone:

“Light industries” and “Local distribution premises”

These uses are currently prohibited in the B4 Mixed Use zone under Blacktown LEP 2015 due to their incompatibility with residential development. An introduction of these uses would detrimentally change the character of the current B4 zone that applies to land within the Blacktown and Mount Druitt Strategic Centres. We therefore oppose the introduction of these uses within the MU1 zone.

- **SP4 Local Enterprise**

The Position Paper proposes the new SP4 Local Enterprise zone to allow for flexibility in unique precincts. We do not support the SP4 Local Enterprise zone. The hierarchy of zones in the Standard Instrument should be flexible enough to address land use planning, regardless of the context. The current SP1 Special Activities zone already provides for special land uses that are not provided for in other zones. A new SP4 is unnecessary. We also suggest that the objectives of all zones be reviewed to enable greater flexibility, and identify mandated prohibited uses instead of mandated permitted uses to broadened the scope of permissible land uses.

- **Industrial Zones**

The proposed new E5 Heavy Industrial zone may potentially include some areas that are currently zoned IN1 General Industrial. We currently do not incorporate a heavy industrial zone in Blacktown LEP 2015. We do not support the introduction of this zone in Blacktown City.

The consolidation of the existing light and general industrial zones is supported in principle as these zones are very similar. The IN2 Light Industrial zone is traditionally used to provide a buffer between more intrusive industrial uses and sensitive land uses. If this buffer zone is rationalised, it is critical that merits based assessment of industrial uses is better supported to ensure the suitability of development and minimisation of detrimental impacts on residential and sensitive land uses.

d. Definitions

We do not support the introduction of **“Data Centre”** as a sub-term of **“High technology industry”**, a reform that aims to make this use permitted as complying development. The size, operational hours, proximity to residential areas and potential impacts on employment lands, means that this use must follow the merit assessment pathway.

Further clarification is needed for “**local distribution premises**”. It is unclear whether it is parcel pickup location, similar to a post office or post boxes, or if it is a larger use with potential impact to the amenity and character of local areas and places. We do not support this land use term being permitted in areas containing residential development due to the potential clash between incompatible land uses.

2. Policy issues

a. Planning for a centres hierarchy

The Position Paper suggests that councils will be able to manage out of centre development through the use of additional permitted uses within the E3 Productivity Support zone. A toolkit will be provided on how to balance worker convenience and out of centre development. The absence of this toolkit makes it difficult for us to assess the reform package. Given the significant implications to the existing centres hierarchy, this toolkit should be provided now. Councils were required to review their employment lands as part of the recent LEP Review Program. The extent of the changes proposed by the reform package will force many councils to review or prepare new centres and employment lands strategies.

3. Implementation

a. Local Government Elections

The timing and timeframe to implement the proposed reforms does not take into account the upcoming council elections. DPIE’s requirement of a formal council submission prior to the election, and briefing outgoing and incoming councillors is inadequate given the scale and impact of the reforms. Importantly, this process does not enable elected officials the opportunity to provide significant input into decisions that may have large ramifications for the community.

b. Resourcing

We acknowledge that DPIE has recognised the resourcing burden of implementing these reforms on local government and proposes to assist through resources as well as undertaking the upfront zone translation and mapping. However, the final decision as to appropriate zoning must rest with councils, in consultation with our local communities. This will require time to make a well-considered and balanced decision for each affected zone.

c. Timing

The reform process is proposed to commence in August 2021. The proposed timeframe does not appear to allow for meaningful response to the not insubstantial concerns raised.

We are concerned that the proposed timetable for implementation seeks to have the new framework operational across all councils by July 2022. This implementation plan is overly optimistic and does not:

- allow councils the time to carefully consider and apply the new framework in consultation with our communities
- provide adequate time for Councils consideration and adoption, either before exhibition or post exhibition and does not allow for local government's reporting timeframe
- provide sufficient time for meaningful consideration of submissions, including resolution of issues
- account for resourcing within local government, which will be required to continue all other business concurrently with this reform.

We request that DPIE provide all councils with the work that they have done translating LEPs into the new format to facilitate the implementation process. This includes providing all mapping and toolkits.

The Implementation Plan is separated into two tranches. However, councils have not been advised which tranche they are in. Accordingly, we nominate to be a tranche two council and ask for this to be confirmed as soon as possible.

d. Responsibilities

The Implementation Plan requires clarification on the roles and responsibilities of the different stages within the process. This will have implications for timeframes and resourcing.

In particular, clarification is sought on the detail of the process, including:

- responsibility for the exhibition of the proposed zone amendments, including consideration of submissions
- responsibility for the final decision on adopted zoning
- the role of the elected Councillors
- management of the spatial data workload.