



Planning Reform

# Proposed Employment Zones Framework

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Position Paper

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# Contents

<b>Introduction</b> .....	<b>1</b>
Background .....	1
Changes to cities and regions and businesses .....	2
The need for flexibility .....	2
Inconsistent application of zone .....	2
<b>Developing the new framework</b> .....	<b>3</b>
Ongoing work.....	4
Findings of the LEP review .....	4
<b>Proposed employment zones framework</b> .....	<b>6</b>
Strategic intent .....	6
Local Centre zone.....	6
Commercial Centre zone .....	6
Productivity Support zone .....	7
General Industrial zone.....	7
Heavy Industrial zone .....	7
MU – Mixed Use zone.....	7
W4 Working Foreshore zone .....	8
SP4 – Local Enterprise zone.....	8
New, updated or consolidated land use definitions .....	9
Potential consolidation of existing definitions .....	12
Land use tables .....	14
Variation in objectives .....	15
Land uses permitted under State Environmental Planning Policies.....	15
Parent terms to identify land uses .....	15
<b>Benefits of the proposed framework</b> .....	<b>15</b>
Greater land uses within individual zones .....	15
Consistency in strategic intent .....	16
<b>Response to key policy questions</b> .....	<b>16</b>
Planning for a centres hierarchy.....	16
Planning for industrial land.....	16
Simpler and more flexible planning systems .....	17
<b>Relationship to other planning reforms</b> .....	<b>19</b>
<b>Implementation</b> .....	<b>20</b>
Support.....	20
<b>Next steps</b> .....	<b>22</b>

Potential future reform .....	22
<b>Have your say .....</b>	<b>23</b>
<b>How to get involved .....</b>	<b>23</b>
<b>Appendices .....</b>	<b>24</b>
<b>Appendix A - LEP audit .....</b>	<b>25</b>
<b>Appendix B - Upfront stakeholder and council engagement.....</b>	<b>28</b>
Key findings: consultation .....	29

## 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 Industrial<sup>1</sup>

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.

<sup>1</sup> 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 zone<sup>2</sup>

- 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 existing 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.

<sup>2</sup> 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><b>Business premises</b></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><b>Circular economy facility ('domestic goods repair and reuse facility')</b></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><b>Creative industry</b></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"> <li>• traditional and digital media;</li> <li>• fine arts and crafts;</li> <li>• design; and</li> <li>• creative products</li> </ul> <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><b>Crematorium</b></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><b>Data centre</b></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>

Land Use	Intent	Rationale
<p><b>Industrial retail outlet</b> Amend existing definition</p>	Update the definition to allow industrial retail outlet to sell the outputs of a creative industry,	<p>Amendments allow for a creative industry to display and sell goods manufactured on site.</p> <p>The retail floor area size will be controlled through Clause 5.4 <i>Controls relating to miscellaneous permissible uses</i> under the relevant LEP.</p>
<p><b>Kiosk</b> Amend existing definition</p>	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.
<p><b>Local distribution premises</b> Retain existing definition Remove from parent term 'warehouse or distribution premises'</p>	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.
<p><b>Neighbourhood Shop</b> Amend existing definition</p>	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.
<p><b>Shop-top housing</b> Amend existing definition</p>	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.	<p>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.</p> <p>The Department would also welcome feedback on whether the existing definition needs updating to allow for more than just ground floor commercial use.</p>

Land Use	Intent	Rationale
<b>Warehouse or distribution centre</b> 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 the 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
<b>Home improvement retail premises</b> 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.

Land Use	Intent	Rationale
<p><b>Trades retail premises</b></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><b>Storage and distribution premises</b></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><b>Self-storage units</b></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
<b>Commercial centre</b>	<ul style="list-style-type: none"> <li>To encourage employment opportunities and business investment</li> </ul> OR <ul style="list-style-type: none"> <li>To encourage employment opportunities and business investment in the regional centre</li> </ul> OR <ul style="list-style-type: none"> <li>To encourage employment opportunities and business investment in the Strategic centre.</li> </ul>
<b>Mixed use</b>	<ul style="list-style-type: none"> <li>To provide a range of business, community, light industrial, retail and residential land uses.</li> </ul> OR <ul style="list-style-type: none"> <li>To provide a range of retail, business, and community uses;</li> </ul> OR <ul style="list-style-type: none"> <li>To provide a range of business, community, retail and residential land uses.</li> </ul>

\* 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 zoning<sup>3</sup>. 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.

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

<b>NSW proposed employment zones compared to Victoria</b>	
<b>NSW proposed</b>	<b>Victoria current</b>
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
<b>8 zones</b>	<b>10 zones</b>

## 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'<sup>4</sup> 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.

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<sup>4</sup> 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](mailto: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 Councils (46 SI LEP)	% Metro Councils (46 SI LEP)	Regional Councils (114 SI LEP)	% 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%

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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
<b>B5</b>	<b>B6</b>	<b>B7</b>	11	7	4
<b>B5</b>	<b>B6</b>		15	7	8
<b>B5</b>		<b>B7</b>	15	5	10
	<b>B6</b>	<b>B7</b>	11	4	7
<b>B5</b>			18	3	15
	<b>B6</b>		28	8	20
		<b>B7</b>	8	2	6
<b>None</b>			54	8	46

## Appendix B - Upfront stakeholder and council engagement

<b>CONSULTED TO DATE</b>	
<b>Peaks &amp; Industry groups</b>	
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	<b>Local government</b>
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 grain 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.