

**Subject 11.2.2 Investigation of Appropriateness of Permitting
Places of Public Worship in Industrial Zones
(10186077)**

To the General Manager

Directorate: **City Outcomes**

Department: **City Strategy**

Manager: Geoff Hoynes - Group Manager City Strategy

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Summary

At its Ordinary Meeting of 4 February 2014, Council resolved to:

'call on the General Manager to provide a report to Council outlining the current planning status of places of public worship in industrial zones under *Shellharbour Local Environmental Plan 2013*. That report should include the pros and cons of allowing such uses in industrial zones and options available to Council in relation to amending *Shellharbour Local Environmental Plan 2013*, if it subsequently chooses to do so.'

This report is submitted in response to the resolution.

Background

This report is the result of a resolution of Council regarding the suitability of permitting places of public worship in industrial zones.

Under *Local Environmental Plan 2013* there are numerous areas of industrial zoning. These areas are zoned either IN1 General Industrial or IN2 Light Industrial. Places of public worship are a prohibited use in these zonings.

Historically, industrial zones have been established in areas separate to sensitive land uses/zones like residential, to prevent industrial characteristics such as noise, dust, fumes from impacting adversely on sensitive land uses.

The approach taken to assess the suitability of allowing places of public worship in some or all of the industrial zonings under LEP 2013 is as follows:

- examine the objectives and land use definitions currently permissible in our industrial zones under LEP 2013;
- carry out an indicative land use survey to establish what industrial zoned areas are being used for;
- estimate the potential for land use conflict within the zones;
- estimate the potential for places of public worship to significantly affect the supply of industrial land for industry/employment related uses; and
- liaise with the Department of Planning and Environment and Council's City Development – Planning Department.

Main Report

What is a place of public worship?

Under Local Environmental Plan 2013, a **place of public worship** means a building or place used for the purpose of religious worship by a congregation or religious group, whether or not the building or place is also used for counselling, social events, instruction or religious training.

About our industrial zones

There are five IN2 Light Industrial zoned areas throughout the Council area. These are located in north Warilla, Barrack Heights, Oak Flats and two are in Albion Park Rail.

The objectives of the IN2 Light Industrial Zone are:

- To provide a wide range of light industrial, warehouse and related land uses.
- To encourage employment opportunities and to support the viability of centres.
- To minimise any adverse effect of industry on other land uses.
- To enable other land uses that provide facilities or services to meet the day to day needs of workers in the area.
- To support and protect industrial land for industrial uses.

The IN2 zone permits a range of industry related uses but also permits uses such as *animal boarding or training facilities, veterinary hospitals*.

There is one IN1 General Industrial zoned area in the Council area. This is located between the Princes Highway and airport.

The objectives of the IN1 General Industrial Zone are:

- To provide a wide range of industrial and warehouse land uses.
- To encourage employment opportunities.
- To minimise any adverse effect of industry on other land uses.
- To support and protect industrial land for industrial uses.
- To encourage the development of industries and to diversify the industrial base of Shellharbour in a manner compatible with the use of the adjacent Illawarra Regional Airport.

The IN1 zone permits a range of industry related uses but also permits uses such as *animal boarding or training establishments, backpackers' accommodation, educational establishments, hotel or motel accommodation, veterinary hospitals*.

The definition of light industry includes not interfering *with the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise*. Therefore there may be some locations in the IN2 zone where these potential amenity affectations are more likely to be tolerated; for instance a noisy industry being introduced into an already noisy industrial area, could still be a light industry. The same noisy industry being introduced into a quiet industrial area may not comply with the definition of light industry.

Land use survey of industrial zones

An indicative land use survey was undertaken of all industrial areas. The survey indicated a mixture of uses ranging from gyms, training facilities, warehousing/retail or hire, warehousing/installation, warehouse/office, car sale yards, manufacturing, motor vehicle mechanics, motor vehicle accident repairs, other services, storage and residential dwellings. The survey also indicated approximately 60 vacant buildings and parcels of land in our industrial zones.

The Department of Planning and Environment

The Department of Planning and Environment's (the Department) position is there are several Councils that permit places of public worship in one or more of their industrial zones. The Department does not have any general policy objection to including it as a permissible use.

The Department noted Local Environmental Plan 2013 permits various non - industrial uses in industrial zones, so adding a place of public worship would not be inconsistent. An increasing trend of 'mega churches' establishing in light industrial areas because of the large scale of building needed to accommodate the number of churchgoers, was also noted by the department.

Neighbouring Council areas

Places of public worship are permissible in Wollongong Council's IN1 and IN2 zone. Places of public worship are prohibited in Kiama Council's IN2 zone.

Council Officer Comments

The location of churches are typically in or adjacent to a residential area and for conventional churches, the impacts of church activities are felt most on a Sunday or when there is a special event/service such as a wedding. In these situations, neighbours have to accommodate the traffic and parking issues that often ensue. Additionally, in some situations music and other noises also impact on the residential amenity of a locality.

By locating a church in a light industrial zone where there should not be any sensitive land uses such as conventional dwellings, the impacts may in fact be better tolerated subject to suitable car parking being provided amongst other things. However, the inclusion of a place of worship in a general industrial zone may raise issues where a church may be compromised by 'heavier' industrial uses and therefore the inclusion in a general industrial zone would need careful consideration.

There is not considered to be an in principle objection to the inclusion of a place of public worship in a light industrial zone; however the use should be discouraged in the general industrial zone.

Is it viable to permit places of public worship in our industrial zones?

Based on the indicative land use survey, the potential for a place of public worship to be adversely impacted by incompatible land use(s) does not appear significant. In any case, if places of public worship became permissible, surrounding land use compatibility would need to be considered, with any development application for a place of public worship.

Reciprocally, if a place of public worship was established, it would not have significant potential to prevent the nearby establishment of more of the same types of industries

currently in our industrial areas. Also, there are already a number of non-industry type uses permissible in the industrial zones.

There is potential to reduce the amount of unused industrial property by adding a permissible use. There is also a low number of existing dwellings in the IN2 zone that could be adversely impacted by a place of public worship.

Based on the above it may be reasonable to permit places of public worship in the IN2 zone.

It should though be noted that the inclusion of a place of public worship as a permissible use is not supported by the current IN2 Light Industry zone objectives. Consideration would need to be given to revising the zone objectives with any proposed inclusion of this use as permissible in the zone.

Based on current industry trends it is unlikely that there will be an increase in demand for industries with significant adverse amenity impacts that would create land use conflicts in our industrial areas. However this cannot be completely ruled out.

Unlike the IN2 zone, the IN1 zone permits general industries.

A general industry means a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity.

Unlike a light industry, and by definition, a general industry may be able to have some impact on the amenity of the neighbourhood by reason of noise, vibration, smell, fumes, smoke, vapour, steam, soot, ash, dust, waste water, waste products, grit or oil, or otherwise.

By permitting general industry, any introduction of places of public worship into the IN1 zone as a permissible use would pose an unacceptable increase in the potential for land use conflict.

Further, there are a large proportion of dwellings in the IN1 zone which could be impacted by places of public worship, although inherent in the zone's objectives is the aim to gradually have the zone turned over to industry usage as redevelopment occurs.

For these reasons it is not considered reasonable to permit places of public worship in the IN1 General Industrial zone.

Options available to Council for amending Shellharbour Local Environmental Plan 2013

Council could apply to the Department of Planning and Environment through a Planning Proposal to amend LEP 2013 in the following three ways.

1. Council could apply to introduce places of public worship as an additional permissible use throughout the IN2 Light Industrial zone. Permitting places of public worship in the IN1 General Industrial zone is not considered appropriate.
2. Alternatively Council could apply to introduce places of public worship as an additional permissible use on a select site(s) or precinct(s) within the IN2 Light Industrial zone. This would be a Schedule 1 amendment. The Department of Planning and Environment generally discourage Schedule 1 amendments unless there is no viable alternative.

3. Were a specific proposal on a specific site lodged for Council's consideration, Council could seek to amend Schedule 1 of LEP 2013 to allow that development on that site. It should be noted that if this were to occur, alternatives 1 or 2 could still occur.

The other option is that Council not amend LEP 2013, hence retaining the current status of places of public worship in industrial zones.

Financial and resource implications

Council staff time has been required to research and respond to the issue.

Should Council wish to change Local Environmental Plan 2013 to allow places of public worship in industrial zones, this will require Council staff and resources to prepare and manage a planning proposal.

Legal and policy implications

Not Applicable

Public/social impact

The potential for a place of public worship to be adversely impacted by incompatible land use(s) in the IN2 Light Industrial zone does not appear significant and could be managed through the development application process.

Places of public worship in the IN2 Light Industrial zone would not have significant potential to prevent the nearby establishment of more of the same types of industries currently in this zone.

Any inclusion of a place of worship in the IN1 General Industrial zone may raise issues by it being compromised by 'heavier' industrial uses establishing in the future.

Introducing a new permissible use into an industrial area has the potential to decrease the amount of vacant land and buildings.

The possibility of site demand increasing in the future for 'heavier' industries with potential to create land use conflict with a place of public worship in a light industrial zone, is currently unlikely, but cannot be completely ruled out.

Link to Community Strategic Plan

The preparation of a planning proposal to permit places of public worship in the IN2 Light Industrial zone supports the following objective and strategy of the Community Strategic Plan:

Objective: 2.3 - A liveable City that is connected through places and spaces

Strategy: 2.3.2 - Undertake all land use planning addressing social, economic and environmental principles whilst reflecting the current and future community's needs

Consultations

Internal

City Development Group

External

NSW Department of Planning & Environment

Political Donations Disclosure

Not applicable

Recommendation

That Council receive and note the report.

Aproved for Council's consideration:

A handwritten signature in black ink, appearing to be 'G. Kelly', is positioned above a horizontal line.

Attachments

Nil