

**5 Planning Proposal - Employment Zones Review**

**Compiled by:** Clare Tregenza, Planner  
Abdul Cheema, City Planning Coordinator

**Authorised by:** Christine Gough, Head of City Planning  
Andrew Jackson, Director Planning and Regulatory Services

<b>Outcome</b>	<i>We plan and shape our growing City</i>
<b>Strategy</b>	<i>Undertake strategic planning that will ensure balanced growth and liveability</i>
<b>Principal Activity</b>	<i>Facilitate appropriate land use outcomes for our city that are consistent with our Local Strategic Planning Statement</i>

**Procedural note: Section 375A of the Local Government Act 1993 requires that a division be called in relation to this matter.**

**Executive Summary**

Council has initiated a Planning Proposal that seeks to amend the Penrith Local Environmental Plan (LEP) 2010 to align with the outcomes of a review of its employment lands. The objectives of this Planning Proposal are to:

- make housekeeping amendments and correct anomalies within the LEP,
- respond to relevant actions within the Council's adopted Employment Lands Strategy and Green Grid Strategy,
- address submissions made to the Department of Planning, Housing and Infrastructure (DPHI), during their public exhibition of the Employment Zones Reform (2022), that were out of scope of Council's adopted 'direct translation approach' to this reform,
- implement the recommendations of Council's review of employment lands across the LGA.

The intended outcomes of the Planning Proposal are to:

- removed Clause 7.12 Maximum gross floor areas for commercial premises,
- ensure all E1 Local Centre zones have a height of buildings control,
- protect environmentally sensitive areas within employment zoned land in Kingswood,
- permit service stations within the E4 General Industrial zone,
- correct obsolete property descriptions and update mapping for E4 General Industrial zoned land at Cranebrook,
- introduce an additional permitted use for certain land zoned E4 General Industrial at Castlereagh Road Penrith, to allow vehicle sales or hire premises,
- remove certain land uses from Clause 38 that are permissible under State Environmental Planning Policies (SEPP).

## Background

In late 2020, DPHI engaged with Penrith City Council and other councils on its intention to refine the zoning framework for employment lands. The reforms aimed to:

- remove widespread limitations on businesses that wish to establish, innovate or expand, and
- support the long-term economic recovery of NSW by increasing job creation and productivity, and the consolidation of business and industrial zones (a recommendation of the Productivity Commission's White Paper).

The Employment Zones Reform saw a translation of existing Business (B) and Industrial (I) zones to new Employment (E) zones. This process was initiated and managed by DPHI.

In November 2021 Council received its zone translation of LEP 2010 from DPHI, with the expectation that this would be reviewed and endorsed by Council by March 2022. DPHI's timeframe significantly impacted Council's ability to undertake a comprehensive review of the translation at that time. Therefore, a two-staged approach to this reform was developed.

Stage 1: Broadly adopt a 'direct translation' approach as part of the DPHI implementation. The outcome was minimal policy changes unless there were clear land use conflicts or where DPHI's secondary zone translation was more relevant. Council's intention in undertaking the review was to ensure affected property owners would maintain their development potential as a result of the translation. Stage 1 of the Employment Zones Reform was finalised in December 2022, with changes to the Standard Instrument LEP and LEP 2010.

Stage 2: Council undertakes a comprehensive review of the new employment zones framework at a later stage to ensure that the new framework is applied appropriately across the LGA with strong rationale. This would avoid any delay and allow DPHI's timeframes for finalisation to be met. This Planning Proposal represents Stage 2 of the Employment Zones Reform.

Stage 2 excluded land zoned under a SEPP, SP4 Tourist zones, SP3 Enterprise zones, the St Marys town centre and Penrith city centre as this will be addressed via an alternative planning process.

## Planning Proposal – Proposed Amendments

The Planning Proposal is provided as Attachment 1 to this report. The proposed amendments included in the Planning Proposal are outlined below:

### 1. Remove Clause 7.12 Maximum gross floor area of commercial premises

The Planning Proposal seeks to remove this clause from the Part 7 Additional local provisions.

This clause applies to eight (8) E1 Local Centre zoned precincts. Most of these sites are fully developed, with three (3) E1 zoned precincts vacant or partially vacant. The clause was informed by historical Interim Development Orders (now repealed) and LEP controls dating back to the 1980's (that were consolidated in the Penrith LEP 2010 as part of the LEP Standard Instrument amendment), before major infrastructure initiatives like the Western Sydney Airport and Metro rail link, and prior to job targets being set for our local government area (LGA).

Across the LGA there are 29 E1 zoned precincts. Development in E1 zoned precincts that are not captured by the clause are assessed by relying on E1 zone objectives, existing LEP mechanisms and Development Control Plan (DCP) controls. Given the historical nature of the Clause 7.12 controls, the extent of development in these precincts and existing LEP and DCP controls that are in place, it is considered appropriate for the Clause 7.12 controls to be removed from the LEP, allowing all E1 zoned precincts to be assessed consistently across the LGA and provide development flexibility.

2. Introduce a Height of Buildings control for all lots within the E1 Local Centre zone in Leonay and Lemongrove, Penrith

The Planning Proposal seeks to correct an anomaly in LEP 2010 and apply a height of buildings control to E1 Local Centre zoned precincts in Leonay (8.5m) and Lemongrove (Penrith) (9m – 12m). This will result in all E1 zoned precincts having a height of buildings control in the LEP.

The E1 Local Centre zone includes the translation of previously zoned B1 Neighbourhood Centre and B2 Local Centre zones. Submissions to DPHI's Employment Zones Reform public exhibition raised concern around 'up-zoning' of land previously zoned B1 to E1, and that the centres hierarchy should not be undermined by unintended consequences of up-zoning of former B1 precincts to E1. The application of an appropriate height of building for all E1 Local Centres ensures there are existing LEP controls to guide development that respond to the location and scale of surrounding development.

For the Lemongrove site, the proposed height for the western lot is 9m. This lot falls within a heritage conservation area and is adjacent to a low-density residential zone (R2). For the remaining Lemongrove lots the proposed height is 12m, to align with adjacent heights of 12m and 15m. The zone adjacent to this area is high density residential (R4) and permits shop top housing.

3. Rezone Council owned land at 79 Great Western Highway Kingswood to RE1 Public Recreation

The Planning Proposal seeks to rezone certain land at 79 Great Western Highway from E4 General Industrial to RE1 Public Recreation. The intended outcome is to ensure environmentally sensitive land in this location is appropriately zoned and supports future restoration works and recreation uses on this land as identified in Council's Green Grid Strategy.

This E4 precinct in Kingswood is approximately 5.4 hectares in total. The proposed amendment seeks to rezone 1.6 hectares (30%) of this area to a RE1 Public Recreation zone. The proposed rezoning area is Council owned and is part of a current greening and restoration project that has seen over 5,000 trees planted. Activation of this land for employment or industrial purposes is unlikely, as the land has been identified in the Council's Green Grid Strategy as a Catalyst Project, and the land is constrained by flooding.

This amendment also proposes the removal of the subject land from the height of buildings layer, additional permitted uses layer and the minimum lot size layer consistent with the approach taken for RE1 Public Recreation zones across the LGA.

*Local Strategic Planning Statement*

The relevant Planning Priorities in the Local Strategic Planning Statement are:

- Planning Priority 18: Connect our green and blue grid, and
- Planning Priority 21: Cool our city.

This amendment is consistent with Planning Priority 18 and 20, as:

- it aligns with Council's adopted Green Grid Strategy Catalyst Project 4.4: Werrington Creek,
- it will result in future proofing the land by applying the most appropriate zone and preparing the site for when project funding, design and stakeholder engagement is further refined,

rezoning the land to RE1 supports efforts to connect our green and blue grid. Connecting our bushland and waterways are essential for habitat and ecological health. Open spaces are important for recreation, exercise, and social interaction. By providing a connected green grid we can support walking, cycling and better access to these green spaces.

#### *Employment Lands Strategy*

The relevant action in Council's Employment Lands Strategy is:

- Action 8 – Protecting and enhancing environmentally sensitive areas within employment precincts in line with the Green Grid Strategy.

This amendment is consistent with Action 8 as it will result in an outcome where land identified as important to provide green link connections is protected. Council has commenced significant restoration and tree planting efforts on this site, enhancing this area and preparing it as a future green link.

#### *Green Grid Strategy*

The relevant priority in Council's Green Grid Strategy is:

- 4.4 Werrington Creek, shared path and creek restoration from Victoria Street, under Penrith Rail Line Corridor to Cosgrove Crescent.

This amendment is consistent with Project 4.4, as rezoning the land to RE1 supports efforts to connect our green and blue grid. The Green Grid Strategy provides the basis for recognising and highlighting the existing green infrastructure (bushland, waterways, open and recreation space), as well as developing opportunities to reinforce this network with new green links.

#### **4. Permit service stations in E4 General Industrial zone**

The planning proposal seeks to amend LEP 2010 to permit *service stations* in the E4 General Industrial zone. The intended outcome is to allow this use to support industrial and nearby residential populations, and formalise the existing situation that sees a large number of service stations already established in the E4 zone across the LGA. This matter was raised in submissions. It is considered a minor amendment and has strategic merit.

5. Correct obsolete property descriptions and update mapping for E4 General Industrial zoned land at Cranebrook

The planning proposal seeks to amend LEP 2010 to:

- update property descriptions for sites identified in Schedule 1 Additional Permitted Uses - Clause 2 to respond to subdivision approvals in the area, and
- remove the application of Schedule 1 Additional Permitted Uses Clause 38 for land that is part of the lake system in Waterside estate, Cranebrook.

Both changes are housekeeping amendments and are considered appropriate given recent subdivisions and to acknowledge land forming part of the lake system within the Waterside estate does not align with the additional permitted uses identified in Clause 38.

6. Introduce an additional permitted use for certain land zoned E4 General Industrial fronting Castlereagh Road, Penrith to allow *vehicle sales or hire premises*

The intention of this amendment is to:

- formalise the existing situation that sees vehicle sales or hire premises established on certain E4 zoned land fronting Castlereagh Road, Penrith,
- permit this use (currently permissible in E1, E2, E3 and MU1 zones) in locations with appropriate access and visibility.

It is considered appropriate to formalise this use on the subject land. LEP 2010 currently permits this use in the E3 Productivity Support zone in locations along the Great Western Highway Kingswood, Mulgoa Road at Jamisontown and on smaller sites across the LGA. The subject land provides good accessibility to the site for customers and larger logistical traffic movements.

7. Remove certain land uses from Additional Permitted Use Clause 38, that are permissible under State Environmental Planning Policies (Transport and Infrastructure) 2021.

The intended outcome of this amendment is to remove land uses from Schedule 1 Additional Permitted Use *Clause 38 Use of certain land at Werrington, Kingswood, Penrith, Cranebrook, Orchard Hills and Emu Plains* as follows:

- Electricity generating works,
- Resource recovery facilities,
- Waste or resource transfer stations and
- Service stations.

This is a housekeeping amendment to remove land uses from an additional permitted use clause:

- that are permitted with consent under SEPP (Transport and Infrastructure) 2021, and
- to align with Item 4, that will insert service stations into the E4 General Industrial land use table, thereby rendering its inclusion in Clause 38 obsolete.

### Local Planning Panel Advice

On 25 September 2024, the Planning Proposal was presented to the Local Planning Panel to obtain advice. The advice provided is to be taken into consideration in Council's preparation of the Planning Proposal.

The Local Planning Panel advised the following:

- 1) The Planning Proposal is generally supported for the following reasons:
  - a) The Planning Proposal is consistent with the Greater Sydney Region Plan and Western City District Plan.
  - b) The Planning Proposal is consistent with Penrith's Employment Lands Strategy, Green Grid Strategy and Local Strategic Planning Statement.
  - c) This Planning Proposal addresses various anomalies in the new Employment zones as a result of the 'direct translation' and seeks to apply consistency.
- 2) It is recommended that the Planning Proposal be progressed through the Gateway process.
- 3) The Panel encourages Council to consider provision for vehicle sales or hire premises as part of the forthcoming LEP review.

The Local Planning Panel's advice is provided as Attachment 2 to this report.

### Conclusion

Council has initiated a Planning Proposal that seeks to amend LEP 2010 to align with the outcomes of a review of its employment lands. The Planning Proposal is consistent with the Greater Sydney Region Plan, the Western City District Plan, and Council's Employment Lands Strategy, Green Grid Strategy and Local Strategic Planning Statement. The Planning Proposal addresses various anomalies in the new Employment zones as a result of the 'direct translation' and seeks to apply consistency.

### Financial Implications

There are no financial implications for Council associated with this report.

### Risk Implications

There are no financial implications for Council associated with this report.

### RECOMMENDATION

That:

1. The information contained in the report on Planning Proposal - Employment Zones Review be received.
2. Council endorse the Planning Proposal provided as Attachment 1 to proceed through the Department of Planning, Housing and Infrastructure's Gateway process for Local Environmental Plan amendments.
3. Council officers forward the Planning Proposal to the Minister for Planning with a request to issue a Gateway Determination. The submission will include a request to issue Council with Delegation for plan making authority.
4. The General Manager be granted delegation to make any necessary changes to the Planning Proposal referred to in resolution 2:
  - prior to Council's submission of the Planning Proposal to the Minister for Planning to request a Gateway Determination;

- 
- as a result of negotiated changes sought by the Department of Planning, Housing and Infrastructure in the lead up to issuing a Gateway Determination; and
  - prior to public exhibition in response to the conditions of the Gateway Determination or negotiation with State agencies.
5. Council publicly exhibits the Planning Proposal for a period specified in the Gateway Determination and in accordance with the community consultation requirements of the Environmental Planning and Assessment Act 1979 and the Environmental Planning and Assessment Regulation 2000.
  6. A further report be presented to Council following the public exhibition.

#### **ATTACHMENTS/APPENDICES**

- |                                |          |                      |
|--------------------------------|----------|----------------------|
| 1. Planning Proposal           | 86 Pages | Attachments Included |
| 2. Local Planning Panel Advice | 1 Page   | Attachments Included |