

Implementing employment zones

This document answers frequently asked questions about the commencement of employment zones

What is happening with the implementation of employment zones?

An employment zones implementation Explanation of Intended Effect (EIE) and LEP translation detail were publicly exhibited from 31 May to 12 July 2022. Following the public exhibition, the department in consultation with councils finalised proposed amendments to individual local environmental plans (LEPs). Amendments to the following legislation is required to implement employment zones:

- Standard Instrument Local Environmental Plan Order - *Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2022* (Amending Order)
- *State Environmental Planning Policy (Transport and Infrastructure) 2021*
- *State Environmental Planning Policy (Housing) 2021 (Housing SEPP)*

What legislative amendments are proposed?

Three legislative packages will be made between the end of November 2022 and the end of February 2023 to implement employment zones across LEPs.

The three legislative packages are:

- an Amendment to the *Standard Instrument LEP Order* (Amending Order) and *Transport and Infrastructure SEPP Amendment* (Prescribed Zones SEPP)
- six Land Use SEPPs, amending 134 LEPs to introduce employment zones, and
- a housekeeping SEPP to update certain LEP maps and to make consequential amendments in various instruments.

What is included in the Amending Order?

The Amending Order makes the following key changes:

- defer the repeal date of the business and industrial zones from 1 December 2022 to 26 April 2023
- provide until 26 April 2025, the continuation of existing land use permissibility under the previous business and industrial zones
- continue for up to two years, business and industrial zones for limited areas that are the subject of a separate site-specific planning process or comprehensive local environmental

plans that are soon to be finalised. That separate planning process will apply employment zones and repeal business and industrial zones

- make minor updates to land use tables including land use terms and objectives to address public submissions
- retain and translate the B8 Metropolitan Centre Zone to SP5 Metropolitan Centre Zone, and
- provide for equivalent zone references to manage the transition to the new zones where previous zones are referenced in plans and policies.

These changes generally respond to submissions received on the EIE that extend beyond individual LEPs. The changes also seek to manage the transition from business and industrial zones to employment zones by utilising savings and transitional provisions.

What is included in the Prescribed Zones SEPP?

The Prescribed Zones SEPP makes the following key changes:

- amend the *Transport and Infrastructure SEPP* and *Housing SEPP* to include employment zones as 'prescribed zones', to continue land use permissibility under these SEPPs
- require a development application where land use permissibility is continued for two years because of a savings provision to enable land use conflicts to be assessed
- replace land zoning maps for six LEPs to identify land where business and industrial zones will continue for two years.

What is included in the six (self-repealing) Land Use SEPPs?

LEPs are being amended to introduce employment zones by way of self-repealing SEPPs. Six self-repealing SEPPs will amend 134 LEPs on 16 December 2022. These amendments will not commence until 26 April 2023 to enable time for the instruments to be individually updated on the legislation website.

A number of LEPs are not being amended via self-repealing SEPPs as they are introducing employment zones via a planning proposal. These LEPs are:

- Proposed Canterbury Bankstown LEP 202X (Canterbury LEP 2012 & Bankstown LEP 2015)
- Proposed Edward River LEP 202X (Deniliquin LEP 2013)
- Proposed Hilltops LEP 202X (Harden LEP 2011, Young LEP 2012 & Boorowa LEP 2012)
- Parramatta LEP 2011
- Randwick LEP 2012
- Willoughby LEP 2012

The following LEPs do not have an Business or Industrial zones that need to be translated to an employment zone:

- Balranald LEP 2010
- Brewarrina LEP 2012
- Conargo LEP 2013
- Lachlan LEP 2013
- Tenterfield LEP 2013
- Urana LEP 2011

What is included in the Housekeeping SEPP?

The department will be making a Housekeeping SEPP in February 2023 to capture minor consequential changes across various instruments and to update certain LEP maps, including to reflect changes to the State cadastre. More substantial policy matters should be raised with the relevant council to be potentially captured as part of a future planning proposal.

Savings and transitional arrangements

Savings and transitional clauses have been prepared within the Amending Order. The purpose of these clauses is to facilitate the smooth transition to employment zones. The main provisions include:

- The ‘Continuation of business and industrial zones’ savings and transitional clause covers the six LEPs that will not commence in April 2023. The purpose of the savings provision is to keep business and industrial zones alive for the six LEPs, as their translation will occur as part of a separate planning proposal process. In addition to the six LEPs, a number of precincts subject to a Regional Jobs Precinct, Special Activation precinct or a Collaboration Area will also have business and industrial zones continued. These areas are specifically referenced in the Amending Order and mapped through the Prescribed Zones SEPP. [*Amending Order - Schedule 1, Part 2, Clause 6 Continuation of business and industrial zones & Prescribed Zones SEPP - Schedule 4 Amendment of local environmental plans*]
- The ‘Continuation of permitted development’ savings and transitional clause will maintain permissibility for two years. This applies where a specific land use was permissible under a previous zone but is not proposed to continue under an employment zone because a land use table of best fit has been applied where multiple zones are being merged. This savings and transitional clause is a ‘catch all’ clause that is being applied in addition to Schedule 1 - Additional Permitted Uses (APU) for key land uses to ensure no loss of permissibility as part of this reform. [*Amending Order - Schedule 1, Part 2, Clause 5 Continuation of permitted development*]
- The ‘Equivalent zones’ savings and transitional clause will cover documents (i.e., DCPs, LSPSs, forms and planning certificates) that currently reference a business or industrial zone enabling the Secretary to publish what is the equivalent employment zone so that these documents continue to apply under employment zones. [*Amending Order - Schedule 1, Part 2, Clause 4 Equivalent zones*]

References to business and industrial zones in other environmental planning instruments

The ‘Equivalent zones’ savings and transitional clause seeks to manage references to legacy business and industrial zones within planning documents without needing to immediately update those documents. The purpose is to enable users of planning policies and documents to understand how the requirements apply to employment zones. The transitional clause facilitates the use of published equivalent zones tables. These tables are currently being prepared for each council and

will be uploaded when the Land Use SEPPs are notified in December 2022. These tables will be shared with councils enabling them to also publish on their websites.

SEPPs that set land use permissibility or development requirements including a reference to business and industrial zones have been amended to also include employment zones. Business, industrial and employment zones all need to be listed to cover all environmental planning instruments including those that have yet to transition to employment zones.

For Precinct SEPPs with business and industrial zones, these have not been translated to employment zones. This is a separate piece of work that will be undertaken in 2023.

Other SEPPs that include a reference to business or industrial zones such as the Primary Production, Planning System and Biodiversity and Conservation SEPPs can rely on the equivalent zones tables.

Maintaining permissibility

The intent of the reform is to maximise productivity and to minimise loss of land use permissibility. However, the employment zones are new zones with a strategic intent for each zone often different to that of the translated business or industrial zone. Further, there were instances where multiple previous zones were translated to a single employment zone with the one land use table. This means that there are limited examples of where a land use ceases to be permissible under the employment zone. To reduce loss of permissibility the Department has applied Schedule 1 Additional Permitted Uses for the following land uses within individual LEPs – ‘Residential accommodation’ (and all sub terms), ‘Specialised retail premises’ and ‘Food and drinks premises’ (and all sub terms). Additional individual APUs have also been applied based on a council request and exhibition submissions.

If there are any land uses that are not captured under the new land use table proponents are asked to verify the following:

- Is the use covered by a group term? Sub-terms are not listed unless that use is a mandated use i.e. ‘Shops’ is a sub term of ‘Retail premises’.
- Is the use a prescribed use under a SEPP? i.e. ‘Seniors housing’ is a Housing SEPP land use where permissibility is set for prescribed zones.
- Is the use permitted as ‘any other development’? Where the zone is an open zone by including the phrase ‘Any other development not specified in item 2 or 4’ then a use that is not prohibited is permitted but not listed.
- Has an APU within Schedule 1 of the LEP been applied for the use?

If, following a review of the above points, a land use has become prohibited, then the savings clause ‘Continuation of business and industrial zones’ extends permissibility for two years until 26 April 2025.

Landowners are encouraged to speak with their council during the two-year life of the savings provision to investigate including a Schedule 1 APU for that land use. This can be either included as part of a council’s housekeeping LEP or a proponent initiated planning proposal.

Mapping changes

As part of employment zones implementation, 119 LEPs will be either fully or partially migrated to digital mapping. Partial digital mapping includes the Land Zoning map, the Key Sites map/Clause map (where applicable) and Additional Permitted Uses map (where applicable). Final maps will be published prior to commencement. The maps that are published from 16 December 2022 are likely to change prior to commencement as there are changes being made to the State cadastre. Any landowners that are preparing to lodge a development application under the uncommenced Employment zones should speak to their council prior to lodgement to understand whether any changes to the maps are likely to affect the land.

Legally a council's LEP maps can comprise a mix of digital and PDF format. Councils that are to be partially migrated to digital format are encouraged to speak with ePlanning about migrating all of their map series across to the digital platform.

Once the digital maps are adopted from 26 April 2023, planning proposals will need to be prepared with digital maps.

Conservation zones

The employment zones implementation included consequential changes for references to environment protection zones to conservation zones. These will also commence on 26 April 2023.

The Codes SEPP

The Codes SEPP has been amended to include employment zones so that exempt and complying development can be utilised.

Local provisions

Some councils have requested the inclusion of local provisions to provide additional assessment criteria to manage land use conflicts or to achieve strategic outcomes arising from the translation of business and industrial zones to employment zones. These are located in either Parts 6 or 7 of the LEP depending on the structure of the LEP.

Development applications and planning proposals in train

Following notification on 16 December 2022 of the amendments to LEPs a development application can be lodged under the new land use table but cannot be determined until the amendments commence on 26 April 2023.

Planning proposals that have passed through gateway since December 2021 should have been exhibited with an indication of proposed employment zoning. These sites will be translated with the LEP. In cases where an alternative employment zone forms part of the planning proposal, then that identified employment zone will be made when the planning proposal is finalised. Where a planning proposal is being finalised ahead of the employment zones commencement then the planning proposal will be made with the applicable business and industrial zone.

What changes were introduced in December 2021?

The Standard Instrument (Local Environmental Plans) Amendment (Land Use Zones) Order 2021 (Amending Order) was published on 5 November 2021. The Amending Order introduced the new employment zones alongside the existing Business and Industrial zones. This enabled us to begin implementation into individual LEPs.

New employment zones

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

Supporting zones

- MU1 Mixed Use
- W4 Working Waterfront
- SP4 Enterprise

Instrument LEP Dictionary and Direction 5 to accommodate the new employment zones and other associated land-use amendments. These changes in land-use terms began on 1 December 2021.

How have local distribution centres changed?

Changes to the land use term 'local distribution premises' were part of the Amending Order and commenced on 30 June 2022. Part of the change to local distribution premises was decoupling it from the parent term 'warehouse and distribution centre' making it a standalone land use term. This means that for open land use tables a decision needed to be made as to whether to permit or prohibit 'local distribution premises' otherwise they would automatically appear in open zones on 30 June 2022. State Environmental Planning Policy Amendment (Local Distribution Premises) 2022 will be made before 30 June 2022 to determine permissibility in non-employment zones based on advice received from councils.

The land-use 'local distribution premises' has been separated from the group term 'warehouse or distribution centres' to make the land-use permissible in a wider range of land-use zones. This reflects the need to support last-mile delivery; for example, click-and-collect bays and parcel lockers.

Refer to Planning circular [PS 21-008](#) for more information on local distribution premises.

What is being exhibited in May 2022?

The department exhibited an explanation of intended effect (EIE) from **late May 2022** alongside implementation detail including how we intend to replace existing Business and Industrial zones with Employment zones within individual LEPs. The State Environmental Planning Policy (SEPP) EIE gives an overview of the reform and explains the LEP implementation approach.

The implementation detail is being present through a web tool so that community and stakeholders can easily identify local changes and make a specific submission on the proposed translation. The web tool displays for an individual lot the in force Business and/or Industrial zone alongside the draft employment zone for each council including land-use tables. This allows people to compare objectives and land use permissibility making the extent of change clear.

How will the web tool display lots with more than one zone?

In some circumstances, a council has used 'split' zoning on a single lot to accommodate differences in land's development potential due to topography, environmental values, certain land constraints or alternative land-use permissibility. On the land zoning map (and the spatial viewer), the lot will indicate that 2 (or more) zones apply.

Where a split zone currently includes a Business or Industrial zone, the web search tool will only show the land-use table detail for that Business or Industrial zoning and the draft Employment Zone. If the other zone applying to the land is, for example, a residential or conservation zone, this reform does not change that portion of the lot and the land-use permissibility.

How did the department and councils receive and review exhibition submissions?

The purpose of the web tool is to clearly outline the extent of change in an easy to navigate format and to focus feedback on the way the existing zones are being translated into the new framework at a local level. This process was not an opportunity to review zoning or land use permissibility that is already in place or to review the employment zones and mandated land uses that were exhibited in May 2021 and are now in place within the SI LEP Order. Focused feedback enabled both councils and the department to review local translation comments when it finalised all 134 LEP amendments.

The department will share all submission detail with councils relevant to their LEP. Post-exhibition changes to the LEPs will be agreed to by council, the Employment zones team and Region/Place Teams.

Where can stakeholders and community find amended LEP maps?

Limited PDF maps have been prepared as part of implementing the employment zones. The majority of in-force mapping is being delivered digitally through the spatial viewer in the NSW Planning Portal.

Was council endorsement sought?

Some councils have chosen to not endorse the employment zones translation detail as the substance of the proposed LEP change is the same as what is in place within their existing LEP or key aspects of the LEP have been recently endorsed (such as for a comprehensive LEP or as part of the endorsement of a recent employment lands strategy).

Other councils have chosen to have their elected council endorse the translation ahead of exhibition, while others will be seeking endorsement after exhibition.

What are open and closed zones?

An open zone is one where permissibility is set more broadly and includes any use that isn't prohibited. Sometimes these uses aren't explicitly listed in a land use table and get their

permissibility as ‘any other development’ not list as prohibited. An open zone is identified in the land-use table with the words ‘Any development not specified in Item 2 or 4’.

A closed zone is one where land uses permissibility is generally more restrictive, meaning land uses not explicitly listed as permitted are prohibited. A closed zone is identified in the land-use table with the words ‘Any development not specified in Item 2 or 3’.

Refer to the Planning practice note [PN 11-002](#) for more information about open and closed zones.

What are consolidated, comprehensive and housekeeping LEPs?

A **consolidated LEP** is prepared by a council following the proclamation of a new council area. The consolidation process creates a single LEP by combining existing LEPs that apply to land in the local government area (LGA). The consolidated LEP creates a common set of objectives, land-use tables and provisions for land in the LGA.

A **comprehensive LEP** is the result of a detailed review of an existing LEP. This review ensures the LEP aligns with the priorities in overarching strategic plans framework such as council’s local strategic planning statement, local housing strategy and region and in Greater Sydney district plans.

A **housekeeping LEP** is a series of minor amendments to an LEP, often to correct errors or anomalies including updates to numbering, lettering and references to other legislation.

What does 202X mean at the end of an LEP name?

Where a council LEP name is followed by a year with the format 202X, the consolidated or comprehensive LEP project is underway and may have been publicly exhibited, but it has not been finalised and notified on the NSW legislation website. The year identifies when the LEP was notified, not when it was publicly exhibited.

What will happen with consequential amendments?

The department has drafted all consequential amendments that arise from introducing the employment zones into individual LEP. The department is also working through consequential amendments to State Environmental Planning Policies (SEPPs) where there are references to Business and Industrial zones. It should be noted that there will continue to be references to Business and Industrial zones in certain SEPPs to cater for Environmental Planning Instruments that are not made in accordance with the SI LEP Order but use the same zone names.