

LEP practice note

PLANNING SYSTEM

Local Planning

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Preparing LEPs using the Standard Instrument: standard zones

The purpose of this practice note is to provide an updated commentary on the standard zones in the Standard Instrument (Local Environmental Plans) Order 2006. It should be read in conjunction with any relevant State or regional planning provisions (including SEPPs, Section 117 directions, and Metropolitan or regional strategies).

Introduction

The *Standard Instrument (Local Environmental Plans) Order 2006* (Standard Instrument) sets out 35 standard zones for councils to use when preparing new principal local environmental plans (LEPs) for their local government areas.

An overview of the intended purpose of each zone is set out in Attachment A.

Councils may select zones as appropriate to the needs of their local areas, taking into account any relevant State or regional planning guidance. Only those zones which are used in a council's LEP will need to appear in the council's made plan.

Councils may not add new zones, create subzones, or change the name of a standard zone.

For each zone, the Standard Instrument (SI) sets out 'core' objectives for development, and certain mandated permitted or prohibited land uses.

Core zone objectives

The core zone objectives are used to clarify the role and function of the zone. There are one or more core objectives for development in each zone (referred to as 'listed' objectives in Direction 1 at the beginning of the Land Use Table in the Standard Instrument).

The core objectives ensure there is a consistent approach in the use of a zone in different areas across the State.

Councils may prepare additional local objectives to supplement core objectives where appropriate, provided that these are not inconsistent with the core objectives and mandated land uses, and do not conflict with any relevant State or regional planning guidance. Any additional local objectives will appear below the core objectives for each zone in the council's LEP.

For further guidance on drafting or reviewing non mandatory, additional local zone objectives in LEPs, refer to LEP PN 09-005 *Local environmental plan zone objectives*.

Permitted and prohibited land uses in zones

The Land Use Table in the Standard Instrument mandates certain permitted and prohibited land uses in certain zones. For each zone, mandated uses may be set out under:

- Item 2 (Permitted without consent)
- Item 3 (Permitted with consent)
- Item 4 (Prohibited).

Directions in relation to certain zones also require specified uses to be permitted either without consent under Item 2 or with consent under Item 3.

In addition to the mandated uses, councils will need to determine for each zone whether to permit (with or without consent) or prohibit the other land uses. Direction 3 at the beginning of the Land Use Table explains how councils are to set out additional permitted and prohibited land uses within the table for each zone.

Direction 5 lists all types of development included in the Standard Instrument Dictionary that may be used in the Land Use Table. It is important that councils maintain the integrity of the zone by including only uses consistent with the zone objectives.

Councils must give effect to any relevant State or regional planning guidance when determining permitted and prohibited land uses. In addition, where the permissibility of certain land uses is provided for under a relevant SEPP (e.g. Infrastructure SEPP), there is no need to include these types of development in Standard Instrument LEPs.

Consider whether an 'open' or 'closed' zone

An **open zone** is one where a broad variety of land use can be considered. When developing the Land Use Table for an open zone, councils should:

- specifically list any mandated or other uses that may be undertaken without consent under Item 2;
- specifically list any mandated or other land uses as prohibited under Item 4 'Prohibited'; and
- specifically list any mandated or other uses in Item 3 to achieve the zone objectives. In addition, insert the words 'Any development not specified in Item 2 or 4.'

This 'open' approach allows greater flexibility. For example, the High Density Residential zone and some Business zones could be considered 'open' providing for a mix of commercial, residential, tourist and visitor and recreational activities.

The open approach minimises the need to undertake 'spot rezonings' or other ad hoc LEP amendments to permit additional acceptable uses that were not anticipated during the initial LEP preparation. In addition, councils can maximise the flexibility in nominating permissible land uses by using 'group' terms rather than listing only some of the development types from within that group (e.g. 'commercial premises,' 'residential accommodation,' 'tourist and visitor accommodation').

A **closed zone** is one where the diversity of land uses is more restrictive, meaning development types are chosen primarily from only one or two key 'group' terms. In addition to the primary purpose of the zone, some limited and usually small-scale development from the set of land uses of other group terms may be included e.g. 'neighbourhood shops' in industrial zones. Other land uses from the 'retail premises' group term, such as 'bulky goods premises,' are not appropriate.

This approach should be used in Environment Protection, Special Purpose and Recreation zones.

Councils are encouraged to justify whether a zone is open or closed.

When developing the Land Use Table for a closed zone, councils should:

- specifically list any mandated or other uses that may be undertaken without consent under Item 2;
- specifically list any mandated or other land uses as permitted with consent under Item 3 to achieve the zone objectives; and
- specifically list any mandated land uses as prohibited in item 4 and add 'Any development not specified in Item 2 or 3'.

It should be noted that placing the innominate phrase (i.e. 'Any development not specified in item x) under Item 3 or Item 4 will not in itself, make a zone open or closed. The key to making the zone open or closed is the relationship, number, and type of land uses listed as either permitted or prohibited in Item 3 and Item 4 respectively.

Identifying further considerations for particular land

LEPs may, where appropriate, set out additional local provisions that apply to land that has particular environmental, hazard or building construction constraints, e.g. natural resource management clauses. Such provisions may apply to land that is in particular zones and would consist of a relevant map or maps and associated heads of consideration or development standards that apply in addition to the zoning of the land. They must not alter the mandated permissible or prohibited uses of that zone and must be consistent with any relevant State or regional policy guidance.

Councils are encouraged to use the Department's local model clauses available on the web site. Where councils would like to use a model clause, but wish to make some minor alterations to suit their specific circumstances, these may be considered with the appropriate justification, although it is recommended that they be adopted 'as is' wherever possible.

Lots with more than one zone

In some circumstances 'dual' or 'split' zoning on a single lot may be acceptable to acknowledge the different development potential of the land due to topography, different environmental values, certain land constraints or different designated future land uses. In proposing this approach, councils should consider the implication on other planning controls for that lot expressed in the Land Use Table, principal development standards (minimum lot size and/or scale of development) or additional local provisions.

Split zoning may be considered a suitable approach in planning for urban release areas. In

some areas, split zoning may also be considered a suitable approach on large non-urban lots where a significant portion of the lot has been identified, through detailed background assessment, as an area of high environmental value. However, if a portion of the lot is proposed to be zoned for environmental protection, it should not generally be an isolated area limited in size that does not provide for compact and contiguous environmental conservation and linkages. In such cases it is advisable to apply a single appropriate non urban zone and adopt the relevant natural resource management model clauses (e.g. biodiversity, wetlands, riparian land and waterways etc.).

Land zoning map

To ensure that there is consistency in the presentation of LEP land zoning maps, zone colours and mapping symbols are standardized. LEP maps will be made available online so that they are easily accessible to all potential users. Detailed information on LEP mapping, including standard zone colours, mapping symbols, and digital requirements can be found in Planning Circular 09-008 *Updated mapping requirements for local environmental plans*.

Further information

A copy of this practice note, the Standard Instrument, and other specific practice notes and planning circulars on using the Standard Instrument, can be accessed on the Department's website

<http://www.planning.nsw.gov.au/LocalPlanning/tabid/246/language/en-US/Default.aspx>

An updated version of the standard instrument is available on the NSW Parliamentary Counsel's office website: www.legislation.nsw.gov.au under 'Browse A-Z In Force'.

If you have further enquiries, please phone the Planning Information Centre 02 9228 6333 or email information@planning.nsw.gov.au.

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Important note: This practice note does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this practice note.

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ATTACHMENT A

OVERVIEW ON THE GENERAL PURPOSE OF EACH ZONE

Rural zones

RU1 Primary Production

This zone covers land used for most kinds of commercial primary industry production, including extensive agriculture, intensive livestock and intensive plant agriculture, aquaculture, forestry, mining and extractive industries. The zone is aimed at utilising the natural resource base in a sustainable manner. The zone is not a default zone for non urban land. The zone is allocated to land where the principal function is primary production.

In 2011, 'intensive livestock agriculture' and 'intensive plant agriculture' were added to the zone Direction to ensure these uses are included in the Land Use Table as either permitted with or without consent.

RU2 Rural Landscape

This zone is for rural land used for commercial primary production that is compatible with ecological or scenic landscape qualities that have been conserved (often due to topography). It may apply to land that is suitable for grazing and other forms of extensive agriculture, or intensive plant agriculture (such as 'viticulture'), but where the permitted uses are usually more limited and differ from RU1 land due to landscape constraints. This zone is not to be used where the main purpose of the zone is to protect significant environmental attributes or to provide for rural residential accommodation.

RU3 Forestry

This zone identifies and protects land that is to be used for long-term forestry use, such as State forests. Land which is to be used for private forestry may alternatively be zoned RU1 Primary Production zone or RU2 Rural Landscape.

RU4 Primary Production Small Lots

This zone (previously named Rural Small Holdings) is for land which is to be used for commercial primary industry production, including emerging primary industries and agricultural uses that operate on smaller rural holdings.

In 2011, the name of the zone was changed to clarify that it is a rural zone for agricultural uses, not a pseudo-residential zone. The objectives of the zone have been changed to encourage employment opportunities in relation to primary production on small lots and to minimise fragmentation and alienation of

resource lands important for food security. The changed zone name, modified core zone objectives and additional mandated permissible uses ('intensive plant agriculture' and 'plant nursery') better reflect the intent of the zone – being an agricultural industry/food production focus and not a rural residential lifestyle zone.

RU5 Village

This zone is a flexible zone for centres where a mix of residential, retail, business, industrial and other compatible land uses may be provided to service the local rural community. The RU5 zone would typically apply to small rural villages within rural areas.

RU6 Transition

The transition zone is to be used in special circumstances only in order to provide a transition between rural land uses (including intensive agriculture, landfills, mining and extractive industries) and other areas supporting more intensive settlement or environmental sensitivities. This zone is not to be used to identify future urban land. Councils intending to use this zone should approach the Department of Planning at the earliest opportunity during LEP preparation to determine whether or not it is appropriate in each particular instance.

Residential zones

R1 General Residential

This zone is to provide for a broad variety of residential densities and housing types, including 'dwelling houses,' 'multi-dwelling housing,' 'residential flat buildings,' 'boarding houses' and 'seniors housing'. The zone also includes additional uses that provide facilities or services to residents, including 'neighbourhood shops,' 'community facilities,' 'child care centres' and 'respite day care centres.' If a particular type and consistent density of residential development is desired it is better to use a more tailored residential zone such as R2, R3 or the R4 zone.

R2 Low Density Residential

This zone is intended to be applied to land where primarily low density housing is to be established or maintained. Typically the zone features detached dwelling houses, but it may be appropriate to include 'dual occupancy' (attached or detached) or some 'multi-dwelling housing.' This is the lowest density urban residential zone and the most restrictive in terms of other permitted uses considered suitable. These are generally restricted to facilities or services that meet the day-to-day needs of residents. This zone is generally not suitable adjacent to major transport nodes or

larger activity centres where residential densities should be higher.

R3 Medium Density Residential

This zone is for land where a variety of medium density accommodation is to be established or maintained. Other residential uses (including typically higher or lower density uses) can also be permitted in the zone where appropriate. A variety of residential uses have been mandated to encourage housing choice and diversity in this zone.

R4 High Density Residential

This zone is generally intended for land where primarily high density housing (such as 'residential flat buildings') is to be provided. Other lower density residential accommodation such as 'multi-dwelling housing' could also be accommodated where appropriate. The zone also includes additional uses that provide facilities or services to residents, including 'neighbourhood shops,' 'community facilities,' 'places of public worship,' 'child care centres' and 'respite day care centres.'

R5 Large Lot Residential

This zone is intended to cater for development that provides for residential housing in a rural setting, often adjacent to towns or metropolitan areas. The allocation of large lot residential land should be justified by council's housing/settlement strategy prepared in accordance with planning principles set out in regional and subregional strategies, s.117 directions and relevant SEPPs. Access to reticulated sewerage and water systems should be considered when determining appropriate minimum lot sizes. Lot sizes can be varied within the zone depending on the servicing availability and other factors such as topography, native vegetation characteristics and surrounding agricultural land uses.

Business zones

B1 Neighbourhood Centre

The zone is for neighbourhood centres that include small-scale convenience retail premises ('neighbourhood shops'), 'business premises,' 'medical centres' and community uses that serve the day-to-day needs of residents in easy walking distance. 'Shop top housing' is permitted in the zone, and other mixed use development may be considered appropriate. This zone should not be used for single 'neighbourhood shops,' as these can generally be permitted within the residential zones. In areas where there is increasing housing density and demand for local retail and business services, a B2 or B4 zone should be considered instead of a B1 zone to cater for expansion.

B2 Local Centre

This zone is generally intended for centres that provide a range of commercial, civic, cultural and residential uses that typically service a wider catchment than a neighbourhood centre. This zone provides for residential accommodation in the form of 'shop top housing,' and other uses such as 'educational establishments,' 'entertainment facilities,' 'function centres,' 'information and education facilities,' 'office premises,' and 'tourist and visitor accommodation.' Such a mix of uses will increase walking, cycling and public transport options for more people by making more activities available in one location. It is expected that this will be the most appropriate zone for most local and town centres across NSW.

B3 Commercial Core

This zone is for major centres that provide a wide range of uses including large-scale retail, office, businesses, entertainment and community uses directly linked to major transport routes. These centres are intended to meet the needs of a wider region as well as those of the local community. The zone should be applied in major metropolitan or regional centres only where the focus is on the provision of employment and services. In some areas inclusion of higher density residential accommodation that would activate the area outside of working hours, may be appropriate depending on the scale, role and location of the commercial core.

Land which is zoned Commercial Core might be surrounded by other business zones such as Mixed Use (zone B4) or Business Development (zone B5) where a variety of supporting uses provide a transition from the major centre.

B4 Mixed Use

This zone is generally used where a wide range of land uses are to be encouraged, including commercial, residential, tourist and visitor and community uses. The residential development component in this zone can form an important element in revitalising and sustaining the area, and increasing housing diversity close to Commercial Cores and major transport routes.

B5 Business Development

This zone is to provide for business, warehouse and bulky goods retail uses that require a large floor area, in locations that are close to, and that support the viability of, centres. This zone provides for employment generating uses such as 'warehouses or distribution centres,' 'bulky goods premises,' 'hardware and building supplies,' 'landscaping material supplies' and 'garden centres.' The

zone supports the initiatives set out in the *Metropolitan Plan for Sydney 2036* (2010) and other regional strategies.

The zone may be applied to areas that are located close to existing or proposed centres, and which will support (and not detract from) the viability of those centres.

B6 Enterprise Corridor

The zone is generally intended to be applied to land where commercial or industrial development is to be encouraged along main roads such as those identified by the metropolitan, regional and subregional strategies. The zone provides for uses such as 'business premises,' 'hotel or motel accommodation,' 'light industries,' 'hardware and building supplies,' 'garden centres' and 'warehouse or distribution centres.' Retail activity needs to be limited to ensure that Enterprise Corridors do not detract from the activity centre hierarchy that has been identified or planned.

Opportunities for urban consolidation along busy roads may be pursued and some residential accommodation uses may be included in this zone, if considered appropriate. In 2011, a zone Direction was included to clarify that where any type of residential accommodation is included in the Land Use Table, an additional zone objective must also be included relating to the provision of residential uses 'only as part of a mixed use development'.

B7 Business Park

This zone is generally intended for land that primarily accommodates office and light industrial uses, including high technology industries. Business Parks perform vital economic and employment roles in a certain region. Specialised functions must be protected for the long term and competing uses must not override the core activities in these centres.

The zone also permits a range of ancillary facilities and services to support the day-to-day needs of workers, such as 'child care centres,' 'respite day care centres' and 'neighbourhood shops.' This zone should mainly be used for larger campus-style business parks, not isolated office buildings.

B8 Metropolitan Centre

This zone *only* applies in the City of Sydney and North Sydney local government areas. It reflects the unique identification of Sydney and North Sydney central business districts in the Sydney Metropolitan Plan as a global strategic centre. The zone permits all the subsets of 'commercial premises,' along with a wide range of other uses including 'function centres,'

'educational establishments,' 'entertainment facilities,' 'information and education facilities,' 'recreation facilities (indoor),' 'registered clubs,' 'tourism and visitor accommodation,' 'child care centres,' and 'community facilities.'

Industrial zones

IN1 General Industrial

This zone is generally intended to accommodate a wide range of industrial and warehouse uses and includes 'general industry,' 'high technology industries,' 'industrial training facilities' and 'depots.' This zone would be suitable where a council wishes to have a range of industrial land uses and other compatible land uses generally catered for in an industrial zone. In 2011, a new objective was added to highlight that the purpose of industrial zones is to support and protect industrial land for industrial uses.

IN2 Light Industrial

This zone is for land that provides a range of 'light industry,' 'warehouse or distribution centres' and 'depots.' Vehicle trade and other service industries may also be considered appropriate. The types of uses need to be 'light' in nature, meaning they will not cause nuisance or adversely affect the surrounding amenity for example by way of noise or emissions.

It is important that bulky goods retailing occurs in a business zone and not in an industrial zone. Such an outcome would ease pressure on employment lands. In 2011, a new objective was added to highlight that the purpose of industrial zones is to support and protect industrial land for industrial uses.

IN3 Heavy Industrial

This zone should be used where it is necessary to designate particular land for heavy industrial uses that require separation from other land uses, due to their potential risk to human health or the biophysical environment. The need for such a zone will depend on the type and nature of industrial uses that exist or that are likely to take place in the area. Other forms of industry might also be permitted in the zone if appropriate. To highlight the purpose of the zone, a new core objective was included in 2011.

IN4 Working Waterfront

This zone is generally intended for industrial and maritime uses that require waterfront access. The zone could be applied to small commercial fishing or other ports, as well as other maritime industrial uses. A special purpose zoning may be more appropriate for large commercial port facilities.

Special purpose zones

SP1 Special Activities

This zone is generally intended for land uses or sites with special characteristics that can not be accommodated in other zones. Some examples of where this zone may be suitable include land on which there is, or is proposed to be, large complexes such as a major scientific research facility or communications establishment, or an international sporting facility.

This zone is not the same as traditional Special Uses zones that appear in a number of non Standard Instrument LEPs. For example, a school or fire station can generally be accommodated in a Local Centre or Mixed Use Business zone.

The permitted use is to be annotated on the map. The use annotated on the map, along with any development that is ordinarily ancillary to that use will be permitted with or without consent. Other development generally permitted in the zone (e.g. roads) would also be permitted.

SP2 Infrastructure

Infrastructure land that is highly unlikely to be used for a different purpose in the future should be zoned SP2, for example 'cemeteries' and major 'sewage treatment plants.'

It may also be appropriate for major state infrastructure or strategic sites such as major 'hospitals,' large campus universities/TAFEs, major dams, power stations, landfill or waste disposal sites, 'correctional centres,' and 'airports.' Areas of Commonwealth land used for Defence purposes should be zoned SP2 (Defence). A small minority of 'schools' across NSW may also be considered a strategic site.

The use of clause 5.3 *Development near zone boundaries* is suggested when adopting SP1 or SP2 zones. This would enable development permitted on the adjoining land to be permitted if deemed compatible.

Where the land is reserved for public infrastructure purposes (e.g. railway), the land is to be outlined and annotated on the Land Reservation Acquisition Map. The relevant acquisition authority must be identified in the table in clause 5.1.

The Standard Instrument definition for the primary use must be applied to the Map annotation. See LEP PN 10-001 *Zoning for Infrastructure in LEPs* for more information.

SP3 Tourist

This zone is to be used where tourism is considered the focus of the particular location, for example, where there is a natural or built site or location which attracts visitors and the intended future use of the area is to be focused on developing those tourist-related uses. Such development may include 'tourist and visitor accommodation,' 'function centres,' 'information and education facilities,' 'recreation facilities,' 'food and drink premises' and other ancillary and compatible land uses.

Other uses permitted in the zone should not undermine existing centres, or be incompatible with the primary tourist-oriented nature of the zone.

In general, tourism should be encouraged through the inclusion of suitable uses across the majority of zones where compatible with the core objectives of the zone. This approach provides greater flexibility than applying a separate tourist zone. Generally, the SP3 Tourist zone should only be used for areas where other zones are not appropriate. See LEP PN 09-006 *Providing for tourism in Standard Instrument local environmental plans* for more information.

Recreation zones

RE1 Public Recreation

This zone is generally intended for a wide range of public recreational areas and activities including local and regional parks and open space. The uses may include 'recreation facilities,' 'community facilities' such as lifesaving clubs, 'environmental facilities,' 'environmental protection works' and other uses compatible with the primary use of the land.

Where land is to be reserved for public recreation purposes (e.g. local or regional open space), the land is to be outlined and annotated on the Land Reservation Acquisition Map, and the relevant acquisition authority identified in the table in clause 5.1.

RE2 Private Recreation

This zone is generally intended to cover a wide range of recreation areas and facilities on land that is privately owned or managed. The use of facilities developed on this land may be open to the general public or restricted e.g. to registered members only. Private recreation may include racecourses, golf clubs, bowling clubs, rifle ranges, speedways, tennis complexes and other sporting or recreational facilities which may be on significant parcels of privately owned land, or on land leased from councils or State authorities.

Environment protection zones

E1 National Parks and Nature Reserves

This zone is generally intended to cover existing national parks and nature reserves, and new conservation areas proposed for reservation that have been identified and agreed by the NSW Government. All uses currently authorised under the *National Parks and Wildlife Act 1974* will continue to be permitted without consent in this zone.

E2 Environmental Conservation

This zone is generally intended to protect land that has high conservation values outside the national parks and nature reserve system. The use of this zone needs to be justified by appropriate evaluation of the area in terms of meeting the core zone objectives of having high ecological, scientific, cultural or aesthetic values. A number of land uses considered to be inappropriate for this zone have been mandated as prohibited uses.

It is anticipated that many councils will generally have limited areas displaying the characteristics suitable for the application of the E2 zone. Areas where a broader range of uses is required (whilst retaining environmental protection) may be more appropriately zoned E3 Environmental Management.

E3 Environmental Management

This zone is generally intended to be applied to land that has special ecological, scientific, cultural or aesthetic attributes, or land highly constrained by geotechnical or other hazards.

A limited range of development including 'dwelling houses' could be permitted. This zone might also be suitable as a transition between areas of high conservation value and other more intensive land uses such as rural or residential.

E4 Environmental Living

This zone is generally intended for land with special environmental or scenic values, and accommodates low impact residential development.

This zone may be applicable to areas with existing residential development in a rural setting, which still has some special conservation values. Where lands have higher conservation values, with more restrictive land use permissibility, an E2 or E3 zone may be more suitable than E4 zone.

See PN 09-002 *Environment Protection Zones* for more information.

Waterway zones

W1 Natural Waterways

This zone is generally intended for natural waterways that are to be protected for their ecological and scenic values. These may include sea grass beds or shelf, bed or reef formations of high ecological significance.

A limited number of low impact uses that do not have an adverse effect on the natural value of the waterway can be permitted in this zone, such as development associated with recreational fishing, boating and commercial fishing industries.

W2 Recreational Waterways

This includes water-based recreation, boating and water transport, and development associated with fishing industries, such as natural water-based aquaculture and recreational fishing.

When zoning adjoining land, council must consider whether the land uses are compatible with uses in the waterway, and should make sure that uses complement and support uses in the W zone where necessary. For example, where uses such as 'marinas' that facilitate access to the land are permitted in the waterway, then there needs to be complementary and supporting land uses in the adjoining terrestrial zone.

W3 Working Waterways

The W3 zone is intended for waterways that are primarily used for commercial shipping, ports, water-based transport, maritime industries and development associated with commercial fishing industries. When zoning adjoining land, councils must consider whether the land uses are compatible with uses in the waterway. For example, where land based maritime industries, ports, boating facilities etc. adjoin the waterfront, the Working Waterway zone may be appropriate for use.