



4 April 2016

Parliamentary Inquiry into Regional Planning Processes in NSW

Supplementary Information

The Planning Institute of Australia (PIA) NSW Division presented a submission to the Parliamentary Inquiry into Regional Planning Processes in NSW on 11 March 2016. Further, supplementary information was requested in regards to the notion of 'open' and 'closed' zonings.

PIA NSW had submitted to the Inquiry that 'open' zonings presented a more flexible way in relation to Local Environmental Plans (LEPs) to stimulate regional development. It is noted that this comment was related to the terms of reference seeking to consider how LEPs and State Environmental Planning Polices (SEPPs) may stimulate regional development.

It should also be noted that LEPs in NSW are guided by the Standard LEP Instrument prepared by the Department of Planning and Environment.

Below is a table which identifies two different land use in zones in NSW. One in Dubbo LEP and one in Wellington LEP. The key text which defines an 'open' zoning provision is the text 'Any other development not specified in item ...'. In the example below in the R1 General Residential zone in Wellington there are a number of specific land uses which are permissible with consent. The use of the term 'Any other development not specified in item 2 or 3' in the Prohibited section/clause of this zone means that only land uses identified in the Permitted With Consent section are, as the name suggests, permitted with consent. This is what is termed a 'closed' zone. That is, only the land uses identified as permitted with consent can utilise land in that zone, anything else is prohibited (if it is not permitted without consent).

Alternatively, in the RU5 Village zone in Dubbo LEP, there is a list of permitted and prohibited uses, however, in the Permitted With Consent section/clause is the term 'Any other development not specified in item 2 or 4'. In practice, what this means is that Dubbo Council have identified land uses that they do not want in a Village zone (i.e. those that are prohibited) and some that Council do want to see in the RU5 zone (i.e. permitted with consent). However, the use of the term 'Any other development not specified in item 2 or 4' in the Permitted With Consent section/clause in the RU5 zone in Dubbo means that any land use that is not prohibited can be considered as permissible with consent. In this case this allows any land use to be considered by Council (that is not prohibited) to be considered in the RU5 zone. That is, it is a more 'open' zoning provision by allowing Council to consider

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a broad range of and uses in that zone. This allows, practically, more flexibility in the LEP.

There are advantages and disadvantages to the 'open' zoning. The disadvantage is that any land use specifically not identified in that zone (even as permissible with consent) needs to be consistent with the objectives of the zone, and this sometimes creates issues if zone objectives are very broad. Nonetheless, the advantage is that land uses not identified in the zoning provision can be considered by a Council. This allows more flexibility in the LEP. One of the issues with the standard template is that there are specific land use definitions and any land use outside of those definitions creates issues, where, more often than not, a rezoning is required. Take for example, the R1 Residential zone in Wellington. A church is permissible with consent but health consulting rooms are not, whereas if the zoning provisions were more 'open' than at least a health consulting room could be considered by Council. In this case the proponent would need to utilise a SEPP, however, why should not the Council be able to discuss this with the proponent if the zoning was an 'open' provision.

TABLE: EXAMPLES OF ZONING PROVISIONS IN AN LEP

<p>Dubbo Local Environmental Plan 2011</p>	<p>Wellington Local Environmental Plan 2012</p>
<p>Zone RU5 Village</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> • To provide for a range of land uses, services and facilities that are associated with a rural village. • To ensure buildings and uses are compatible with the character of the village. • To permit low scale service activities, meeting the recreational, cultural and commercial needs of the community. <p>2 Permitted without consent Environmental protection works; Home-based child care; Home occupations; Roads</p> <p>3 Permitted with consent Child care centres; Community facilities; Dwelling houses; Horticulture; Light industries; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Respite day care centres; Schools; Sewage reticulation systems; Waste or resource transfer stations; Water reticulation systems; <u>Any other development not specified in item 2 or 4</u></p> <p>4 Prohibited Advertising structures; Agriculture; Air transport facilities; Airstrips; Animal boarding or training establishments; Boat building and repair facilities; Car parks; Charter and tourism boating facilities; Correctional centres; Electricity generating works; Extractive industries; Farm buildings; Farm stay accommodation; Flood mitigation works; Forestry; Freight transport facilities; Heavy industrial storage establishments; Helipads; High technology industries; Home occupations (sex services); Hostels; Industrial training facilities; Industries; Marinas; Multi dwelling housing; Open cut mining; Passenger transport facilities; Public administration buildings; Recreation facilities (major); Residential flat buildings; Restricted premises; Rural industries; Rural workers’ dwellings; Sewerage systems; Sex services premises; Storage premises; Warehouse or distribution centres; Waste or resource management facilities; Water supply systems</p>	<p>Zone R1 General Residential</p> <p>1 Objectives of zone</p> <ul style="list-style-type: none"> • To provide for the housing needs of the community. • To provide for a variety of housing types and densities. • To enable other land uses that provide facilities or services to meet the day to day needs of residents. <p>2 Permitted without consent Environmental protection works; Home occupations</p> <p>3 Permitted with consent Attached dwellings; Boarding houses; Building identification signs; Business identification signs; Camping grounds; Caravan parks; Child care centres; Community facilities; Dwelling houses; Emergency services facilities; Environmental facilities; Exhibition homes; Exhibition villages; Flood mitigation works; Function centres; Group homes; Home businesses; Home industries; Home occupations (sex services); Hostels; Information and education facilities; Multi dwelling housing; Neighbourhood shops; Places of public worship; Recreation areas; Recreation facilities (indoor); Recreation facilities (outdoor); Residential accommodation; Residential flat buildings; Respite day care centres; Roads; Semi-detached dwellings; Seniors housing; Shop top housing; Take away food and drink premises; Tourist and visitor accommodation</p> <p>4 Prohibited Farm stay accommodation; Rural workers’ dwellings; <u>Any other development not specified in item 2 or 3</u></p>