

13 December 2017

Carolyn McNally

Secretary

Department of Planning and Environment

320 Pitt Street

Sydney NSW 2000

Dear Ms McNally,

Submission in response to the proposed amendment to the definition of 'Bulky Goods Premises'

This submission has been prepared by Primewest in response to the proposed amendments to the definition of 'Bulky Goods Premises' prepared by the NSW Department of Planning and Environment. Within this submission we take the opportunity to share our experience in relation to the challenges that Primewest has faced in developing sites in metropolitan Sydney and NSW generally and reflect on the current planning and zoning system and in particular, the land use descriptions and zoning controls.

Primewest are a national property fund manager with a portfolio worth more than \$2.9 billion across a number of different sectors including commercial, industrial and large format retailers. Primewest continues to actively seek investment and development opportunities in large format retail centres within the Sydney metropolitan area, which in turn represents an injection of investment into the NSW economy and the creation of hundreds of direct full time equivalent positions and indirect or flow-on jobs.

The proposed amendment to the *'Bulky Goods Premises'* definition within the *'Standard Instrument Local Environmental Plan (LEP)'* is welcomed by the Primewest, and is considered a step in the right direction. However, we believe that this minor amendment to the *'Standard Local Instrument LEP'* does not go far enough. Primewest fails to understand that if Victoria, South Australia and Western Australia have all moved towards a definition/s for the Large Format Retail sector that are similar, why is it that the NSW definition, even if it is amended as proposed, is not in line with definitions in other States. If the proposed amended definition is to be implemented, Primewest strongly believes it should only be a starting point for significant retail planning policy amendments and further amendments to the *'Standard Instrument LEP'*.

The proposed change is welcomed by the LFRA and is considered to be the minimum that can be done by the DP&E to support the Large Format Retail Industry. In reality, this simply places the Industry in the position it was in 2012 when the definition was changed without consultation. The retail environment has moved forward in the last 6 years and NSW deserves and requires a new definition for *'Large Format Retail Premises'* to better reflect the nature of the sector and bring certainty and clarity that is achieved in other States.

As a member of the LFRA, we recommend the proposed amendment to the bulky goods definition is enacted alongside the following additional planning policy reforms:

- **Introduce a specific product-based land use definition for *'Large Format Retail Premises'* that is in-line with the comparable definitions for *'Restricted Retail Premises'* within Victoria; *'Bulky Goods Showroom'* in Western Australia and *'Bulky Goods Outlet or Retail Showroom'* in South Australia; and**
- **Expand the number of zones where *'Bulky Goods Premises'* and *'Large Format Retail Premises'* uses are permitted, to enable the sector's floorspace demand to be met both now and into the future.**

It is the position of the LFRA that the proposed amendments should be enacted without delay and the DP&E immediately progress with the introduction of a new *'Large Format Retail Premises'* definition within the *'Standard Instrument LEP'*. Further discussion on each of these two planning policy reforms is discussed overleaf.

Background and Industry Challenges

Primewest's large format retail portfolio is worth more than \$600 million and comprises some of Australia's most iconic brands including:

- Bunnings
- Spotlight
- The Good Guys
- JB Hi-Fi
- BCF
- Super Amart
- Freedom Furniture

More broadly, the Large Format Retail Sector within NSW currently provides over 6.6 million square metres (m²) of floorspace and approximately 142,700 full time equivalent (FTE) direct and in-direct jobs. It is also responsible for approximately 40% of retail floorspace demand¹ within the Sydney Metropolitan Area and by 2025 is forecast to require 2.74 million m² of additional Large Format Retail floorspace which is the equivalent of approximately 20 additional homemaker centres. The Large Format Retail sector is therefore forecast to grow, but the challenges which lead directly from the current planning and zoning legislation within NSW simply stifle and stagnate investment in this sector and limits the ability of Large Format Retailers to be able to grow and evolve their business models to provide greater consumer choice and experiential benefits.

Large format retailers are typically attracted to homemaker centres as they display the following operational and physical characteristics, which distinguish them from standard retail premises:

- Large floor plate requirements to display and store goods;
- Direct, at-grade access to customers' vehicles for loading;
- Good access and exposure to arterial roads for loading requirements and to attract a broader customer base; and
- Large scale centres of 30,000 – 50,000 square metres of lettable area, this allows critical mass and improves dwell times and cross-shopping opportunities for customers given the majority of customers travel to the centres by car. Empirical evidence exists that suggests that the amount of time a customer spends inside a centre increases the sales volumes of retailers.

Primewest faces difficulties as a direct result of the NSW planning and zoning legislation. In particular there is:

- a lack of clarity in determining whether its retailers 'fit' within the current available land use definitions;
- currently owning land in NSW that would be suitable for Large Format retail in other states but unable to invest and develop in NSW; and
- a lack of sufficient appropriately zoned, sized and configured land suitable for new development prospects.

Accordingly, our experiences is that new Large Format Retail developments in NSW are at a higher risk and undergo a uncertain and lengthy planning process.

Introduce a Specific Product-Based Land Use Definition for 'Large Format Retail Premises'

The Large Format Retail sector consists of retail businesses predominantly involved in the sale, hire or display of goods such as:

- automotive parts and accessories;
- baby and children's goods, children's play equipment and accessories;
- camping, outdoor and recreation goods;
- household appliances, household electrical goods and home entertainment goods;

¹ Sydney Retail Demand and Supply Consultancy – Stage 1 Report, prepared by Deep End Services, May 2016

- electrical light fittings;
- office equipment and supplies;
- sporting, cycling, leisure fitness goods and accessories;
- animal and pet supplies;
- party supplies; floor and window coverings;
- swimming pools and supplies;
- homeware, furnishings, bedding and manchester;
- hardware and building supplies; and
- musical instruments and accessories.

The concept of a *'Large Format Retailer'* is not recognised as an individual form of development under the *'Standard Instrument LEP'* definitions. Large Format Retailers are therefore required to *'fit'* with the definitions of *'Bulky Goods Premises'*, *'Garden Centres'* or *'Hardware and Building Supplies'* or be treated as *'Shops'*.

Primewest considers that *'Large Format Retail Premises'* should not be included under the *'shop'* definition, as:

- they share many structural and operational characteristics with *'Bulky Goods Premises'* and *'Hardware and Timber Supplies'* premises;
- there is not sufficient land available or suitable in traditional centres (i.e. Zones B2-4 and B8 which permit *'shops'*) to accommodate the necessary large floorplates; and
- the provision of Large Format Retail operators within traditional centres are likely to create conflict in the context of the urban design of those centres.

Furthermore, inconsistency amongst NSW Councils in how they define some Large Format Retailers provides significant uncertainty for Primewest as landowners seeking to secure those operators as tenants as there is no *'deemed to comply list'* of products or any practice note to assist Councils in interpreting the existing *'Bulky Goods Premises'*, *'Hardware and Building Supplies'* and *'Garden Centre'* definitions.

For example, we have experience where a Council has taken a view that a certain retailer, which has consistently been recognised as a *'Bulky Goods Premises'* use in most NSW council areas, is not considered to be a *'Bulky Goods Premises'* by that particular Council. The only option to rectify this was to undertake lengthy and costly rezoning application. This reduces our feasibility to acquire new tenants and invest in additional homemaker centres.

It is essential that a definition for *'Large Format Retail Premises'* be introduced into the *'Standard Instrument LEP'* that replicates the Victorian definition for *'Restricted Retail Premises'*.

Introduced in January 2012, the Victorian State Government implemented the following broad product based definition for *'Restricted Retail Premises'*:

"...Land use to sell or hire:

- *Automotive parts and accessories*
- *Camping, outdoor and recreation goods*
- *Electric light fittings*
- *Animal supplies including equestrian and pet goods*
- *Floor and window coverings*
- *Furniture, bedding, furnishings, fabric, manchester and homewares*
- *Household appliances, household electrical goods and home entertainment goods*
- *Party supplies*
- *Swimming pools*
- *Office equipment and supplies*
- *Baby and children's goods, children's play equipment and accessories*

- *Sporting, cycling, leisure, fitness goods and accessories*

Or,

- *Goods and accessories which:*
- *Require a large area for handling, display and/ or storage of goods; or*
- *Require direct vehicle access to the building by customers for the purpose of loading or unloading goods into or from their vehicles after purchase or hire.*

It does not include the sale of food, clothing and footwear unless their sale is ancillary to the primary use..."

The Victorian definition (along with other similar definitions in South Australia and Western Australia) provides a list of product categories and in doing so provides clarity, consistency and certainty for Large Format Retailers. The Victorian definition acknowledges that some types of products may not be captured under the standard list, but may still be bulky enough to require a large area for handling, storage and display or require direct customer loading. In this way, it allows for innovation and evolution in the Large Format Retail sector to encompass retailing that may not yet have been envisaged by policy makers, but may still involve the sale of Large Format Retail goods.

The Victorian definition has been in operation for more than five (5) years and can reasonably be acknowledged as having stood the test of time, and not given rise to any adverse court findings. Furthermore, the land use definition change along with concurrent zoning reforms in Victoria, is considered to have given Victoria a significant competitive advantage over NSW and encouraged far greater investment in new Large Format Retail premises when compared to NSW.

Expand the scope of the 'Bulky Goods Premises'

The DP&E should expand the number of zones that make 'Bulky Goods Premises' mandatory permitted uses and should the DP&E also include a new 'Large Format Retail Premises' definition within the 'Standard Instrument LEP', Primewest considers that it is appropriate for 'Large Format Retail Premises' to be permitted in the same zones as 'Bulky Goods Premises'.

Primewest acknowledge the DP&E adopted amendments in April 2016 to make 'Hardware and Building Supplies' and 'Garden Centres' mandatory permitted uses in the 'B7 Business Park', 'IN1 General Industrial' and 'IN2 Light Industrial' zones in order "...to provide greater consistency to local planning in NSW and greater certainty to businesses...".

However the 2015 LFRA research found that 'bulky goods premises' are only a mandated permissible use the 'B5 – Business Development' zone and 49% of metropolitan Councils in Sydney do not have a B5 zone.

It is clear that the provision of sufficient, appropriately zoned land to accommodate Large Format Retail uses has not been consistently considered in the preparation of local planning instruments, and is abundantly clear within the recently released key strategic planning 'vision' documents – the draft 'Greater Sydney Region Plan' and draft 'District Plans' that strategic planning for the Large Format Retail sector it has not been considered at all and actively ignored.

The inclusion of 'Bulky Goods Premises' and 'Large Format Retail Premises' uses as mandatory permitted land uses in a greater number of land use zones will immediately make additional land available for the Large Format Retail sector and address the current, severe shortage of appropriately zoned and located land.

The DP&E has already made 'Hardware and Building Supplies', and 'Garden Centres' mandatory permitted uses in the 'B7', 'IN1' and 'IN2' zones and the REAC report recommends that "...planning should broaden the scope for accommodating large retail formats in the B5, B6 and B7 zones and work with councils to undertake a strategic exercise to review industrial/employment land where more of these zones might be applied...".

We recommend therefore that 'Bulky Goods Premises' and 'Large Format Retail Premises' uses are permitted beyond the 'B5 zone' and be included as mandatory permitted uses in the 'Standard Instrument LEP' within the 'B6 – Enterprise Corridor', 'B7 – Business Park', 'IN1 – General Industrial' and 'IN2 – Light Industrial zones' for the following reasons:

- *'Bulky Goods Premises'* and *'Large Format Retail Premises'* have clear synergies with the structural and operation requirements of 'Hardware and Building Supplies' and 'Garden Centre' uses which are mandatory permitted uses within the 'B6', 'B7', 'IN1' and 'IN2 zones';
- *'Bulky Goods Premises'* and *'Large Format Retail Premises'* are consistent with the zone objectives for each of the 'B6', 'B7', 'IN1' and 'IN2 zones';
- The widening of the range of zones where *'Bulky Goods Premises'* and *'Large Format Retail Premises'* are permissible will provide greater opportunity for emerging Large Format Retailers, thus providing greater certainty for investment in NSW; and
- the expansion of the number of zones where *'Bulky Goods Premises'* and *'Large Format Retail Premises'* will address the current and severe shortage of appropriately zoned and located land to meet the needs of emerging Large Format Retailers, that otherwise will continue to look to other states within Australia to focus their investment.

Conclusion

The proposed amendments to the bulky goods definition should be enacted without delay and the DP& E should immediately progress further retail planning policy reform.

However there is a need to allow bricks and mortar Large Format Retailers to trade in an environment that provides clarity, consistency and certainty. By progressing retail planning policy reform and introducing a new *'Large Format Retail Premises'* definition that is in line with the Victorian definition for *'Restricted Retail Premises'* along with expanding the number of zones that permit the large format retail land uses the Primewest is strongly of the view that it will be delivering on these fundamental needs.

We thank you for the opportunity to provide a submission to the proposed amendment to the definition of Bulky Goods Premises contained within the *Standard Instrument LEP*. Primewest would welcome any further opportunities to work collaboratively with the Department in contributing to the refinement of the definition.

Yours sincerely,



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