



Level 1, 1073 Pittwater Road
Collaroy Beach, NSW 2097
E: denis.smith8@bigpond.com
P: 02 8456 4754
M: 0400 777 115

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Director, Employment Policy and Systems
NSW Department of Planning and Environment
GPO Box 39
Sydney NSW 2001

To the Director, Employment Policy and Systems

RE: Submission on behalf of Greencross Ltd in relation to the proposed amendments to the Standard Instrument LEP (April 2018)

Tomasy Planning has been engaged by Greencross Ltd to prepare a submission in relation to the proposed amendments to the retail land use definitions in the standard instrument LEP. Greencross Ltd is the overarching company that incorporates Petbarn and City Farmers (Western Australia) retail stores and Greencross Veterinary Clinics throughout Australia.

On 31 January 2014 Greencross Limited completed an acquisition of Mammoth Holdings Pty Ltd (Owner of Petbarn - Australia and Animates - New Zealand). As a result of the merger Greencross Limited has begun implementing one stop Pet Shops for customers Australia-wide.

Greencross Ltd operates in all states throughout Australia with a strong presence in New South Wales. Petbarn retail operations throughout NSW are governed by definitions that have been incorporated into various Local Environmental Plans which are consistent with the provisions of the New South Wales Department of Planning standard instrument Local Environment Plan.

The standard definitions that are utilised in preparing development Applications to the various local government authorities are based upon the following current prevailing definitions:

commercial premises means any of the following:

- (a) *business premises,*
- (b) *office premises,*
- (c) *retail premises.*

retail premises means a building or place used for the purpose of selling items by retail, or hiring or displaying items for the purpose of selling them or hiring them out, whether the items are goods or materials (or whether also sold by wholesale), and includes any of the following:

- (a) ***bulky goods premises,***
- (b) *cellar door premises,*
- (c) *food and drink premises,*
- (d) *garden centres,*

- (e) hardware and building supplies,
- (f) kiosks,
- (g) landscaping material supplies,
- (h) markets,
- (i) plant nurseries,
- (j) roadside stalls,
- (k) rural supplies,
- (l) shops,
- (m) timber yards,
- (n) vehicle sales or hire premises,

but does not include highway service centres, service stations, industrial retail outlets or restricted premises.

Note.

Retail premises are a type of **commercial premises**—see the definition of that term in this Dictionary.

bulky goods premises means a building or place the principal purpose of which is the sale, hire or display of bulky goods, being goods that are of such size or weight as to require:

- (a) a large area for handling, display or storage, and
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire, and including goods such as floor and window supplies, furniture, household electrical goods, equestrian supplies and swimming pools, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale or hire or display of bulky goods.

Note.

Bulky goods premises are a type of **retail premises**—see the definition of that term in this Dictionary.

Petbarn retail premises fall under the existing definition of a bulky goods premises under the standard instrument LEP definitions as the premises are used for the sale of bulky items that require a large area for display and storage along with direct vehicular access for loading and unloading purposes.

Petbarn retail stores will continue to include the display and sale of bulky goods such as the following:

- Bird baths
- Bird cages – ranging in sizes from 46x36cm to 94x40cm with very large aviary type cages which can be up to 1.5/2m high
- Bird food which includes bags up to 10kg
- Cat accessories including lockable cages which are significant in size and bulk
- Cat breeding homes ranging from small to large structures
- Cat wet food comprising packages of 12 x 85g, 24 x 85g and 12 x 100g
- Cat litter – bags ranging from 7L up to 24L
- Cat litter trays and liners
- Cat dry food – bulk bags
- Cat scratching equipment – posts up to 1m in height
- Dog accessories such as dog mats which are large and bulky in size and shape – some in excess of 1m in length
- Dog carrying equipment – jumbo size
- Dog beds – canvas covers 80x112cm
- Quiet time pet beds ranging in size from 56x30cm to 137x94cm
- Back seat hammocks 140x150cm

- Dog kennels ranging from small to super large cabins. These range from 95x80cm to 112x80cm
- Animal sofa beds – small to large
- Dog dry food – 20kg and 22kg bags
- Dog wet food – large packs of 12 x 700g and 24 x 400g
- Fish aquariums and fish bowls ranging from small to large. Large being 122x36cm
- Fish cabinets and fish stands – common size 92x36cm
- Reptile bedding, cages and homes – sizes are in the order of 600x600x90cm
- Fish sand and gravel – 10kg bags

In addition to the sale of bulky good products and associated pet supplies, the company also has a strong emphasis on the display and sale of pets which include:

- Fish
- Birds
- Reptiles
- Guinea Pigs
- Cats
- Rabbits

The guinea pigs, cats and rabbits are part of an adoption programme which works in conjunction with the RSPCA. A number of the display units which are referred to in the description of Petbarn's bulky goods are used to house the pets so that they are readily visible to customers. At present there is no prohibition under the definition of a bulky goods premises (retail premises) that would prohibit the display and sale of pets. The sale of animals within Petbarn retail stores offers an essential service to the community and promotes animal welfare. The sale of live animals is an integral part of the Petbarn operation and a service that is relied upon and accepted by many local government authorities in New South Wales. The proposed alterations to retail definitions in the standard instrument LEP will have detrimental impacts on the development of Greencross Ltd, in particular Petbarn retail premises.

It is important to note that the Petbarn operation throughout NSW has been accepted by numerous Local Government Authorities as bulky goods premises under the standard definition contained within the Local Environment Plan dictionary of terms. Some of the Councils that have accepted the premises as being bulky goods include the following:

- Northern Beaches Council (Former Warringah and Pittwater Councils)
- Hills Shire Council
- Willoughby Council
- City of Sydney
- Sutherland Shire Council
- Wyong Council
- Newcastle City Council
- Shoalhaven Council
- Shellharbour Council
- Fairfield City Council
- Canterbury-Bankstown Council
- Blacktown City Council
- Port Macquarie-Hastings Council

Below are the proposed amendments to the definitions relevant to Petbarn as a bulky goods premises selling **pet supplies and pets**.

Garden Centre

A building or place where the principle purpose is the sale of:

- a) Plants; and/or*
- b) Landscaping and gardening supplies and equipment*

A garden centre may also include a restaurant or cafes and the sale of:

- a) Outdoor furniture;*
- b) Barbeques;*
- c) Shading and awnings;*
- d) Pools, spas and associated supplies;*
- e) Items associated with the construction, maintenance and improvement of outdoor areas;*
- f) Pets and pet supplies;***
- g) Fresh produce*

Specialised Retail Premises

A building or place used to sell, display or hire:

- a) Automotive parts and accessories;*
- b) Camping, outdoor and recreation goods*
- c) Electric light fittings;*
- d) Animal supplies;***
- e) Floor wall and window coverings;*
- f) Furniture, bedding, furnishings, fabric and Manchester and homewares;*
- g) Household appliances, household electrical goods and home entertainment goods;*
- h) Party supplies;*
- i) Swimming pools and spas;*
- j) Office equipment and supplies;*
- k) Baby and children's goods, children's play equipment and accessories;*
- l) Sporting, cycling, leisure, fitness goods and accessories; or*
- m) Goods and accessories which:*
 - Require a large area for handling, display and 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 it falls into one of the above categories.

It is important to note that the above definition of a garden centre includes the sale of pets and pet supplies. However, the definition for specialised retail premises (formerly bulky goods premises) specifies animal supplies with no reference of the sale of animals or pets. The exclusion of the sale of pets or animals from the definition of specialised retail premises will preclude Petbarn from working with the RSPCA and other respective adoption partners. Petbarn does not sell companion animals for profit, but instead choose to maintain partnerships with animal shelters and adoption centres. This allows animals to be displayed in select Petbarn stores with 100% of the adoption fee being returned to Petbarn's adoption partners. Since Petbarn opened their first Adoption Centre in 2012, thousands of rescue dogs, cats, puppies, kittens and rabbits have been rehomed. The change in this definition will prohibit people from being able to purchase/adopt pets/animals from a Petbarn or similar type premises within close proximity to the built up urban environment.

Petbarn retail premises are predominately located as the sole commercial premises on a site or part of a bulky goods centre. The proposed amendment to the current definition and the introduction of Specialised Retail Premises would severely prejudice a Petbarn operation unless it was located within a 'Garden Centre'. Many garden centres are located in rural type zones, divorced from residential development, whereas a Petbarn type operation are located within local urban centres and in close proximity to residential development.

With respect, it would appear from the analysis undertaken by Tomasy Planning, in consultation with our client Petbarn, that the new definition of Specialised Retail Premises does not embrace the proposed intent as set out on page 13 of the Department of Planning's Document 'Proposed Amendment to the Standard Instrument LEP' for the following reasons:

- Fails to capture the current operation of a bulky goods premises (Petbarn store) in that the display and sale of pets/animals is an essential component of their day-to-day operation.
- Fails to meet the customer's preference for convenient and one stop specialized shopping in that the community would be unable to purchase a pet or animal but would only be allowed to purchase pet supplies. This indeed must be an anomaly that needs to be rectified in the following manner:

Specialised Retail Premises

A building or place used to sell, display or hire:

- a) *Automotive parts and accessories;*
- b) *Camping, outdoor and recreation goods*
- c) *Electric light fittings;*
- d) ***Animals and animal supplies OR Pets and Pet supplies;***
- e) *Floor wall and window coverings;*
- f) *Furniture, bedding, furnishings, fabric and Manchester and homewares;*
- g) *Household appliances, household electrical goods and home entertainment goods;*
- h) *Party supplies;*
- i) *Swimming pools and spas;*
- j) *Office equipment and supplies;*
- k) *Baby and children's goods, children's play equipment and accessories;*
- l) *Sporting, cycling, leisure, fitness goods and accessories; or*
- m) *Goods and accessories which:*

- *Require a large area for handling, display and 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 it falls into one of the above categories.

It is also noted that under the definition of Garden Centres, item (f) makes reference to pets and pet supplies whereas the proposed definition of Specialised Retail Premises under item (d) makes reference to animal supplies. It is therefore recommended that the Department needs to standardize

the reference to either 'pets' or 'animals' within the proposed definitions for both Specialised Retail Premises and Garden Centres.

We trust that the above information justifies our claim that specialized Retail Premises under Section (d) must include reference to either 'animal and animal supplies' or 'pets and pet supplies'. If any further justification or clarification is required please do not hesitate to contact Tomasy Planning.

Yours faithfully



DENIS SMITH
Director – Tomasy Planning