



18 May 2018

Mr Gary White, Chief Planner
Department of Planning and Environment
23-33 Bridge Street
SYDNEY NSW 2000

Dear Gary,

PIA Submission on Proposed (Retail Definitions) Amendments to the SILEP

The Planning Institute of Australia (PIA) appreciate the opportunity to provide input to the proposed amendments to five retail definitions in the Standard Instrument Local Environmental Plan (SILEP).

PIA advises that the definition amendments should not be considered in advance of the broader review of retail and centres policy now underway. In any case, the proposed amendments should not be mandatory replacements of existing definitions. This would work against the ability of councils to tailor specific place outcomes in line with their local and regional strategic plans - as encouraged by recent Environmental Planning and Assessment Act reforms promoting strategic planning. However, PIA would support the adoption of the proposed new definitions (with revisions below) as part of a broader voluntary palette of land use definitions.

The proposed amendments to definitions (if adopted in place of existing definitions - or in future - mandated in certain zones) would change the strategic intent of those zones and potentially erode a council's policy regarding active centres and the values of their employment and industrial lands. Such a change should be consciously introduced as part of a strategic planning exercise for a place, rather than as a state-wide re-definition.

The proposed definition amendments are predicated on being contemporary responses to disruption in the retail market. However, retail disruption has been ongoing – and planners have used means of accommodating desirable innovations (eg clustering certain retail in B5 zone) and excluding those that have disbenefits taking account both consumer needs and the broader public interest (eg exclusion in IN zones). This capacity would be eroded by definitional changes in isolation of an adopted and balanced centres and retail policy.

PIA acknowledge that planners need to work together towards a positive planning system that delivers on a set of place outcomes and a structure plan. However, at this stage in the evolution of our planning framework, the proposed definitions and approach inspired by the REAC process may lead too much away from some regulation for retail and town centres. The policy approach should be based on the implementation of

Regional and District Plans and the tailoring of place outcomes accordingly – including through Strategic Local Planning Statements.

PIA regards aspects of the Discussion Paper (*Planning for the Future of Retail*) too limited in scope towards retail from a consumer perspective, and not sufficiently based on broader public interest in achieving successful mixed-use centres and land for urban services and employment. As a result, the proposed land use definitions derived through this work do not have a firm foundation. Their consideration should be integrated in the refinement of broader policy on centres, retail and employment lands now underway via the Discussion Paper.

The implications of each of the proposed retail premise definitions is presented below – of most concern is Specialised Retail Premises.

Amended Bulky Goods Definition to Specialised Retail Premises

The existing Bulky Goods Definition serves a useful purpose in excluding general retail especially from industrial areas. The inclusion of retail outside centres comes with a public cost in terms of the vitality of centres, the loss or reduced performance of industrial land and additional travel and even health costs. An explicit planning decision should be able to be made to locate out-of-centre retail formats in identified clusters that promote retail convenience for certain goods while not having widespread impacts. This can be achieved proactively by LEP review (eg rezoning using the B5 Business Development Zone) – or responding to a planning proposal using a net community benefit test (or sequential test).

In endeavouring to reflect ‘contemporary’ large format retail business models and assumed consumer preferences the automatic revision of the bulky goods definition would have a public cost that has not been explicitly considered.

The risk with the amended definition of Specialised Retail Premises is that where bulky goods may be permissible in an industrial zone – then the amended definition would enable a wider range of retail formats and goods will be able to operate. This would be the case even where this is not the council’s policy intent. It is preferable that any widening of retail uses be the subject of an explicit planning decision of council in line with local and regional strategy. This is even more important in regional NSW where there are direct impacts on the success of town centres from dispersal of retail activity.

Specific issues with revision of ‘Bulky Goods’ to proposed ‘Specialised Retail’ definition:

- **Replacement of ‘and’ with ‘or’** - would mean that specialised retail premises (often in industrial areas) would only have to include one of either a large floor area or direct vehicle access. Having both is an appropriate restriction on showroom style retail that could otherwise enrich a centre (or planned cluster).
- **Expanded range of goods inappropriate** – the proposed definition expands the range of goods that could be sold in out of centre locations substantially. Of particular concern are the sale of items including: soft furnishings, homewares, manchester, camping and recreation goods, home entertainment goods (eg software /gaming /CDs) party supplies, all animal (pet) supplies, office supplies (eg stationary), baby and children’s goods (eg toys) and sporting goods. The clothing prohibition would appear not to apply ubiquitous outdoor, sporting or fitness apparel. These are items that can and should be attracting activity in centres – unless an explicit planning decision is made to locate them in specialised clusters. It is likely – but undesirable that many multi category

stores (eg retailing furnishings, , sporting and outdoor apparel, office, electronic, software / gaming and music)

- could take advantage of the definition to avoid centre locations.
- **Food, clothing and footwear restriction supported but meaningless** (re clothes and footwear) - as definitions should not allow sale of outdoor, sporting and fitness apparel in any case.
- **Loss of word ‘ancillary’ regarding sale of food, clothing and footwear is a problem** – the assumption made is that where food, clothing and footwear are complimentary to a (n) premise with a ‘large area’ or ‘direct vehicle access’ they can be sold. This creates concerns if such a premise sells food or clothing as a major line. It is conceivable that a large food outlet could dominate on a site alongside a premise that falls within the definition of (n) – or other listed premises (a-m). This is not appropriate, and the concept of ancillary use only should be reintroduced.

Amended Definition of Garden Centres

The wording ‘**ancillary**’ should be retained to ensure that unrelated or complimentary uses (eg cafes / food outlets) occur at a scale serving local needs only. It is conceivable that a food outlet selling a few garden items could dominate.

New Definition for Neighbourhood Supermarkets

As long as the new definition is **not a mandated use in B1**, there is no objection - and the market should operate effectively and accommodate small to medium sized supermarkets. However, there should be the ability for councils to control the scale of supermarket in line with their centres hierarchy if there is a specific place outcome sought by council.

New Definition for Local Distribution Premises

These are essentially small warehouse or distribution centres and not really a new use - requiring a new definition. The concept of ‘local delivery’ will prove problematic – and **further drafting attention is required**. However, there is no conceptual objection as long as the definition is not mandated in a particular zone.

New Definition for Artisan Premises

These could be covered as manufacturing use – but one for which the retail of food or beverage is ancillary. The new definition deliberately seeks to expand the retailing / hospitality opportunities well beyond an ancillary use to the ‘artisan’ manufacturing. This definition does not adequately define an artisan premise as no manufacturing is ‘fully’ automated. It is possible that cafes, restaurants and liquor outlets could proliferate out-of-centres using a loose interpretation of the definition. This drafting should be tightened up.

However, PIA agrees that with a tighter definition of an artisan premise it would be appropriate to enable this definition in non-centre locations in recognition of the community accepting the costs of this activity being out of centre in return for the benefits of an emerging craft industry. However, councils should be able to make a conscious decision on the outcomes sought for their industrial areas and the definition should not be mandated in any non-centre zone.

Conclusion

PIA advises that the definition amendments should not be considered in advance of the broader review of retail and centres policy now underway. There are drafting issues in the proposed definitions that are central to the broader policy on exhibition.

Should the Department proceed with adopting the proposed definitions they should not be mandatory inclusions nor replacements of existing definitions. They would be part of an extended palette of definitions available to produce place outcomes to deliver a planning strategy.

PIA seeks to be constructively engaged in the current process to develop a state-wide retail policy in the context of centres and employment lands policy. We urge the Department to reframe the policy around the role of retail in activating centres in the public interest.

The significant insights and contributions that can be offered by our respective memberships, being experienced planning practitioners, local governments in metropolitan and regional NSW, and major retail property investors, are yet to be fully heard. PIA-NSW wishes to engage constructively and positively with the Government on this policy with the objective of continuing to create thriving, vibrant, and accessible centres in metropolitan and regional areas of NSW. We believe looking at case studies in rural, regional and urban areas will significantly improve the retail policy and expand its scope to better consider the role of retail in creating successful towns and centres at every scale.

Thank you for the opportunity to provide input to the proposed amendments to the SILEP (retail) definitions. PIA would be happy to justify our comments with you, the Department and the Minister.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'David Broyd', with a stylized flourish at the end.

David Broyd
Chair PIA NSW Policy Committee

CC Aoife Wynter, DPE