

SUBMISSION



FOREWORD

Willoughby City Council appreciates the opportunity to provide comments on the 'Discussion Paper: Planning for the Future of Retail' and the 'Proposed amendments to the Standard Instrument: Better planning for the NSW retail sector' (April 2018).

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1. Overall concerns with the current approach to planning for retail

1.1 General

- i. The NSW Department of Planning and Environment is developing a NSW Retail Strategy.
- ii. This has led to the two documents currently on exhibition:
 - Discussion Paper: Planning for the Future of Retail (April 2018)
 - Proposed amendments to the Standard Instrument: Better planning for the NSW retail sector (April 2018)
- iii. These two documents have been informed by the Retail Expert Advisory Committee (REAC).

1.2 Comment

- i. Willoughby Council values the contribution of retail land uses and services provided within the City of Willoughby.
- ii. Appropriate changes to planning for retail growth should be considered in relation to other important land uses which are equally critical elements of our urban areas, such as industrial and residential land.
- iii. Concern is raised when a specific land use, in this case retail, is addressed separately to other land uses.
- iv. Concern is raised that the Retail Expert Advisory Committee and the Discussion Paper – 'Planning for the Future of Retail' is not an independent review of planning for retail, but rather represents the interests of the retail sector and not the wider community.
- v. It is considered that planning for the appropriate land use balance in response to growth within a local government area represents the primary objective of strategic planning for the City of Willoughby.
- vi. Council supports industrial zones within the City of Willoughby and the employment and services provided specific to these zones. The retention of the employment and urban services provided in the industrial zones is consistent with the '30 minute city' concept put forward by the Greater Sydney Commission in the *Greater Sydney Region Plan* and the *North District Plan*. The City of Willoughby faces considerable pressure in preserving industrial employment lands from incursion by other uses which may be better located in urban centres.
- vii. Council also supports business zones where residential is a permissible use, within the City of Willoughby. In such zones, an appropriate balance is sought between commercial and residential uses. It is considered that the promotion of retail uses, and the specific definition amendments proposed, should not adversely impact on residential uses. This balance of land uses within business

zones is also consistent with the '30 minute city' concept put forward by the Greater Sydney Commission in the *Greater Sydney Region Plan* and the *North District Plan*.

- viii. Concern is raised with the proposed amendments to the Standard Instrument, both in terms of the definitions suggested but also in relation to the piecemeal, rather than wholistic approach, being taken in planning for retail.
- ix. The proposed replacement of existing definitions contained in the Standard Template with new definitions is not supported. It is considered that the proposed definitions would create complexity rather than clarity in the use of the Standard Template and are ultimately unnecessary for the purposes of improving planning for retail. Each definition is discussed below in Section 3.

2. Discussion Paper: Planning for the Future of Retail (April 2018)

2.1 General

- i. As part of developing a NSW Retail Strategy, a document has been prepared titled 'Discussion Paper: Planning for the Future of Retail' (April 2018).

2.2 Comments

- i. The development of a NSW Retail Strategy leading to an action document like a state environmental planning policy or amendments to the Standard Instrument is not considered to be the best approach in terms of overall planning for the City of Willoughby, Sydney and NSW. It is considered that a more comprehensive place based planning approach, involving integrated planning at the local level consistent with the Greater Sydney Commission documents, the *Greater Sydney Region Plan* and the *North District Plan*, is required. This approach would be more sensitive and responsive to the differing pressures and issues facing Council areas across Sydney and the state.
- ii. The City of Willoughby has already embarked on a place based approach to strategic planning, initiating a Chatswood CBD and local centres strategy. The provision and growth of retail land use has been considered and, at the end of the process, will inform amendments to *Willoughby Local Environmental Plan 2012*.
- iii. The Chatswood CBD and local centres strategy seeks to increase retail land in areas serviced by public transport. It is considered that this increased retail capacity in business zones adequately provides for future growth and addresses any argument that insufficient retail land is available, as well as encouraging the use of public transport instead of cars.
- iv. The abovementioned allowance for future growth will enable the provision of new retail facilities with locally tailored floor plates to accommodate a changing retail market.
- v. Council seeks to ensure the protection of industrial zoned land for employment generating manufacturing and industrial uses.
- vi. Under Willoughby Local Environmental 2012, the objectives of the IN1 zone include:
 - To provide a wide range of industrial and warehouse land uses.
 - To encourage employment opportunities.
 - To support and protect industrial land for industrial uses.
 - To identify and preserve industrial land to meet the current and future general industrial needs of Willoughby and the wider region.
- vii. Concern is raised that a mandated NSW Department Retail Strategy or action document may be inconsistent with the place based strategic planning already carried out by the City of Willoughby, and undermine the approach.
- viii. Any further State documents prepared for retail planning should be the subject of further public consultation to ensure the local impacts can be properly assessed.

3. Proposed amendments to the Standard Instrument: Better planning for the NSW retail sector (April 2018)

3.1 General

- i. A document has been prepared titled 'Proposed amendments to the Standard Instrument: Better planning for the NSW retail sector' (April 2018). This is referred to as the Proposed Amendment document in this submission.
- ii. This document contains proposed changes intended to remove immediate identified impediments as a priority, while the NSW Retail Strategy is being developed. Some of these changes represent indicative suggestions.
- iii. It is noted that the amendment proposed specifically involves the following:
 - a) A new definition for 'artisan premises'.
 - b) An amended definition for 'garden centres'.
 - c) A new definition for 'local distribution centres'.
 - d) A new definition for 'neighbourhood supermarkets'.
 - e) An amended definition for 'bulky goods premises' to be known as 'specialised retail premises'.

3.2 Comments

- i. The five amendments are discussed in detail below.
- ii. It should be noted that Council, in its strategic planning for retail, has permitted a number of bulky goods style premises including garden centres into sections of its industrial areas.
- iii. It is considered that sufficient land exists within the City of Willoughby for retail related uses including bulky goods type premises.

3.3 Definition: Artisan Premises

3.3.1 General

- i. It is proposed to create a new land use term 'artisan premises' with the following indicative definition suggested:

"A building or place used to produce and/or process foods and beverages on site, without being fully automated.

It can also include:

 - b) *A restaurant or café;*
 - c) *Tastings;*
 - d) *Tours;*
 - e) *Sales; and*
 - f) *Workshops."*
- ii. It is proposed to allow 'artisan premises' wherever light industry is a permissible use.
- iii. Under *Willoughby Local Environmental Plan 2012*, this would mean within the IN1 General Industrial and IN2 Light Industrial zones.

3.3.2 Comments

- i. The need for, and content, of the definition 'artisan premises' is considered unnecessary.
- ii. The type of use that may be considered 'artisan premises' is considered to be already covered in *Willoughby Local Environmental Plan 2012* (WLEP) as 'general industry' and 'industrial activity' (permitted uses in both IN1 and IN2 zones).
- iii. The existing WLEP definition of 'general industry' is:
"a building or place (other than a heavy industry or light industry) that is used to carry out an industrial activity."
- iv. The existing WLEP definition of 'industrial activity' is:
"the manufacturing, production, assembling, altering, formulating, repairing, renovating, ornamenting, finishing, cleaning, washing, dismantling, transforming, processing, recycling, adapting or servicing of, or the research and development of, any goods, substances, food, products or articles for commercial purposes, and includes any storage or transportation associated with any such activity."
- v. 'General industry' would involve production and warehouse, together with ancillary activities. Any use that does not fit under this definition, for example restaurants and cafes, should be in a commercial or business zone.
- vi. The proposed definition would seem to represent a limited section of what may be considered 'artisan premises'. The proposed definition refers to *"a building or place used to produce and/or process foods and beverages on site."* This would appear to be specific to something similar to a microbrewery and seem to indicate nothing more meaningful than a desire to reflect modern terminology. As noted above, a microbrewery is considered to already be covered by the definition of 'light industry'. It is considered artisan premises could include many other uses with nothing to do with food and beverage such as jewellery and pottery manufacturing which is also already covered in 'general industry' as an 'industrial activity.'
- vii. In addition concern is raised in the definition to the reference to restaurants and cafes (coming under the definitions of 'commercial premises', 'retail premises', 'food and drink premises') and sales (coming under the definition of 'commercial premises') that are not permissible in industrial zones. Part of the reason these land uses are not permissible is to ensure land is available for industrial uses and that incompatible land uses are not located next to each other.
- viii. Concern exists with the encroachment of 'retail premises' into industrial zones, which is not consistent with the strategic direction from the Greater Sydney Commission.
- ix. 'Industrial Retail Outlet' is already a defined term in the Standard Instrument and is the appropriate means of enabling ancillary retail in industrial zones.

3.4 Definition: Garden Centres

3.4.1 General

- i. It is proposed to replace the existing definition of 'garden centre' with a suggested indicative definition as follows:
"A building or place where the principal 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 cafés and the sale of:*
 - a) Outdoor furniture and furnishing;*
 - 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.”
- ii. No amendments to land use tables in terms of permissibility of ‘garden centres’ are proposed.

3.4.2 Comments

- i. The need for a new definition of ‘garden centres’ is considered unnecessary.
- ii. Under *Willoughby Local Environmental Plan 2012*, ‘garden centres’ are permissible uses in business zones, and the IN1 General Industrial and IN2 Light Industrial zones.
- iii. The existing WLEP definition of ‘garden centre’ is as follows:
“garden centre means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may, if ancillary to the principal purpose for which the building or place is used, include a restaurant or cafe and the sale of any the following:
 - (a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
 - (b) pets and pet supplies,
 - (c) fresh produce.”
- iv. The ‘Proposed Amendments document’ states that the new definition seeks to remove ambiguity regarding the allowable mix between primary and secondary activities. However it is considered that the proposed definition increases ambiguity with particular regard to industrial zones by removing the word ancillary and providing no clarity on the allowable mix.
- v. Council considers the existing definition as satisfactory in that it provides for ‘garden centres’ as envisioned in industrial zones by clearly establishing the principal and ancillary services provided. In addition this definition satisfactorily accommodates commercial zones.
- vi. Commercial activities outside of the existing definition should occur in commercial or business zones.

3.5 Definition: Local Distribution Premises

3.5.1 General

- i. The suggested indicative definition of a ‘local distribution centre’ is:
“A building or place used for storing or handling items purchased or ordered for local delivery, but from which no retail sales are initiated.”
- ii. It is proposed that ‘local distribution centres’ would be permissible with consent wherever a ‘warehouse or distribution centre’ is permissible.

3.5.2 Comments

- i. The need for a new definition of ‘local distribution premises’ is considered unnecessary.
- ii. Under *Willoughby Local Environmental Plan 2012*, ‘warehouse or distribution centres’ are:
 - Prohibited in the R2 Low Density Residential, R3 Medium Density Residential and R4 High Density Residential zones, as well as the B1 Neighbourhood Centre, B2 Local Centre and B3 Commercial Core zones.
 - Permissible in the B4 Mixed Use, B5 Business Development, B7 Business Park, as well as the IN1 General Industrial and IN2 Light Industrial zones.
- iii. The type of use that may be considered ‘local distribution premises’ is considered to be already

- covered in *Willoughby Local Environmental Plan 2012* (WLEP) as 'warehouse or distribution centre'.
- iv. The existing WLEP definition of 'warehouse or distribution centre' is:
"a building or place used mainly or exclusively for storing or handling items (whether goods or materials) pending their sale, but from which no retail sales are made."
 - v. The particulars of any proposal may be assessed at development application stage.

3.6 Definition: Neighbourhood Supermarket

3.6.1 General

- i. The suggested definition of a 'neighbourhood supermarket' centre is:
"A shop selling food and other household items where the selection of goods is organised on a self-service basis."
- ii. It is also proposed to amend Clause 5.4 to include a restriction on the gross floor area to not more than 1,500m².
- iii. It is proposed that 'neighbourhood supermarkets' be permitted in the B1 Neighbourhood Centre zone.
- iv. In addition 'neighbourhood supermarkets' would be permissible wherever 'shops' and 'retail premises' are permissible.

3.6.2 Comments

- i. The need for a definition 'Neighbourhood Supermarket' is considered unnecessary.
- ii. Concern is raised with the creation of a definition for neighbourhood supermarket when there is no definition for supermarket. It is considered this creates added complexity and lack of clarity to the planning process.
- iii. How would supermarket be considered ?
- iv. Under *Willoughby Local Environmental Plan 2012*, 'neighbourhood shops' are permissible in the B1 Neighbourhood Centre zone, and 'commercial premises' ('shops' and 'retail premises') permissible in the B2 Local Centre, B3 Commercial Core, B4 Mixed Use and B5 Business Development zones.
- v. A supermarket type use would be considered as a 'retail premises' and therefore prohibited in the B1 zone and permissible in the B2, B3, B4 and B5 zones.
- vi. The existing WLEP definition of 'shop' is:
"premises that sell merchandise such as groceries, personal care products, clothing, music, homewares, stationery, electrical goods or the like or that hire any such merchandise, and includes a neighbourhood shop, but does not include food and drink premises or restricted premises."
- vii. There is a restriction in WLEP regarding the size of a 'neighbourhood shop'. Clause 5.4 (7) states:
"If development for the purposes of a neighbourhood shop is permitted under this Plan, the retail floor area must not exceed 80 square metres."
- viii. The objectives of the WLEP B1 Neighbourhood Centre zone is:
 - *To provide a range of small-scale retail, business and community uses that serve the needs of people who live or work in the surrounding neighbourhood.*
 - *To minimise the effect of business uses on the amenity of adjacent areas having regard to building design, operation and activities, traffic generation and the car parking capacity of local roads.*
- ix. If Council was of a mind to permit neighbourhood supermarkets in the B1 Neighbourhood Centre zone, it could amend the WLEP with regard to objectives and permitted with consent provisions. A mandated Standard Template approach does not permit appropriate local consideration and a wholistic approach to the zone.

3.7 Definition: Specialised Retail Premises (incorporating Bulky Goods Premises)

3.7.1 General

- i. The proposed definition of 'Specialised Retail Premises' is:
"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) *BBQs, fireplaces and gas appliances;*
 - m) *Sporting, cycling, leisure, fitness goods and accessories; or*
 - n) *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."*
- ii. No amendment is proposed to the land use tables in terms of permissibility of 'specialised retail premises'.
- iii. It is proposed to substitute 'specialised retail premises' where it currently says 'bulky goods premises.'

3.7.2 Comments

- i. The need for a definition 'specialised retail premises' is considered unnecessary.
- ii. Under *Willoughby Local Environmental Plan 2012*, 'bulky goods premises' are permitted in all commercial zones.
- iii. In the IN1 General Industrial and IN2 Light Industrial zones, 'bulky goods premises' are only permissible as outlined in Schedule 1 Additional Permitted Use of WLEP:
 - Clause 2 Use of certain land at Herbert, Cleg and Frederick Streets and Reserve Road, Artarmon
"(1) This clause applies to land bounded by Herbert, Cleg and Frederick Streets and Reserve Road, Artarmon.
(2) Development for the purposes of bulky goods premises, garden centres, hardware and building supplies, and landscaping material supplies is permitted with development consent.
(3) Development consent under subclause (2) must not be granted unless the consent authority is satisfied that:
 - (a) suitable land is not available for the development in any nearby business centre, and*
 - (b) the development will not detrimentally affect the range of services offered by existing shops located in any nearby business centre, and*
 - (c) giving consent would not, because of the number of retail outlets that exist or are proposed in Zone IN1 General Industrial or Zone IN2 Light Industrial, change the predominantly industrial nature of the area or detrimentally affect existing or*

future industrial development in the zone.”

- Clause 34 Use of certain land at East Chatswood and Roseville
 - “(1) This clause applies to land in East Chatswood and Roseville that is in Zone IN2 Light Industrial, unless the land has direct frontage to or adjoins any residential area (other than land along Eastern Valley Way).*
 - (2) Development for the purposes of bulky goods premises, garden centres, hardware and building supplies, and landscaping material supplies is permitted with development consent.*
 - (3) Development consent under subclause (2) must not be granted unless the consent authority is satisfied that:*
 - (a) suitable land is not available for the development in any nearby business centre, and*
 - (b) the development will not detrimentally affect the range of services offered by existing shops located in any nearby business centre, and*
 - (c) giving consent would not, because of the number of retail outlets that exist or are proposed in Zone IN1 General Industrial or Zone IN2 Light Industrial, change the predominantly industrial nature of the area or detrimentally affect existing or future industrial development in the zone.”*
- iv. The existing WLEP ‘bulky goods premises’ definition is as follows:

“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.”
- v. The existing WLEP definition of ‘retail premises’ is in part:

“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”*
- vi. ‘Retail premises’ comes under the definition of ‘commercial premises’, and is therefore prohibited in the IN1 and IN2 industrial zones with the exceptions as described above.
- vii. Concern is raised with any definition that refers to retail in the title, as retail remains a prohibited use in the industrial zones and any retail permitted must be clearly understood as secondary to the primary industrial land use.
- viii. Council considers the existing definition as satisfactory in that it provides for ‘bulky goods premises’ as envisioned in industrial zones by clearly establishing the importance of principal purpose and loading facilities for this use.
- ix. Concern exists with the encroachment of retail uses into industrial zones, which is not consistent with the strategic direction from the Greater Sydney Commission.

