



18 May 2018

F00678 (18/106180)

Department of Planning and Environment
Proposed Amendments to the Standard Instrument LEP
Better planning for the NSW retail sector
On-line submission

Dear Sir/Madam

**SUBJECT Submission on proposed amendments to the Standard
Instrument LEP: Better planning for the NSW retail sector**

Council appreciates the opportunity to make a submission on the above proposed policy. As outlined in the exhibition material, the proposed amendments have been produced in the context of preparing a NSW Retail Strategy and accompany an April 2018 Discussion Paper on Planning for the Future of Retail. A separate submission will be made on the Discussion Paper.

As an introductory comment, Council is concerned the proposed amendments decrease the boundaries between industrial and retail land uses contrary to well-established planning principles. Of primary concern is the expansion of retail land uses into industrial areas and the impact on the function and purpose of centres. It would appear the justification for the majority of the proposed land use changes are around improving retail market conditions for primarily large scale industry retailers. Placing retail market concerns above those of place based planning, and reducing the ability of individual Councils to establish nuanced and defined land use zones to support a centres hierarchy, could result in homogenised industrial and retail areas and reduce centres planning.

Further commentary and observations are provided below against each proposed amendment:

Artisan Premises

- Query the assumption that artisanal premises as defined and described in the explanatory material are small scale but this should be specifically controlled, perhaps through the introduction of a new subclause to clause 5.4.
- Concern as the limited presence of retail uses in industrial areas already leads to land use conflict with traditional and established industrial users including, but not limited to: parking requirements, noise, safety and hours of operation. To further endorse a change in intent from industrial to retail will lead to further land use conflict.
- Disagree with the assumption that most artisanal food and drinks based processes are inherently low impact. Potential odour and noise issues remain, particularly as there is currently no proposed limit on scale for such uses.
- Disagree with assumption that industrial zones are suited to, or intended to provide for, a 'night-time economy'. In many areas, particularly in the regions, supporting a night-time economy in delineated and established town centres is challenging enough without having competing locations in industrial areas.

- Disagree with increase subsets in mandated land use terms, such as artisanal premises in light industry. Councils should be able to include new land use definitions when appropriate in the context of local assessment and upcoming Local Strategic Planning Statements.
- Concern that shifting the consideration of impacts to the Development Assessment process from the land use zone hierarchy reduces the value of zoning and places significant weight on DCPs which the Department categorises only as guidelines.

Garden Centre

- Concern that a new approach around complementary land uses is being used instead of retaining the term *ancillary*. Case law around *ancillary* land uses is well established and provides a reasonable degree of certainty in the planning system. Changing the definition to have reliance only on the term *principal purpose* would reduce certainty and runs counterintuitive to the stated aim to reduce ambiguity.
- Concern with potential scale of land use implications by removing *ancillary to the principal purpose* and relying on *principal purpose* and then *may also*. Ancillary uses have an implied and understood lesser scale to the principal purpose use and under the new definition a '*may also*' land use could potentially result in unintended planning outcomes for an area.

Local Distribution Premises

- General comment that in regional areas there is a limited need for multiple warehousing locations and this seems a very metropolitan based definition.
- Qualified support on the land use being a subset of warehouse or distribution centre but would not support such a land use being mandated in any particular zones outside industrial areas.
- Concern that although noted as 'typically' much smaller than traditional warehouses, there is no control around size apart from the descriptor of 'local'. Suggest consideration be given to using clause 5.4 to introduce a GFA limit for such a land use.

Neighbourhood Supermarket

- The business zoning of individual towns and villages arise from local planning studies, such as retail and employment studies, and take account of catchments, location, transport services and a range of other local variables.
- Under the current SILEP land use zone hierarchy commercial premises are mandated in the B2 Local Centre land use zone and not the B1 Neighbourhood Centre zone. This differentiates the intention of each of these zones.
- Disagree with mandating this proposed new land use, up to 1,500m², in the B1 Neighbourhood Centre zone. Such an approach would decrease the ability of Councils to clearly articulate between and plan for desired planning outcomes between areas.
- Support introducing the new term but not mandating in the B1 land use zone. This will allow individual councils to include the new land use when appropriate in the context of a local retail study or Local Strategic Planning Statement.

Specialised retail premises (incorporating bulky good premises)

- General comment that this amended definition appears driven by concerns from a particular retail sector and not a planning merit issue.
- Concern that with the removal of bulky goods as a defining characteristic of the definition, relegated to a subset, means there is no limit on the size of any of the thirteen subcategories or their potential mix. With the blanket replacement of this new land use where bulky goods are currently permitted this will be introducing a

range of retail land uses with no controls around size, into industrial areas and reducing the role of centres.

- Concern as the limited presence of retail uses in industrial areas already leads to land use conflict with traditional and established industrial users including, but not limited to: parking requirements, noise, safety and hours of operation. To further endorse a change in intent from industrial to retail will lead to further land use conflict.
- Concern that shifting the consideration of impacts to the Development Assessment process from the land use zone hierarchy reduces the value of zoning and places significant weight on DCPs which the Department categorises only as guidelines.

I would welcome the opportunity to discuss this further, and can be contacted on 4780 5591 or kbarrett@bmcc.nsw.gov.au.

Yours faithfully

A handwritten signature in black ink, appearing to be 'KB' or 'K. Barrett', written in a cursive style.

KIM BARRETT
Manager, Development and Planning Services