

21 May 2018

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Deputy Secretary, Policy and Communications  
Department of Planning and Environment  
L15, 320 Pitt Street, Sydney NSW 2001

Attention: Alison Frame  
Email: [retail@planning.nsw.gov.au](mailto:retail@planning.nsw.gov.au)

Dear Alison,

## **RE: Planning for the Future of Retail – Standard Instrument LEP amendment**

Thank you for the opportunity to comment on proposed amendments to the Standard Instrument LEP that accompany the Department's *Planning for the Future of Retail* discussion paper.

The City is supportive of efforts to keep our planning system up to date with changes in the retail sector. The retail sector is an important contributor to the City's economy, which in 2012 made up 36% of all businesses in the LGA and 15.14% of the City's workforce. Recognising this importance, Council adopted the Retail Action Plan in December 2013, alongside the Economic Development Strategy and the Tourism Action Plan, which support retail businesses and encourage new jobs in the sector.

The City supports amendments to the Standard Instrument where they provide consent authorities with up-to-date definitions that align with changes in the economy. Notwithstanding this, the City is concerned many of the proposed amendments would unreasonably impact on land zoned for employment. It is also concerned a number of the proposed amendments expand opportunities for retail activity to locate in out-of-centre locations, in direct conflict with the objective and strategies of the Greater Sydney Region and District Plans. Finally, the City notes that individual councils are best placed to determine the appropriateness of a use in a particular zone in their strategic land use planning. As such, the City does not support any expansion of mandated uses in land use zones.

The City's comments on the proposed amendments are detailed below, including suggested improvements that would help achieve the stated objectives of the amendments and support the intent of the Region and District plans.

### **New definition: Artisan premises**

The City supports the growing artisan food and drink industry and acknowledges that consent authorities would benefit from a new definition that better defines the use and allows a more considered assessment. However, the City is concerned the proposed definition, as worded, would permit a range of inappropriate activities, in particular in its IN1 – General Industrial zone.

In 2012 the City undertook a review of its Employment Lands in the south of the local government area. The review, and eventual rezoning of over 265 hectares of land zoned for employment, established the amount of industrial zoned land required to support a growing community, as well as the demand for supporting industrial land needed to support the growth at Sydney Airport, Port Botany, Sydney CBD, and other key centres. The quantum of IN1 – General Industrial land was significantly decreased and largely rezoned for a broader range of employment uses, with the recognition the remaining industrial land should be strictly protected for genuine industrial uses into the future.

The operational viability of an industrial zone can be significantly impacted by inappropriate uses. Uses such as restaurants and cafes can conflict with some of the noisier and dirtier activities located in the zone, making it difficult for industrial business to conduct their activities. Industrial areas are typically not well served by public transport, so high levels of visitor patronage can add pressure to the road network which serves vehicles necessary for industrial uses. Finally, increased demand for space in industrial zone puts upward pressure on land values, resulting in the displacement of industrial uses due to rising land costs.

The City does not support introducing new uses to land zones where their impacts are not appropriate to the zone and do not align with the objectives of the zone.

As worded, the proposed “artisan premises” definition would effectively permit development that includes token manufacturing, with a primary purpose of restaurant/cafe and retail activity.

It is the City’s understanding that the proposed definition would be introduced as a sub-set of the “light industrial” use. It is noted the Standard Instrument mandates “light industry” in the IN1 – General Industrial, B6 – Enterprise Corridor and B7 – Business Park zones, and as such individual councils would not be free to determine the appropriateness of the use in these zones.

The desire to support the growing artisan and craft food and drink industry should be balanced against the land use requirements for other lower value employment uses and industries. Premises of this nature have the potential to become popular destination venues, attracting a high volume of visitors, which can significantly and negatively impact on an industrial zone.

The City recommends:

- the proposed use be a stand-alone use, and not a sub-set of “light industries”, which are mandated in a number of employment zones in the Standard Instrument LEP
- the proposed use be introduced only at the discretion of individual councils in future strategic planning
- the amount of floor area that may be for the purposes of a restaurant, café or sales within an “artisan premises” be limited by individual councils in clause 5.4 of their LEPs
- manufacturing be recognised as the primary use with all other uses being recognised as ancillary.

#### **Amended definition: Garden centre**

The City supports the improved readability and clarity the proposed amendment brings to the “garden centre” definition. However, it is concerned the removal of the term “ancillary” will weaken the definition and allow a higher proportion of non-primary uses into zones where they might otherwise not be permitted.

The deletion of the term “ancillary” removes any ability to characterise and assess other uses in a development and the subordinate relationship they must have to the “primary use”. It is a term well defined and understood by consent authorities, planning lawyers and other experts, and its removal is not merely an exercise in making the definition more contemporary.

In the Sydney LEP garden centres are permissible in B5 – Business Development, B6 – Enterprise Corridor, B7 – Business Park and IN1 – General Industrial zones. Retail uses are carefully managed in these zones to ensure that appropriate retail is located in centres, and to protect the City’s vital industrial and employment areas from competition with higher value land uses. Any change in the balance of what uses are allowable under the definition of a garden centre has the potential to undermine the City’s strategic land use planning for its employment zones.

The City recommends the term “ancillary” be retained in the definition.

### **New definition: Local distribution premises**

The City recognises the value of last-mile delivery facilities and supports a new definition that assists planning authorities in making a distinction between “local distribution premises”, which may be limited in their impacts, and warehouse or distribution centres, which can have considerable impacts depending on the scale of the operation.

However, as proposed, the new definition includes no measure of scale or impact and as such doesn’t meet the intent of the amendment. In order to differentiate between the two uses, Clause 5.4 may be utilised to provide appropriate scale and impact benchmarks for assessment in the development process.

### **New definition: Neighbourhood supermarket**

The City supports a new definition that allows consent authorities to distinguish between smaller scale supermarkets that might service the day-to-day needs of the local community, and larger impact supermarkets where people may drive for their once-a-week shop. Notwithstanding this, the mandated inclusion of the proposed use in the B1 – Local Centre zone is not supported.

Planning for an appropriate scale of retail activity spread across identified centres is critical in ensuring market demand is met and that local communities are well served. Identifying larger scale centres with appropriate access and infrastructure requires a well-researched understanding of the local context. For example, in 2008 the City commissioned the *Green Square and Southern Areas Retail Study* (recently reviewed), which determined the market demand for retail development in the southern areas of the LGA and made recommendations regarding the appropriate scale and location of various retail offerings. This was implemented in the Sydney LEP 2012 with the introduction of a floor space cap, limiting development for shops and markets over 1000sqm outside nominated retail centres. It is the City’s understanding the cap will not be affected by the introduction of the proposed “neighbourhood supermarket” definition, which will be a sub-set of “shop”.

The City supports the addition of the proposed new use in the Standard Instrument LEP, however recommends that it be up to individual councils as to where the use might be most appropriately located, taking into consideration local context.

### **Amended definition: Specialised retail premises**

The stated intent of this amendment is to adjust the definition of “bulky goods” so that it more accurately reflects the needs of contemporary large-format retailing that may require a larger floor plate due to the volume of product being traded rather than the size of the product.

The City is concerned with the significant increase in retail activities that are proposed for inclusion in this definition. The existing bulky goods premises definition is intended to capture only those retail uses that, by virtue of scale and need for direct vehicular access, cannot reasonably locate in centres or traditional shopping environments. It is the City’s view that many of the proposed additional uses that would now be captured in this definition, which might otherwise reasonably locate in centres, will seek to locate in lower value areas where bulky goods are currently permitted (but where other retail uses are generally not permitted).

Clustering retail activity in centres improves access by a diversity of transport modes in higher density inner urban communities. This is critical to growing economically and socially sustainable centres, where economic multipliers are enhanced and public and private investment in infrastructure is used to the widest benefit. The proposed amendment expands opportunities for retail activity to locate in out-of-centre locations and undermines the objectives of the Region Plan and District Plan, while at the same time putting economic pressure on those uses that genuinely need to locate out of centres.

In the Sydney LEP 2012, Schedule 1 – Additional Permitted Uses permits bulky goods premises along O’Riordan Street in the south of the local government area, despite not otherwise being permitted in the zone. Bulky goods premises are also permitted in the B5 – Business Development zone, which only applies to the Moore Park Supa Centa on South Dowling Street. The effect of this has been to cluster bulky goods retailers, limiting their impact on amenity and creating convenient, one-stop destinations that reduce the car trips between premises typically generated by out-of-centre retailing.

Given our experiences and context, it is not clear to the City what issue is being addressed by the proposed definition. It is the City’s view the current bulky goods definition is successful in its intent and it is recommended the definition remain unchanged.

### **General comments**

The City welcomes the addition of new definitions to the Standard Instrument where they provide useful differences to existing definitions and allow more nuanced understanding of a use in the development process. However, when new definitions are made mandatory in certain land use zones it can undermine the ability for Councils to do effective local area planning and respond to the specific needs of their local area.

If you would like to discuss this further, please contact Tamara Bruckshaw, Manager Green Square and Major Projects on 02 9265 9743 or by email at [tbruckshaw@cityofsydney.nsw.gov.au](mailto:tbruckshaw@cityofsydney.nsw.gov.au).

Yours sincerely,

A handwritten signature in black ink, appearing to be 'GJahn', written in a cursive style.

**Graham Jahn AM**  
**Director**  
City Planning | Development | Transport