

6 June 2018

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

Dear Director

**Re: Discussion Paper - Planning for the Future of Retail**

I am writing in response to your call for submissions on the recently exhibited Discussion Paper on *Planning for the future of retail*. Mosman is a small local government area close to the Sydney CBD and other strategic centres, such as St Leonards, Chatswood and Manly. It has two local centres, a number of small neighbourhood centres and a commercial strip linking Mosman with Cremorne. These are all established places that have developed over many decades and include a highly significant heritage conservation area along Military Road.

The need to maintain the relevance and responsiveness of the planning system in a rapidly changing environment is acknowledged. Your Discussion Paper on the retail sector addresses a number of issues that are current and worthy of a broader discussion in the community. Council considered a report on the Discussion Paper at its meeting on 5 June 2018 and [insert Council resolution]. This submission will focus on a number of issues with which the Council either disagrees or has issue with.

Direction 1: Better local strategic planning for retail

The narrative in the Discussion Paper around this Direction relates to "giving power to local communities to shape the future of their local areas" (p. 25). It is considered that this is becoming increasingly difficult as the State imposes new policy on managing and planning for local issues as well as mandating changes to the Standard Instrument. These can undermine the objectives and desired future character of areas that councils established with their local communities when making their LEPs and local strategic planning statements next year.

Direction 3: Adaptability and certainty for retail

This Direction poses the biggest potential impact on planning in Mosman's business centres.

- **Open zones** - Currently the land use tables in Mosman LEP2012 are closed zones. This approach was taken in the drafting of Mosman LEP2012 as it was considered that it in order to plan for the desired future character of areas it is more appropriate to state in the positive rather than the negative what is planned for the area.

The Paper acknowledges that there is a high degree of variation across LEPs in the State in terms of permissible land uses, which apparently can create confusion. It is considered that this variation is a reflection on councils preparing plans that reflect the needs and expectations of

their local communities and the level of variation should be allowed to be maintained. Council objects to any plans by the State to impose open zones in Mosman's LEP.

- **Allowing undefined or prohibited uses** - Council objects to the proposal to introduce an "innovation in retail" provision. It is inconsistent with the established framework of land use planning in NSW where the first principles of development assessment are whether a use is permissible or prohibited. This provides certainty to land owners. The Discussion Paper does not include a draft clause on which to comment. The Department should investigate this fully before seeking informed feedback on this matter.

Undefined terms would not be such an issue if the Standard Instrument was not cluttered with multiple definitions (297) including parent terms such as *retail premises*. It is considered that any new forms of retail should fit into the broad definition of retail. Both Mosman's B1 and B2 zones allow *retail premises* which should provide the flexibility to meet the challenges of new retail forms.

General comments regarding the Discussion Paper:

- The use of quotes within the Paper to reinforce or emphasise a point is diminished as the quotes are unsourced. They should be attributable in order that appropriate weight can be given to the statement.
- The approaches advocated in the Paper would not be suitable in all planning situations. There is a case for distinguishing between existing centres and new ones, especially those in areas under transformation. If the changes proposed were applied to existing neighbourhood centres in established areas we could see them developed in a way that would be inconsistent with the desired future character as identified in councils' LEPs.
- Potential Ministerial Directions: there are statements in the Paper that allude to potential Ministerial Directions, for example:
  - A review of LEPs would require councils to align their plans with the NSW Retail Strategy, and
  - The requirement for open zones in LEPs.

It is considered that it is a less than transparent consultation process that these matters are not clearly articulated in the Discussion Paper. The effect of a Ministerial Direction is no room to move for councils in planning with their communities and makes a mockery of engaging with people about future strategic directions.

In conclusion, Council acknowledges the need for planning to be able to provide for change, which is, after all what planning is about. It does not, however, support changes that add to an already complex system. The Department's focus should be on simplification, whilst continuing to allow space for councils to plan for change with their communities. It is considered that State intervention is making it less viable for councils to involve their communities in planning with any certainty for outcomes.

For further information please contact Linda Kelly, Manager Urban Planning on 9978 4041.

Yours sincerely



Linda Kelly  
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