Planning Institute Australia

15 June 2018

Mr Gary White
Chief Planner
Department of Planning and Environment
320 Pitt Street
SYDNEY NSW 2000

Dear Gary,

PIA SUBMISSION ON PLANNING FOR THE FUTURE OF RETAIL DISCUSSION PAPER

The Planning Institute of Australia (PIA) appreciate the opportunity to provide feedback on the Discussion Paper: Planning for the Future of Retail.

PURPOSES

The main purposes of this submission are to strongly recommend:

1) Deferral of consideration of the proposed changes to definitions to the SILEP until a revised discussion paper and policy on centres is adopted (see below) and Local Strategic Planning Statements are completed; and
2) Review and re-exhibition of the discussion paper focusing more broadly on planning for successful centres – this is to re-emphasise the broader public interest in terms of centres being much more than retail and commercial centres – potentially offering much wider and diverse social, economic, educational, cultural, entertainment and educational opportunities – and hence the crucial need for centres to be planned and sustained to reflect these opportunities and the underpinning public interest in them;

SUBMISSION

PIA supports planning for better retail experiences and better value for retail consumers, however, PIA takes a broader public interest focus seeking accessible, sustainable and activated centres – which are great for leisure and business. The interests of the retail consumer and broader public interest in better centres do not align in relation to some types of out-of-centre retail. On balance, the discussion paper does not sufficiently recognise the public interest in focusing activity in new and existing centres as well as ensuring that appropriate land for urban services is maintained.

PIA emphasises the importance of planning for successful large and small mixed-use centres in city and regional areas. Where this is achieved the total value proposition from sound strategic planning can be maximised – not just from the retail consumer perspective. While the Discussion Paper acknowledges this approach, aspects of the outcomes and directions related to open zones, removal of prohibitions and zoning 'flexibility' are inconsistent with its achievement.

RECOMMENDATIONS

PIA recommends:

1) **Deferral of consideration of the proposed SILEP retail definition amendments until finalisation of a broader retail and centres policy - as the proposed definitions are implementation tools of a policy position that is not yet adopted. If the definitions are adopted in advance, they should not be mandatory replacements of existing definitions, but part of a broader palette to contribute to tailoring place outcomes.**
2) **Revising the scope and re-releasing a discussion paper in order to take a broader public interest perspective in favour of diverse and successful centres. This would address, but not be skewed by, current and emerging retail consumer interests.**
3) **With respect to specific outcomes and directions PIA recommends:**
    - **Direction 1: The proposed guidance / toolkits on planning for retail needs and planning for emerging and renewing centres are important (PIA looks forward to contributing in this regard);**
    - **Direction 2: Careful strategic planning for emerging out-of-centre clusters is a critical activity (especially in regional NSW) with the potential to impact on other desired outcomes of strategic plans. It should be guided by the spatial outcomes set in the regional strategy or district plan or informed by a 'net community benefit test' where spatial strategic planning guidance is not available.**
    - **Direction 3: Proposals for open zones and the avoidance of prohibited retail uses have the potential to work against achieving desired outcomes for places and are not supported (especially in the absence of an established place outcomes-based narrative for an area). Comprehensive strategic planning reform, mandating consistency with Local Strategic Planning Statements, would need to be in place to reduce the risk of poor planning outcomes from open zones.**
    - **PIA looks forward to working with the Department towards long-term strategic planning reform to achieve a strategic plan aligned zoning framework – but recommend not abandoning the ability to apply retail prohibitions to achieve centres policy in the interim.**

RETAIL DEFINITIONS ISSUE

PIA has made previous submissions to the outputs of the Retail Expert Advisory Committee (REAC) and recently to the proposed amendments to retail definitions in the Standard Instrument Local Environmental Plan (SILEP). Specific PIA responses to each proposed SILEP retail definition amendment are included in **Attachment A**.

PIA has asserted that several of the SILEP retail definition amendments proposed are potentially damaging to the sustainability of centres and therefore not supported by adopted policy (especially the drafting of *specialised retail*). Such significant reform to wider definitions permissible retail uses should follow – not precede, adoption of a broader centres policy position. PIA recommends that any revision of SILEP retail definitions be considered as implementation tools for a broader centres and retail policy and should only be made after consideration of this policy.

The definition amendments should not be considered in advance of the broader review of retail and centres policy now underway. The reason is that the definitions may change once a broader centres and retail policy is developed.

The proposed SILEP definition 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 after re-exhibition of a broader centres policy.

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 current 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.

Further, 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 to retail centres, taking account both consumer needs and the broader public interest. This capacity would be eroded by definitional changes in isolation of an adopted and balanced centres and retail policy.

DISCUSSION PAPER OUTCOMES AND DIRECTIONS

PIA supports 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 and the subsequent discussion paper process may move too much away from some regulation and hierarchy for retail and town centres. The policy approach should be based on the implementation of Regional and District Plans and Local Strategic Planning Statements – addressing the hierarchy of centres, protecting industrial land from major retail outlets or activities and the tailoring of place outcomes accordingly.

THE CASE FOR REFORM IS NOT SUPPORTED FROM A PUBLIC INTEREST PERSPECTIVE

The Discussion Paper provides valuable insights into the nature of retail consumption, the significance of the retail sector for the NSW economy and its role in boosting activity, providing recreation, entertainment and other services and invigorating centres.

Disruption in retail has been an ongoing phenomenon. While the range and diversity of retail opportunities is expanding, and the impact of internet trade is becoming pervasive – the paper does not demonstrate that 'modern' retail premises are essentially different in terms of the way they interact with other land uses. They continue to generate custom, often agglomerate for comparison, attract trips, require transport of goods/freight and provide opportunities for entertainment/ recreation/ services. It is these features that most impact the success of different centres at different scales. Strategic plans already seek to manage the trade-offs of where retail ('innovative' or otherwise) should occur in clusters or specific locations outside centres.

Emerging retail models are not always beneficial depending on their setting and the extent to which they achieve adopted strategic outcomes for an area. Large Format retailing including home maker centre are attractive to communities and users when they cluster – but they do not have to be in non-centre or non-cluster locations, especially those that work off a showroom model. Ancillary retailing to manufacturing has traditionally been supported even as the types of manufacturing are continually changing, including the re-emergence of artisan manufacturing / production premises. Stock inventories and the demands on warehousing and the supply chain to meet consumer demands for rapid delivery are building pressure on the design and accessibility of our centres as well as the availability of warehousing and production space in the right places. New models of retail occurring via the internet are occurring, however the value of land is also affecting retail models. However, if the spread of retail, due to land value is too wide, then the public interest in achieving place and activation is centres is not being considered as a priority.

The justification in the Discussion Paper has not been made to limit the ability for strategic plans to optimise the beneficial aspects of retail in centres nor restrict out-of-centre retail opportunities where intervention is warranted, especially where other employment land uses require protection from displacement. This is especially significant in regional centres as noted in the Discussion Paper.

DIRECTION 1: BETTER LOCAL STRATEGIC PLANNING FOR RETAIL

PIA supports the thrust of this direction and especially the need to ensure long term place outcomes are able to be achieved through our planning system. PIA also supports that local strategies are updated and adjusted to take account of retail needs. However, PIA assert that the Figure 11 NSW Strategic planning response for retail should be redrafted to substitute 'NSW Retail Strategy' with a broader 'Successful Centres and Retail Strategy' and show this informing (not bypassing) Regional and District Plans. This strategy can be used to inform local strategic planning, and that in turn can assist in informing retail definitions.

PIA looks forward to contributing to proposed guidance / toolkits on planning for retail needs and planning for emerging and renewing centres.

PIA strongly supports progress towards a strategic plan aligned zoning framework that reflects the future narrative and outcomes for a place set out on p27 (also p36). However, this does not assume that the location and character of retail should not be managed to achieve place outcomes in the public interest. **Open zones and the flexibility to not have prohibited uses could contradict the achievement of place outcomes supporting new and existing centres and reduce the availability and productivity of urban services / industrial / employment lands**.

Much of this can only be effective if Local Strategic Planning Statement s (LSPS's) are given more legal status and the SILEP's become, rightfully, implementation tools for LSPS's/

DIRECTION 2: A 'MODERN' APPROACH TO RETAIL DEVELOPMENT THAT REFLECTS A RANGE OF RETAIL FORMATS IN CENTRES

This direction is supported and should provide the context for pro-active strategic planning in favour of new and existing centres as locations for most retail activity.

Careful strategic planning for emerging out of centre clusters is a critical activity (especially in regional NSW) with the potential to impact on other desired outcomes of strategic plans. It should be guided by the spatial outcomes set in the regional strategy or district plan and informed by a 'net community benefit test' (building on the one proposed on p31).

A proliferation of new clusters should be avoided and the functioning of industrial or employment lands should be maintained for an increasingly wide range of urban services, employment and logistics functions. Rather than disperse certain retail activity in industrial zones, specific provision should be made in eg. B5 zones - or using other means available to establish and manage the amenity, access and freight needs of future clusters.

A long-term view should be taken if these clusters are to form the basis of a new mixed-use centre over time. The strategic planning guidance offered on p32 is useful in this regard to ensure that new centres can be well designed and located – as well as the supply and quality of industrial uses being maintained. However, there are recent examples of planning proposals that appear not to be consistent with the guidance criteria for new centres. It would be valuable for the Department to consider the recent East Chatswood supermarket decision as a case study. A new supermarket was allowed in an industrial area without substantial weight being given to the potential for the emergence of a new mixed centre to impact on the supply of highly valued industrial lands in the vicinity.

DIRECTION 3: ADAPTABILITY AND CERTAINTY FOR RETAIL

The proposals for open zones and the avoidance of prohibited retail uses have the potential to work against achieving desired outcomes for places – especially for successful and active centres at a range of scales. These reform proposals would neither achieve 'adaptability' nor 'certainty' and are inconsistent with aspects of Direction 2.

The proposed reforms place retail competition and consumer interests higher than broader public interests in achieving high performing centres. District and local strategic plans should be free to make the best trade-offs and have the planning tools available to achieve them (including prohibitions).

Much of NSW does not yet have the desirable 'strategic planned aligned zoning framework' outlined on p36. **In the absence of a clear narrative in support of outcomes for specific places, our planning system relies on the prudent use and placement of zones and the application of**

permissible and prohibited use definitions to implement strategic planning objectives and achieve value adding planning outcomes. It is therefore considered that this significant change should be delayed until Local Strategic Planning Statements are developed in alignment with District or Regional Plans and when the planning system is further reformed to give these statements stronger effect.

However, importantly, many Councils do have Centres Strategies and LEP provisions which seek to protect Centres (in their broader terms) – a few examples of those councils being: Wollongong City, Coffs Harbour City, Wagga Wagga City and Shoalhaven City.

Removing the ability to control planning outcomes for retail uses using open zones and allowing 'merit based' assessment of planning proposals to enable a prohibited retail uses would open the door for an outbreak of out-of-centre retail proposals. This would not only have a cost in terms of the performance of centres (often with associated environmental and social costs) but would deflect strategic planning resources from more effective strategic planning to establish or update a place narrative and apply the appropriate implementation tools. Further, in some regional centres, where town centres are not functioning well, it may be prudent to consider the open zones to attract more retail uses to attract complementary uses and placed based.

Adaptation in this respect may be dependent on the place, regional or urban, and stage of the cities/centres economic life.

CONCLUSION

At present the proposed SILEP retail definition changes seem to run counter and be pre-emptive relative to Direction One which has rightful emphasis on strategic planning for the future of centres. The definitions should be implementation means for Strategic Plans.

PIA seeks to remain constructively engaged in the process to develop a state-wide policy addressing retail within the context of centres and employment lands policy. **PIA urges the Department to reframe and re-exhibit the policy paper around the role of retail in activating centres in the public interest and benefit. The adoption of any policy implementation measures including SILEP retail re-definitions should follow – not precede this process.**

The significant insights and contributions to retail and centres planning can be offered by our respective memberships, being experienced planning practitioners, local governments in metropolitan and regional NSW, and major retail property investors. PIA wishes to continue to engage positively with the Government on this policy with the objective of continuing to create thriving, vibrant, sustainable and accessible centres in metropolitan and regional areas of NSW. PIA believes that a number of case studies in rural, regional and urban areas will be instructive and 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 Discussion Paper as well as 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

David Broyd
Chair, PIA NSW Policy Committee

CC Aoife Wynter, Alison Burton, Michael Murrell, Cassandra Au

ATTACHMENT A: PIA Feedback on Proposed Retail Definition Amendments to the Standard Instrument LEP

1. 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 then 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.

2. 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.

3. 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.

4. 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.

5. 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.