



REVIEW OF REGULATION IMPACTING SMALL BUSINESS RETAILERS

ISSUES PAPER | JULY 2016

**SMALL
BUSINESS VICTORIA**



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1. MINISTER'S FOREWORD

Victoria is Australia's small business state, with more than 541,000 small businesses making up 97 per cent of the state's entire business sector and nearly half of private sector jobs.

We committed to investigating the red tape that is stopping or hindering our small businesses from thriving – and that's why we need your feedback for this first-of-its-kind review.

This regulation review will give small businesses a voice to help us identify the day-to-day business issues that are affecting them most.

In addition to this review, the Andrews Labor Government has also established a new Small Business Ministerial Council and Multicultural Business Ministerial Council, which are providing Government with direct feedback and advice from the small business community.

Small businesses make up 95 per cent of Victoria's retail sector, with the sector contributing more than \$25 billion to Victoria's economy and over 17 per cent of the jobs in Victoria.

Retail is the state's biggest employer and fourth highest contributor to Victoria's economy and that's why we're putting the focus to this important sector.

Through this review, we will step into your shoes and see the steps you need to negotiate at all levels of government – local, state and commonwealth – to establish and run your business.

We know that your time and resources are precious and we want to provide you with as much of it as possible to help your business thrive.

We want to cut compliance costs and free up your time. We'll achieve this by removing burdensome red tape, by making it easier for you to find out what your obligations are, increasing the efficiency of regulatory services and simplifying approval processes.

Our key priority is to understand from retailers:

- > What's the problem?
- > How does it affect your business?
- > In what area(s) of Victoria does the issue occur?
- > How would you fix the problem – what changes do you suggest?

We need your voice to change this so I encourage everyone working within the retail sector to attend one of the industry roundtable events held across the state in metropolitan and regional Victoria or have your say online at vic.gov.au/smallbizreview

We look forward to making it easier for you to do business.

The Hon Philip Dalidakis MP
Minister for Small Business,
Innovation and Trade

2. SNAPSHOT OF THE REVIEW

The Victorian Government wants to make it easier for small retailers to do business and employ staff. To help achieve this, the Minister for Small Business, Innovation and Trade is leading a review of regulation impacting on small business retailers (the “Retail Review”).

The Retail Review will target small retailers’ problems with regulation – activities like getting your planning permits, getting approval to put up a sign, preparing a food safety plan or complying with workplace safety laws.

Regulation is there for good reason, but there is work to be done to make small retailers’ experience with regulation as seamless as possible to minimise unnecessary costs. Often difficulties are more about clunky processes or differences in approach from one Government agency to the next than the rules themselves. The sheer number of regulatory obligations administered by different agencies add up to a complex system that is difficult for small retailers to understand and comply with.

Over the coming months, the Department of Economic Development, Jobs, Transport and Resources (DEDJTR) will be talking to small businesses in the retail sector to ask their views on problems they have experienced in understanding and complying with their regulatory obligations.

The Victorian Government will identify solutions to the problems that are having the biggest impact on small retailers. Based on input from small businesses, the Victorian Government will develop a package of proposed changes to regulations and the way they are administered. The goal of these reforms will be to save small business retailers time and money and ultimately, create more jobs for Victorians.

The reforms identified by the Retail Review will be published in an Action Statement in mid-2017. Reforms to State and Local Government regulation will then be implemented by the relevant portfolios of the Victorian Government.

“The Victorian Government will identify solutions to the problems that are having the biggest impact on small retailers.”



3. WE WANT TO HEAR YOUR VIEWS

If you run a small retail business we are interested in hearing from you.

We also want to hear from advisors to small business owners for example, industry associations, lawyers, consultants, bookkeepers, accountants, large retail franchises.

Your submission will be published on the Review's website, unless you specify otherwise.

3.1. Options

There are a few options for how you can make sure your voice is heard:

1. Submit your answers to the below questions via email: Smallbiz.Review@ecodev.vic.gov.au or post Small Business Victoria: GPO Box 4509, MELBOURNE VIC 3001.
2. Complete an online survey via the Retail Review's online platform: vic.gov.au/smallbizreview.
3. Attend a roundtable in Melbourne, Traralgon, Shepparton, Bendigo, Ballarat or Geelong – details available on our website.

We may contact some responders to request additional detail. If you are happy for us to contact you, please specify this in your response.

3.2. Questions

1. What's the problem?

Please tell us which regulations or requirements are the issue. What government bodies are responsible?

2. How does it affect your business?

Please tell us in general terms what impacts these regulations or requirements have on your business. For example, do they require extra reporting, cause delays, or prevent you from doing things in your business?

3. In what area(s) of Victoria does the issue occur?

4. How would you fix the problem?

Please tell us what changes you think could be made? How would these changes improve your business?

We are also interested in hearing about your experiences:

- > When you set up your business – how did you find out about regulations and try to make sense of it?
- > When you interacted with a regulator or permitting organisation – what was your experience with your local council, liquor licencing, Worksafe or any other organisation that provides permits or inspects your business?.

If you are able to spend a bit more time we are interested in your responses to these more detailed questions. Please respond to those you consider most relevant to your business.

1. When you started your business

- a. When you first decided to start your business, how did you seek information on your obligations?
- b. How clear was this information?
- c. What permits did your business require from state and local governments?
- d. Was the application process for these clear? Were the timeframes reasonable and accurate?
- e. Were there any unexpected issues obtaining them? (please briefly describe the issue, including how it was resolved and the amount of time this took)
- f. Did you pay for professional advice to assist?
- g. Any further comments on dealings with the local council or Victorian government regulation when starting your business.

2. Running your business

- a. Have you had any problems with regulation relating to the employment of staff? Are there any particular regulatory 'blockers' preventing you from employing staff or keeping them employed?

- 
- b. Have you encountered any regulatory barriers to growing your business or when you 'tried to do something different'?
 - c. Have you had any problems with regulation when buying a business?

3. Retail Leasing

- a. Do you operate your business from a retail premises? If yes, have you experienced any problems:
 - i. With your lease or short-term licence?
 - ii. Establishing whether you are covered by retail leasing protections?
 - iii. Understanding the legal protections that are available to you?

4. Purchasing/selling a business

- a. Have you had any problems with regulation when buying or selling an existing business?

5. We would also like to gather a few basic details about your business

- a. What does your business do?
- b. Where is your business located?
- c. How does your business operate – from a "bricks and mortar" premises; mobile premises (e.g. food truck); on-line; at home; a combination of these?

"We also want to hear from advisors to small business owners for example, industry associations, lawyers, consultants, bookkeepers, accountants, large retail franchises."

4. WHICH AREAS OF REGULATION ARE WE LOOKING AT?

The retail sector is subject to a wide range of regulation.

Figure 1 opposite provides an overview of the regulation that applies to a new small retail business at various stages of its life cycle. Different business types and models will face different types of regulation, and the regulation will also differ if you are buying an existing small business.

While these regulations are intended to fulfil an important purpose, they bear heavily on the costs of doing business in the sector.¹ This makes it important to ensure the regulatory regime avoids creating unnecessary costs on small retail businesses.

The Retail Review will focus on the regulation in green and blue. These are the State and Local regulations that are under the Victorian Government's control. Any significant issues raised with the federal regulations in purple will be progressed through Commonwealth Government processes wherever possible.

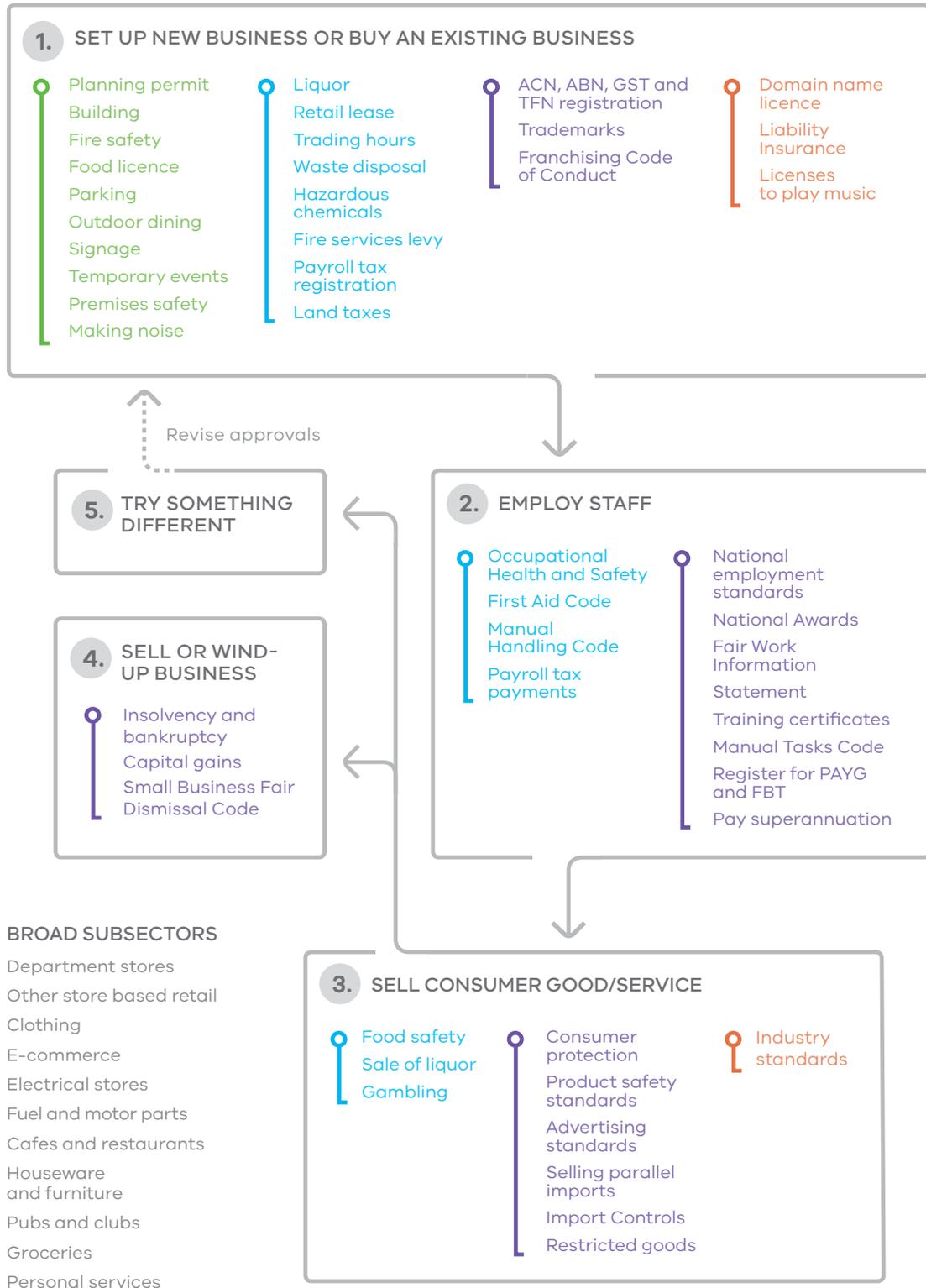
In terms of scope, our core interest is in understanding the experience of retailers (for example, changing use for premises that requires planning and/or building approvals, retail leasing issues, OH&S, payroll tax). We will focus on regulations that are common across small businesses. Unless industry associations and retailers explicitly raise technical regulations pertaining to niche or sub sector activities, we will not be focussing on these.

The Review will also be careful to complement, rather than duplicate, relevant ongoing reviews. Where an issue sits more appropriately within another ongoing process (e.g. liquor licensing), we will refer the issue to that process.

“This makes it important to ensure the regulatory regime avoids creating unnecessary costs on small retail businesses.”

¹ See for example Productivity Commission 2014, Relative Costs of Doing Business in Australia: Retail Trade, Research Report, Canberra.

Figure 1: Overview of the regulation that applies to a new small retail business – this Review will focus on the regulation in green and blue.



LEGEND

- Commonwealth
- State
- Local
- Industry

5. WHY SMALL BUSINESSES?

The reason why the Victorian Government wants to help small businesses is because they have fewer resources at their disposal – be it time, information, money or staff – to deal with regulations.

The costs of regulation are often fixed. The burden this places on a small business can be considerably higher than the burden it places on larger ones. Owner-operators of small businesses often face the same reporting obligations as a large business with dedicated compliance officers.

The time that a small business operator spends fulfilling their regulatory obligations is often time spent away from the public facing side of their business. This puts small businesses at a distinct disadvantage.²

A key aim of this Review is to gain a fuller picture of how Victorian small businesses experience regulation and which compliance activities are the most time consuming and costly for them.

“The costs of regulation are often fixed. The burden this places on a small business can be considerably higher than the burden it places on larger ones.”

2 Numerous studies support the premise that regulatory compliance is relatively more onerous for small businesses. See for example Productivity Commission (2013) *Regulator Engagement with Small Business* at page 73.

6. WHAT DO WE MEAN BY ‘RETAIL’?

This Review will look at any business that sells a product or service to a “final consumer”, i.e. a member of the general public.

This will ensure that we cover all of the businesses in a typical shopping centre or “high street” shopping strip including clothing stores, hardware stores, newsagents, drycleaners, florists, hairdressers, chemists, fuel retailers and tyre stores as well as all types of food retail – cafés, restaurants, takeaway food shops, grocery stores, pubs, clubs and bars.

Traditionally, retailers have operated out of bricks and mortar shops where customers can peruse and buy goods. Services-based retailers can operate from a variety of private or public locations (e.g. personal trainers in parks), and some types of goods retailers are mobile (e.g. food trucks). The growth of online retail sales is encouraging new business models and providing exciting growth opportunities and alternative revenue streams for traditional retailers.

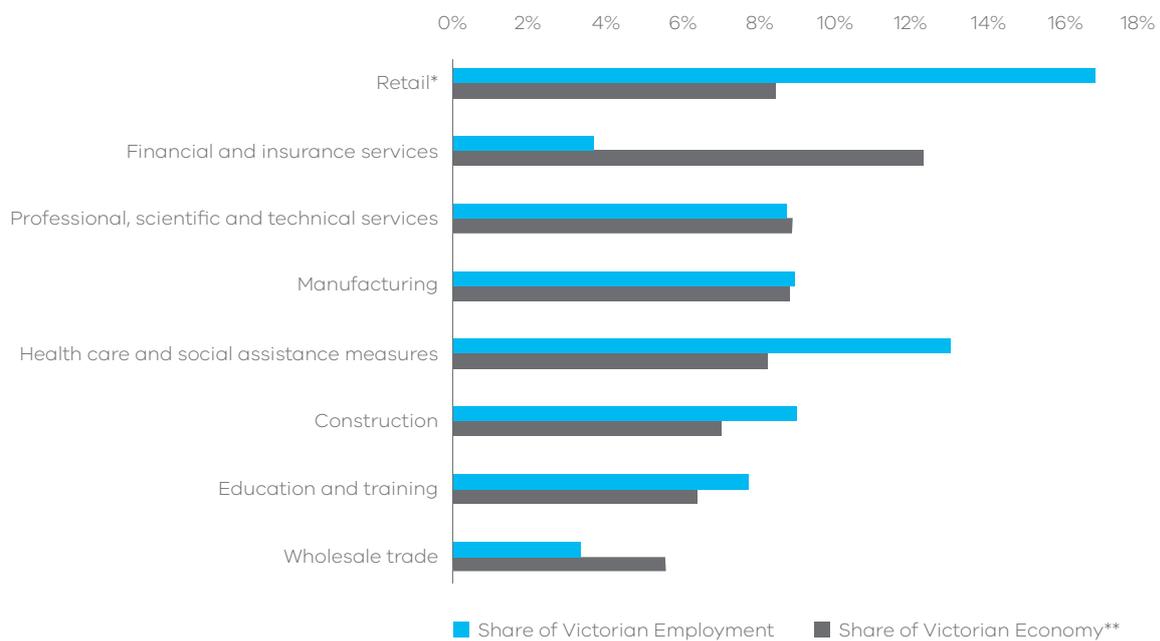
6.1. The retail sector is vital to Victoria’s economy

Retail is a vital part of Victoria’s economy. The sector contributes more than \$25 billion per year to Victoria’s economy and over 17 per cent of jobs in Victoria.³

As shown in *Figure 2* below, this makes retail the highest-contributing industry to Victorian employment and the fourth-highest contributor to Victoria’s economy.

3 As at May 2016, 327,000 were employed in Retail Trade and 189,000 in the Food Services component of Accommodation and Food Services. ABS 6291.0.55.003 Labour Force, Australia, Detailed, Quarterly as at February 2016.

Figure 2: Highest contributing industries – Victoria



Source: Australian Bureau of Statistics (ABS) 5220.0 – State Accounts; Australian Bureau of Statistics (ABS) 5209.0.55.001 – Input-Output Tables; Australian Bureau of Statistics (ABS) 6291.0.55.003- Labour Force (Detailed) Quarterly

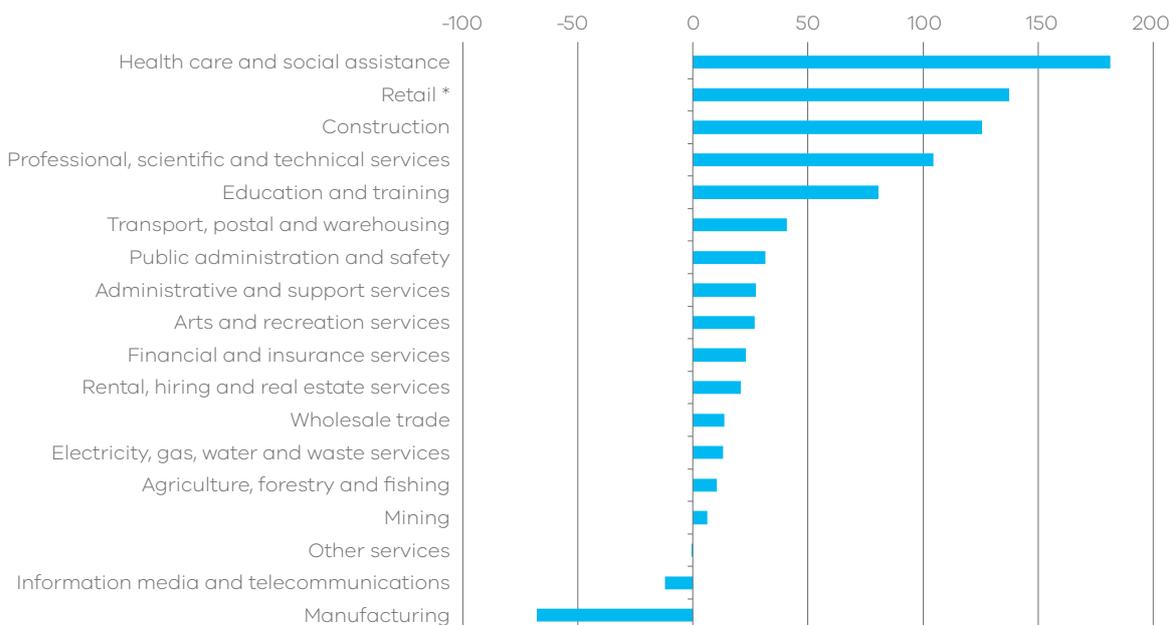
* The retail sector includes the ANZSIC division 'G' (Retail Trade) and the Food and Beverage Services contribution to the ANZSIC Division 'H' (Accommodation and Food Services).

The economic contribution of 'food services' is calculated as 80 per cent of total Gross Value Add from the ABS category 'accommodation & food services'. This figure represents the food services share as at June 2014 (Composition derived from ABS Input-Output table 2013-14).

** Share of the Victorian economy is calculated as the industry percentage share of Total Victorian Gross Value Add excluding dwellings.

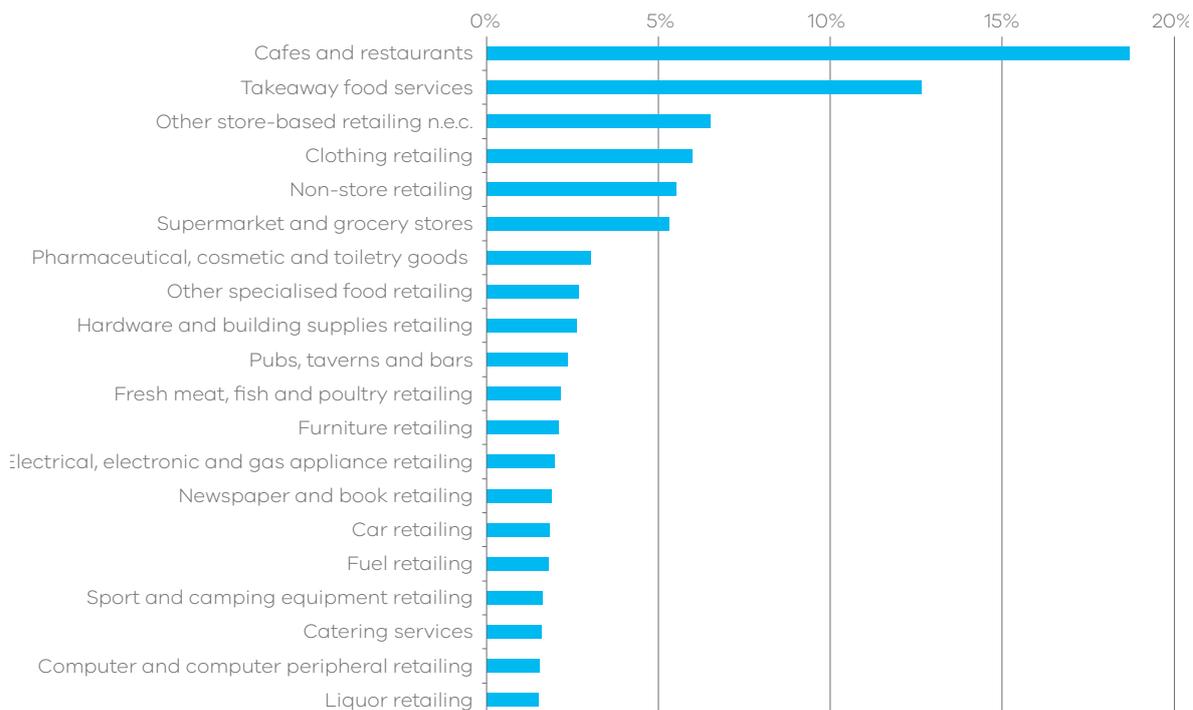
As shown in **Figure 3**, the retail sector has been a significant source of jobs growth in Victoria over the past fifteen years, placing second out of 18 Victorian industries.

Figure 3: Victorian employment growth by industry, past 15 years (2001-2016)



Source: Australian Bureau of Statistics (ABS) 6291.0.55.003- Labour Force (Detailed) Quarterly

Figure 4: Share by sub-industry of small businesses in the retail sector (top 20 contributors)



Source: Australian Bureau of Statistics (ABS) 81650 Counts of Australian Businesses, including Entries and Exits, Jun 2011 to Jun 2015

Retail is a particularly important source of jobs throughout metropolitan and regional Victoria, with large numbers of small businesses clustered around population centres. Retail offers crucial entry-level positions to young and/or inexperienced workers, as well as a rewarding career path for people of all ages, education and experience.

Victoria's retail sector is expected to continue to grow over the coming years, making the sector a strategic priority for Victoria. The Victorian Government is currently developing a broad-ranging strategy for the retail sector, covering medium and large businesses as well as small businesses. Regulatory reform will be a focus of the strategy as a key means of making it easier for retailers to do business, and this Review will build upon any regulatory reform opportunities identified in that strategy.

6.2. The retail sector is dominated by small businesses

The bulk of the retail sector is made up of small businesses: the sector comprises over 53,000 small businesses that account for 95 per cent of the sector.⁴

The majority of small retail businesses employ staff. As shown in *Figure 4*, small business retailers are spread across a range of sub-sectors. Over 30 per cent of small business retailers (about 17,000) are cafés, restaurants or take away food services.⁵

Small business cafés, restaurants and takeaway food services are also notable in terms of growth. In the two year period from June 2013 to June 2015, the number of small business cafes, restaurants and takeaway food services increased by more than 1,200 – an average of 3.9 per cent growth per annum over the two years.⁶

Small business retailers are notable for their ethnic diversity. A significant proportion of small business retailers have a non-English speaking background. This makes it particularly important for Government to provide easy-to-understand information about regulatory requirements in the retail sector.

6.3. The retail sector is reshaping and facing pressure to reduce costs

Past national reviews have highlighted that the sector is evolving rapidly.⁷ It is operating in an increasingly dynamic and globalised environment – one where retailers compete via online platforms across borders and where there is innovative use of short-term retail spaces – e.g. pop-up shops. There has also been an influx of international retail chains and the number of shopping centres is growing significantly.

The National Australia Bank estimates that Australians spent \$19.3 billion on online retail in Australia over the year to March 2016, approximately 23.2 per cent of this from Victoria. This represents a growth rate of 12 per cent nationally and 14 per cent in Victoria on the previous year.⁸ The ABS estimates that over the 12 months to May 2016 nationally over 60 per cent of online sales were driven by 'multi-channel' retailers; businesses that combine an online presence in tandem with a more traditional bricks-and-mortar one.⁹

While these changes are creating exciting opportunities, they have increased the level of competition within the sector – including from overseas. This increases the pressure on retailers to reduce the costs of doing business, and past reviews have highlighted that these costs are unnecessarily inflated by regulation.¹⁰

4 Again, we are taking a narrow definition of retail here – i.e. the businesses defined by the ABS as "retail trade" and "food services".

5 Source: Australian Bureau of Statistics, 81650 Counts of Australian Businesses, including Entries and Exits, Jun 2011 to Jun 2015, released 26 February 2016.

6 Source: Australian Bureau of Statistics, 81650 Counts of Australian Businesses, including Entries and Exits, Jun 2011 to Jun 2015, released 26 February 2016.

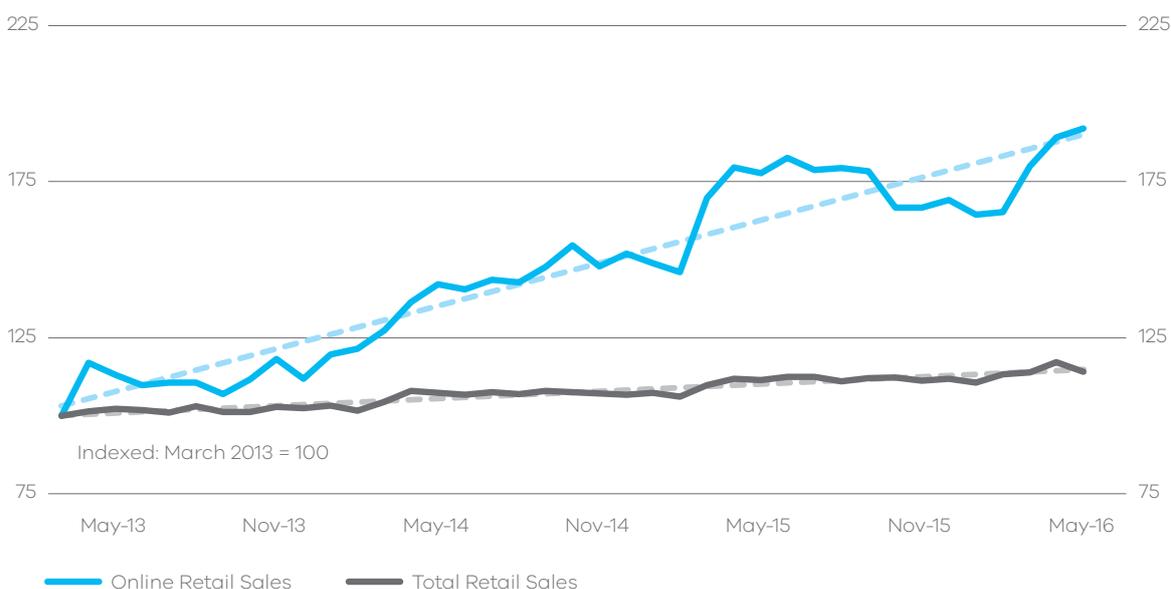
7 Productivity Commission 2011, *Economic Structure and Performance of the Australian Retail Industry*, Report no. 56, Canberra; Productivity Commission 2014, *Relative Costs of Doing Business in Australia: Retail Trade*, Research Report, Canberra.

8 National Australia Bank 2016, *NAB Online Retail Sales Index, in-depth report*, March 2016.

9 Australian Bureau of Statistics, 8501.0 – *Retail Trade – May 2016*, summary publication, July 2016

10 Productivity Commission 2014, *Relative Costs of Doing Business in Australia: Retail Trade*, Research Report, Canberra.

Figure 5: Growth of Online and Total Retail Sales – Australia



Source: Australian Bureau of Statistics (ABS) 8501.0 Retail Trade, May 2016 – Released 5 July 2016

Victoria has already made progress towards addressing these unnecessary costs. A recent national review described Victoria as ahead of other Australian jurisdictions in some regulatory areas – for example, Victoria has very liberal planning rules in terms of the activities allowed without a permit within business zones.¹¹ But much remains to be done.

It is particularly important to address unnecessary costs given retail businesses need to survive on low profit margins.¹² Australia-wide, the retail sector currently has a profit margin of about 5.4 per cent, much lower than the average across all industries of about 11.3 per cent.¹³ And turning a profit is particularly tight for *small businesses* in the retail sector.¹⁴

11 Productivity Commission 2014, *Relative Costs of Doing Business in Australia: Retail Trade*, Research Report, Canberra.

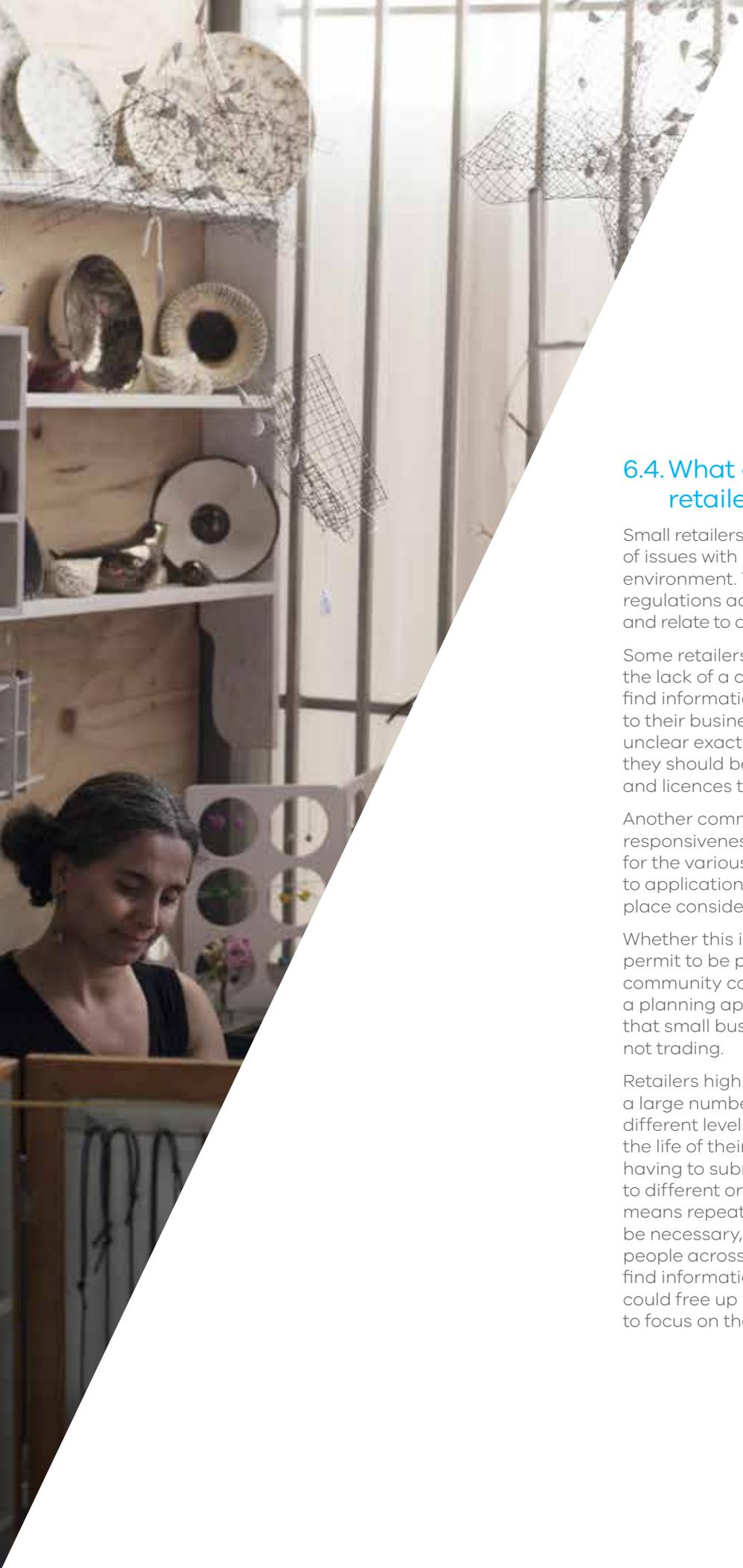
12 Productivity Commission 2011, *Economic Structure and Performance of the Australian Retail Industry*, Report no. 56, Canberra.

13 Average margin of operating profit to total income 2006-07 to 2014-15, Australian Bureau of Statistics, 8155.0 – Australian Industry, 2014-15, Table 2.

14 Productivity Commission 2011, *Economic Structure and Performance of the Australian Retail Industry*, Report no. 56, Canberra. See also Australian Taxation Office, *Taxation statistics 2013-14 Companies: Selected items and financial ratios, by company size, taxable status, profit status and broad industry*.

"A recent national review described Victoria as ahead of other Australian jurisdictions in some regulatory areas but much remains to be done."





6.4. What are small Victorian retailers saying?

Small retailers in Victoria have raised a number of issues with us regarding the current regulatory environment. These issues relate to a number of regulations across different levels of government and relate to different stages in the business cycle.

Some retailers have expressed frustration at the lack of a clarity they experience trying to find information about regulation that relates to their business. They have found it is often unclear exactly what their obligations are, who they should be speaking to, or what permits and licences they might require.

Another commonly raised issue is the responsiveness of regulators. Time spent waiting for the various levels of government to respond to applications for permits and licences can place considerable stress on small businesses.

Whether this is time spent waiting for a building permit to be processed or time spent waiting for community consultation on a planning application, it is a common theme that small businesses suffer when they are not trading.

Retailers highlight that they often must engage a large number of organisations across the different levels of government throughout the life of their business. This often results in having to submit multiple forms or applications to different organisations several times. This means repeating information, where it may not be necessary, or wasting time calling multiple people across different organizations trying to find information. Streamlining these processes could free up much needed time for retailers to focus on the needs of their business.

Other issues that have been raised include understanding award wage rates and other industrial relations regulation, understanding fee and tax changes that relate to their business, and applying to make small changes to existing licenses and permits. Sometimes small changes such as adding live music to a venue can stop businesses from reacting to the changing demands of their markets.

These kinds of issues are highlighted by the case study of *Small Print Pizza* below.

CASE STUDY

Small Print Pizza

Phil Gijssbers owns two small café businesses in the inner suburbs; 'Hard Pressed' in East Melbourne and 'From on High' in Prahran. Each of these businesses employs around 10-15 people and both have strong local followings. It was through discussions with customers in Prahran, that Phil decided there was an opportunity to open a pizza restaurant in the area. He took up the lease on a small, appropriately zoned premises down the road from his café and sought planning approval to operate a restaurant on the site.

His application received a number objections that passed a threshold and required the matter to be decided at a meeting of the Stonnington City Council. After lodging the initial application in April 2015, the motion to approve the permit was passed unanimously by the council and the planning permit was issued at the end of October in 2015. Phil identifies the time required to manoeuvre through council approval processes as a significant barrier for many small businesses to overcome.

"The six months it took to receive planning approval really set us back. In total we spent over a year waiting for permits meaning we weren't able to start building until May 2016. We are now opening next week, but if this were my first business, I doubt I would have made it. There is nothing wrong with the regulation itself and everyone we dealt with from the council was really helpful – it was just the time involved in reaching decisions."

7. WHAT IS THE REVIEW AIMING TO ACHIEVE?

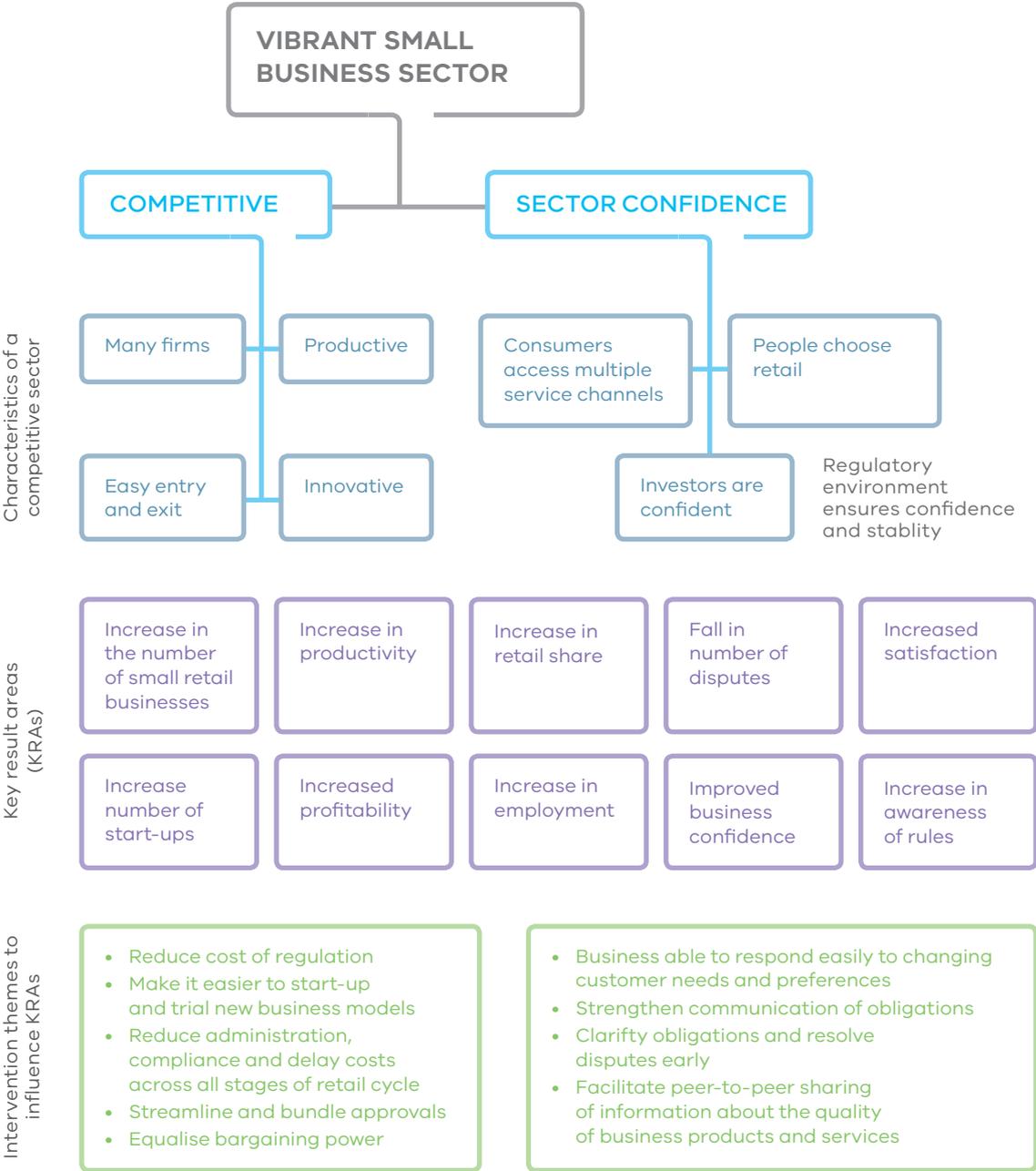
7.1. Our vision

Our vision is to support a vibrant small business retail sector where it is easy for small businesses to start up, operate and grow. Reducing regulatory red tape and removing excessive compliance costs where possible, will help attract new investment into the industry. In addition, by supporting a smarter, streamlined approach to regulation, we can ensure the necessary safeguards are in place, while providing business the confidence and certainty it needs to grow. This approach will support retailers seeking to compete in an increasingly challenging and global marketplace.

As shown in *Figure 5*, the success of the small business retail sector is influenced by a complex range of factors. The Victorian Government has limited control over many of these factors, but it *can* control the way regulation is designed, administered and enforced in Victoria – and a sound regulatory environment helps to ensure confidence and stability in the retail sector.

“Our vision is to support a vibrant small business retail sector where it is easy for small businesses to start up, operate and grow .”

Figure 5: Our vision for the small business retail sector



Our guiding principles

This Review will look for reforms to bring our regulatory environment into line with the following principles:

1. Appropriate rules –
 - > Regulation is imposed only where *necessary* to address a problem e.g. a risk of harm to safety;
 - > Regulation is designed to address the problem *effectively* and *efficiently* e.g. does not impose unnecessary costs on businesses;
 - > Regulation is proportionate e.g. is not overly heavy handed in addressing the problem;
 - > Regulation is no more onerous for small retail businesses than for medium and large retail businesses.
2. Easy to understand – It is easy for small businesses to identify and understand the obligations associated with their retail business.
3. Easy to comply – Regulation is administered and enforced efficiently, consistently and transparently, making it easy for small businesses to comply.





Tell us how red tape is impacting your business

How can you get involved?

To give us your views, you can get involved in any of the following ways:

1. Visit our website at:
vic.gov.au/smallbizreview
2. Write to us at:
smallbiz.review@ecodev.vic.gov.au
3. Attend a roundtable in Melbourne, Traralgon, Shepparton, Bendigo, Ballarat or Geelong – details available on our website.
4. Submit your ideas for reform to the Red Tape Commissioner's Red Tape Rubbish Bin at:
dtf.vic.gov.au/redtaperubbishbin

