LFRA
Large Format Retail Association

Large Format Retail Association
Submission on the Draft Planning and Design Code - Phase 3

27th February 2020

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Contents

1. Introduction

This submission has been prepared by the Large Format Retail Association (LFRA) in response to the consultation on the *'Draft Planning and Design Code – Phase Three (Urban Areas)'*.

We welcome the opportunity to provide input into the *'Draft Planning and Design Code – Phase Three (Urban Areas)'*. The Large Format Retail sector requires strong strategic planning at the local and state level to provide clarity, consistency and certainty for business and communities in relation to development outcomes and to encourage investment and employment opportunities.

The development of the consolidated *'Planning and Design Code'* under the new State-wide planning framework established by the '*Planning Development and Infrastructure Act 2016'*, will assist in providing certainty for business and communities in relation to development outcomes and to encourage investment and employment opportunities provided by the Large Format Retail sector.

2. Large Format Retail Association and Sector Overview

The Large Format Retail Association is Australia's peak body representing the interests of its membership base, being Large Format Retailers, investors, owners, developers and service suppliers. The LFRA's policy agenda strongly encourages investment and employment growth and opportunities. Issues such as urban planning, competition policy and energy underpin our agenda.

Specifically, regarding planning its vision is clarity, consistency and certainty of the various laws and government regulations that relate to the Large Format Retail industry in Australia. The LFRA is a key stakeholder in the planning and zoning laws that affects this sector of the retail industry and is actively involved across Australia in reviews of planning policy and planning regulations; proactively engaging with planning authorities across the nation to promote and achieve greater clarity, consistency and certainty within and across all planning frameworks.

The term *'Large Format Retail'* is now widely used to describe the retail sector formerly known as *'Bulky Goods Retailing'*. This change in terminology is reflected in the renaming of the industry association from the Bulky Goods Retail Association (*'BGRA'*) to the Large Format Retail Association (*'LFRA'*) in 2013.

Demand assessment economists, Deep End Services, estimates the following approximate key industry metrics for both Australia and South Australia for the year ending 30th June 2019:

Key Industry Metrics	Australia	South Australia
Total retail sales	$325.1 billion	$21.3 billion
Large Format Retail percentage of total retail sales	25.2%	24.4%
Large Format Retail sales	$81.8 billion	$5.2 billion
Number of direct employees in Large Format Retail	200,037	12,793
Number of indirect employees in Large Format Retail	248,446	15,889
Total number of employees both directly and indirectly in Large Format Retail	448,484	28,682
Large Format Retail floor space	20.2 million square metres which equates to 35% of all Retail floor space.	1.29 million square metres

Uniquely, the LFRA's membership base includes not only Large Format Retailers, but also investors, owners, developers and services suppliers in the Large Format Retail market. Consequently, the LFRA advocates on behalf of a unified sector.

Retail members of the LFRA include some of Australia's largest and most respected Large Format Retailers including the 60 individual business brands listed in the following table:

ABS Automotive Service Centres	Decathlon	Original Mattress Factory
Adairs	DeRucci	OZ Design Furniture
Adairs Kids	Domayne	Petbarn
Amart Furniture	Early Settler	PETstock
Anaconda	Fantastic Furniture	Pillow Talk
Animates	Freedom	Plush
Autopro	Harvey Norman	Provincial Home Living
Autobarn	House	Rebel
Baby Bunting	IKEA	RoadTech Marine
Barbeques Galore	James Lane	Robins Kitchen
Bay Leather Republic	Jaycar Electronics Group	RSEA
BCF	JB Hi-Fi	Sleepys
Beacon Lighting	JB Hi-Fi Home	Snooze
Beaumont Tiles	Joyce Mayne	SPACE
Bedshed	Kitchen Warehouse	Sprint
Bunnings	Lincraft	Spotlight
Bursons	Macpac	Supercheap Auto
Chemist Warehouse	Midas Auto Service Experts	The Good Guys
City Farmers	Mountain Designs	The Sleeping Giant
Costco	Officeworks	Urban Home Republic

The LFRA is supported by its Patron, PwC, and the following 76 Associate members that comprise of Large Format Retail developers, investors, owners and service suppliers:

ACTON Commercial	CV Media & Signage	Leffler Simes Architects
Acure Asset Management	Deep End Services	Mainbrace Constructions
ADCO Constructions	Deluca Constructions	Major Media
Aigle Royal Properties	DOME Property Group	Morgans Financial Limited
Aisleplus	Earlytrade	MPG Funds Management
Arise Developments	Edge Electrons	Moray & Agnew Lawyers
AsheMorgan	Edgewise Insurance Brokers	National Storage
Arkadia	ERM Power	Newmark Capital Limited
Aventus Group	Ethos Urban	Perth Airport
AXIMA Logistics	Eureka Home Maker Centre	Planning Solutions
AXIOM Properties Limited	Excel Development Group	Primewest
Bayleys	Gazcorp	Properties and Pathways
Blackmont	Gibb Group	QIC
Blueprint	Gibbens Group	Realmark Commercial
BNE Property	Geon Property	Savills
Buchan	Grosvenor Engineering Group	Sentinel Property Group
Burgess Rawson	HLC Constructions	Terrace Tower Group
BWP Trust	Home Consortium	TK Maxx
CBRE	Humich Group	Tomkins
Charter Hall	Investore Limited	Transact Capital
Cherry Energy Solutions	IRetail	Transcend Property
Citinova	Jape Group Australia	Troon Group
Colliers International	KHQ Lawyers	Upstream Energy
Complete Colour	Knapp Property Group	Vend Property
Cornwalls	Leedwell Property	VPG Property
Cushman and Wakefield		

Large Format Retail businesses in South Australia operate from a number of different types of locations:

- Homemaker centres;
- Highway or main-road precincts;
- Shopping centres/activity centres;
- Industrial precincts; and
- Standalone sites.

The LFRA has been a key stakeholder in the review reviews undertaken by the South Australian Minister for Planning including:

- The 2010 review of the definition of *'Retail Showroom'* and replacement with '*Bulky Goods Retail Outlet'* in the Development Regulation 2008;

- The 2010 State-wide Bulky Goods DPA (Ministerial) which:
  - Changed the term *'Retail Showroom'* to *'Bulky Goods Outlet'*

- Updated policies under the General heading *'Centres and Retail Development'* to reflect *'Version 5'* of the State's *'Planning Policy Library'*, which:
  a. Reflected the new definitions and adopts the term *'Bulky Goods Outlet';* and
  b. Introduced a new *'Principle of Development Control'* that promotes large plate *'Bulky Goods Outlets'* (>500 square metres) on the periphery of centres while allowing small plate *'Bulky Goods Outlets'* within the core retail area.

- Updated provisions to reflect the definition changes and adapt the policy to move away from describing what is meant by *'Bulky Goods'* (that is the role of *'Schedule 1'* of the '*Development Regulations 2008'*) to identifying what the *'envisaged uses'* are in the zone/policy area;

- Updated non-complying and public notification lists to reflect the new terminology while maintaining the original policy intent and procedural requirements

- Made minor policy changes (including to car parking tables where required) to ensure the original policy intent or standards have not changed as a result of the new definitions; and

▪ The 2015 Existing Activity Centres Policy Review is supported by the following reports/reviews:
  - Productivity Commission's 2017 *'Shifting the Dial: 5 Year Productivity Review';*
  - New South Wales Retail Expert Advisory Committee's (REAC) *'Independent Recommendations Report*' 2017;
  - Federal Government's 2015 *'Competition Policy Review'* otherwise known as the '*Harper Review';*
  - *'Cutting Red Tape'* regulatory reform agenda being undertaken by the Federal Government;
  - Productivity Commission's 2011 inquiry into the '*Economic Structure and Performance of the Australian Retail Industry';*
  - Productivity Commission's 2010 '*Performance Benchmarking of Australian Business: Planning, Zoning and Development Assessments';*
  - Productivity Commission's 2007 review into the '*Market for Retail Tenancy Leases in Australia'; and*

- ACCC's 2008 '*Inquiry into the Competitiveness of Retail Prices for Standard Groceries*'

Particularly of note is *'section 8.4'* in the Productivity Commission's report on the *'Economic Structure and Performance of the Australian Retail Industry'* which we wish to draw to your attention:

"…Prescriptive Local Planning Restrictions on Retailers

To meet evolving product market requirements, store formats must also be allowed to adapt. Restrictions on store formats impact on a retailer's ability to adapt to new competition and changing consumer preferences within the market.

The Commission's recent benchmarking report identifies that even where businesses are allowed to operate in a particular locality — because their business model is consistent with the overarching activity centre policy or zone description — they then face a raft of local planning restrictions. This regulatory overlap arises because the legal framework for zones is at the state and territory level, but the detailed specification of zones is at the local level.

It is recognised that at times restrictions on competition may be required to achieve the objectives of the planning system, such as public amenity or equitable access to facilities and services. This is because commercial businesses are usually focused on the private costs and benefits of a development or planning proposal and may not necessarily consider the public environmental, social or economic costs and benefits associated with their decisions. Consistent with this rationale for government intervention, Stockland suggests:

… local governments should focus on those issues with external impact (either on the community or sites) such as traffic, servicing, noise, overshadowing where such issues impact public space or adjoining site amenity. (sub. DR203, p. 3)

Nonetheless, there are large numbers of prescriptive requirements which can be found in approved council plans in some or all jurisdictions which appear to unjustifiably or needlessly restrict competition, including:

- *restrictions on business type (defined retail categories) allowed in particular zones in some council plans in New South Wales, Victoria and Western Australia*
- *site-specific restrictions on type and size of businesses allowed*
- *restrictions on business numbers (maximum) for different activities*
- *restrictions on business size via use of floor space minimums and/or caps in all states and territories, but particularly in the ACT and some councils in Victoria and South Australia*

- *restrictions on business location (zones for individual retailer types)*
- *restrictions on business mix (floor space ratios)*
- *detailed specifications on aspects such as the internal fit-out of developments, landscaping, advertising signage, and the minimum provision of vehicle and bicycle parking (PC 2011b).*

Many of these local restrictions limit business expansion opportunities and capacity to compete. At worst, they may even discourage or prevent some businesses from entering the market in the first place. For example, restricting competition by placing limits on the number of a type of business that can establish in a particular geographic area or activity centre can have a number of adverse consequences. Protected from localised competitive pressure, incumbent businesses have greater incentive and more opportunity to charge higher prices and/or offer a lower quality…"

The full report *'Economic Structure and Performance of the Australian Retail Industry'* can be accessed via the following link:
http://www.pc.gov.au/inquiries/completed/retail-industry/report

The most recent 2015 review of *'Activity Centre Policy'* sought to respond broadly to the recommendations at the Australia-wide level acknowledge a need to establish land use zoning and practices that are more conducive to business activity by broadening zoning, reduce prescription, simplify planning requirements, facilitating more *'as of right'* development and to address third party appeal processes.

Two Ministerial DPA's were initiated the first sought to review land use rules affecting development in activity centres and shopping activity more generally. The second which, unfortunately, never eventuated was to focus on expanding opportunities for existing and new businesses outside of established activity centres.

The LFRA has advocated for, and maintains its position that planning and zoning laws within South Australia need to provide clarity, consistency and certainty to allow retailers to meet current and future challenges.

3. Challenges Facing the Large Format Retail Sector

Principally, the sector has traditionally suffered from a lack of sufficient appropriately zoned, sized and configured land to support new development.

It is recognised that the State-wide Bulky Goods Ministerial DPA in 2010 sought to address this issue, however, as recognised in *'State Planning Policy 9: Employment Lands'* it is essential to ensure that there is the provision of land to accommodate Large Format Retail outlets.

The LFRA recognises that there have been changes in the operations and requirements of Large Format Retail that should be considered in the *'Planning and Design Code'* policies; they include:

- There have been changes in store sizes among retailers. Large Format Retailers now occupy a variety of floor areas, and models;
- The past trend of redeveloping industrial land in inner suburban locations for retail development is unlikely to occur to such an extent in the future; this has been noted in the strategy as a key issue for industrial land; and
- There has been a substantial increase in the popularity of the *'click and collect'* operation models for enhancing retail experiences, as seen in Australia and overseas. This innovation demonstrates the need to maintain flexibility in the planning and design framework to enable operators to respond to rapidly changing consumer habits.

In order to succeed, a retailers' primary focus is to deliver a seamless retail experience to the customer. The retail sector, like many markets, is facing incredible disruption and change. Technology, in many forms, has been a significant part of the disruption, but at the same time it is a massive enabler. Retail must continue to innovate, adapt, and remain connected to the most important person; its' customer.

There is absolutely no doubt that the physical retail store remains as important as ever. The online component of the retail experience often provides a great selling tool, information and education to customers, as well as a purchasing function. Online sales do not detract from the need for Large Format Retail stores, instead an online capability is part of a holistic retail offer. A great example of the seamless retail offer is the exponential growth of *'click and collect'*, where customers can order the product of choice online and come into the retail store to collect it.

Whilst some Large Format Retailers are developing showrooms on former industrial sites, and are evolving with a greater focus on the mix of different types of retailers within homemaker centres that can combine elements from the main street, Large Format Retail bricks and mortar stores is the core component of a holistic retail offer.

The supporting components of the retail offer such as online is not a sign that the provision of the traditional type of Large Format Retail stores is not required. Indeed, online sales within this sector are not as successful without the provision of stores that can display a retailers' full range, where people can view items before they buy online. The physical in-store experience of retail is a fundamental necessity.

The LFRA, in conjunction with Deep End Services, has recently produced the latest and 11th annual edition of the Large Format Retail Directory – Australia and New Zealand.

Data from the Directories show that Large Format Retail vacancy rates have largely declined over this period as shown in the following table:

LARGE FORMAT RETAIL DIRECTORY	
Year of Publication	Vacancy Rate
2012/13	7.9%
2013/14	5.1%
2014/15	4.6%
2015/16	4.3%
2016/17	3.7%
2017/18	3.6%
2018/19	5.0%
2019/20	6.2%

This further demonstrates that there are deficiencies in the supply of land for new Large Format Retail developments and therefore a need for Government to consider:

- How to identify existing Large Format Retail centres and where their place is within the hierarchy of retail centres; and
- How to proactively plan to meet the significant demand for additional Large Format Retail floorspace.

4. Review of Draft Planning and Design Code – Phase Three (Urban Areas)

The LFRA welcomes the release of the draft '*Planning and Design Code'* with the view that the consolidated planning policies will provide a strong planning framework that will provide certainty for business and communities in relation to development outcomes and to encourage investment and employment opportunities.

The position of the LFRA in response to the draft *'Planning and Design Code'* directions are as follows:

- We support the retention of the existing definition for *'Bulky Good Outlet'* and acknowledge that the definition of *'Shop'* includes *'Bulky Goods Outlet'*;
- We support the suite of Zones in the *'Planning and Design Code'*, transitioned from the existing *'Council Development Plans'* that contemplate the development *'Bulky Goods Outlets'* specifically:
    - Employment Zone;
    - Suburban Activity Centre;
    - Suburban Business and Innovation Zone;
    - Suburban Employment Zone;
    - Suburban Main Street Zone;

- Township Main Street Zone;
- Township Activity Centre Zone;
- Urban Activity Centre Zone; and
- Urban Renewal Neighbourhood Zone

- Generally, we support the inclusion of Large Format Retail Centres within the *'Employment Zone'* or *'Suburban Employment Zone'* however caution the Government on the need for consistency in the application of policy noting that:

  - The Mile End Large Format Retail Centre has been transitioned to *'Suburban Employment Zone'*;
  - The Gepps Cross Large Format Retail Centre has been transitioned to *'Employment Zone'*;
  - The Gawler Large Format Retail Centre has been transitioned to *'Suburban Activity Centre Zone'*;
  - The Mount Barker Large Format Retail Centre has been transitioned to *'Suburban Employment Zone'*.

  Accordingly, we recommend that size of the Large Format Retail Centre should correlate with the zone selected, with the centre identified above providing regional level service transition consistently to *'Employment Zone'*.

- We express a concern that the *'Suburban Business and Innovation Zone'* incorporates a floor space trigger which would result in a *'Bulky Goods Outlet'* being processed under a *'Restricted Development'* assessment pathway if it exceeds 1,000 square metres.

  Given the inherent nature of *'Bulky Goods Outlets'* and the fact that land uses including *'Service Trade Premises'* are contemplated land uses within the zone (without floor space restrictions) we recommend that *'Table 4'* be amended to include *'Bulky Goods Outlet'* as an exclusion to the listing of *'Shop'* as a class of development that is classified as *'restricted'* in the zone.

  Furthermore, we recommend that *'Bulky Goods Outlet'* be specifically listed as a land use under *'DTS/DPF 1.1'* in the *'Suburban Business and Innovation Zone'* and that *'PO1.2'* for the zone be amended to incorporate the wording *"…Shops, other than Bulky Goods Outlets…"* as a replacement for the term *"…Retail…"*, to provide for consistent policy transition.

- In terms of the application of *'Procedural Matters – Notification'*, it is recommended that where *'Bulky Goods Outlets'* are a contemplated land use, they should be excluded from notification.

  Accordingly, in our review of the code we recommend that the words *"…Bulky Goods Outlet…"* be removed from the *'Procedural Matters – Notification'* in the following zones:

- ‘Employment Zone’;

- Clarify the extent of uses that will be subject to notification in the *‘Suburban Employment Zone’* noting that there are no uses currently listed and appear to be an anomaly in the drafting of this section; and

- Add the words *“…other than bulky goods outlets…”* after the word shop in the *‘Procedural Matters – Notification’* section of the *‘Suburban Business and Innovation Zone*’.

With Large Format Retail contributing to approximately 35% of retail floorspace in Australia, it is an important distinction and priority to include Large Format Retail as a specific focus. To ensure that the ‘*Planning and Design Code’* maintains a diversity in retail and to ensure that the productive planning priorities of the *‘State Planning Policy 9: Employment Lands’* can be achieved, there must be a strong understanding of the factors that contribute to this sector, including Large Format Retail.

The *‘Planning and Design Code’* is informed by the *‘State Planning Policy 9: Employment Lands’.* The policy specifically identifies Large Format Retail as an opportunity in the changing structure of retailing and requires a range of different formats and methods of distribution of goods and services. It also recognises the need to provide land to accommodate Large Format Retail outlets and the revitalisation of main streets and mixed-use precincts.

As the key representative for the Large Format Retail sector, the LFRA welcomes any opportunity to collaborate with the Government in the continuing development of the ‘*Planning and Design Code’*.

Please contact the LFRA’s Chief Executive Officer, Philippa Kelly on [redacted] or [redacted] should you wish to discuss any aspect of this submission.