

2 June 2023

Anthony Kannis
Director General
Department of Planning, Lands and Heritage
140 William Street,
PERTH WA 6000

Via email: planningreform@dplh.wa.gov.au

Dear Mr Kannis

Consistent Local Planning Schemes: Consultation

The Chamber of Commerce and Industry Western Australia (CCIWA) is the peak body advancing trade and commerce in Western Australia. We are fundamentally committed to using our insights to develop and advocate for public policies that will help realise our vision to make WA the best place to live and do business.

Thank you for the opportunity to provide comment on these planning reforms. We support the government's ongoing commitment to achieve a contemporary planning system, including by making local planning schemes more "consistent and legible" across WA.

Notwithstanding the importance of the other areas covered by this reform, our submission focuses on the proposed modification to the 'Bulky Goods Showroom' definition and outlines the major concerns regarding this proposal.

The current 'Bulky Goods Showroom' definition is clear and legible

The 'Bulky Goods Showroom' is currently defined in *Planning and Development (Local Planning Schemes) Regulations 2015* as:

Premises –

- (a) *Used to sell by retail any of the goods and accessories of the following types that are principally used for domestic purposes –*
- i. Automotive parts and accessories;*
 - ii. Camping, outdoor and recreation goods;*
 - iii. Electric light fittings*
 - iv. Animal supplies including equestrian and pet goods;*
 - v. Floor and window coverings;*
 - vi. Furniture, bedding, furnishings, fabrics, manchester and homewards;*
 - vii. Household appliances, electrical goods and home entertainment goods;*
 - viii. Party supplies;*
 - ix. Office equipment and supplies;*
 - x. Babies' and children's goods, including play equipment and accessories;*
 - xi. Sporting, cycling, leisure, fitness goods and accessories;*
 - xii. Swimming pools;*



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Or

(b) *Used to sell by retail goods and accessories by retail if –*

- i. *A large area is required for the handling, display or storage of the goods; or*
- ii. *Vehicular access is required to the premises for the purpose of collection of purchased goods.*

This definition is consistent with Victoria, which is considered best-practice, by the way it clearly defines retail categories as ‘bulky goods’. Further to this, we understand the current definition is widely supported, noting it is both clear and legible, and provides consistency in its interpretation and application, by the nature of including unambiguous retail categories. This, after all, was the original intent of this definition – to remove all scope for (re)interpretation of what product categories constitute ‘bulky goods’, and reduce the potential for inconsistency across local planning schemes.

The new definition has the potential to create more uncertainty and inconsistency

As part of these planning reforms, it is proposed that the existing definition of ‘Bulky Goods Showroom’ as noted above should be amended to read:

Bulky Goods Showroom means a premises used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) goods whereby the majority of goods are of such size, shape, weight or quantity as to require:

- a) *A large area for handling, display or storage; or*
- b) *Direct vehicular access to the site of the building or place by members of the public, for the purpose of loading and unloading the items into their vehicle after purchase or hire.*

But does not include the sale of foodstuffs, alcohol, medicines, footwear or clothing unless their sale is ancillary to the sale of bulky goods.

Our member feedback suggests that this new definition, which is closely aligned with New South Wales, is inherently ambiguous in nature. It also appears to undermine attempts for WA’s planning system to be legible and consistent, as it would create significant uncertainty and confusion for retailers, particularly large format retailers.

Critically, the feedback we’ve received suggests that this proposed definition could see long-standing large format retailers which have consistently been categorised as a ‘Bulky Goods Showroom’ be classified as a ‘shop’ instead, which would prohibit them from locating in certain zones. This uncertainty could have significant consequences on the current and future operations of many large format retail stores across WA. This would not only be disruptive to operations and customers, but it would also come at a considerable cost to existing retailers.

Further to this, the addition of a ‘majority’ test, which requires ‘bulky goods’ to constitute the majority of goods sold within the store, would also add regulatory complexity – in addition to potential disputes over statutory interpretations.

These concerns about the new definition speak directly to the efficiency of the planning system and the overall aims and objectives of the reform, and could yield potentially negative and unintended consequences, such that retailers choose to establish or expand their stores elsewhere.

One of our big box retailers reinforced these concerns, stating that:

"[The proposed definition] could not only impact on our existing network of stores in WA, but also on future growth opportunities."

"The New South Wales approach makes planning a nightmare."

Concluding remarks

As we understand it, one of the aims of these planning reforms is to eliminate prescriptive elements from land use planning definitions to avoid locally specific interpretations of the definitions under future local planning schemes. Yet, we suggest, that by amending the existing definition in this way - to include less prescription and more ambiguity - would be contrary to what these reforms are seeking to achieve, and inadvertently, create greater inconsistency across local planning schemes.

Given there is considerable industry support for the existing definition, we suggest the government looks at avenues to enhance the existing definition to meet its objectives, rather than completely change the existing basis and interpretation.

Once again, thank you for the opportunity to provide comment on these proposed planning reforms.

Yours sincerely,

A handwritten signature in black ink, appearing to be 'CR', with a horizontal line extending from the end of the signature.

Chris Rodwell
Chief Executive Officer