

Submission
No 32

INQUIRY INTO NEW SOUTH WALES PLANNING FRAMEWORK

Organisation: Bulky Goods Retailers Association
Name: Ms Phillipa Kelly
Position: Executive Director
Telephone: (03) 9859 0534
Date received: 12/02/2009

12 February 2009

The Director
Standing Committee on State Development
Legislative Council
Parliament House
Macquarie Street,
Sydney NSW 2000

Dear Sir/Madam,

Inquiry into the NSW Planning Framework

Please find attached our submission to the Inquiry into the NSW Planning Framework.

We attach 3 hard copies of our submission and we confirm we have emailed an electronic copy to statedevelopment@parliament.nsw.gov.au

We welcome the opportunity to contribute to the NSW Government inquiry into the NSW Planning Framework.

The BGRA welcomes further consultation with the State Government in relation to this inquiry and would be pleased to discuss any issues raised in further detail.

Yours faithfully,



Philippa Kelly
Executive Director

President: Ian Robinson
ianr@beaconlighting.com.au

Executive Director: Philippa Kelly
pkelly@bgra.com.au

Patron:
PRICEWATERHOUSECOOPERS



**SUBMISSION TO THE INQUIRY INTO THE NSW
PLANNING FRAMEWORK**

Bulky Goods Retailers Association (BGRA)
February 2009

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1.0 Executive Summary

The Bulky Goods Retailers Association Limited (BGRA) is the national peak industry association whose primary focus is on issues relating to appropriate planning and responsible development of bulky goods retailing outlets.

Retail members of the BGRA consists of some of Australia's largest and most respected bulky goods retailers including Harvey Norman, Bunnings, Ikea, Forty Winks, Snooze, Mitre 10, Spotlight, Beacon Lighting, The Good Guys, Bedshed, Beaumont Tiles, Autobarn, Fantastic Furniture, Super Cheap Auto, Freedom, Bay Leather Republic, Anaconda, BCF, Plush, OZ Design Furniture, Barbeques Galore, Clive Peeters, The Outdoor Furniture Specialists, Kleenmaid, JB Hi-Fi, Domayne, Super A-Mart, and Repco.

The BGRA also has a large number of associate members, many of whom are significant developers, owners, service suppliers and agents of bulky goods developments across Australia.

Deep End Services estimates bulky goods sales for the financial year ending 30th June 2008 were **\$55.2 billion** nationally and **21.5%** of all retail sales. Further Economic research by Deep End Services estimates that bulky good retailers nationally employ approximately **170,000** people directly and a further **211,000** people indirectly.

Specifically in New South Wales, Deep End Services estimates that bulky goods sales for the financial year ending 30th June 2008 were **\$16.7 billion**. Deep End Services estimates that bulky goods retailers employ approximately **51,000** people directly, and a further **64,000** people indirectly.

The BGRA is a key stakeholder in planning and zoning laws that regulate this market sector. Consequently, we are actively involved across Australia in numerous reviews of planning policy and planning regulations that affect our industry. In our numerous submissions to State Governments in the past few years we have formed a policy position on key aspects of planning regulations that we believe require review. These key areas include;

Landuse Definitions -

The BGRA strongly advocates there is a need to standardise planning laws and specifically - land use definitions, across Australia to provide certainty to our industry and remove the current complications that directly result in increased time and cost to businesses and ultimately consumers.

Centres Policy -

The objectives of Centres Policy should recognise that land located within Centres is a finite resource, and should be prioritised for highest priority uses that are essential to provide a vibrant Centre in its own right. Planning policy that seeks to restrict development of Bulky Goods Retailing in Out-of-Centre locations is not sustainable. Bulky Goods Retailing is an existing lawful and legitimate use on major corridors and major road network locations and new Planning Policy should maintain this position.

Competition Policy -

The BGRA advocate that planning policy needs to facilitate increase in the supply of retail floor space by way of new planning and land zoning policy that encourages and facilitates development; as opposed to regulating and constraining it.

The BGRA believe there is a need for further development of planning legislation in NSW and this inquiry provides the opportunity to improve the NSW Planning Framework and to cater for the projected future growth.

In relation to improving the current Planning Framework, we are concerned that Bulky Goods Retailing is not adequately recognised as a legitimate form of retailing and is not sufficiently catered for in the current NSW Metropolitan Strategy. We are also concerned that Bulky Goods Retailing is not adequately addressed in the Standard LEP Template. The Standard LEP Template includes seven key commercial orientated zones ranging from Local Centres through to Mixed Use and Enterprise Corridors. None of the seven zones include a standard objective referring to the zone being an appropriate area to include bulky goods premises. The BGRA strongly advocate that amendments are required to the Standard LEP Template to address the requirements of Bulky Goods Retailing.

In relation to planning for future growth, the BGRA is particularly interested in the draft NSW Centres Policy that considers a growth scenario of an additional 4.3 million square metres of retail floorspace potential required by 2031. The BGRA is a key Stakeholder in this project initiated by the NSW Department of Planning, and considers it to be vital in the planning for future development in the retail sector in New South Wales. The BGRA strongly support the premise of 'positive planning' contained in the Draft Centres Policy in that; the market is best placed to determine the need for retail facilities and the key role of the planning system is in helping to deliver capacity for the appropriate location and scale of development to meet consumer demand. The BGRA strongly supports the need for the Centres Policy to be implemented by way of a State Environmental Planning Policy (SEPP) to replace the current Draft SEPP 66 – Integration of Land Use and Transport. The BGRA also encourages the State Government to undertake a review of Industrial land use policy due to the decline in the manufacturing sector of the Australian economy. The BGRA believe there are opportunities, particularly in inner metropolitan areas, to increase the supply of land for retail and bulky goods retail floor space to meet the forecast demand.

In this submission we have prepared a detailed response to each of the Terms of Reference for this inquiry. In preparing this submission we have reviewed the Discussion Paper issued on 17 November 2008 and structured our response to the key questions raised under each of the Terms of Reference.

The BGRA has made a number of recommendations in this submission for consideration by the Legislative Council's Standing Committee for State Development.

The BGRA welcomes this opportunity to contribute to the NSW Government inquiry into the NSW Planning Framework.

The BGRA welcomes further consultation with the State Government in relation to this inquiry and would be pleased to discuss any issues raised in further detail.

2.0 Summary of Key Recommendations

Recommendation 1

State government should recognise bulky goods retailing as a legitimate form of retailing in the context of planning for urban areas. This particular form of retailing should be specifically addressed and acknowledged in the draft Centres Policy initiated by the NSW Government. In addition, bulky goods retailing should be acknowledged more widely in the Metropolitan Strategy, which does not presently acknowledge the important contribution of the bulky goods sector in the NSW economy.

Recommendation 2

The Standard LEP Template should be amended to specifically include bulky goods retailing premises as 'permitted with consent' uses in the land use tables for the following zones:

- Zone B2 Local Centre
- Zone B3 Commercial Core
- Zone B4 Mixed Use
- Zone B5 Business Development
- Zone B6 Enterprise Corridor
- Zone IN1 General Industry
- Zone IN2 Light Industry

Recommendation 3

The BGRA encourage the State Government to undertake a review of Industrial land use policy to identify opportunities to increase the supply of floor space for retail and bulky goods retailing to meet the forecast demand.

Recommendation 4

Detailed and comprehensive advice and guidelines should be prepared and provided to councils and developers in response to the planning and design issues associated with this form of development. The emerging draft Centres Policy is the appropriate vehicle for providing these guidelines, supplemented by a Ministerial Direction or SEPP to ensure that Councils have regard to the policy. The Centres Policy should replace the current Draft SEPP 66 – Integration of Land Use and Transport.

The guidelines should address a range of issues including:

- Locational requirements for bulky goods premises including:
 - Requirement to be located on major roads
 - Requirement for large sites
 - Ability for similar uses to agglomerate to act as a 'destination' centre
 - Access to regional population catchments
 - Access to local employment catchments
- Site design and planning requirements including:
 - On-site car parking requirements
 - On-site vehicle movement (especially large delivery vehicles) requirements
 - Impacts on adjoining land uses
 - Design outcomes for buildings consistent with their use

Recommendation 5

The concept of Net Community Benefit should be incorporated into the assessment process for bulky goods retailing proposals. The guiding principle of net community benefit embraces issues of environment and amenity, equitable access, sustainability and neighbourhood amenity and should include an assessment of a range of attributes.

Recommendation 6

The current suite of landuse definitions for the various categories of retailing in the NSW Planning Framework should be reviewed with a view to improving national consistency. In relation to the NSW definition of "Bulky Goods Premises" national consistency would be improved if a list of products were added to the definition contained within the Standard LEP template. The proposed list of products should be based on those contained in the BGRA constitution and other States' definitions. This should form a 'deemed to comply' list of products in addition to the current performance based definition of 'bulky goods'. This 'deemed to comply' list could also be included in the NSW Commercial Building Code, and would reduce the unnecessary duplication of having to lodge a DA for 'first use' for tenancies when an overall building approval already exists.

Recommendation 7

The BGRA strongly support the premise of 'positive planning' in that the market is best placed to determine the need for retail facilities and the key role of the planning system is in helping to deliver capacity for the appropriate location and scale of development to meet consumer demand. The BGRA advocate that competition analysis should be positively recognised within planning policy rather than the current negative emphasis on the requirement to justify competitive impacts less than a benchmark threshold. The requirement for Councils to prepare and monitor proposed Floorspace Supply and Demand Assessment (FSDA) in the draft Centres Policy is welcomed as a proactive planning measure which would emphasise 'supply' issues as an important consideration in addition to 'impact' on existing centres.

Recommendation 8

Airport land provides the opportunity to increase the supply of retail floor space to cater for the increasing population and demand for retail goods and services. Airport land is ideally suited to the development of Bulky Goods retailing as it caters for the locational criteria sought by Bulky Goods retailers. The BGRA would support increased control of development on airport land by State and Local Government to increase consistency with the planning controls and processes for equivalent private land.

Recommendation 9

The State Government could provide further guidance to Local Councils in the degree of detail required and the level of assessment required for development applications. The emerging draft Centres Policy is the appropriate vehicle to explore these measures, however it is essential that this document gives due weight to the Bulky Goods sector.

3.0 Bulky Good Retailers Association (BGRA) Overview

The Bulky Goods Retailers Association Limited (BGRA) is the national peak industry association whose primary focus is on issues relating to appropriate planning and responsible development of bulky goods retailing outlets.

Deep End Services estimates bulky goods sales for the financial year ending 30th June 2008 were \$55.2 billion nationally and 21.5% of all retail sales. Further Economic research by Deep End Services estimates that bulky good retailers nationally employ approximately 170,000 people directly and a further 211,000 people indirectly.

Retail members of the BGRA consists of some of Australia's largest and most respected bulky goods retailers including Harvey Norman, Bunnings, Ikea, Forty Winks, Snooze, Mitre 10, Spotlight, Beacon Lighting, The Good Guys, Bedshed, Beaumont Tiles, Autobarn, Fantastic Furniture, Super Cheap Auto, Freedom, Bay Leather Republic, Anaconda, BCF, Plush, OZ Design Furniture, Barbeques Galore, Clive Peeters, The Outdoor Furniture Specialists, Kleenmaid, JB Hi-Fi, Domayne, Super A-Mart, and Repco.

The BGRA also has a large number of associate members, many of whom are significant developers, owners, service suppliers and agents of bulky goods developments across Australia including Charter Hall Group, Valad Property Group, Mirvac, Axiom Property Limited, Primewest Management, Linc Property, McMullin Group, Ticor, BB Retail Capital, Northern Territory Airport, Deacons, Blueprint Group Australia, The Buchan Group, Major Media, CB Richard Ellis, Colliers International, Silverton, Century Funds Management and The Belgrave Group of Companies.

Our representation is extremely diverse. The BGRA clearly represent the interests of large national bulky goods retailers, but we also represent the interests of small retailers as many of our members have franchised businesses.

The BGRA is a key stakeholder in planning and zoning laws that regulate this market sector. Consequently, we are actively involved across Australia in numerous reviews of planning policy and planning regulations that affect our industry.

We are a keen observer of the recent findings of the Productivity Commission's Inquiry into the Market for Retail Tenancy Leases in Australia and the Australian Competition & Consumer Commission Grocery Price Inquiry into the Competitiveness of Retail Prices for Standard Groceries. Both inquiries noted the need to review planning and zoning laws. The Bulky Goods industry in Australia is also facing difficulties as a direct result of planning and zoning legislation across Australia. This is particularly relevant in relation to Land Use Definitions and the current trend in Activity Centre Policy. These issues are discussed in detail in this submission.

4.0 Economic Overview

Bulky Goods / Homemaker Retail is a well-established retail sector. Recent figures from Deep End Services estimate that the sector represents 21.5 % of all retail sales or a massive \$55.2 billion annually.

The BGRA estimates that direct employment in Australia in this market sector amounts to more than 170,000 full-time equivalent jobs. The multiplier effect of this employment generates an additional 211,000 full-time equivalent jobs in the supply of goods and services.

Specifically in New South Wales, Deep End Services estimates that bulky goods sales for the financial year ending 30th June 2008 were \$16.7 billion. Deep End Services estimates that bulky goods retailers employ approximately 51,000 people directly, and a further 64,000 people indirectly.

A tabulated summary of the key economic research is included in this section of the submission.

The Bulky Goods / Homemaker Retail market has, in recent times, been the fastest growing sector in the retail market. Economic research undertaken by Deep End Services estimates that the Bulky Goods retail sector has grown on average 3% greater per annum for the past 6 years compared with the remainder of the retail market. This can be attributed to a variety of reasons including:

The increase in demand for 'do-it-yourself' home improvement products brought about by the strong growth in the Australian economy and the recent property boom;

The technology revolution has provided a substantial increase in new consumer products and the obsolescence of traditional household goods;

The emergence of the internet and particularly online shopping has increased access to retail goods and services;

Shopping has evolved into a leisure and lifestyle experience for many Australian families, particularly in relation to household goods expenditure;

Increased supply of Bulky Goods / Homemaker Retail facilities and the provision of choice, convenience and competition provided by this increase in supply;

The emergence of the green market due to climate change and the drought;

The market for Bulky Goods / Homemaker Retail products is estimated to continue its current strong growth, particularly in response to the planned increase in population and number of new households planned for Australian capital cities up to 2030.

The additional 1 million people anticipated in the latest NSW population projections indicates that the long term growth outlook remains strong, indeed the draft NSW Centres Policy considers a growth scenario of an additional 4.3 million square metres of retail floorspace potential required by 2031.

The BGRA is committed to continue business expansion in New South Wales based on the current and projected strong economic growth. Our members provide the essential "homemaker" goods and services to support this growth, and are arguably the most affected by planning regulations that govern this market sector.

**Bulky goods retail market
Australia
2001 - 2011**

BGRA bulky goods categories	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Sales (Y/E June) (\$m) (incl GST)											
Home entertainment goods	8,568	9,126	10,767	11,689	12,167	13,530	14,544	15,254	14,566	14,259	14,716
Furniture, furnishings, floor coverings & electric light fittings	7,220	8,030	8,699	9,381	9,838	9,764	10,548	11,049	11,373	11,794	12,749
Household appliances & electrical goods	5,339	6,039	6,275	6,631	7,141	7,455	8,188	8,856	8,946	9,141	9,841
Hardware and landscaping supplies	4,626	5,150	5,484	5,907	5,978	5,973	6,088	6,558	6,745	7,087	7,407
Bedding, manchester & window coverings	2,507	2,699	2,778	2,866	3,058	3,117	3,233	3,445	3,601	3,648	3,733
Automotive parts & accessories	1,840	1,937	2,044	2,150	2,159	2,157	2,359	2,762	2,812	2,867	2,821
Other bulky goods*	4,907	5,192	5,418	5,858	6,183	6,204	6,477	7,285	7,406	7,663	7,812
Total bulky goods	35,007	38,174	41,465	44,483	46,524	48,199	51,437	55,209	55,450	56,459	59,079
Total retail	167,770	178,943	190,662	203,553	213,794	223,519	238,820	256,622	263,573	277,045	290,775
Bulky goods proportion of total retail (%)	20.9%	21.3%	21.7%	21.9%	21.8%	21.6%	21.5%	21.5%	21.0%	20.4%	20.3%
Change (%)											
Home entertainment goods	-	6.5%	18.0%	8.6%	4.1%	11.2%	7.5%	4.9%	-4.5%	-2.1%	3.2%
Furniture, furnishings, floor coverings & electric light fittings	-	11.2%	8.3%	7.8%	4.9%	-0.8%	8.0%	4.7%	2.9%	3.7%	8.1%
Household appliances & electrical goods	-	13.1%	3.9%	5.7%	7.7%	4.4%	9.8%	8.2%	1.0%	2.2%	7.7%
Hardware and landscaping supplies	-	11.3%	6.5%	7.7%	1.2%	-0.1%	1.9%	7.7%	2.9%	5.1%	4.5%
Bedding, manchester & window coverings	-	7.7%	2.9%	3.2%	6.7%	1.9%	3.7%	6.6%	4.5%	1.3%	2.3%
Automotive parts & accessories	-	5.3%	5.5%	5.2%	0.4%	-0.1%	9.4%	17.1%	1.8%	1.9%	-1.6%
Other bulky goods*	-	5.8%	4.3%	8.1%	5.5%	0.3%	4.4%	12.5%	1.7%	3.5%	1.9%
Total bulky goods	-	9.0%	8.6%	7.3%	4.6%	3.6%	6.7%	7.3%	0.4%	1.8%	4.6%
Total retail	-	6.7%	6.5%	6.8%	5.0%	4.5%	6.8%	7.5%	2.7%	5.1%	5.0%

*Other bulky goods comprises:
- Office equipment & supplies
- Camping and sporting equipment
- Swimming pools, equipment & accessories
- Baby equipment & accessories
- Equestrian & pet supplies

Source: Deep End Services; BGRA; Australian Bureau of Statistics; Access Economics (as at November 2008)

**Bulky goods retail market
New South Wales
2001 - 2011**

BGRA bulky goods categories	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011
Sales (Y/E June) (\$m) (incl GST)											
Home entertainment goods	2,817	2,899	3,461	3,695	3,904	4,253	4,456	4,851	4,494	4,432	4,582
Furniture, furnishings, floor coverings & electric light fittings	2,494	2,563	2,949	2,934	2,880	2,774	2,872	2,915	2,890	3,013	3,253
Household appliances & electrical goods	1,739	1,897	2,004	2,081	2,339	2,355	2,506	2,791	2,742	2,806	3,007
Hardware and landscaping supplies	1,448	1,544	1,706	1,732	1,687	1,733	1,675	1,722	1,719	1,816	1,886
Bedding, manchester & window coverings	879	931	958	998	1,040	1,016	1,025	1,085	1,120	1,136	1,155
Automotive parts & accessories	700	719	772	793	761	748	848	1,111	1,157	1,193	1,170
Other bulky goods*	1,625	1,678	1,718	1,829	1,838	1,794	1,894	2,254	2,292	2,387	2,410
Total bulky goods	11,701	12,231	13,568	14,062	14,449	14,673	15,276	16,729	16,414	16,782	17,463
Total retail	58,521	61,523	65,331	68,329	70,915	73,297	78,266	84,358	85,187	89,889	94,277
Bulky goods proportion of total retail (%)	20.0%	19.9%	20.8%	20.6%	20.4%	20.0%	19.5%	19.8%	19.3%	18.7%	18.5%
Change (%)											
Home entertainment goods	-	2.9%	19.4%	6.8%	5.7%	8.9%	4.8%	8.9%	-7.4%	-1.4%	3.4%
Furniture, furnishings, floor coverings & electric light fittings	-	2.8%	15.1%	-0.5%	-1.8%	-3.7%	3.5%	1.5%	-0.9%	4.2%	8.0%
Household appliances & electrical goods	-	9.1%	5.6%	3.8%	12.4%	0.7%	6.4%	11.4%	-1.8%	2.3%	7.2%
Hardware and landscaping supplies	-	6.6%	10.5%	1.5%	-2.6%	2.7%	-3.3%	2.8%	-0.2%	5.6%	3.9%
Bedding, manchester & window coverings	-	5.9%	2.9%	4.2%	4.2%	-2.3%	0.9%	5.9%	3.3%	1.4%	1.7%
Automotive parts & accessories	-	2.8%	7.4%	2.7%	-4.1%	-1.7%	13.3%	31.1%	4.2%	3.1%	-1.9%
Other bulky goods*	-	3.3%	2.4%	6.5%	0.5%	-2.4%	5.6%	19.0%	1.7%	4.2%	1.0%
Total bulky goods	-	4.5%	10.9%	3.6%	2.8%	1.5%	4.1%	9.5%	-1.9%	2.2%	4.1%
Total retail	-	5.1%	6.2%	4.6%	3.8%	3.4%	6.8%	7.8%	1.0%	5.5%	4.9%

*Other bulky goods comprises:

- Office equipment & supplies
- Camping and sporting equipment
- Swimming pools, equipment & accessories
- Baby equipment & accessories
- Equestrian & pet supplies

Source: Deep End Services; BGRA; Australian Bureau of Statistics; Access Economics (as at November 2008)

**Bulky goods retail market
Employment by state
2007/08**

State	Bulky goods sales (\$m)	Floorspace (sqm)	Direct FTEs (No.)	Indirect FTEs (No.)	Total FTEs (No.)
New South Wales	16,729	5,147,327	51,473	63,930	115,403
Victoria	13,276	4,084,803	40,848	50,733	91,581
Queensland	11,534	3,548,782	35,488	44,076	79,564
Western Australia	6,591	2,027,917	20,279	25,187	45,466
South Australia	3,837	1,180,497	11,805	14,662	26,467
Tasmania	1,416	435,605	4,356	5,410	9,766
ACT	1,340	412,405	4,124	5,122	9,246
Northern Territory	488	150,193	1,502	1,865	3,367
Total	55,209	16,987,528	169,875	210,985	380,860

Assumptions:

Average trading level = \$3250 per sqm

Direct employment rate = 1 FTE / 100 sqm

Indirect employment ratio = 1.242 FTE for every 1 direct FTE

Source: Deep End Services; BGRA; Australian Bureau of Statistics; Access Economics (as at November 2008)

Bulky goods and total retail market

Definitions

A national bulky goods categorisation has been adopted from the BGRA constitution.

The following items have been matched to ABS HFCE National Accounts categories (or part thereof) to determine historical and forecast retail market sizes:

BGRA bulky goods categories	National accounts category
Home entertainment goods	Audio visual equipment
Furniture, furnishings, floor coverings & electric light fittings	Furniture & floor coverings
Household appliances & electrical goods	Household appliances
Hardware and landscaping supplies	Household tools and Flowers & garden supplies
Bedding, manchester & window coverings	Household textiles
Automotive parts & accessories	Motoring goods
Other bulky goods comprises:	
- Office equipment & supplies	Newspapers, books & artists goods
- Camping, sporting & swimming pool equipment	Other major durables for recreation
- Baby equipment & accessories	Personal effects
- Equestrian & pet supplies	Pet foods & pet products

A similar approach is adopted in assessing historical and forecast total retail market sizes

Source: Deep End Services; BGRA; Australian Bureau of Statistics; Access Economics (as at November 2008)

5.0 BGRA Planning Policy Position

The BGRA is a key stakeholder in planning and zoning laws that regulate the Retail market sector. Consequently, we are actively involved across Australia in numerous reviews of planning policy and planning regulations that affect our industry. In our numerous submissions to State Governments in the past few years we have formed the following policy position on key aspects of planning regulations.

5.1 Land Use Definitions

Bulky Goods Retailing is a legitimate form of retailing that is separately defined in all State and Territory planning schemes across Australia. Common to all planning laws across Australia, is the premise that Bulky Goods Retailing is a separate category of retailing distinct from core Retail / Shops. Based on this separate definition, Bulky Goods Retailing can locate on land that is zoned for purposes other than core Retail / Shops. In this regard, Bulky Goods Retailing is a permissible and encouraged land use on lower order Business / Commercial and Industrial zoned land.

The BGRA is concerned with the current "inconsistencies" in the definitions of Bulky Goods Retailing across Australia whereby each State and Territory; and in some States, each local Council, has a different definition of Bulky Goods Retailing. Our retail members operate businesses on a national basis and the current inconsistencies across different States and Local Councils result in much uncertainty and frustration in obtaining planning permits to lawfully conduct our business. Some of the major consequences of these inconsistent definitions include; increased time and costs associated with obtaining planning approvals and planning compliance; increased legal action arising from planning permit appeals and third party objections.

There are fundamentally two types of definitions contained in planning laws across Australia that define Bulky Goods Retailing including;

- o Performance based definition relating to "Bulky Goods". This type of definition has been adopted in New South Wales, and in part, in other States.
- o List of specific product categories. This type of definition has been adopted in Victoria, and in part in other States.

In summary, the BGRA strongly advocates there is a need to standardise planning laws and specifically - land use definitions, across Australia to provide certainty to our industry and remove the current complications that directly result in increased time and cost to businesses and ultimately consumers.

In the BGRA's newly revised constitution is the adoption of the following definition of Bulky Goods. The following definition is, to a large extent, based on the current New South Wales definition of Bulky Goods & the Victorian definition for Restricted Retail Premises, but also provides a level of consistency with other States and municipalities.

"...Bulky Goods means a building or place used primarily for the sale by retail; wholesale or auction of (or for the hire or display of) goods that are such size, shape or weight 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 a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale of bulky goods.

Products that are deemed to comply as bulky goods are (but not limited to);

- Automotive parts and accessories;*
- Camping and Outdoor Equipment;*
- Electric light fittings;*
- Equestrian, Pet Supplies;*
- Floor and/or window coverings;*
- Furniture, bedding, furnishings, fabrics, manchester;*
- Household appliances, household electrical goods, home entertainment goods;*
- Party supplies;*
- Swimming pools, equipment and accessories;*
- Office equipment supplies;*
- Baby equipment and accessories;*
- Sporting and Fitness Equipment & accessories; and*
- Trade supplies including building products, timber and hardware, landscaping supplies, and the like in predominantly indoor and/or enclosed buildings..."*

5.2 Centres Policy

The BGRA is a key stakeholder and is actively involved in Planning Policy reform in most States of Australia. State Governments across Australia are undertaking or implementing similar planning policy generally based on the identification of "Centres" and encouraging increased density of development within those Centres.

The BGRA generally supports strategic planning policy based on "Centres"; we consider it to be a sound basis to plan for growth of capital cities.

However, the current trend in Centre planning policy is to discourage all Out-of-Centre retail development. This has inadvertently created a policy void in relation to the development of Bulky Goods Retailing which is primarily located on major corridors and major roads. This gives rise to ongoing uncertainty in our industry and is constraining the development of Bulky Goods retailing.

Bulky Goods Showrooms have traditionally located in clusters, predominantly on major corridors and major road networks for the following reasons:

- Existing Planning Policy has facilitated and encouraged this use by providing appropriately zoned land for development to occur. In doing so, it should be considered proper and orderly planning policy to locate Bulky Goods Showrooms on major corridors and major road locations.

- Bulky Goods Showrooms require access for consumers travelling by car; exposure for business identification signage and large land parcels to yield large single level floor plates.

The objectives of any Centres Policy should recognise that land located within Centres is a finite resource, and should be prioritised for highest priority uses that are essential to provide a vibrant Centre in its own right. Planning policy that seeks to restrict development in Out-of-Centre locations is not sustainable. In seeking to control development, the focus should be directed to land-uses which would detrimentally affect the viability and sustainability of Centres if they were to be located elsewhere.

Bulky Goods Retailing is an existing lawful and legitimate use in major corridors and major road locations and new Planning Policy should maintain this position. There is no evidence to suggest that Bulky Goods Retailing is adversely affecting existing Centres.

The current trend towards restriction of Out-of-Centre development will create the following affects if it is not revised:

- Unsustainable development pressure on Centres in terms of increased density & vertical scale, increased traffic congestion etc.;
- General stifling of any and all development outside of Centres;
- Failure to provide the required retail floor space to cater for the anticipated population growth;
- Failure to provide benefit to consumers in terms of choice, convenience and competition;
- Provide unfair advantage to existing shopping centre owners who control existing land supply within Centres.

5.3 Competition Policy

The BGRA is particularly interested in the some key findings arising from the Productivity Commission Enquiry into The Market for Retail Tenancy Leases in Australia and the Australian Competition & Consumer Commission (ACCC) Enquiry into the Competitiveness of Retail Prices for Standard Groceries. We acknowledge that the subject of these two enquiries were centred on issues that are not principally focused on Bulky Goods Retailing, however we observe some "common themes" that are applicable to our industry.

There is evidence to suggest that planning policies and regulations can have the effect of restricting the availability of retail space and its use. This in turn can reduce competition between landlords and tenants in the market. There is also evidence to support the need for an increase in the supply of retail floor space.

The BGRA advocate that planning policy needs to facilitate this increase in floor space by way of new planning and land zoning policy that encourages and facilitates development; as opposed to regulating and constraining it.

6.0 Response to Terms of Reference

The following section provides a detailed response to each of the Terms of Reference for this inquiry. In preparing this submission we have reviewed the Discussion Paper issued on 17 November 2008 and structured our response to the key questions raised under each of the terms of reference.

6.1 Terms of Reference 1(a): The need, if any, for further development of NSW Planning Legislation over the next 5 years, and the principles that should guide such development

QUESTIONS

- (1) *Is there a need for further development of planning legislation in NSW?*
- (2) *What further changes to the planning legislation are needed?*
- (3) *What principles should guide any future development of planning legislation in NSW?*

(1) Is there a need for further development of planning legislation in NSW?

The BGRA believe there is a need for further development of planning legislation in NSW. The following sections summarises the key components of the current planning legislation that directly affects Bulky Goods Retailing in NSW.

Statutory Planning Policy Documents

Draft State Environmental Planning Policy No. 66 – Integration of Land Use And Transport

Draft SEPP 66 has been the NSW Government's statutory planning response to assist with the implementation of the former metropolitan planning strategy for the Greater Metropolitan Region - *Shaping Our Cities*.

The DoP has recently confirmed that draft SEPP 66 is no longer to be used in the assessment of development applications or rezoning proposals. The policy package that supports draft SEPP 66 remains in place and includes:

- *The right place for business and services* – a planning policy addressing travel demand management
- *Improving transport choice* – guidelines to implement the policy
- *Employment and journey to work patterns in the Greater Metropolitan Region* – a working paper with key statistics Draft SEPP 66 remains a relevant consideration for any major employment generating proposal within the Metropolitan Sydney Region notwithstanding the adoption in late 2005 of "City of Cities – A Plan for Sydney's Future", the current Metropolitan Strategy for Sydney. The general intent and broad policy directions established in Draft SEPP 66 have been generally reflected in the current Metropolitan Strategy.

We understand that these policies will be augmented / replaced by the emerging NSW Draft Centres Policy.

Currently the right place for business and services establishes that businesses and services which generate transport demand should be in locations which offer a choice of transport and increase opportunities for multi-purpose trips. The policy argues that vibrant, accessible, mixed use centres should be encouraged to align with the public transport system due to the significant community and environmental costs associated with dispersed trip generating development.

The policy also argues that planning decision makers can limit the supply and increase the cost of parking to influence transport mode choice. The policy argues that where trip-generating development cannot be located in centres, alternatives should be considered where a 'net community benefit' can be clearly established. The criteria for establishing 'net community benefit' include:

- The degree to which the policy and its objectives can be satisfied
- The proposed level of accessibility to the catchment of the development by public transport, walking and cycling
- The likely effect on trip patterns, travel demand and car use
- The likely impact on the economic performance and viability of existing centres
- The amount of use of public infrastructure and facilities in centres, and the direct and indirect cost of the proposal to the public sector
- The practicality of alternative locations which may better achieve the outcomes the policy is seeking to achieve
- The ability of the proposal to adapt its format or design to more likely secure a site within or adjoining a centre or in a better location

The draft Centres Policy supports a 'Net Community Benefit' assessment model which is more quantitative and based on a traditional cost / benefit analysis model.

In relation to citing specific forms of development, the NSW Government's, *the right place for business and services* states the following in relation to bulky goods retail development: *Bulky goods outlets have a physical need for space to display and handle large goods; however, they can be located in centres. When it is not realistic for bulky goods outlets to be in centres, they should be located in one or two regional clusters to help moderate travel demand and allow for public transport accessibility. Existing clusters should be reinforced. If justified, new clusters should be in areas that would indirectly support major centres and link to public transport corridors.*

To determine whether a new cluster is justified or a development proposal is suitable for a cluster location, the following issues, additional to the net community benefit criteria, must be assessed:

- *The economic and social impact on existing and planned centres*
- *The demand for the amount of floor space for trading bulky goods and the potential impact any oversupply would have on existing centres*
- *The degree and potential of short-and long-term accessibility by public transport*
- *The effect on the demand for travel and impact of increased traffic on the arterial road network*

- *Where industrial areas are proposed to be used, the operational and access needs of existing and future industry and the impact on property prices for industrial development."*

The policy also contains 'Explanatory Notes' which deal with reducing the demand for car use and encouraging the accessibility of mixed use centres by walking, public transport and cycling. The notes provide direction on how the policy is to be applied in plan making and development assessment.

The current situation whereby SEPP 66 is no longer to be used in the assessment of development applications or rezoning proposals, while the policy package that supports it remains in place, is confusing and not sustainable. The BGRA strongly advocate the need for the new Centres Policy to replace draft SEPP 66.

Standard LEP Instrument

The NSW Department of Planning's Standard LEP Template was gazetted in March 2006. All councils in NSW are required to prepare an LEP in accordance with the standard instrument which includes standard land use definitions and zone names. The standard instrument also provides that particular land uses must be permissible (with consent) in certain land use zones. Council has the discretion to include additional zone objectives, prohibit, permit without consent or permit uses with consent in the various zones in addition to those already identified in the Standard LEP Template. Councils are not able to remove specific uses from the list of development gazetted in the Standard LEP.

The Standard LEP Dictionary defines bulky goods premises as follows:

***bulky goods premises** means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) goods that are of such a size or weight 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 vehicles after purchase or hire, but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale of bulky goods.

The Standard LEP Template includes seven key commercial orientated zones ranging from Local Centres through to Mixed Use and Enterprise Corridors. None of the seven zones includes a standard objective referring to the zone being an appropriate area to include bulky goods premises. Bulky goods premises are also not identified as a required land use within any of the standard land use tables in any of the commercial orientated zones.

Interestingly, the Department's Practice Note (PN 06-003) identifies that depending on the nature of the development, bulky goods premises (as well as landscape and garden supplies and vehicle showrooms) may be a form of retail premises.

Strategic Planning Policies

City of Cities – Sydney Metropolitan Strategy

City of Cities articulates the NSW Government's strategic direction for managing the anticipated growth in the Sydney Metropolitan Region over the next 25 years. The strategy has as its key guiding principles economic, social and environmental sustainability. The strategy is made up of seven subject areas including Economy and Employment, Centres and

Corridors, Housing, Transport, Environment and Resources, Parks and Public Places, and Implementation and Governance.

Of particular relevance to issues surrounding bulky goods retail premises are the strategies relating to Economy and Employment and Centres and Corridors.

The *Economy and Employment Strategy* recognises that skills levels across the Sydney region are unevenly distributed and that local employment opportunities should be provided to reduce the need for people to travel long distances to access employment opportunities. Approximately two-thirds of all jobs are proposed to be located in strategic centres or employment lands.

The Economy and Employment Strategy does not contain any significant reference to the future role that bulky goods retail premises could play in providing employment opportunities. The Strategy includes an Action aimed at facilitating the use of old industrial areas to generate employment opportunities, especially where those former industrial areas have good access to public transport opportunities. Given the traditional preference for some council's to allow bulky goods retail opportunities within industrial areas, this action may provide scope for future developments.

In relation to the *Centres and Corridors Strategy*, the Strategy clearly states that there are significant benefits associated with concentrating activities in centres, including:

- improved access to retail and other services;
- making better use of existing infrastructure and;
- promoting sustainable transport and healthier communities by providing opportunities for cycling and walking.

The Strategy recognises that locations along busy roads are not high amenity areas for residential development but that poorly performing businesses are often converted to residential uses despite the low amenity. The Strategy recognises that the important local employment function these businesses perform should not be underestimated. To reflect this trend, an Enterprise Corridor Zone has been included in the Standard LEP Template. The Metropolitan Strategy identifies that uses such as nurseries, plumbing and building supplies, retailing, light industry and ancillary offices should be permitted in the Enterprise Corridor zone. Clearly many of these identified uses are high traffic generating developments and would be similar in nature to bulky goods retail premises in terms of potential impacts. One of the key initiatives in the *Centres and Corridors Strategy* is to concentrate activities near public transport. This policy directive is being implemented to reduce travel times, pollution and congestion and to protect the character of existing suburbs while supporting public transport use.

The Metropolitan Strategy incorporates the principles of the Integrating Land Use and Transport package and in particular the *Right Place for Business and Services* component. The Metropolitan Strategy notes that the ILUT package remains Government policy. Draft SEPP66 will continue to operate as a draft statutory instrument until a new set of Section 117 Ministerial Directions are issued to councils.

The *Centres and Corridors Strategy* identifies that retailing in industrial areas will only be permitted where it is ancillary to industrial uses or where it has operating requirements or demonstrable offsite impacts similar to industrial uses (such as building, hardware, plumbing and nurseries).

In relation to industrial land, the BGRA advocate there is a need to review planning policy associated with industrial land particularly in metropolitan areas. There is clear evidence of decline in the manufacturing sector in Australia due to global economic factors. The vast majority of manufacturing has shifted overseas in recent years leading to a decline in demand

for industrial land and a decline in overall employment in this sector. The current trend towards warehousing and distribution in lieu of traditional manufacturing has led to increased demand for industrial land to be located on highway / ring road locations in close proximity to ports for efficient transport access. Industrial land located in inner metropolitan areas has the opportunity to be re-developed for higher and better uses and is ideally suited to retail and bulky goods retailing uses. The BGRA encourage the State Government to undertake a review of Industrial land policy to identify opportunities to increase the supply of floor space for retail and bulky goods retailing to meet the forecast demand.

Recognition of bulky goods retailing in the Standard LEP Template

The BGRA supports the Government's intention of simplifying the planning system with the introduction of the Standard LEP Template, including the introduction of standard zones and land use definitions. The BGRA notes however that bulky goods premises have been omitted from the standard land use tables enabling councils to form their own policies in response to this land use. We contend that this approach is inappropriate and will retain the existing levels of uncertainty within the industry due to the differing approaches adopted across council areas. Bulky goods premises should be included in the standard zone tables to enable councils to develop and adopt an appropriate local planning policy to guide preferred development outcomes.

Of the standard zones included in the template, not one of the commercial orientated zones (or light industrial zone where bulky goods premises have often located) recognises the characteristics of bulky goods premises or their specific locational criteria. In fact most of the zones include a standard objective which seeks to maximise public transport patronage and encourage walking and cycling. As previously noted this does not reflect the operational realities of bulky goods premises whether operating as a stand alone development or as part of a supa centre or the like.

(2) What further changes to the planning legislation are needed?

&

(3) What principles should guide any future development of planning legislation in NSW?

From BGRA's perspective there are several major deficiencies in the current planning policy framework that must be addressed to ensure that planning for bulky goods retail developments is considered equitably. These issues are detailed in the following section and include recommendations on how the issues should be addressed.

Recognition of bulky goods retailing as a legitimate form of retailing

As previously noted, bulky goods retailing is a significant contributor to the economy of NSW and Australia. It is an accepted and popular form of retailing amongst consumer groups and its popularity has lead to the development of numerous supa centres and homemaker centres. Whilst it is acknowledged that bulky goods retailing has specific locational criteria it is considered that these criteria should be considered in the same manner as other major land uses and should not be used as a deterrent or 'excuse' when considering applications and proposals for this form of development. The BGRA is concerned that without formal recognition as a legitimate land use, referred to and addressed in State Government policy documents, local government will continue to adopt a haphazard approach to considering development proposals involving bulky goods retail premises. The BGRA believes that the economic value that bulky goods retailing generates warrants a clear and proactive policy position driven from the State level.

Recommendation 1

State government should recognise bulky goods retailing as a legitimate form of retailing in the context of planning for urban areas. This particular form of retailing should be specifically addressed and acknowledged in the draft Centres Policy initiated by the NSW Government. In addition, bulky goods retailing should be acknowledged more widely in the Metropolitan Strategy, which does not presently acknowledge the important contribution of the bulky goods sector in the NSW economy.

Recommendation 2

The Standard LEP Template should be amended to specifically include bulky goods retailing premises as 'permitted with consent' uses in the land use tables for the following zones:

- Zone B2 Local Centre
- Zone B3 Commercial Core
- Zone B4 Mixed Use
- Zone B5 Business Development
- Zone B6 Enterprise Corridor
- Zone IN1 General Industry
- Zone IN2 Light Industry

Recommendation 3

The BGRA encourage the State Government to undertake a review of Industrial land use policy to identify opportunities to increase the supply of floor space for retail and bulky goods retailing to meet the forecast demand.

Guidelines for planning for bulky goods retailing premises

There is a current lack of guidance provided to councils in relation to the appropriate locational and other criteria for bulky goods retail premises. This has resulted in an ad hoc and inconsistent approach to the consideration of proposals by councils. As this form of retailing develops further, the role of planning is to ensure that bulky goods retailing is located in appropriate places to meet the needs of the community in a sustainable manner. Additional guidance for both councils and developers is particularly important given the Government's policy of trying to promote all forms of retailing as part of vibrant, diverse town centres.

Recommendation 4

Detailed and comprehensive advice and guidelines should be prepared and provided to councils and developers in response to the planning and design issues associated with this form of development. The emerging draft Centres Policy is the appropriate vehicle for providing these guidelines, supplemented by a Ministerial Direction or SEPP to ensure that Council's have regard to the policy. The Centres Policy should replace the current Draft SEPP 66 – Integration of Land Use and Transport.

The guidelines should address a range of issues including:

- Locational requirements for bulky goods premises including:
 - Requirement to be located on major roads
 - Requirement for large sites
 - Ability for similar uses to agglomerate to act as a 'destination' centre
 - Access to regional population catchments
 - Access to local employment catchments

- Site design and planning requirements including:
 - On-site car parking requirements
 - On-site vehicle movement (especially large delivery vehicles) requirements
 - Impacts on adjoining land uses
 - Design outcomes for buildings consistent with their use

Net Community Benefit Assessment

Bulky goods retailing provides significant benefits to the community including the provision of local employment opportunities, improved price and product competition and improved levels of retail services to local communities. These benefits must be clearly defined and should be an integral aspect of any assessment of a proposed bulky goods retail outlet.

Recommendation 5

The concept of Net Community Benefit should be incorporated into the assessment process for bulky goods retailing premise proposals. The guiding principle of net community benefit embraces issues of environment and amenity, equitable access, sustainability and neighbourhood amenity and should include an assessment of a range of attributes.

6.2 Terms of Reference 1 (b): The implications of the Council of Australian Governments reform agenda for planning in NSW

QUESTIONS

- (1) Are the reforms and discussions at the Council of Australian Governments level important for the future development of the New South Wales planning framework?*
- (2) What are the specific implications of the work of the Council of Australian Governments on planning in New South Wales?*

(1) Are the reforms and discussions at the Council of Australian Governments level important for the future development of the New South Wales planning framework?

The Council of Australian Governments (COAG) and the Development Assessment Forum are actively encouraging the 'harmonisation' of Australian development assessment systems through regulatory reform.

As a national organisation the BGRA strongly supports "consistency" in relation to Planning Scheme definitions of various land-use terms. In all States and Territories in Australia 'Bulky Goods Retail', or its equivalent, is a separately defined land-use term in both State and Local Planning Provisions.

The BGRA is particularly concerned with the current 'inconsistencies' in the definitions of Bulky Goods Showroom across the States whereby each State has a different definition of 'Bulky Goods Retail' in their respective Planning Schemes. In some States (e.g. Queensland and Western Australia) the definition of Bulky goods Retail differs across local councils due to the absence of a consistent State based Planning Scheme. Evidence of the current inconsistencies that exist across Australia is highlighted in the table included in this section of the submission.

BGRA members operate businesses on a national basis and the current inconsistencies across different States and Council's result in much uncertainty and frustration in obtaining planning permits to lawfully conduct our businesses. This in turn leads to increased cost and time associated with obtaining planning approvals. In some circumstances it also results in the inability to lawfully operate in certain locations.

There has been a significant amount of legal disputes arising from land use definitions relating to Bulky Goods Retailing in the past few years. The majority of which arise from the facts that;

- a) The industry is constantly evolving while planning schemes remain static.
- b) Most Bulky Goods retailers operate businesses on a national basis with a consistent product range. The inconsistencies in land use definitions result in compliance difficulties.

We believe there is a great potential benefit for co-ordination between the States in relation to the standardisation of landuse definitions.

(2) What are the specific implications of the work of the Council of Australian Governments on planning in New South Wales?

The current enquiry into the NSW Planning Framework provides an opportunity to further standardise the suite of land use terms contained in the NSW planning scheme to further harmonise with the other States and Territories to promote national consistency.

The NSW Department of Planning is currently working on the creation of a Retail / Centres Policy and issued a Draft 'Centres Policy' for Stakeholder Consultation on 9 October 2008. This project provides an opportunity to better define the current suite of retail landuse terms including Bulky Goods Retailing and further improve consistency between the other States and Territories.

Recommendation 6

The current suite of landuse definitions for the various categories of retailing in the NSW Planning Framework should be reviewed with a view to improving national consistency. In relation to the NSW definition of "Bulky Goods Premises" national consistency would be improved if a list of products were added to the definition contained within the Standard LEP template. The proposed list of products should be based on those contained in the BGRA constitution and other States' definitions. This should form a 'deemed to comply' list of products in addition to the current performance based definition of 'bulky goods'. This 'deemed to comply' list could also be included in the NSW Commercial Building Code, and would reduce the unnecessary duplication of having to lodge a DA for 'first use' for tenancies when an overall building approval already exists.

AUSTRALIAN DEFINITIONS OF BULKY GOODS RETAILING

AUSTRALIAN CAPITAL TERRITORY

Bulky Goods Retailing means a shop which includes a loading dock within the building, and where the goods or materials sold or displayed are of such a size, shape or weight as to require:

- (a) a large area for handling, storage or display; and / or
- (b) direct vehicular access to the site by members of the public, for the purpose of loading goods or materials into their vehicles after purchase, but does not include the shop used primarily for the sale of food or clothing.

The term also includes some common terminology affiliated with the term – auction rooms, camping equipment sales, carpet sales, D.I.Y. home improvement centres, furniture and furnishing sales, hardware stores and showroom for bulky goods.

Excludes the terms;

- Bulky landscape supplies
- Shop
- Vehicle sales

NEW SOUTH WALES

Bulky Goods Premises means a building or place used primarily for the sale by retail, wholesale or auction of (or for the hire or display of) goods that are such size or weight 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 items into their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to the sale of bulky goods.

Excludes the terms;

- Landscape and garden supplies
- Retail premises
- Vehicle showroom

NORTHERN TERRITORY

Showroom Sales means the sale or hire in premises of:

- (a) furniture, floor coverings, furnishings, household appliances or camping gear; or
- (b) materials, tools, equipment or machinery for use in industry, commerce, the trades, primary production, medical purposes or party hire.

Excludes the terms:

- Shop
- Vehicle sales and hire

SOUTH AUSTRALIA

Retail Showroom means premises used primarily for the sale, display or offer by retail, of furniture, floor coverings, household appliances or electronic equipment for domestic use, but does not include premises for the sale, display or offer by retail of foodstuffs, clothing, sporting goods and personal effects goods.

Excludes the term:

- Service Trade Premises
- Shop

TASMANIA

Bulky Goods Sales means use of land for selling goods of a bulky nature. Examples are garden and landscape suppliers, primary produce sales, timber yards and trade suppliers.

Excludes the terms:

- Equipment and machinery sales and hire
- General retail and hire
- Vehicle sales and hire

VICTORIA

Restricted Retail Premises means land used to sell or hire:

- (b) Automotive parts and accessories;
- (c) Camping equipment;
- (d) Electric light fittings;
- (e) Equestrian supplies;
- (f) Floor and window coverings;
- (g) Furniture, bedding, furnishings, fabrics and Manchester;
- (h) Household appliances, household electrical goods and home entertainment goods;
- (i) Party supplies;
- (j) Swimming pools;
- (k) Office equipment and supplies

Excludes the terms:

- Landscape gardening supplies
- Motor vehicle, boat, or caravan sales
- Shop
- Trade supplies (materials, tools, equipment, machinery etc.)

NOTE: WESTERN AUSTRALIA has the following definition in a draft Model Scheme Text:

"**Showroom**" means premises used to display, sell by wholesale or retail, or hire, automotive parts and accessories, camping equipment, electrical light fittings, equestrian supplies, floor coverings, furnishings, furniture, household appliances, party supplies, swimming pools or goods of a bulky nature.

6.3 Terms of Reference 1(c): Climate change and natural resources issues in planning and development controls

QUESTIONS

- (1) How should climate change be addressed in the planning framework?*
- (2) Is the current framework adequate to consider the potential effects of climate change?*
- (3) How should natural resources issues be taken into account in the planning and development approval framework?*

- (1) How should climate change be addressed in the planning framework?*
- (2) Is the current framework adequate to consider the potential effects of climate change?*
- (3) How should natural resources issues be taken into account in the planning and development approval framework?*

These issues are not directly applicable to Bulky Goods Retailing. However, the BGRA is committed to environmental sustainability and supports the inclusion of environmental measures within the planning framework that contribute to improved sustainability. In particular, Bulky Goods Retail developments can make a positive contribution in terms of rainwater harvesting; water re-use and also the inclusion of energy efficiency measures.

6.4 Terms of Reference1 (d): Appropriateness of considering competition policy issues in land use planning and development approval processes in NSW

QUESTIONS

- (1) *Should competition analysis be a part of local planning decisions?*
(2) *How should competition be factored into the planning system, if at all?*

- (1) *Should competition analysis be a part of local planning decisions?*
&
(2) *How should competition be factored into the planning system, if at all?*

The BGRA is particularly interested in some of the key findings arising from the Productivity Commission Enquiry into The Market for Retail Tenancy Leases in Australia and the Australian Competition & Consumer Commission (ACCC) Enquiry into the Competitiveness of Retail Prices for Standard Groceries. We acknowledge that the subject of these two enquiries were centred on issues that are not principally focused on Bulky Goods Retailing, however we observe some common themes that are applicable to our industry.

The Productivity Commission Enquiry into the Market for Retail Tenancy Leases in Australia (Report: August 2008)

The BGRA supports the common theme contained in the various recommendations of simplifying and harmonising legislation across the various States in order to achieve a more consistent approach to the retail tenancy market in Australia. We believe the market can greatly benefit from this approach by way of reduced costs and time associated with retail tenancy compliance.

The BGRA strongly supports the Productivity Commission in relation to recommendation # 8;

"...While recognising the merits of planning and zoning controls in preserving public amenity, States and Territories should examine the potential to relax those controls that limit competition and restrict retail space and its utilisation..."

We agree with the finding that *"...zoning and planning controls affect the location, quantity and use of retail space..."*

There is evidence to suggest that planning policies and regulations can have the effect of restricting the availability of retail space and its use. This in turn can reduce competition between landlords and tenants in the market. There is also evidence to support the need for an increase in the supply of retail floor space. Planning policy needs to facilitate this increase in floor space by way of new planning and land zoning policy that encourages and facilitates development; as opposed to regulating and constraining it.

The BGRA strongly supports the Productivity Commission's recommendation # 8 as a direction by which retail development and increased competition can be encouraged.

The ACCC Enquiry into the Competitiveness of Retail Prices for Standard Groceries
(Report: July 2008)

The BGRA notes with interest Section 9.4.3 of the abovementioned report and its key recommendation;

"...The ACCC recommends that all appropriate levels of government consider ways in which zoning and planning laws and decisions in respect of retail of individual planning applications where additional retail space for the purpose of operating a supermarket is contemplated should have specific regard to the likely impact of the proposal on competition between the supermarkets in the area. Particular regard should be had to whether the proposal will facilitate the entry of a supermarket operator not currently trading in the area..."

In reaching this recommendation the ACCC commented that;

"...However, as noted, zoning and planning regimes, including existing centres policies, act as an artificial barrier to new supermarkets establishing in areas, thereby potentially impacting on competition between supermarkets to supply consumers. In particular, such policies, by limiting opportunities for new developments, contribute to increasing the level of concentration in the retail grocery sector..."

We believe that the current 'activity centres policy' is inadvertently constraining the development of Bulky Goods Retailing. The BGRA strongly supports any measures taken that would result in the removal of artificial barriers and constraints that lead to limiting opportunities for new development.

The BGRA strongly supports open competition in the marketplace. We further believe that the fundamental premise of considering competition impacts in a positive sense when assessing planning applications directly benefit consumers. The same logic that is inherent in the ACCC recommendation can and should be, applied to all retail categories including Bulky Goods Retailing.

Recommendation 7

The BGRA strongly support the premise of 'positive planning' in that the market is best placed to determine the need for retail facilities and the key role of the planning system is in helping to deliver capacity for the appropriate location and scale of development to meet consumer demand. The BGRA advocate that competition analysis should be positively recognised within planning policy rather than the current negative emphasis on the requirement to justify competitive impacts less than a benchmark threshold. The requirement for Councils to prepare and monitor proposed Floorspace Supply and Demand Assessment (FSDA) in the draft Centres Policy is welcomed as a proactive planning measure which would emphasis 'supply' issues as an important consideration in addition to 'impact' on existing centres.

6.5 Terms of Reference 1 (e): Regulation of land use on or adjacent to airports

QUESTIONS

- (1) *Is the current arrangement for regulating land use on or near airports appropriate?*
- (2) *Is there sufficient involvement of the community within which the airport is located under the current system?*

(1) *Is the current arrangement for regulating land use on or near airports appropriate?*

Development of Airport land is regulated by the Airports Act 1996 and is administered by the Commonwealth. The process for obtaining development approval is comprehensive and requires approval of an airport master plan and major development plan for projects greater than \$20 Million in capital works.

While the responsible authority for regulating development is the Commonwealth, there is extensive consultation required with all State and Local government agents and the local community. The process of obtaining development approval on airport land is often more complicated, more expensive and more time consuming than the equivalent development assessment process administered by State or Local Government.

Airport land is ideally suited to the development of Bulky Goods retailing as it caters for the locational criteria sought by Bulky Goods retailers namely;

- Located in close proximity to activity centres generally on Edge or Outside of activity centres.
- Located on major arterial roads due to exposure to passing traffic; accessibility for customers by car and public transport connectivity.
- Large floor plates required for the storage handling and display of bulky items.
- Typical tenancy areas for major tenants 1,000 – 3,500 sqm./ Minor tenants 300-500sqm
- Typical ceiling height of 4.5 – 6.0 metres for storage and display of products in industrial racking
- Deliveries to majority of tenants by semi-trailers and large trucks.
- Direct access to rear of tenancy for unloading of bulky goods and storage within tenancy.
- Direct access for collection of bulky goods after purchase by customers for loading into their vehicles.

Significant development has occurred across Australia on airport land over the past 5 years and these developments have proven to be successful in terms of patronage and trading turnover for Bulky Goods retailers. Airport land provides the opportunity to increase the supply of retail floor space to cater for the increasing population and demand for retail goods and services. Bulky Goods retail centres or 'Homemaker Centres' have been developed on Airport land often on a large scale consistent with an equivalent regional centre.

The availability of under-utilised land is scarce in New South Wales and any under-utilised land should be developed for its highest and best use to provide a net community benefit. The proposed development of land in the environs of Bankstown Airport is an example of such development. This project will provide a significant quantum of floor space for Bulky Goods Retailing among other complimentary uses such as office and warehousing.

We note that the Federal Government's Aviation Green Paper proposes greater transparency and joint working between Federal and State agencies in the assessment of development applications on airport land. In this regard, the BGRA would support increased control of development on airport land by State and Local Government to increase consistency with the planning controls and processes for equivalent private land.

(2) Is there sufficient involvement of the community within which the airport is located under the current system?

The BGRA believe there is more than sufficient involvement of the community in the current system. The consultation process associated with undertaking a major development plan on airport land is more comprehensive than the equivalent development assessment process on private land.

Recommendation 8

Airport land provides the opportunity to increase the supply of retail floor space to cater for the increasing population and demand for retail goods and services. Airport land is ideally suited to the development of Bulky Goods retailing as it caters for the locational criteria sought by Bulky Goods retailers. The BGRA would support increased control of development on airport land by State and Local Government to increase consistency with the planning controls and processes for equivalent private land.

6.6 Terms of Reference 1 (f): Inter – relationship of planning and building controls.

QUESTIONS

(1) Is the current inter-relationship between the planning system and the regulation of building works appropriate?

(1) Is the current inter-relationship between the planning system and the regulation of building works appropriate?

The changes introduced in 1997 are appropriate in a strategic sense in that the planning and building approvals are integrated in to the EPA Act in order to make the relationship between planning and building controls less complicated, more streamlined and efficient.

The unintended consequence of this integration is that Local councils often require more detailed information in the development assessment stage of a project than would have been previously required. This adds to the complexity and level of detail required for submission at development assessment stage and in turn adds to the cost and timeframe associated with obtaining development approvals.

Local Councils could benefit from further State government guidelines in the degree of detail required in the development assessment phase of a project.

The BGRA supports any measures that would lead to increased certainty and reduction of cost and time associated with obtaining development approvals and building approvals.

Recommendation 9

The State Government could provide further guidance to Local Councils in the degree of detail required and the level of assessment required for development applications. The emerging draft Centres Policy is the appropriate vehicle to explore these measures, however it is essential that this document gives due weight to the Bulky Goods sector.

6.7 Terms of Reference 1 (g): Implications of the planning system on housing affordability

QUESTIONS

(1) What is the impact of the planning system on housing affordability?

(2) What changes, if any, need to be made to the planning system to improve housing affordability?

(1) What is the impact of the planning system on housing affordability?

There is a direct impact of the planning system on housing affordability. The cost and time associated with obtaining planning approval for new housing development is directly passed onto consumers in the cost of new property. Any measures that reduce cost and time associated with obtaining planning approvals for development of new housing would directly benefit consumers.

Bulky Goods Retailers provide the essential homemaker goods for consumers to establish and furnish a household which typically include furniture, bedding, white goods electrical appliances, floor and window coverings and the like. The cost of products essentially required for establishing and furnishing a house is a direct cost associated with home ownership and housing affordability.

Bulky Goods Retailers also provide raw materials and equipment used in the actual construction process including building supplies, hardware, sanitaryware, garden supplies and the like. The cost of goods and materials required in the construction process is a direct cost associated with home ownership and housing affordability.

The occupancy cost of Bulky Goods Retailers is directly passed on to consumers. Increased occupancy costs arising from planning compliance will result in a direct increase in the price of goods to consumers. The current strategic planning policy that seeks to locate all Retailing within designated activity centres and restrict out of centre development will lead to a shortage of supply of land for the development of Bulky Goods Retailing and in turn; lead to higher occupancy costs if Bulky Goods Retailing is forced to locate within activity centres where the cost of land and development is higher.

(2) What changes, if any, need to be made to the planning system to improve housing affordability?

Any measures to reduce the time and cost associated with planning compliance will provide a direct benefit to consumers in the cost of household goods and the raw materials and equipment used in the construction process.

Planning policy that seeks to restrict bulky goods retailing from locating in out of centre locations needs to be removed.

Recommendation 1 and Recommendation 2 contained in section 6.1 of this submission address the requirements for bulky goods retailing to be included as permissible with consent uses in a variety of land use zones. This recommendation also addresses the issue of housing affordability in the context of avoiding increased costs to Bulky Goods Retailers and in turn; increased cost of goods and materials being passed on to consumers.

7.0 Conclusion

The BGRA welcomes this opportunity to contribute to the NSW Government inquiry into the NSW Planning Framework.

The BGRA is a key stakeholder in planning and zoning laws that regulate the retail market sector. Consequently, we are actively involved across Australia in numerous reviews of State Government planning policy and planning regulations that affect our industry.

The BGRA is a key Stakeholder in the NSW Department of Planning - Draft Centres Policy project and we look forward to continuing to provide a positive contribution to this project to ensure its successful implementation.

The BGRA is committed to continue business expansion in New South Wales based on the current and projected strong economic growth. Our members provide the essential "homemaker" goods and services to support this growth, and are arguably the most affected by planning regulations that govern this market sector.

The BGRA welcomes further consultation with the State Government in relation to this inquiry and would be pleased to discuss any issues raised in further detail.

Please contact the undersigned regarding any aspect of this submission.



Philippa Kelly
Executive Director

Bulky Goods Retailers Association Limited
PO Box 78
BALWYN NORTH VIC 3104
www.bgra.com.au

P (03) 9859 0534
F (03) 9859 0535
E pkelly@bgra.com.au