



**Response to the Green Paper
NSW Productivity Commission
Kickstarting the Productivity Conversation**

18th September 2020

Contents

1.	Introduction	3
2.	Large Format Retail Association and Sector Overview	4
2.1	The LFRA's Involvement in NSW Planning Reform	6
2.2	Challenges Facing the Large Format Retail Sector	8
2.2.1	Lack of Clarity in Definitions	9
2.2.2	Lack of Sufficient Appropriately Zoned, Sized and Configured Land to Support New Development	10
2.2.3	Large Format Retail Floorspace Demand	11
3.	Section 7 - Response to Draft Recommendations	14
3.1	Draft Recommendation 7.3 – Consolidate Employment Zones	14
3.2	Draft Recommendation 7.4 – Generate Economic Strategies	21
3.3	Draft Recommendation 7.5 – Optimise Industrial Land Use	24
3.4	Draft Recommendation 7.6 – Cut NSW Planning Assessment Gap	25
4.	Section 4 - Response to Draft Recommendations	26
4.1	Draft Recommendation 4.1 – Test our COVID-19 Regulatory Experiments	26
4.2	Draft Recommendation 4.2 – Retain Recent Regulatory and Legal Relaxations	26
4.3	Draft Recommendation 4.5 – Open Up Pharmacy Ownership and Location	26
4.3	Draft Recommendation 4.8 – Further Open Up Retail Trading	27
	Section 5 - Response to Draft Recommendations	27
5.1	Draft Recommendation 5.12 – Rationalise Energy Regulation	27
5	Conclusion	28

Attachment A - Foreword by Anthony Roberts NSW Planning Minister to the 2019 LFRA Directory

1. Introduction

This submission has been prepared by the Large Format Retail Association (LFRA) with the assistance of Ethos Urban and Deep End Services in response to the exhibition of the NSW Productivity Commission's *'Green Paper', 'Continuing the Productivity Conversation'*.

We welcome the opportunity to provide feedback to the NSW Productivity Commission on the draft recommendations within the *'Green Paper'* from the perspective of the Large Format Retail industry.

Whilst the LFRA supports many of the draft recommendations, the key impediments to investment in NSW by existing and new entrants within the Large Format Retail sector continue to be:

- The failure of the Department of Planning, Industry and Environment (DPIE) to provide a State-wide planning policy to guide retail land use objectives and decisions; and
- The NSW Government's inability to recognise and proactively plan for the future growth of the Large Format Retail industry.

The primary focus of this submission are the draft recommendations included in Section 7 – *'Planning for the housing we want and the jobs we need'*. The LFRA support all draft recommendations within Section 7. In particular, we have provided our support and feedback on draft recommendations:

- 7.3 – Consolidate employment zones;
- 7.4 – Generate economic strategies;
- 7.5 – Optimise Industrial land use; and
- 7.6 – Cut NSW planning assessment gap.

The LFRA commend the NSW Productivity Commission in providing these practical and feasible recommendations to provide the productivity gains, but consider that in regard to draft recommendations 7.3, 7.4 and 7.5 that it is imperative that DPIE provide a State-wide retail planning policy to guide retail land use objectives and planning reform decisions.

Indeed, within the Australian Government Productivity Commission's Report *'Victoria's Commercial Land Use Zoning'* report, dated July 2020, states that *"...governments should establish a clear policy case for intervention before introducing more regulation..."*.

The NSW Large Format Retail sector is currently lagging behind more competitive States such as Victoria, South Australia and Western Australia. In those States, the State Government policy settings foster competition, jobs and development of new sites.

In addition to the draft recommendations within Section 7 of the *'Green Paper'* progressing significant amendments to the NSW planning system are also required to:

- Support and adequately consider the growth of all forms of retail activity and in particular the Large Format Retail industry which is a significant and growing segment of the retail sector;
- Recognise that not all forms of retail activity belong in *'centres'* and acknowledge the role that Large Format Retail development provides to the NSW economy;
- Provide opportunities for *'emerging'* and *'innovative'* retail formats to locate within NSW that are not currently recognised within the Standard Instrument Local Environment Plan (LEP) land use definitions; and
- Require Local Council areas to proactively plan to increase Large Format Retail floorspace to meet the required demand.

The secondary focus of this submission relates to draft recommendations included within Sections 4 and Section 5.

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. Its vision is clarity, consistency and certainty of the various laws and government regulations that relate to the Large Format Retail industry in Australia.

Demand assessment economists, Deep End Services, estimates the following approximate New South Wales key industry metrics for the year ending 30th June 2020.

Key Industry Metrics	New South Wales
Total retail sales	\$105.9 billion
Large Format Retail percentage of total retail sales	24.6%
Large Format Retail sales	\$26 billion
Number of direct employees in Large Format Retail	59,601
Number of indirect employees in Large Format Retail	74,024
Total number of employees both directly and indirectly in Large Format Retail	133,625
Large Format Retail floor space	6.7 million square metres which equates to 35% of all retail floor space

The NSW Treasury acknowledges that the retail sector is the second largest employer within the State, accounting for 10% of employment and it is estimated that the Large Format Retail Sector,

both directly and indirectly generates more than 441,800 (FTE) jobs in Australia, and of this, 133,625 of these positions are in NSW.

Retail members of the LFRA include some of Australia’s largest and most respected Large Format Retailers including the 65 individual business brands listed in the following table:

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

The LFRA is supported by its Patron, PwC, and the following 80 Associate members that comprise of Large Format Retail developers, investors, owners and service suppliers:

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

The LFRA is a key stakeholder in the planning and zoning laws that affect 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.

2.1 The LFRA's Involvement in NSW Planning Reform

In February 2015, the LFRA released their commissioned evidence-based report titled *'Investment + Competition = Jobs'*. The report was written by JBA (now known as Ethos Urban) with economic input from Deep End Services. The *'Preface'* to the report was written by Professors Allan Fels AO and David Cousins AM. A copy of *'Investment + Competition = Jobs'* can be accessed via the following link:

<https://www.dropbox.com/s/1s91q5tynq8of06/%27Investment%20%2B%20Competition%20%3D%20Jobs%20%27%20Large%20Format%20Retail%20in%20NSW.pdf?dl=0>

'Investment + Competition = Jobs' was the catalyst for the Minister for Planning, the Hon Rob Stokes' creation of the Retail Expert Advisory Committee (REAC) which was headed up NSW Chief Planner, Gary White. The LFRA was a key stakeholder in the review undertaken by the REAC, and as such, made submissions and actively participated in the REAC review.

Following Minister Roberts' attendance at the LFRA Forum in November 2017, the *'REAC Report'* was released by the then Department of Planning & Environment (DP&E). The *'REAC Report'* clearly acknowledged the dynamic and changing face of retail, the need for change as well as the structural shift in the retail market and competition of 24-hour on-line trading with bricks and mortar retailers who have limited trading hours. In addition, the *'REAC Report'* made five (5) recommendations to the NSW Government on how the planning system could be improved to support retail in NSW, including:

- Develop a State-wide retail planning policy;
- Consider retail supply and demand in strategic plans;
- Change the Standard Instrument Local Environmental Plan;
- Improve assessment processes, and
- Provide clearer planning guidance.

In response to the REAC report, the DP&E proposed amendments to the *'Standard Instrument LEP'* and also issued *'Planning for the Future of Retail'* Discussion Paper to obtain a wider understanding of how the NSW planning system can better support a robust, diverse and evolving retail sector that meets the needs of businesses and the community.

Following a significant number of submissions made by the LFRA and other representatives of our industry, in August 2018, the land use term *'Bulky Goods Premises'* was replaced with *'Specialised Retail Premises'*. The new definition overcame significant problems with the previous definition of *'Bulky Goods Premises'*.

However, whilst the new definition assists our members in terms of providing clarity, consistency and certainty in respect of the goods that can be sold and services provided and has made it a little easier for our industry to do business in NSW, there needs to be significant changes to the volume of land that is appropriately zoned to fundamentally increase the supply of land for future Large Format Retail developments.

Whilst we now have the *'what you can sell'*, there continues to be no change to the *'where can you sell'* question. A reduction in DA assessment timeframes, as proposed within the *'Green Paper'*, is no assistance if there is no increase in supply of land appropriately zoned land that is suitable for Large Format Retail development.

Minister Roberts informed our members in the *'Foreword'* to the 2019 edition of the LFRA Directory (refer to *'Attachment A'*) that in 2019 the NSW Government *"...will finalise the State-wide retail planning policy and provide advice to councils on how to consider retail supply and demand as part of their local strategic plans..."*. However, there was not a State-wide retail planning policy released within 2019 as promised and since Minister Stokes was re-appointed as the Minister for Planning the NSW Government has not actioned any of the other recommendations, and there continues to be no timetable or update provided that relates to the introduction of an appropriate *'Retail Planning Policy'*.

A key finding of the 'REAC Report' (page 8) was that *"...the planning system does not provide sufficient flexibility to accommodate the dynamic and rapidly evolving nature of the retail sector, resulting in an ad hoc approach to retail development, an undersupply of retail floorspace and inconsistent land use outcomes..."*.

Despite the findings of the 'REAC Report', and the adoption (at the time) of the recommendations within the 'REAC Report' by the DP&E, the NSW Government continues to do very little to address the challenges that are faced across the entire retail sector, but none more so that the Large Format Retail sector.

Indeed, following a meeting with a representative from Minister Stokes' office in July 2019, the LFRA wrote to the Minister to seek assurance that the recommendations from the 'REAC Report' would be implemented and the State-wide planning policy would be finalised, noting that the NSW policy settings were holding back investment. **To date no response has been received from the Minister's office addressing the issues raised.**

Notwithstanding this, it is acknowledged that in his address to the '2020 Sydney Summer Summit – Keeping people in jobs and businesses in business' on 18th September 2020 Minister Stokes commented that *"...Now is the time to innovate; now is the time to do the reform. I think the planning system has moved from people caring about what people do in their premises. I think what people really care about is how it interacts with their world and what it looks like. So, the planning system needs to focus more on design and how things look, and less on what people do with it. So let's do it..."*.

The LFRA hope that Minister Stokes' comments are a sign that the reforms and recommendations included within this 'Green Paper', and a State-wide Retail Policy are forthcoming in the near future.

2.2 Challenges Facing the Large Format Retail Sector

Findings from 'Investment + Competition = Jobs' have informed this submission, our previous submission to the NSW Productivity Commission and previous submissions to DPIE, Greater Sydney Commission and the REAC over the last six (6) years, where the LFRA has consistently advocated for, and maintains its position that planning and zoning laws within NSW need to provide clarity, consistency and certainty to allow retailers to meet current and future challenges. Principally, the investment in the sector suffers from:

- A lack of clarity and flexibility in determining whether its retailers 'fit' within the current available land use definitions; and
- A lack of sufficient appropriately zoned, sized and configured land to support new development.

Furthermore, the challenges that face the Large Format Retail sector, and in particular, the urgent need for appropriate planning and zoning legislation to support the Large Format Retail sector has also been highlighted in numerous independent reports issued over the last twelve (12) years, including:

- *'Victoria's Commercial Land Use Zoning – Productivity Reform Case Study'* prepared by the Australian Government Productivity Commission (September 2020);
- *'Independent Recommendations Report'*, prepared by the Retail Advisory Expert Committee (June 2017);
- *'Shifting the Dial'*, prepared by the Australia Government Productivity Commission (August 2017);
- *'Economic Structure and Performance of the Australian Retail Industry'*, prepared by the Australian Government Productivity Committee (December 2011);
- *'The Sydney Retail Demand and Supply Consultancy Report'*, prepared by Deep End Services (May 2016);
- *'The Employment Centres Analysis'*, prepared by SGS Economics and Planning (February 2016);
- *'Industrial Precinct Review'*, prepared by Hill PDA (August 2015);
- *'Proposed Standard Instrument Local Environmental Plan Amendment to the Bulky Goods Premises Definition'*, prepared by the DP&E (November 2017).
- *'Performance Benchmarking of Australian Business: Planning, Zoning and Development Assessments'*, prepared by the Australian Government Productivity Commission (May 2011); and
- *'Market for Retail Tenancy Leases in Australia'*, prepared by the Australian Government Productivity Commission (March 2008).

These challenges are explained in further detail below and form the basis for our response to the draft recommendations within the NSW Productivity Commissions' *'Green Paper' 'Continuing the Productivity Conversation'*.

2.2.1 Lack of Clarity in Definitions

The Large Format Retail sector has long suffered from a lack of clarity in determining whether its retailers *'fit'* within the current available land use definitions. Accordingly, new entrants within the Large Format Retail sector from overseas and new Large Format Retail developments in NSW that don't *'fit'*, face high risk and an uncertain and lengthy planning pathway, which often involves the rezoning of land through a planning proposal.

Whilst the introduction of the *'Specialised Retail Premises'* definition assists many of our members in terms of providing clarity, consistency and certainty in respect of the goods that can be sold and services provided and has made it a little easier for our industry to do business in NSW, other new entrants into the Large Format Retail sector continue to face significant problems.

Retailers want to remain innovative and adapt to ensure future expansion. The NSW Productivity Commission's acknowledgement (on page 238) of the evolving nature of business models and activities due to the growth of the knowledge economy and the requirement for increased flexibility in employment zones is welcomed.

In order to succeed, 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, especially throughout the COVID-19 pandemic. Technology, in many forms, has been a significant disruptor, but as shown, particularly in recent times it is a massive enabler. Retail must continue to innovate, adapt, and remain connected to the most important person; its' customer.

In conjunction with its commercial zoning evolution over the past 20 years, Victoria's '*Restricted Retail Premises*' definition has also continually evolved to respond to new entrants and business formats within the Large Format Retail sector.

Therefore, given the '*REAC Report*' (page 7) indicated and acknowledged that one of the "*...Change Factors...*" within the retail industry is the "*...consolidation of bulky goods retailing...*", which occupies "*...23% of the retail market...*", is a "*...legitimate and popular format...*" and is "*...here to stay*", the LFRA consider therefore that in conjunction with any changes to zoning arrangements within the Standard Instrument LEP, the retail land-use definitions also need to be reviewed on a regular basis to accommodate innovative and new retail business models.

2.2.2 Lack of Sufficient Appropriately Zoned, Sized and Configured Land to Support New Development

The LFRA supports the NSW Productivity Commissions key finding (on page 24) that "*...prescriptive rules on land use by businesses are inflexible and cannot accommodate innovative businesses and the evolving needs of the economy...*".

In response to this, the Large Format Retail sector suffers from **a lack of sufficient appropriately zoned, sized and configured land to support new development.**

Under the '*Standard Instrument LEP*', the '*B5 Business Development*' zone is intended to specifically support Large Format Retail premises. Its' objective is:

"...to enable a mix of business and warehouse uses, and 'Bulky Goods Premises' that require a larger floor area, in locations that are close to, and that support the viability of centres..."

'Specialised Retail Premises' (previously *'Bulky Goods Premises'*), *'Hardware and Building Supplies'* and *'Garden Centres'* are mandatory permitted uses in this zone and although the 'B5' zone is intended to encourage Large Format Retail premises, a focus on activity centre development and the protection of existing centres is built in to the objective for the zone, which requires *'Specialised Retail Premises'* to *'support the viability of centres'*.

An analysis of NSW metropolitan councils with either a draft or finalised standard instrument was undertaken as part of the research that informed *'Investment + Competition = Jobs'*. The 2015 analysis showed that **49% of metropolitan councils do not have a 'B5' zone** (i.e. no zone that specifically contemplates and permits Large Format Retail uses). This is particularly the case in inner ring and northern metropolitan areas, as well as in the south-east of Sydney.

A similar pattern emerged for the *'B6 Enterprise Corridor'* zone in which *'Hardware and Building Supplies'* and *'Garden Supplies'* – but not *'Specialised Retail Premises'* is a mandatory permitted use. The 2015 analysis showed that of the 21 (57%) of Sydney metropolitan Councils with a 'B6' zone, four (19%) do not permit *'Specialised Retail Premises'* at all within this zone.

As noted above, the *'REAC Report'* stated, *"...the planning system does not provide sufficient flexibility to accommodate the dynamic and rapidly evolving nature of the retail sector, resulting in an ad hoc approach to retail development, an undersupply of retail floorspace and inconsistent land use outcomes..."*.

2.2.3 Large Format Retail Floorspace Demand

Floorspace demand within the Large Format Retail sector was specifically identified in the 2016 Deep End Services report – *'Sydney Retail Demand and Supply Consultancy'* prepared for the then DP&E in association with the Greater Sydney Commission (GSC). The report confirmed that between 1.74 and 2.2 million square metres of additional Large Format Retail floorspace will be required over the period 2011 to 2031 which accounts for approximately 40% of retail demand.

The Deep End Services report also acknowledged that the Large Format Retail sector has experienced a 2.3% growth per annum between 1992 and 2015, which is the second highest growth rate out of all other identified retail sub-markets. Growth between 2015 and 2031 is, however, expected to slow to 1.1% per annum, which was attributed in part to:

- 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; and
- Regulatory reform that in the past fuelled growth (e.g. removal of weekend trading restrictions) is unlikely to occur to such an extent in the future.

Deep End Services estimated that the Large Format Retail floorspace supply within the Sydney Metropolitan Area in 2015 was 2.9 million square metres which represents 27% of the retail distribution. Using the same methodology in its calculations, Deep End Services estimated that by 2031, Large Format Retail floorspace supply within the Sydney Metropolitan Area will account for 4.5 million square metres; this equates to an increase in supply of 1.6 million square metres, and a forecast demand requirement of between 1.7 and 2.2 million square metres outstrips the supply level.

The Large Format Retail sector is therefore forecast to have significant surplus floorspace demand at 2031 which will not be met by estimated supply levels. It has been a common experience for LFRA members over the past few years that due to the current restrictive planning and zoning controls within NSW there has been and continues to be a lack of appropriately zoned, sized and configured land to support new Large Format Retail development.

This challenge to the Large Format Retail Sector was acknowledged in the 'REAC Report': *"...it can be difficult for large format retailers to establish within the existing urban fabric where either land is not appropriately zoned or where zoned land comprises small lots..."*. This has resulted in the sector becoming *"...unnecessarily constrained, resulting in further distortions in the locations of such facilities and their market performance..."*.

In order to respond to this issue, the 'REAC Report' comments that *"...strategic planning is required to ascertain the need and facilitate suitable sites for large format retail..."* It further recommends that the *"...District and Regional Plans must consider adequate retail supply in relation to demand created through their actions and objectives, linked to population growth, housing and job projections..."* and that *"...the State Government should also work with local councils to ensure there is an adequate supply of land available for retail uses provided through their planning instruments..."*.

Furthermore, the LFRA, in conjunction with Deep End Services, 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%

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

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

The LFRA anticipated that the Greater Sydney Commission's (GSC) '*A Metropolis of Three Cities - The Greater Sydney Region Plan*' (the '*Regional Plan*') and the '*District Plans*' would seek to address these deficiencies and implement the recommendations from the '*REAC Report*'.

Yet, the Large Format Retail sector was largely ignored within the '*Regional Plan*' and '*District Plans*' and there is no synergy between the '*REAC Report*' recommendations, dated June 2017 (but was released in November 2017 and the final '*Regional Plan*' and '*District Plans*' that were released in March 2018.

It is noted that the GSC identified within the '*Principles for Greater Sydney's Centres*' set out within the '*Regional Plan*' and the '*District Plans*', that clusters of Large Format Retail are to be treated as part of the retail network, and planning for new clusters of Large Format Retail should be done in the same way as other '*new*' centres.

However, the GSC has not provided any further guidance on how the Large Format Retail clusters are to be treated within the retail network or the centres hierarchy. Neither the '*Regional Plan*' nor the '*District Plans*' reference any existing and established Large Format Retail centres within the '*centre hierarchy*'. Furthermore, the round of Local Strategic Planning Statements (LSPS) issued by the Metropolitan Council's throughout 2019 generally provided little or no guidance on where Large Format Retail demand should be accommodated within their Local Government Areas.

This clearly indicates that the GSC has largely ignored the Large Format Retail sector and that the DPI&E does not have an interest in securing investment within the State from our sector.

New Large Format Retail centres will generally not be able to meet the '*tests*' for new centres. The role of Large Format Retail centres is not defined for Councils within the hierarchy and results in reactive planning to allocate sufficient land to accommodate the increasing demand, which will lead to stagnation and possibly decline in the NSW Large Format Retail market.

Due to the lack of policy and lack of appropriately zoned land, many Large Format Retailers have been forced into spot rezoning process, despite the risk, difficulty and uncertainty involved.

Furthermore, since the release of the ‘Regional Plan’ and ‘District Plans’ in March 2018, and the subsequent release and finalisation of the Council-led LSPS’s which generally do not consider where the growth of the Large Format Sector should be accommodated, it is our opinion that the level of risk in achieving a spot rezoning within the Metropolitan Sydney area by Large Format Retailers has increased. This is due to the ‘centre’ focused policy direction that the ‘LSPS’, ‘Regional Plan’ and ‘District Plans’ adopt, lack of consideration of the Large Format Retail sector and that pursuant to ‘section 3.8’ of the ‘Environmental and Planning Assessment Act 1979’ planning proposals are required give effect to the ‘Regional Plan’ or the ‘District Plans’. This therefore is likely to inhibit the scope and success of planning proposals which seek to zone new land for Large Format Retail.

3. Section 7 - Response to Draft Recommendations

3.1 Draft Recommendation 7.3 – Consolidate Employment Zones

Draft recommendation 7.3 seeks to:

“...Rationalise existing business and industrial zones in the Standard Instrument LEP to reduce the number of zones.

Broaden the range of permissible activities to ensure prescriptions are reserved for genuinely incompatible land uses.

Expand application of the complying development assessment pathway to the newly consolidated employment zones...”

The LFRA supports draft recommendation 7.3 and the NSW Productivity Commission’s comment (on page 238) that *“...presently, the State’s overly prescriptive zoning is inflexible, limiting competition and innovation. This discourages business investment and hampers employment growth...”*. The LFRA also agrees that *“...Local Environmental Plans add to the complexity for land users by applying the standard categories differently across LGAs. This unnecessarily restricts where businesses can locate and how land can be used...”* (page 240).

The potential consolidation of the B5 (Business Development), B6 (Enterprise Corridor), B7 (Business Park) and IN1 (General Industrial) zones is also supported.

As identified in the 2017 Productivity Commission report ‘Shifting the Dial: 5-year Productivity Review’, three (3) areas that should be priorities for all Australian Government jurisdictions in regard to reducing the number and complexity of restrictions on land use created by prescriptive zoning are:

- *“...State, Territory and Local Governments should move to fewer and more broadly-stated land use zones to allow greater diversity of land uses. Such a move is likely to make it easier for new firms to enter local markets and for existing firms to*

expand, reduce administrative and compliance costs, and enable planning systems to more flexibly respond to changing land use activities.

- *Governments should apply competition policy principles to land use regulation and policies, which oblige consideration of the impacts of policies from the perspective of communities as a whole.*
- *Regulation that explicitly or implicitly favours particular operators and sets proximity restrictions is unjustifiable...*

Furthermore, it is acknowledged in Case Study 71 of the 'Green Paper' (pg 241), that the Victorian Government reformed its zoning system in 2013 and consolidated its commercial and business zones from five into just two. As noted in 'Victoria's Commercial Land Use Zoning – Productivity Reform Case Study' prepared by the Australian Government Productivity Commission, dated September 2020 ('Victoria's Commercial Land Use Zoning Case Study'), these changes effectively meant that local planners had less control over where to apply the new zones, or where particular types of businesses could open on commercial land.

'Victoria's Commercial Land Use Zoning Case Study' has specifically looked at the impacts of the implementation of the consolidated zoning system, as has found that *"...the most direct links between the observed changes in commercial land use and the 2013 reforms were instances where businesses established new stores in areas where they were previously restricted.*

- *For instance, since 2013, Aldi has established 53 new stores in Victoria. Fourteen of these stores on sites where supermarkets were restricted under the previous zones. Of these 14 stores, 12 are on sites that previously prohibited supermarkets, while 2 are on sites that previously allowed supermarkets with a permit.*
- *Similarly, 317 new large format retail stores have opened in Victoria since 2013. 164 of these stores (or about 52 per cent) were established on sites where they were restricted under the previous zones.*

Business benefited where, under the new zone rules, they were no longer required to apply for a planning permit.

Several stakeholders noted that the 2013 reforms have reduced the need for a 'spot rezoning' to address a shortage of suitable sites for new store. They noted that spot rezoning was a significant disincentive to business investment (far more so than the need to obtain a permit) due to the added costs, delays and uncertainties involved. For instance, some rezoning applications can take as much as two year or more; this makes site acquisition difficult for businesses, as land owners are unable to reserve sites for that long..."

Whilst the Victorian zoning consolidation exercise demonstrates that a rationalisation of the existing business and industrial zones, along with a broadening of the range of permissible activities can bring significant benefits in opening up land supply, the LFRA seeks that in conjunction with these anticipated reforms to the NSW land use system that the Department of Planning, Industry and Environment (DPIE) produce and finalise the State-wide retail planning policy.

The LFRA is concerned that:

- Whilst the employment zones will be consolidated and the permissible uses broadened with the intention of “...*better accommodating the changing needs of businesses and households...*”, that there will be no impetus to adequately quantify the actual amount of land that is required to be zoned to accommodate the increasing demands for floorspace from the Large Format Retail sector.
- The broadening of the permissible uses within each zone, may not still provide the flexibility for new entrants in the Australian market within the Large Format Retail sector to ‘fit’ within the existing definitions.
- It would be premature to undertake a review of the employment zones and the permissible uses within them without first finalising a State-wide retail planning policy that would guide retail land use objectives and planning reform decisions.

It is therefore recommended that the NSW Productivity Commission includes another recommendation which seeks to finalise the NSW State-wide retail planning policy prior to any amendments to the zones or permissible uses being finalised. With the State-wide policy specifically recognising the Large Format Retail sector, requiring LGAs to proactively plan to increase Large Format Retail floorspace to meet the required demand and reviewing all standard definitions relating to retail.

Indeed “*Victoria’s Commercial Land Use Zoning Case Study*”, has also looked at whether perceived adverse impacts of an increase in out-of-activity-centre growth arising from the Victorian zone reforms has occurred. Perceived adverse impacts were noted as being:

- Adverse impacts on businesses in activity centres;
- Higher travel costs for consumers when making multiple car trips for shopping, or those who are less able to access shops if they could not rely on car transport;
- Increased congestion and a less efficient use of public transport infrastructure; and
- an impact on the availability of industrial land for industrial activity.

‘Victoria’s Commercial Land Use Zoning Case Study’ has noted that “...*the adverse impacts of out-of-centre development are likely small. The broadening of commercial zones in Victoria enabled commercial activity that some stakeholders characterize as ‘out-of-centre developments’....As the Commission has previously argued, declines in activity centres often reflect changing consumer preferences, as so are not always a direct consequence of the out-of-centre development. Equally, locational competition can bring community benefits. Several reports on competition (such as the Competition Policy Review (2015) have found that, among other things, the impacts on competition between individual businesses, and*

proposed developments on the viability of existing businesses should be irrelevant for planning matters (harper et al. 2015;PC2011a). This is because planning and zoning laws can create barriers to business entry and/or restrict competition, leading to a lower variety or quality of goods and services. Adverse impacts from competition should only be considered when future planning is conducted, not when a development proposal is being considered.

A related concern is the availability of industrial land. In Melbourne, State Significant Industrial Precincts (SSIOs) are zoned IN3Z and IN2Z, where only limited retail activity is allowed. These sites are not a natural fit for core retail activity. There is a case for large format retail in industrial areas to the extent that it is established on vacant or underutilized industrial land (which generally meets the requirements for large format retail use), particularly in the industrial areas outside the SSIPs. In response to concerns about the availability of industrial land, the Victoria Department of Environment, Land, Water and Planning (DELWP) has indicated that it will review the range of uses permitted within industrial zones.

Overall, it is difficult to find clear evidence that out-of-centre developments have had adverse impacts that warrant regulatory restriction...”.

The NSW Government should therefore not be scared to facilitate and support Large Format Retail development across the State and the Large Format Retail sector is in urgent need of recognition within the policy framework within NSW.

Indeed, the ‘REAC Report’ (page 7) also recognised that “...complementary business zones can accommodate other [non-traditional] forms...” of retail, “...centres are not able to accommodate all retail formats...” and there needs to be a “...**proactive accommodation of sector needs...**”.

The NSW Government and a future State-wide retail policy will also need to recognise the diversity of the retail sector, and that different formats require different sites in terms of scale, access, activity and exposure. Whereby a shopping mall or supermarket may require everyday access and contribute to a centre, Large Format Retail has different requirements that need separate strategic planning visions. During the recent COVID-19 pandemic, consumers have demonstrated a desire to shop in larger out-of-centre premises, where social distancing is better facilitated. Flexibility in formats to suit retailers as well as customer needs is imperative.

The safety of customers and employees is paramount. Spatial aspects of Large Format Retail which have better enabled social distancing through the COVID-19 pandemic have been embraced by customers including:

- Predominantly large and conveniently located open-air on-grade carparking;
- Limited internal malls; and
- Spacious stores.

Our position is supported by the strong sales performance announced to date by all publicly listed retailers in the Large Format Retail sector during the COVID-19 pandemic.

As noted in *'Investment + Competition = Jobs'*, "...an insistence on new entrants being required to meet the same prescriptive planning requirements that existing businesses are required to meet when establishing, is non-conducive to an adaptable regulatory system and does not encourage innovation. It would be of potentially greater benefit to the competitiveness of market outcomes in the longer term if zoning and definition requirements were flexible enough to allow both the entry of alternative business models and the modification of existing models..."

A planning system that was responsive, flexible and adaptive to emerging retail trends was highlighted in *'Retail Driver 5'* within the *'REAC Report'*. Whilst this *'Retail Driver'* specifically related to mixed use areas, the Large Format Retail sector is also constantly evolving, with new entrants from overseas wishing to enter the Large Format Retail market in NSW, and existing retailers becoming more innovative and wishing adapt to ensure the future expansion of their business.

Retail is a constant changing dynamic, new ways to bring goods and services to market are constantly evolving. A vibrant world class retail environment encourages a vibrant dynamic manufacturing section. Manufacturers who create world class goods generally export to the worldwide market and emerging retail formats provide an important role in selling, promoting and establishing competition and innovation in the retail market.

Entrepreneurs and small businesses employ more people and create new dynamic ways to bring a variety of goods and services to market, all of which bring benefits to consumers and manufacturers. Productivity is also increased.

However, it has been the experience of LFRA members that have emerged into the Large Format Retail sector in NSW in recent years, that the NSW planning system discourages competition, does not promote speculative investment and growth by retailers and retail manufacturers and does not promote the dynamic change or competition. A planning system that requires *'spot rezonings'* on an individual basis to foster development and rollout of a retail format such as Costco does not support or promote the levels of confidence and certainty for large scale investment.

A 2006 VCAT decision (*Radford vs Hume City Council*) set out a role for a planning system faced with new format businesses:

"...an expansive rather than a restrictive approach should be adopted that makes allowance for the evolution of the retail industry but in a way that will achieve a net community benefit....it would be inappropriate to constrain opportunities for the retail industry to develop on the basis that new types of retail premises do not fit comfortably within existing definitions and traditional concepts of retailing which may have informed earlier decisions about how specific uses ought to be characterised...As new forms of retailing evolve, the role of planning is to ensure that they locate in appropriate places where they will best meet the net community benefit and sustainable development. It is not the role of planning to frustrate the development of retailing or try to force uses into inappropriate locations by taking a restrictive view about which definition certain activities fall within..."

Any new NSW Government policy reform and State-wide retail policy therefore needs to focus on the growth of retail activity as opposed to concentrating retail activity within existing centres. It is imperative for the policy to increase flexibility and a level playing field for the whole retail sector, in order to provide more certainty and investment incentives for the entire NSW retail sector.

The LFRA encourages the NSW Productivity Commission to therefore pursue the finalisation of a flexible State-wide retail policy along with the rationalisation of business and industrial zones and broadening of permissible uses and instead of evaluation against how a proposal aligns with 'current' strategic planning objectives, consider matters such as:

- The economic impact of the retail proposal in terms jobs, economic benefits, innovation and social benefits;
- The general strategic locations that each particular form of known retail is best suited;
- A clear set of criteria for new entrants that will allow them to understand the location that they would be best suited, based on their own business model;
- How weight could be given to merit-based arguments, where new retailers do not 'fit'; and
- The evaluation of the matters considered in 'section 4.15' of the 'Environmental Planning & Assessment Act'.

Furthermore, 'Victoria's Commercial Land Use Zoning Case Study', specifically concludes that

"...Victoria's commercial zoning arrangements are comparatively flexible and market driven, in that:

- *there are relatively few commercial and industrial zones, with each zone covering a broad range of uses;*
- *the zones are standardised;*
- *the zones allow **many commercial** uses as-or-right (without a permit).*

This flexibility has benefited businesses, and probably also consumers (via greater retail offerings), by reducing impediments to investment. There is limited evidence that the significant negative impacts predicted to result from the 2013 reforms have come about....

There is merit in all State and Territory jurisdictions considering ways to make their commercial and industrial zoning arrangements more flexible to support a broader range of uses. Each jurisdiction starts from a different point, with different institutional and policy histories – so it is overly simplistic to say that other states or territories should adopt or replicate the precise parameters of Victoria's model for commercial and industrial zoning. Victoria, too, could potentially make its system more flexible, such as by expanding as-of-right uses in its commercial zones.

Each jurisdiction could gain from measured reforms in this area. This case study illustrates that greater flexibility can be achieved, generating positive economic outcomes without undermining the appropriate role for land use regulation in managing 'spill-overs' and contributing to the public good".

In addition to the above, the LFRA notes that draft recommendation 7.3 also proposed the expanded application of the complying development assessment pathway to the newly

consolidated employment zones is also supported. Further discussion is provided in response to this particular provision in Section 3.4 below.

3.2 Draft Recommendation 7.4 – Generate Economic Strategies

Draft recommendation 7.4 seeks to:

“...Require councils to prepare economic strategies (including commercial centre strategies) with the aim of increasing employment and productivity outcomes when updating Local Environmental Plans...”

The LFRA supports draft recommendation 7.4. However, the economic strategies must acknowledge the role that the Large Format Retail industry and Large Format Retail development play in providing a significant amount of employment within the State.

As noted above, the Large Format Retail sector generates more than 133,625 jobs within NSW, yet the GSC’s *‘Regional Plan’* and *‘District Plans’*, as well as the recent round of LSPS’s issued by the Metropolitan Councils generally provide little or no guidance on where large format demand should be accommodated within their Local Government areas.

Unless, more flexibility is provided into the NSW land uses zones and a greater volume of land is specifically allocated for Large Format Retail development, new Large Format Retail development will generally not be able to meet the *‘tests’* for new centres. The role of Large Format Retail clusters or precincts is not defined for Councils within the hierarchy therefore results in reactive planning to allocate sufficient land to accommodate the increasing demand. This will lead to stagnation and possibly decline in the NSW Large Format Retail market.

As noted in Section 3.1, the LFRA requires the NSW Productivity Commission to recommend that there is to be a greater emphasis placed on strategic planning and local placed-based outcomes to guide retail land use objectives and decisions. As the LFRA considers the GSC’s *‘centre focused’* approach throughout Metropolitan Sydney, which has largely been adopted by the metropolitan Local Government Areas within their LSPS’s to be **highly deficient and damaging to the Large Format Retail sector.**

The GSC has failed to proactively plan for and support the future growth of the Large Format Retail sector and the GSC’s published directions for retail planning will not meet the demand for Large Format Retail floorspace in Sydney.

The *‘Principles for Greater Sydney’s Centres’* set out within the *‘Regional Plan’* and *‘District Plans’* state that clusters of Large Format Retail should be treated as part of the retail network, and planning for new clusters of Large Format Retail should be done in the same way other new centres are planned. With the exception of Marsden Park, no existing Large Format Retail cluster is identified as a strategic centre under the *‘Region Plan’*.

Large Format Retail is a unique type of retail format that can be differentiated from standard retailing by way of:

- The types of products sold;
- Vehicle access and connectivity requirements particularly to arterial roads;
- Requirements for exposure to passing traffic;
- Customer parking and loading requirements;
- Tenancy size requirements (height and floorspace) for display and storage of goods;
- Warehousing and distribution requirements for goods;
- Truck access and loading facilities (typically for semi-trailers) for delivery of large goods; and
- The format in which the products are sold and displayed.

Large Format Retail premises therefore, have a number of physical requirements that restrict their ability to locate in traditional centres. These physical requirements are inconsistent with the criteria outlined that the *'Regional'* and *'District Plans'* require consideration of when determining a new centre. These criteria, and the challenges faced by Large Format Retail operators in meeting these criteria, are addressed in **Table 1** below.

Table 1 – The Large Format Retail Sector’s Compatibility with Criteria for Determining a New Centre

Criteria for Determining a New Centre	Characteristics of the Large Format Retail Sector
Located where public transport services are commensurate with the scale of the centre.	<ul style="list-style-type: none"> ▪ Many purchases at Large Format Retail premises continue to require loading into private vehicles, whereby public transport services are generally redundant for transporting larger items. ▪ Provision of public transport services to Large Format Retail premises are generally inefficient due to the scale of developments and the large distances to walk between premises.
Directly opposite a residential catchment accessible by a controlled pedestrian crossing.	<ul style="list-style-type: none"> ▪ Large Format Retail premises have wide geographic catchments which therefore require sites that are well-located on major arterial roads with a high degree of visibility. These environments are often considered to be of a poorer amenity and unsuitable for a pedestrian oriented environment. ▪ Locating a Large Format Retail cluster near to a residential catchment with pedestrian access is redundant, as Large Format Retail purchases are not everyday transactions that require immediate access.
More than a standalone supermarket.	<ul style="list-style-type: none"> ▪ Due to the difficulty in locating appropriately sized land, a large proportion of Large Format Retail stores operate as stand-alone

	<p>premises or in smaller groups of similar-type stores.</p> <ul style="list-style-type: none"> Notwithstanding the above, the concept of the homemaker centre has emerged as an important and successful development within the Large Format Retail sector, which would meet this criterion.
Of quality urban design with amenity, informed by a master plan.	<ul style="list-style-type: none"> The pedestrian amenity of Large Format Retail premises is often reduced by the general proximity to major arterial roads. Therefore, these are often not suitable locations for new centres, but are highly compatible locations for Large Format Retail premises.
Supported by planned and funded infrastructure commensurate with the needs of the centre.	<ul style="list-style-type: none"> Infrastructure needs to Large Format Retail premises are often major arterial roads with abundant at-grade car parking facilities. This often contradicts with the needs of traditional centres, which prioritise pedestrian movement and alternate forms of mass transit including trains and buses.

As demonstrated by **'Table 1'** above, if the Large Format Retail sector is required to demonstrate compatibility with the criteria for establishing new centres, this is unlikely to lead to the creation of new sites to meet the demand for Large Format Retail floorspace.

The proposed future economic strategies, therefore need to step away from only allowing or contemplating retailing activities within existing Centres or on the existing B5 zoned land.

'*Shifting the Dial*' released in August 2017, assessed the factors and influences that affect Australia's productivity and economic performance in the medium term to aid Government in implementing policies and regulations to increase economic growth. As you would be aware, this document was the first of its kind and the process involved to produce the report was intended to be repeated every five (5) years.

As stated within '*Shifting the Dial*', "...policy settings that have particularly egregious impacts on competition, **include the creation and enforcement of activity centres** and regulations that require consent authorities to consider the commercial impacts and viability of established businesses when assessing development proposals. Provisions that explicitly or implicitly favour particular operators or set proximity restrictions between businesses should be eliminated nationwide. **These policies are at odds with competition policy and used to protect shops and shopping centres in designated areas from competition...**"

The LFRA therefore urges the NSW Government to recognise the value of retail planning outside of the GSC's centres hierarchy and whilst it is recognised that not all retailing

operations should be allowed in ‘out of centre’ locations, any guidance that DPIE provides to Local Council areas in regard to the preparing these economic strategies should not ignore the role of the Large Format Retail sector plays an the benefits it brings.

The LFRA therefore considers that the proposed economic strategies must acknowledge and take into consideration the role that the Large Format Retail sector plays in generating employment and productivity outcomes.

3.3 Draft Recommendation 7.5 – Optimise Industrial Land Use

Draft recommendation 7.5 seeks to:

“...Better manage the retain-and-manage category of industrial and urban services lands in Greater Sydney to optimise employment and productivity outcomes...”

The LFRA supports draft recommendation 7.5 and seeks that a review of all ‘retain and manage’, ‘review and manage’ and ‘plan and manage’ industrial land is undertaken to ascertain what opportunities are available for alternative employment uses, such as large format retailing activities.

As noted above, the Large Format Retail sector is forecast to have significant surplus floorspace demand at 2031 which will not be met by estimated supply levels, and ‘Victoria’s Commercial Land Use Zoning Case Study’, acknowledges that there is a case for Large Format Retail in industrial areas to the extent that it is established on vacant or underutilized industrial land.

The LFRA agree with the statements within the Productivity Commission’s ‘Green Paper’ that existing industrial land is not always effectively optimised. The LFRA considers that a review of all industrial land would be a good starting point to understand exactly how the industrial lands are operating and evolving and what opportunities exist to expand the range of permissible uses on that land. This review therefore has the potential to feed into a proactive planning approach that the Large Format Retail sector has advocated in previous sections of this submission.

3.4 Draft Recommendation 7.6 – Cut NSW Planning Assessment Gap

Draft recommendation 7.6 seeks to:

“...Continue to implement measures to reduce red tape and complexity in the planning system. Bring NSW approval assessment times into line with other jurisdictions times by the end of 2023...”

The LFRA supports draft recommendation 7.5. In particular it supports the:

- Establishment of a new class of appeals for planning proposals;
- Rationalisation of statutory time frames for development assessments to reduce significant assessment delays;
- Introduction of a deemed approval provision comparable to clause 64 of the Queensland Planning Act 2016 into the Environmental Planning & Assessment Regulation (EP&A Regs);
- Improvement to the concurrence and referral process, through the introduction of target times for concurrences and referrals as well as potentially integrating a deemed approval mechanism (similar to the Queensland approach) within the EP&A Regs;
- Expanding the complying development approval pathways specifically in regard to the proposed new and broader business and industrial zones.

With regard to the expansion of complying development approval pathways, we would like to note that the current exempt and complying development provisions under the *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008* (Codes SEPP) that a shop use can generally be changed to another shop use. This means that a new shop tenant seeking to occupy an existing shop tenancy can typically do this without obtaining any planning approval (exempt development) or do so via a certification process only (via a complying development certificate).

Notwithstanding this, the Codes SEPP does not appear to enable the change of one ‘*Specialised Retail Premises*’ to another as either exempt or complying development and therefore a development application is needed for a new ‘*Specialised Retail Premises*’ tenant to occupy an existing ‘*Specialised Retail Premises*’ tenancy. Notwithstanding this, there is significant uncertainty regarding this issue amongst the Large Format Retail operators and therefore expanding the complying development approval pathways in regard to the proposed new and broader business and industrial zones and clarification of such matters is welcomed by the LFRA.

4. Section 4 - Response to Draft Recommendations

4.1 Draft Recommendation 4.1 – Test our COVID-19 Regulatory Experiments

Draft recommendation 4.1 seeks to:

“...Extend the operation of temporary COVID-19 regulatory changes for 12 months while we evaluate their success. Keep them in place where we see a net public benefit...”

The LFRA supports draft recommendation 4.1. In particular it supports the regulatory changes that have increased flexibility and efficiency within the property and construction industry, such as enabling supermarkets and pharmacies to restock 24 hours a day and enabling weekday construction sites to operate on weekends and public holidays to keep more people in jobs and keep productivity up.

4.2 Draft Recommendation 4.2 – Retain Recent Regulatory and Legal Relaxations

Draft recommendation 4.2 seeks to:

“...Retain the temporary adjustments to regulatory and legal formalities, including digital solutions to replace paper-based reporting, physical witnessing and attestation of documents and various other in-person requirements for compliance. Explore opportunities to similarly update other outdated regulatory requirements...”

The LFRA wholeheartedly supports draft recommendation 4.2. It is currently a requirement that lengthy leases in duplicate as well as annexures must be initialled on each page and be printed on single sided paper. This practice is onerous, outdated and unnecessary; it is a clear example of how red and green tape can be easily reduced.

4.3 Draft Recommendation 4.5 – Open Up Pharmacy Ownership and Location

Draft recommendation 4.5 seeks to:

“...Remove pharmacy ownership and location restrictions, with licence requirements targeted at pharmacist control of quality systems and practices. Allow pharmacies to co-locate with supermarkets...”

The LFRA supports draft recommendation 4.5 and the proposition to allow pharmacies to co-locate with supermarkets. However, it is felt that the pharmacies along with other business premises uses should also be able to co-locate with ‘Specialised Retail Premises’ and other Large Format Retail uses in order to service the needs of existing customers that already shop at these centres and combine shopping trips with accessible local services. This would generate important economic and environmental benefits in terms of reduced travel costs and emissions as well as providing convenience for shoppers and workers.

Furthermore, it is widely acknowledged that the minor role that business premises play in the functioning of shopping centres is acknowledged by the fact that economic impact assessments specifically exclude business premises uses when considering trading impacts on centres, as they are unlikely to have any effect on the role or operation of the Large Format Retail or 'Specialised Retail Premises' development.

4.3 Draft Recommendation 4.8 – Further Open Up Retail Trading

Draft recommendation 4.8 seeks to:

“...Build on retail trading measures introduced during COVID-19 pandemic and allow all retailers to trade on restricted trading days, on the condition that staff freely elect to work...”

The LFRA supports draft recommendation 4.8 and considers that this provides increased flexibility, clarity and certainty to retailers, and not just those where the current 'exemptions' apply.

Section 5 - Response to Draft Recommendations

5.1 Draft Recommendation 5.12 – Rationalise Energy Regulation

Draft recommendation 5.12 seek to:

“...Establish a single NSW Energy Regulator and remove IPART's responsibility for regular monitoring of the retail electricity market...”

The LFRA agrees with draft recommendation 5.12 in principle and considers that cost savings through economies of scale and reduced duplications would be a significant benefit to all businesses and employers.

Electricity is generally the third highest expense in a retailer's business (i.e. the only greater expenses are wages and rent).

On 23rd October 2019, the Australian Competition and Consumer Commission (ACCC) provided final authorisation for competing Large Format Retail businesses to form the first ever national collective buying group to negotiate a better electricity deal than they could individually. The group comprises 41 of the LFRA members, which are the largest and best-known companies in the industry, that include Harvey Norman, Spotlight, Beacon Lighting, Bunnings and IKEA and spans 4,096 individual sites across every State and Territory in Australia. The ACCC authorisation provides the opportunity to double the current energy consumption of the group to no greater than 1% in State or Territory in Australia.

In 2018, the Large Format retail sector consumed over 1 TWh, with approximately 942GWh in the NEM, 86 GWh in the WEM and almost 10 GWh in the Northern Territory and the combined annual cost of electricity between the 41 participating members in 2018 was over \$200 million.

The collective ACCC authorisation means that the collective Buyers Group will be able to conduct a tender process for the supply of their aggregated electricity demand.

Further details of the LFRA's authorisation by the ACCC can be accessed via the following link: <https://www.accc.gov.au/public-registers/authorisations-and-notifications-registers/authorisations-register/large-format-retail-association-limited-ors>

The LFRA has an implementation strategy to implement the ACCC approved authorisation, however COVID-19 and other factors has caused us to freeze advancement of this mammoth and complex project. The energy market is currently extremely fluid and dynamic. We are looking for a more settled energy environment until we advance the implementation of our strategy.

The LFRA recognises that the formation of a national collective buying group to negotiate a better electricity deal that they would individually, however support the NSW Productivity Commission's acknowledgement that greater policy certainty to reduce costs and guarantee supply from sustainable energy sources would undoubtedly improve the investment outlook.

Because of the LFRA's extensive experience in the energy market we are well placed to support the recommendations proposed in the *'Green Paper'*. Of specific consideration, we believe that data aggregation and bill validation should be evaluated.

We also believe that investigation into the imposition of higher energy costs to businesses via embedded networks is warranted. Many businesses are unaware of the mark-up of energy costs due to purchasing their energy via an embedded network operator versus purchasing electricity directly from energy retailers. Where *'Power of Choice'* is available there are often financial impediments which make opting out of an embedded network cost prohibitive.

5 Conclusion

The LFRA welcomes this opportunity to provide feedback on the NSW Productivity Commission's *'Green Paper' 'Continuing the Productivity Conversation'*. As explained within this submission, the Large Format Retail sector faces many challenges when it comes to the supply of available land suitable for our members. Furthermore, like many industries, the retail sector has experienced enormous disruption over the last five (5) years.

To ensure that the Large Format Retail sector continues to invest in NSW and the physical supply of floorspace meets the current and forecast levels of demand within the NSW and in particular the Sydney Metropolitan Area, it is imperative that strategic planning that seeks to facilitate suitable sites for Large Format Retail is undertaken.

In addition to the draft recommendations that are included within the *'Green Paper'*, the LFRA specifically requires:

- The DPIE to produce a State-wide planning policy to guide retail land use objectives and decisions;
- The NSW Government to support and adequately consider the growth of all forms of retail activity and in particular the Large Format Retail industry which is a significant and growing segment of the retail sector;
- Recognise that not all forms of retail activity belong in *'centres'* and acknowledge the role that Large Format Retail centres provide to the NSW economy and reflect this within the documentation provided to Local Councils to guide their economic strategies;
- Provide opportunities for *'emerging'* and *'innovative'* retail formats to locate within the NSW that are not currently recognised within the Standard Instrument LEP (Local Environment Plan) land use definitions; and
- Require Local Government areas to proactively plan to increase Large Format Retail floorspace to meet the required demand.

It is important to acknowledge the contribution that Large Format Retail makes to the economy and the wider retail sector. The retail sector is more diverse than just shopping centres and malls.

The LFRA would be happy to meet with the NSW Productivity Commission to discuss this submission and further detail and reinforce the critical importance to plan appropriately for the Large Format Retail sector.

Please contact the LFRA's Chief Executive Officer, [REDACTED] [REDACTED] should you wish to discuss any aspect of this submission.