

1st May 2009

Statutory Planning Systems Reform
Department of Planning & Community Development
GPO Box 2392
MELBOURNE VIC 3001

**Modernising Victoria's Planning Act
Submission by the Bulky Goods Retailers Association (BGRA)**

1.0 Overview

Bulky Good Retailers Association Limited (BGRA)

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

Retail members of the BGRA comprise the majority 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, Baby Bunting, JB Hi-Fi, Domayne, Super A-Mart, Repco, Clive Anthony, WOW, Goldcross Cycles, Early Settler, Recollections and Adriatic Furniture.

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 Properties 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.

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Patron:




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

Restricted retail is increasing proportionally as a percentage of total retail spending

Based on data from the Australian Bureau of Statistics' *Australian National Accounts* series, sales of restricted retail goods in Victoria have increased at an average rate of 6.9% per annum in recent years: from \$6.7 billion in 2000/01 to \$10.7 billion in 2007/08. Sales of all retail goods and services have increased at a lower average rate of 6.4% per annum: from \$40.1 billion to \$61.9 billion during the same period. As a consequence, the proportion of retail spending directed to restricted retail goods has increased in Victoria from 16.7% in 2000/01 to 17.3% in 2007/08. This proportional change is also reflected at a national level. We note that the national figures for sales of bulky goods merchandise show that bulky good retailing accounts for 22% of all retail sales.

Increasing Employment within Restricted Retail Sector

Research undertaken by Deep End Services indicates that direct employment within the sector in Victoria has increased by 8,800 Full Time Equivalent (FTE): from 20,900 in 2000/01 to 29,700 in 2007/08. In addition, indirect employment supported by the sale of restricted retail goods in Victoria has increased by 10,929 FTE: from 25,958 in 2000/01 to 36,887 in 2007/08.

2.0 Victorian Retail Policy Review

The BGRA is a key stakeholder in the current review of Retail Policy being undertaken in Victoria. The BGRA is a member of the Stakeholder Reference Group established to inform the content of this review and we remain committed to working with government to ensure its successful implementation.

As the key industry group for the bulky goods retail industry, the BGRA is primarily concerned with planning regulations which impact directly on the retail sector. As such, we have made a detailed submission to the Retail Policy Review on 27 February 2009. In that submission we have advanced our views and recommendations on the key areas of planning regulations which directly affect our industry. We remain convinced that the Retail Policy Review is a project of State significance and request that Government consider our submission to that review in conjunction with this separate project to investigate modernising Victoria's Planning Act. (copy attached)

We have deliberately sought to limit our submission to this project to the key areas of interest to our members and, in doing so, we provide responses to only selected questions contained in the Discussion Paper.

3.0 Modernising Victoria's Planning Act

Section 1: About this Review

Question: Do we need a new car or a major service?

The BGRA supports the concept of a “major service” rather than a complete overhaul of the Victorian planning system. We believe that the current planning system is functioning adequately, albeit with room for improvement in terms of increased certainty and reduction in time and cost associated with compliance.

Given the current economic climate, we believe that the focus of any such “major service” should be towards employment generation and the reduction of any / all detrimental effects to business associated with obtaining planning approvals and achieving planning compliance.

Section 6: The Permit Process

Question: Is there a need to change the permit process to make it more responsive to the scale and complexity of a proposal ?

There is an opportunity via this review to implement changes to simplify and streamline the process relative to the scale of development applications. Applications for matters of minor scale and minor impacts should be subject to a less onerous process than is currently required. This, in turn, would allow the prioritising of Council resources to matters of greater scale and impact.

Question: Would a system of pre-lodgement certification by private practitioners be an effective way to improve the standard of permit applications?

The proposal for pre-lodgement certification by private practitioners is an interesting proposition, but, in our view, does not go far enough to provide material benefits in the time and cost associated with obtaining planning approvals. The BGRA has made comment in relation to the issue of private certification of planning under Section 9 of this submission. We believe that if private certification is to be investigated, it should apply to the entire planning process up to the issue of approval, rather than only part of the process, in this case the pre- lodgement phase.

Question: Should the responsible authority have a greater discretion to reject an objection?

Yes, they should.

Objections should be assessed on their merits. Councils should have the discretion to reject objections on the basis of vexatious, anti competitive, obstructionist or similar grounds. This would assist in deterring such objections in the first instance and assist in streamlining the timeframe for processing applications.

Section 7: Planning Schemes and the Amendment Process

What steps in the process should have a statutory time requirement and what would be a reasonable time requirement to impose? What should happen if a time requirement is not met?

The BGRA generally supports any measures to reduce the timeframe required to adopt a planning scheme amendment.

All steps in the process which require the Responsible Authority to review and consider a step in the process which requires a milestone approval should attract a statutory timeframe to make that decision. This would provide greater certainty for both Councils and proponents in relation to timeframe when compared to the current system, which is open ended.

If the time frame is not there should be a process to quickly refer the matter to the Panel or Committee with authority to make a decision that the Responsible Authority has failed to do in the timeframe.

Question: Is a formal and independent process needed to assess refusals of amendment requests or to decide on unresolved issues between a planning authority and a proponent? If so, how should this process work? Who should make the decision?

The BGRA strongly supports changes to the current system to introduce a third party review process consistent with the permit application process. The current system which provides Councils with the sole decision making responsibility without appeal rights is not effective or sustainable. The current system is open to politicisation and delay.

A process could be simply introduced to provide Planning Panels with the authority to make decisions during the course of the amendment process, rather than limiting their involvement to the current Panel Hearing phase of the process.

Question: Should a right of review be available to proponents where a planning authority decides to abandon an amendment? Who should review and decide?

Yes, there should be a right of review.

The decision to abandon an amendment is one of the key milestone decision points in the current process and all of these decision points should be subject to appeal rights. As previously mentioned the BGRA believes that Planning Panels Victoria or an equivalent agency is the appropriate group to review and decide on such matters.

Question: Are the requirements for reviewing planning schemes adequate? Can they be improved in a way that makes the amendment of a planning scheme more efficient and effective?

The requirements for reviewing planning schemes on a routine basis are more than adequate and should be reviewed in the context of the current structure planning process required under Melbourne 2030.

The BGRA believes the resources of government should be directed towards undertaking structure plans for activity centres and other strategic planning projects associated with pro-active planning for future growth. The general

review of planning schemes, while important in order to remain current, should not be undertaken as a matter of routine at the expense of other more important and positive strategic planning projects.

Section 8: State Significant Projects

Question: Would there be benefits in creating a specific planning process for the assessment of State significant projects?

Yes, there would be benefits.

Specific criteria should be adopted to identify which projects qualify as being of State significance. These criteria should extend beyond those projects with significant adverse or controversial impacts (i.e. environmental) and extend to projects above a capital value threshold and/or nett community benefit threshold. This is particularly relevant given the current economic crisis and the need to accelerate the planning process for employment-generating capital works projects. This focus towards employment generation and economic wellbeing should remain a constant component of the planning system.

Question: What process should be followed for deciding which projects are of State significance?

Criteria should be established which provide quantifiable and measurable compliance requirements.

Question: What is the most suitable process for evaluating and deciding State-significant projects?

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Question: Who can best decide these matters – should all decisions be made by the Minister or could some proposals be decided by a Development Assessment Committee?

The Minister for Planning should evaluate and decide which projects are of State significance. The Minister could establish a Development Assessment Committee to assess these matters or refer them to existing agencies such as the Priority Development Panel (PDP) or Planning Panels Victoria.

Section 9: Governance and Decision Making

Question: Should there be more opportunity for private sector involvement in planning processes in Victoria?

Yes, there should be.

Private certification has proven to be successful in the field of building surveying / building permit approvals process. While it is acknowledged that the field of planning can be more subjective than interpreting building regulations, there is an opportunity to investigate the merits and potential benefits associated with introducing a system of private certification in planning.

Question: What issues (such as probity issues) would need to be addressed?

Should privately certified planners be able to assess and decide certain planning consent matters?

The system which currently regulates private certification of building approvals should be investigated for its suitability to be adopted and or modified for transfer to the planning sector. Private certifiers should be able to assess and issue consent approvals for a range of planning issues. This would assist in reducing the workload and time pressures associated with local councils and in removing political considerations in the assessment planning applications.

Section 10.1 – Section 173 Agreements

Question: Are the options recommended by the 2004 expert group appropriate?

Yes, they are.

The recommendations made by the expert audit group should be implemented as soon as possible. This review provides an overdue opportunity to implement these recommendations.

Question: What else could be done to improve the operation of agreements?

The BGRA believes that the State Government should provide greater guidance to Councils in relation to the circumstances where 173 Agreements are required and to standardise the content and format of conditions which can be included in 173 Agreements.

Should you require elaboration or further information, please feel free to contact the writer.

Yours sincerely,



Philippa Kelly
Executive Director