



5th March 2008

Dr Neil Byron
Productivity Commissioner
Productivity Commission
Level 28
35 Collins Street
MELBOURNE VIC 3000

Dear Dr Byron,

**Productivity Commission Draft Report (November 2007)
The Market for Retail Tenancy Leases in Australia**

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

Bulky goods is a well-established retail sector and recent figures from BIS Shrapnel indicates that the sector represents over 23 per cent of all retail sales in Australia, amounting to \$41.8 billion in the financial year ending June 2007.

We refer to our original submission regarding the Productivity Commission Review dated 26 August 2007; referenced as submission number 126 in the Draft Report.

The purpose of this submission is to provide our response to the Draft Report issued in November 2007 including the Draft Recommendations contained in it.

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Principal Sponsor:
PRICEWATERHOUSECOOPERS 

Draft Recommendation 4

The BGRA supports the 'common thread' contained in the various Draft 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.

In particular the BGRA supports the Productivity Commission in relation to Draft Recommendation # 4;

"...As unnecessary prescriptive elements of retail tenancy are removed, State and Territory governments should seek, where practicable, to establish nationally consistent template legislation for retail and commercial tenancies available to be drawn down to each jurisdiction..."

Draft Recommendation 5

The BGRA strongly supports the Productivity Commission in relation to Draft Recommendation # 5;

"...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 draft findings on this matter which surmises that – *"... Zoning and planning controls affect the location, quantity and use of retail space..."*

The projected increase in population over the next 20-25 years in Australia requires a significant increase in the quantity of retail floor space to service the needs of consumers. There is a corresponding need to increase the supply of suitably zoned land for the purpose of facilitating the development of new retail floor space. There is a nationwide trend towards 'activity centre' based planning controls which aim to concentrate development inside the defined boundaries of these activity centres. The premise of these policies is that increased density of development is most sustainability catered for in developed urban centres with access to the public transport networks.

The BGRA support the sustainable development of activity centres to cater for the projected increase in population. However we believe that there is an unintended consequence of this focus on activity centre planning whereby development of land outside of these defined centres is being constrained and stifled. The majority of existing floor space that caters for Bulky Goods retailing is located on the edge or outside of the defined boundaries of activity centres. This existing development has been created in direct response to consumer demand and the planning policies that supported and encouraged Bulky Goods Retailing on predominantly main road locations.

There is no evidence to suggest that Bulky Goods retailing in out of centre locations is undermining activity centre policy.

We note with interest the view of the Shopping Centre Council of Australia (SCCA) in relation to this issue. In presentation to the public hearings of the Productivity Commission on 4th February 2008, Milton Cockburn (SCCA Executive Director) stated that;

“...We accept that bulky goods development should generally be an exception to the notion that all major retailing should be concentrated in urban centres.

In many of the established urban centres there is not sufficient space for those retailers with genuinely bulky retail offers, so there is justification for giving bulky goods retailers the advantage of locating outside retail zones because they usually need greater floor space than other retailers and this often can't be provided in urban centres...”

There is evidence to suggest that planning policies and regulations can have the effect of restricting the availability of retail space and its use and this in turn can reduce competition between landlords and tenants in the market.

There is 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 Draft Recommendation # 5 as a direction by which retail development and increased competition can be encouraged.

Other

Two (2) of the key differences between bulky goods retailing and the broader retail market are reiterated from our original submission i.e.:

Sales Figure Disclosure

In the vast majority of cases bulky goods retailers do not disclose their sales figures to their landlord. There are some leases entered into where sales figures are disclosed and this is because the rent is either totally or predominately based on a formula that relates to the retailer's turnover.

Lease Terms

Security of tenure is extremely important. It is standard practice that bulky goods retailers enter into leases with options exercisable by the tenant. Generally speaking the initial lease term can range from between 6 to 10 years and the total lease term including options ranges from between 15 to 20 years.

We note that the Productivity Commission has not made any recommendations for change associated with these two (2) key points. We submit that the benefits experienced by our industry could be adopted in the broader retail marketplace.

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

Yours sincerely,

A handwritten signature in purple ink, appearing to read 'Philippa Kelly', written in a cursive style.

Philippa Kelly
Executive Director