



General Submissions Template

Retail Policy Review Discussion Paper

Name of Organisation - Master Grocers Australia

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Overview of Key Points

Provide an overview of the key messages in your submission.

As the peak body of the independent grocery and liquor supermarket industry the Master Grocers Association (MGA) presents a turns over approx. \$3.5 billion per annum in Victoria and employs 18,000 people in a wide range of permanent, casual and part time roles.

Importantly the independent sector has a strong presence in regional Victoria with 350 stores in a wide variety of towns and regional centres, often providing the main supermarket outlet for a community, and 150 stores in the greater metropolitan Melbourne region.

This submission is based on the three central pillars of the MGA community model – community, sustainability and environment.

Independent supermarkets are often the core of community retailing as they anchor strip shopping centres, neighbourhood shopping centres and are being increasingly located in regional and sub regional shopping centres as the brands are being recognised as alternatives to the major chains.

Our mission statement is:

Community

Independent supermarkets work within their local community. We will only operate in local communities when there is demand for a supermarket. Our supermarkets are built at a size suitable for the local community. We operate in the main shopping precinct or existing strip shopping areas to sustain and work with existing local business. We strive to work with and not against the local community in a wide variety of sponsorship roles designed to support community and charity groups.

Sustainability

A strong sense of community leads to sustainable independent supermarkets. Independent supermarket operators support environmentally and sustainable practice through stocking local produce and locally produced product in their supermarkets. We will only operate a supermarket where there is expressed community need and we will not undermine existing small business retailers. In turn this creates a strong community environment where there is a need for the supermarket.

Environment

By operating within the existing local community independent supermarkets are working toward environmentally practices. Community residents can walk or cycle to our stores based on their locality and proximity tin existing retail precincts. We are actively adopting environmentally friendly practices within the operating guidelines of the stores. This includes using greener technologies such as environmentally friendly products and moving towards more environmentally friendly practices overall.

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The MGA is deeply concerned that the current planning environment is not reflecting new community attitudes toward community-based, walkable retailing and that the business models of the major chains are unsustainable from a number of perspectives.

MacroPlan's research has demonstrated that average supermarket sizes are increasing and the proportion of the population who have walkable access to a supermarket or grocery format store is falling, particularly in new development fronts.

If supermarkets are continued to be delivered at an average of around 3,000sqm across Melbourne's growth areas between 2010 and 2026, the total additional number of supermarkets (and associated local activity centres) required to service residential needs will be around 30 supermarkets. This will only allow walkable access for a little more than a third of the population.

However, if the average supermarket size in local activity centres delivered is around 2,000sqm, the proportion of residents within a walkable catchment of a supermarket increases significantly to 75%. (Source: MacroPlan 2009)

MGA members provide an integral role in the Victorian Government's aim of developing a "walkable city" as our business model generates significant social and environmental benefits for local communities and:

- Contribute to local character, cohesion and active community life – a better connected community
- Local owners reinvest a greater share of revenue into the local or state economy
- Provide a higher proportion of entry level job
- Promote entrepreneurship
- Enhance competition and consumer choice
- Provide local environmental benefits ie linking with public transport

(Source: PriceWaterhouseCoopers – National Association of Retail Grocers Australia. The economic contribution of small to medium-sized grocery retailers to the Australian economy, with particular focus on Western Australia June 2007)

MGA member supermarkets generally come under the IGA (350 stores) and Foodworks (150 stores) brands and range in size from convenience stores of 300 sqm up to major retail destinations of 4,000 sqm. The average size of our stores is around 1,500 sqm with our latest stores as large as 2,500 sqm.

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Both supermarket brands are supplied by Metcash Ltd the listed wholesale food supplier that provides the stock to ensure the independent sector is the third force in the Australian grocery industry.

Independents hold about a 20% market share of the grocery industry nationally compared to Coles with 34% and Woolworths 44%. The Independent market has stabilised as the focus returns to community-based shopping and formats and quality of independent stores improves.

Unfortunately this trend to community shopping is not being recognised by the planning scheme. The major chains are successfully pushing for increasingly larger supermarkets that have seen many Neighbourhood Centres double in size and are becoming increasingly removed from the local communities they are established to service as the catchment required expands dramatically.

These expanded retail centres are reinforcing the trend to car based retail centres that are a negative for the environment and ignore the “walkability” requirements of our communities.

These goals are embodied in many aspects of the Victoria Planning Scheme and are repeated in the Retail Policy Review Discussion Paper.

This submission is broadly supportive of the direction of the discussion paper and seeks to further clarify some of the issues contained in the paper as well as suggest some mechanisms for determining future development programs to further reinforce the commitment to a wide range of social and environmental goals enunciated by the Victorian Government.

The independent supermarket sector sees a major role for smaller, community focused retailing that focuses on the local community, sources produce and goods from within its catchment where possible, and is the anchor to the “walkable” city.

The main aim of this paper will be to outline the role of a new retail segment definition in the hierarchy – Local Area Centres (LACs) – to fit below the NACs, MACs and PACS and provide an environmentally supportive, non-car based community retail centre.

There needs to be a conscious effort to ensure these LACs are planned for and implemented in the future to ensure that the trend toward ever larger retail centres is offset by new desire for walkable local centres in a complementary structure.

This paper argues that this can be achieved by a redistribution of some supermarket and retail floor space to LACs will create quantifiable benefits to the local economy in terms of investment, job creation and environmental benefits through a change in trip patterns and community benefits in reinforcing a local walkable community focus.



MacroPlan's assessment of the economic benefits (attached report) of focusing on a walkable community are:

- Opportunities for a network of smaller activity centres supplying local jobs
- Opportunities for a wider mix of employment within walkable catchments
- Reduced greenhouse emissions
- Reduced vehicle trips
- Increased health benefits
- Link to public transport systems

A high level assessment of the overall net benefits of a more distributed alternative delivery framework for local activity centres over the period 2026 to 2051 confirms a range of economic benefits that equates to \$663 million in net present value (NPV) terms or \$1.4 billion in nominal terms.

In this paper the MGA will respond to the Discussion Paper while elaborating on some of the principles it contains and presenting a detailed analysis of how Local Area Centres (LACs) can work within the retail hierarchy in conjunction with the MacroPlan report.

The focus of the MGA submission is a focus on local communities and includes the provision of retail floor space and an integrated transport and urban design and the timely provision of infrastructure.

Key points:

- The MGA retail offer provides sustainable walkable local centres focussing on: 'community', 'sustainability', and 'environment'.
- The neighbourhood centre anchored by a small/medium supermarket is the hub of existing and new walkable & sustainable communities
- MGA supports the control over restricted retailing and is concerned about the unplanned expansion or conversion of restricted retail uses to general retail uses.
- MGA Supports regional retail strategies being prepared as many of our regional members are adversely affected by out of centre retail development approved in towns that do not have a retail planning structure.
- MGA supports the creation and maintenance of useful data about retail floorspace and retail activity. However this work should not distract government from pursuing the range of other reforms and initiatives identified in the review report.
- The need for greater policy guidance (in the State and Local Planning Policy Frameworks in the planning scheme) for local and neighbourhood retail facilities. The policies need to be strengthened to ensure that neighbourhood centres are appropriately located and designed to serve the needs of local communities and are in place early in the development cycle of new communities.
- The policies also need to recognise that community centres (LACs) anchored by a supermarket and within walking distance of the majority of their catchment are an essential building block of that community.
- MGA is keen to work with government on the further development and implementation of the concepts presented in the review report, and in the ongoing monitoring of retailing in Victoria.

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There is no doubt that the four guiding principles for planning policies and controls are:

- Be consistent with activity centre policy, and provide certainty on the location of retail facilities;
- Allow for growth and change in retailing;
- Not limit retail competition or innovation, nor distinguish between or favour particular forms of retailing unless there is a clear public policy case for doing so; and
- Ensure that developments pay attention to the public realm and contribute a sense of place and focus for the community

These guiding principles are consistent with the vision of MGA and its members, and indeed are acceptable to most other stakeholders.

The key issue is how these principles should be applied, and what weight should be given to each when formulating retail policy, statutory controls, or other measures designed to facilitate a particular outcome.

Issues

For each of the identified Issues please provide your comments in the sections below.

Additional comments on other major issues and challenges that you wish to raise may be added at the end of this section.

Managing growth and the network of centres

The attached report from MacroPlan Australia outlines how the MGA sees the potential future distribution of retail space in metropolitan and regional Victoria.

The report provides a structure for the distribution of supermarket floorspace to ensure walkable communities and to maximise the benefits of community-based shopping centres in the areas of the environment, community and sustainability.

It also looks at the breakdown on supermarket floorspace and how it can be allocated and looks and the employment, investment, economic and environmental benefits of developing this new LAC level in the hierarchy.

Facilitating appropriate development in appropriate locations

The MacroPlan report outlines how planning on a grid, allowing for a range of housing densities, can affect the amount of retail floorspace that can be provided in each sector and how it can be applied to planning in new communities, existing communities and regional areas.

The review suggests that with population growth, there will be a need for 40% more retail floor space of which – depending on how the floorspace is distributed – will result in from as few as 28 major supermarkets to as many as 76 new community sized supermarkets.

The assumptions being made about existing retail floorspace provision (type, configuration, suitability for current and future retail use, adaptability, and the nature of any constraints to more efficient or more appropriate use) are also unclear.

Our submission is substantiated by the MacroPlan report. The report provides important data and analysis that substantiates the MGA preferred allocation of retail floorspace to neighbourhood centres in new/developing communities as well as identifying sites for regional development.

The proposed responses 5 to 7 are largely consistent with the MGA position of facilitating the establishment and ongoing maintenance of small local supermarkets in walkable neighbourhoods.

The MGA stresses the need for State and local planning policies to address explicitly walkability, appropriate scale and the environmental sustainability of centres and by linking with public transport and providing adequate accommodation for cycling and other forms of sustainable transport.

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The policies highlight the importance of small supermarket based centres as a focus for established communities, and as a 'seed' or nucleus for the growth of new communities in Greenfield areas.

These concepts are canvassed in the paper, but no statements have been made about giving this a high priority in the reform and are key to the "fine grain" development required for cities of the future.

These issues need to be part of the State Planning Policy Framework or the reviews of the local planning policies.

History shows that since at least the 1950s there has been a move to favour fewer larger centres, over the model of walkable neighbourhood centres as we developed into a car-based society.

There have been a number of attempts since the late 1980s to establish in the Greenfield growth areas a more finely distributed hierarchy of neighbourhood centres. Examples are in the original local structure plans prepared for large parts of Wyndham and for Melton East/Caroline Springs.

Plans of the proposed distribution of retail centres for these areas are attached. The hierarchy as defined at that time comprised:

- **Sub regional/town centre** comprising a discount department store or two, larger format supermarkets, non food mini majors, hardware/homeware, specialty shops, personal and business services, restricted and service retailing, higher order community facilities, hotel/tavern, administrative services, entertainment, community meeting areas, etc. The Tarneit and Truganina centre was expected to have 25-30,000m² of retail floor space. The Melton East centre was expected to have 14-20,000m².
- **Community centre** serving 10-20,000 population with a major supermarket (and possibly a second), and supporting specialty shops and services on 2-3 hectares.
- **Neighbourhood activity centre** serving 5-10,000 people with a medium sized supermarket and specialty shops on 2 hectares.
- **Local shops** comprising up to 10 shops plus a mini supermarket or licensed grocer and serving a population of 4-5000 people.
- **Corner shop** (a local convenience shop).

Similar concepts were pursued in the other metropolitan growth areas as part of the growth area planning undertaken at that time.

As developers now focus on larger Community shopping centre continues the middle to lower Neighbourhood and Local centres have been dispensed with at the development stage, and the communities have been provided with fewer larger centres generally catering to car based customers.

Instead of providing the early services to a newly establishing community, the lower order community/neighbourhood hubs have been excluded at the subdivision stage or are identified as potential future developments.

An example of this planning failure can be found at Melton East where lower order centres have been proposed but are unlikely to be built as the retail floor space has been aggregated into a larger sub regional centre that was built early in the development cycle. The MGA proposal would have seen the neighbourhood facilities provided as the building block of that community early in the cycle and the larger centre would have followed as the trade for higher order services developed.

Unfortunately it is difficult to justify a community/neighbourhood centre once the floorspace has been established in a larger (car dependent) facility in the locality.

The retail review identifies a desire to see the emergence of vibrant neighbourhood centres and the MGA has the capacity to provide the anchors for these new lower order community hubs.

For this community hub concept to be realised there needs to be a clear understanding of how the retail sector (developers and operators) can be assisted to locate facilities in accordance with a sustainable 'walkability' model. A starting point would be to analyse some of these past plans, and develop an understanding of the reasons they were changed.

It would be worthwhile looking also at the work done for the Ballarat West Local Structure Plan (LSP), which has attempted to create a hierarchy of centres meeting the walkability criteria. The LSP has recently been reviewed by an Independent Panel, and Council is now considering its next steps.

A strong policy position (incorporated in the planning schemes) will be required if the State is to realise its vision of walkable centres. This should include policy guidance in the State and Local Planning Policy Frameworks.

MGA seeks to be involved in:

- The assessment of market potential for the small to medium sized neighbourhood shopping facilities,
- The policy and statutory measures required to facilitate their provision,
- The preparation of planning policies for their provision, and
- In the monitoring and review of these policies over the coming years.

Managing restricted retail premises



The proposed response 8 is to maintain the existing definition of ‘restricted retail premises’ and limit any future changes that would broaden the range of goods sold.

MGA acknowledges the origins of ‘restricted retailing’ which at the time created a separate special category of retailing (bulky low turnover goods requiring large floorspace, low rents, and good access by trucks and heavy vehicles).

We are very concerned at the accelerating trend whereby restricted retailing premises are increasingly being used for high value, small, high turnover specialty goods (such as electrical appliances, home entertainment etc) that are competing with ‘general’ retail premises and resulting in dispersed or segregated activity centres and economic impacts on mainstream retail activities.

MGA supports the initiative to confine restricted retailing and that it is limited to its original intent and does not replace or superimpose itself on the mainstream retail market.

An expansion of restricted retailing would be a major threat to walkable cities which rely on clearly defined retail activities for the provision of mainstream retail items. Smaller retail centres also rely on the diversity of retail offering that can provide community focussed goods and services that are often offered in competition in the bulky centres. These smaller, specialist retailers are often a major attraction in these walkable centres in the next level of the retail hierarchy and provide the unique offer that defines the category. The invasion of bulky goods operators into out of centre locations is to the detriment of the centres themselves.

Managing retailing in industrial areas

Managing new centres and major retail proposals

MGA has sought separate advice on a sustainable model for the provision of local retailing in growing metropolitan and regional areas (MacroPlan Report attached).

The model and analysis that supports it is also applicable to developing an understanding of local retailing in established areas.

The aim of the MacroPlan study is to provide an easily implementable model for retail development into the future in metropolitan and regional areas.

Regional retailing often lacks the structure planning to enable retail development to occur in the best locations. This often leads to out of centre developments that have negative effects on existing retailing centres.

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Another issue is that the major chains rarely adapt their supermarket designs to accommodate individual markets. As most regional retailing developments are supermarket focussed these large format stores often threaten existing retailing in a community or within a broader hierarchy. The consequence of this approach is ad hoc retail development by regional councils keen to promote development at any cost and without a clearly identified plan for its introduction on sites that accommodate the format rather than the community requirements.

Improving design outcomes

The MGA supports this and believes the guidelines should address the following:

- There needs to be specific reference to sustainability and environmental performance of the built environment consistent with the three themes adopted by MGA – community, sustainability and environment.
- Safety in design needs to be an integral part of any assessment. Current planning procedures do not explicitly review building design for Occupational Health and Safety Issues. This can allow buildings to be approved that could contain design faults that prove dangerous to staff or customers. These needs to be addressed as part of the planning approval process rather than addressed once the building has been completed.

Response 17 proposes that DPCD continue to provide advice and assistance to developers and councils on the design of major retail development.

This is also supported, but not at the expense of attention to improved design outcomes at the local and neighbourhood levels.

If government is serious about facilitating walkable sustainable neighbourhoods, it needs to invest time and resources in guiding the design and implementation of these building blocks of local communities.

MGA has extensive knowledge of how to make the retail, community and (increasingly) the environmental aspects of neighbourhood centres work and is therefore well placed to have input to any guidelines. We would be pleased to have the opportunity to be involved in the drafting of any guidelines.

Proposed Responses

For each of the Proposed Responses please provide your comment in the sections below.

Managing growth and the network of centres

Key message

We need to prioritise regional and local planning to manage and accommodate growth in retail floorspace likely to be required across the network.

PROPOSED RESPONSE

1. Undertake a program of improved monitoring and reporting on retail development.

Reporting on retail development in Victoria is often ad hoc and is not available in a reliable central data base although several private companies do attempt to monitor planning applications. Ideally there should be a centralised monitoring of the amount of suitably zoned land for a community with an overlay of the expected amount of development required for the population. The market can determine the amount of floor space required but the provision according to a robust hierarchy will be the major initiative that will guide development in the future.

Retail assessment criteria

Response 11 proposes the development and implementation of retail assessment criteria based on a sequential test approach. The criteria are intended to be applied to rezonings proposing more than 2,000m² of retail floorspace.

The principle behind this is supported by the MGA. It should introduce more consistent assessments and decisions about rezonings for larger projects.

The 2,000m² threshold would exempt most neighbourhood centres comprising a small supermarket and specialty shops. The critical questions will be:

- How will the Retail Assessment Criteria be formulated and how can MGA be involved in this? MGA would welcome the opportunity to participate in the formulation of these final criteria.
- How effective will the sequential test approach be in established areas with fragmented ownership, where inevitably it is difficult (but not impossible) to assemble large development sites that are already appropriately zoned?

The experience in Melbourne and in regional cities and towns is that many of the major retail development proposals are for redundant land uses (often in fringe locations) and that these are opportunistic rather than based on a well conceived land use strategy. It is unclear how the proposed criteria can address this.

2. Work with councils and the industry to develop Regional Retail Assessments.

The review proposes that assessments be prepared (by the State, councils and industry) to identify retail development trends for the region; reflect anticipated population and employment growth; identify anticipated needs for the next 15+ years; the hierarchy of activity centres (and any changes required to the existing hierarchy); and priority actions for State and local government to ensure these needs can be met. It is also proposed that councils, the community and retail industry have input to this planning work, and that the results are subject to review approximately every five years.

This is potentially a substantial amount of work for everyone involved. If it is to be implemented, ways will need to be found to expedite the research and planning involvement. It is also unclear how the State envisages the process being managed, including the decisions that will need to be made about the appropriate priorities, scale, and locations for growth.

MGA would be keen to participate and assist in these discussions we highlight the need for other initiatives identified in the review to progress in tandem wherever possible.

Classification of centres

Response 12 calls for criteria to be developed for classifying centres in accordance with the metropolitan activity centres network (including for new centres, and reclassification of existing centres).

The MGA proposes that the current retail hierarchy is maintained with the addition of the walkable city focussed LACs (Local Area Centres) that provide a range of community benefits.

The LACs would be supported by a redistribution of floor space from the higher order centres to provide a network of retailing that would enhance convenience, walkability and the full range of benefits that would accompany this policy.

The MGA supports this principal and is keen to have input into the formulation of the criteria including:

- How the criteria can be formulated?
- When the criteria is finalised?
- What weight will the criteria be given?
- What mechanisms will be used to ensure that the criteria are applied consistently

3. Provide greater assistance to councils in preparing municipal strategies that provide for future retail growth.

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It is critical to ensure that retailing, which is not restricted by municipal boundaries, is able to be planned on a regional basis to ensure that retailing is provided in a structured manner across Victoria.

This will allow the optimal implementation of the retail hierarchy across metropolitan Melbourne and through rural and regional Victoria.

In rural and smaller regional areas there is frequently a lack of retail policy that can lead to less than ideal development occurring in out of centre or edge of centre areas that have an impact on the existing retailers in the township.

It is important that these municipal strategies are underpinned by a broad strategic framework that outlines the development principles in the absence of a detailed MSS.

The scope of these strategies is quite extensive. Probably more refined than most existing municipal strategies or local planning policies in Victorian planning schemes.

If followed, the strategies could provide a sound basis for retail investment for both communities and the existing retail environment. The challenges will be in running a planning process that is backed by sound data, has appropriate stakeholder input, and robust decisions.

Again the issues will be around the quality of information relied upon, the level of commitment of resources for the preparation of strategies, the skills and experience of people responsible for the work, and the time that will be required to work through the process and end up with local strategies and policies in the planning scheme.

4. Work with councils to ensure structure planning for activity centres provides for adequate retail growth.

Providing for adequate retail growth is a difficult problem in activity centres as the availability of land is often an issue. Activity centres are generally constrained by land supply but established centres rarely need additional supermarket floorspace.

Response 4 is to work with councils to ensure structure planning for activity centres provides for adequate retail growth and appropriate in centre development.

This is a fundamentally important action, which is supported by the MGA

The challenge for government will be to ensure that the structured planning processes are appropriately resourced and are focused on achieving retailing outcomes that meet the needs of the community.

The MGA proposes that its retail distribution in community centres supports the Walkable City aspiration and would ensure that the structure plans include the concepts of community, sustainability, and environment.

Facilitating appropriate development in appropriate locations

Key message

We need planning tools that are better aligned to achieving policy outcomes and support development when it is in appropriate locations.

PROPOSED RESPONSE

5. Refine planning policies to provide greater clarity and guidance for retail proposals.

We support fully the intent to refine policies to promote walkable communities plus it needs to address appropriate scale and the environmental sustainability of centres as complimentary issues.

The policies should also highlight the importance of small supermarket based centres as a focus for established communities, and as a 'seed' or nucleus for the growth of new communities in Greenfield areas.

These concepts are canvassed in the paper, but no statements have been made about giving this a high priority in the reform (or refinement) of the State Planning Policy Framework, or the reviews of the local planning policies (as foreshadowed earlier in the retail policy review paper).

The concept of Net Community Benefit (NCB) and economic impacts is one area that could be further refined to allow retail planning policies to proceed with most clarity.

While these policies are being refined there needs to be a "base case" argument for retail development that provides guidelines covering issues such as:

- *Economic impact criteria needs to be more clearly addressed along with a range of other issues such as environmental, social and community benefits;*
- *Net Community Benefit in terms of community, environment and sustainability to make developers provide more sustainable designs;*

For further detail refer to the attached MacroPlan report and the issues section of this submission.

6. Undertake adjustments to the Business 1 Zone and schedule to allow better delivery of policy outcomes.

In the absence of any detail we have no objection to the concept but would like to be involved in any discussions on these issues.

7. Encourage councils to investigate and implement non-regulatory mechanisms as well as planning controls to deliver the desired outcomes for a centre.

The MGA encourages any council-community efforts that can implemented to improve existing centres or to organise new centres to achieve their highest and best potential.

It is important that any efforts by council to promote or undertake any retail development is undertaken within the broader planning structure and with regard to existing retail centres.

It is important that clear guidelines are established to ensure that there is a Net Community Benefit from any initiatives and that the role of Council in any development is transparent and accountable.

Managing restricted retail premises

Key message

We need to move toward a system that does not distinguish between or favour particular forms of retailing.

PROPOSED RESPONSE

8. Maintain the existing definition of 'restricted retail premises' in planning schemes and the VPP.

The MGA supports maintaining the existing definition of 'restricted retail premises' and limit any future changes that would broaden the range of goods sold.

The discussion paper highlights the origins of 'restricted retailing' and the justification for creating a separate special category of retailing (bulky low turnover goods requiring large floorspace, low rents, and good access by trucks and heavy vehicles).

It also recognises that restricted retailing premises are increasingly being used for high value, small, high turnover specialty goods (such as electrical appliances, home entertainment etc) that are competing with 'general' retail premises and resulting in dispersed or segregated activity centres and economic impacts on mainstream retail activities.

Until recently there were minimum floor areas for bulky goods retailing that prevented mainstream shops being located in bulky goods development. The removal of these restrictions has already had impacts on main street as smaller stores are now locating out of centre into cheaper bulky goods areas. The MGA believes that these floor space requirements should be reintroduced to stop bulky goods outlets developing into quasi shopping centres.

Managing retailing in industrial areas

Key message

We need to ensure retailing in industrial areas does not occur unless there is a sound strategic basis.

PROPOSED RESPONSE

9. Amend industrial zones so that restricted retail premises become a prohibited use.

It is proposed that restricted retail premises be prohibited in industrial zones (response 9), and that transitional arrangements are made to 'deal with' restricted retail premises in these areas (response 10).

The proposed prohibition would prevent new restricted retail premises from establishing in an industrial zone. This initiative is supported. It is consistent with the MGA position that grocery retailing should be available in locations that are convenient to all local communities, and preferably as part of a community hub (with other local services, facilities and employment) that is located within walkable distance of most customers.

The suggested actions fail to recognise that planning schemes protect existing legally established uses, and also give the opportunity for approval to be given for alternative uses even if these are prohibited in the zone.

The MGA is aware of issues within the retail industry concerning zoning complications connected to continuing uses that have become prohibited over time. A nursery in outer Melbourne has been allowed to develop into a retail outlet although it is defined as a "supermarket" and therefore is a prohibited use. However the "15 year rule" allows for a use that has continued for 15 years without interruption to become legal. A similar case in the nearby City of Kingston was dealt with by VCAT on 11 June 2008 but no decision has yet been announced.

The MGA believes that continuing use is a major issue that needs to be dealt with (see Issues Managing Retail Industrial areas)

This is a complex area of planning law. Prohibition of existing lawfully operating uses will certainly appear on face value to constrain the future options for those uses. In practice such an approach might only serve to complicate the planning system as it applies to restricted retailing, without having any tangible effects on the actual use or development of land (apart from new developments, in Greenfield or established areas).

Operators of newly prohibited restricted retail uses would presumably continue with their use. Owners and business operators would then be faced with some uncertainty about their ability to adapt their business to evolving retail practices, and councils would be faced with additional monitoring and enforcement responsibilities.

There could be unintended consequences in cases where the agreed 'transitional arrangement' was to rezone the industrial land to a business zone (allowing restricted retailing, or perhaps opening up the retail opportunities with a less restrictive zone).

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The rezoning might allow other forms of 'out of centre' retailing, or make it feasible for a retail operator to agglomerate land (or adjacent premises) and create higher order 'restricted' retail uses.

We are very concerned however if there is an intention to rezone industrial areas to business zones as this would open up the opportunity for a greater range of retail activities in these areas at the expense of the walkable model.

10. Develop transitional arrangements and work with councils to deal with restricted retail premises that are currently located within industrial areas.

See above

Managing new centres and major retail proposals

Key message

We need to provide greater clarity about how or when we would consider retail in a new centre location and support development within the existing network of centres.

PROPOSED RESPONSE

11. Develop and implement Retail Assessment Criteria based on a sequential test approach.

Despite the apparent success of the Sequential Planning Policy in the UK some research has revealed that it suffers from similar problems to the District Centre Policy in Victoria with debate about town centres, edge of centres and out of centre development.

A study by Anne Findlay and Leigh Sparks (Institute for Retail Studies University of Stirling August 2007) found the system is also confronted with issues such as:

- Formats incompatible with policy
- Town centres are expensive to develop
- Obtaining large sites in town centres remains problematic
- Some preferred sites are sub-optimal
- Definition of off-centre retailing is ambiguous
- It creates a barrier to entry to new retailing

Findlay and Spark suggest the policy has reduced out of centre development although developers continue to argue – as bulky goods do here – that format and class of goods should allow a sequentially less preferable site to be approved.

Finally, the proposed responses related to planning for new centres fail to set in place a system for ensuring that planning for new communities incorporates an appropriate distribution of local/neighbourhood centres. MGA believes this a fundamental weakness to be addressed.

12. Develop criteria to be applied when considering a request for a new centre or to reclassify a centre.

MGA supports this and would like to be involved in determining and implementing the criteria.

13. Continue to provide advice and assistance to councils in planning for major retail proposals.

This is supported by the MGA.

Improving design outcomes

Key message

We need to ensure the design of new retail facilities and centres is well integrated and contributes to and enhances the public realm.

PROPOSED RESPONSE

13. Finalise the Interim Design Guidelines for Large Format Retail Premises.

This is supported by the MGA.

14. Undertake a review of design guidelines for retail developments and where possible consolidate this advice, improve the content and minimise any duplication.

This is supported by the MGA.

15. Update the Activity Centre Design Guidelines to incorporate design objectives and guidance on the development of new activity centres.

Again this should be supported, but not at the expense of attention to improved design outcomes at the local and neighbourhood levels.

If government is serious about facilitating walkable sustainable neighbourhoods, it needs to invest time and resources in guiding the design and implementation of these building blocks of local communities.

MGA has extensive knowledge of how to make the retail, community and (increasingly) the environmental aspects neighbourhood centres work and is therefore well placed to have input to any guidelines. It should take the opportunity to offer to be involved in the drafting of any guidelines.

16. Continue to provide assistance and advice to developers and councils on the design of major retail development.

This is presented as a continuation of an existing initiative. It is of concern if the 40% growth anticipated by the review is realistic.

The practical issues that need to be addressed are:

- What specialist expertise does DPCD have?
- How effectively are these programmes resourced, and what contingency plans does DPCD have for addressing major proposals (in a rapidly changing economic, social, and environmental context)?
- How are the views of other stakeholders (including MGA) appropriately considered in formulating this advice?

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The proposal (response 3) is to provide councils with greater assistance in preparing strategies for accommodating future retail growth.

The scope of these strategies is quite extensive. Probably more refined than most existing municipal strategies or local planning policies in Victorian planning schemes.

If followed the strategies could provide a sound basis for retail investment. The challenges will be in running a planning process that is backed by sound data, has appropriate stakeholder input, and robust decisions.

Again the issues will be around the quality of information relied upon, the level of commitment of resources for the preparation of strategies, the skills and experience of people responsible for the work, and the time that will be required to work through the process and end up with local strategies and policies in the planning scheme.
