29 March 2019

Mr Michael Lennon  
Planning Commissioner  
State Planning Commission  
GPO Box 1815,  
Adelaide SA 5001

Dear Michael,

I refer to the release of the Planning and Design Code for “Out of Council Areas” for consultation and wish to provide the following response on behalf of State’s independent retail sector, South Australian Independent Retailers (SAIR).

**BACKGROUND**

SAIR advocates on behalf of the 120 owners representing 235 independent supermarkets stores which are branded Foodland, IGA and Friendly Grocer. This sector employs 15,000 people which also includes staff in the sector’s major wholesale distribution centre.

The Retail/Wholesale Industry is the biggest ‘private’ employer in South Australia (circa 112,000) and independent supermarkets are the largest sector i.e. circa 13%

As a collective group, this sector is the largest private employer in the State and maintains a 29% market share, it is extremely competitive and punches well above its weight with a respectable circa $2b annual turnover, equating to 2% of South Australia’s Growth State Product (GSP).

**THE PLANNING & DESIGN CODE**

While SAIR does not have owners or operators located within the “Out of Councils” areas, this iteration of the Code is seen as a precursor for future regional and metropolitan versions of the Code that are due to follow, and as such, providing comments and feedback to the Commission as early as possible is hopefully of use to you.

It is noted in the Settlement Zone that there are a series of Performance Outcomes (PO) and Deemed to Satisfy (DTS) criteria that relate to retail, including

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<th><strong>Land Use</strong></th>
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| **PO 1.2**  
Small-scale retail development that provides goods and services to meet the needs of the settlement community and visitors to the area. |
| **DTS 1.2**  
The gross leasable floor area of a shop, the building or the outdoor area of the activity does not each exceed 100m2. |
DTS 1.2 states that if the gross leasable floor area of the shop, building or the outdoor area does not each exceed 100m² the proposal would be deemed to satisfy, for example there could be a shop of 100m² and an outdoor seating area of 100m² available for patrons to have food and drinks purchased at the shop.

However the Procedural Matters (PM) for Notification of Performance Assessed Development for the Settlement Zone in the Code states,

All classes of development are excluded from notification except where it involves any of the following;

c) shop, hotel, office, service trade premises, consulting rooms or veterinary practice in excess of 100m² in gross leasable floor area (including the outdoor area associated with the activity); or

In this case it is not clear why as part of a deemed to satisfy (DTS) proposal and applicant could potentially build a retail shop of 100m² and have an outdoor seating area of the same size, yet if the application has fallen into the performance assessed category, perhaps due to height or by some other means, and the proposal exceeds 100m², (for the shop and the outdoor area combined) (see part c above) in this case the application would require public notification.

In this case, the exceedance of the gross leasable area would trigger the public notification, yet when one considers the Planning, Development and Infrastructure Act 2016, the only aspects of the proposal which would be notifiable would be those aspects of the proposal that have resulted in the proposal falling into the performed assessed category, namely in this example the height.

This is also the same for the Township Zone where in this case deemed to satisfy item 1.2 states

DTS 1. The gross leasable floor area of a shop, office or consulting room does not exceed 250m².

However when it comes to the Procedural Matters (PM) and specifically notification of performance based developments, the Code states,

All classes of development are excluded from notification except where it involves any of the following:

c) shop, hotel, office, service trade premises, consulting rooms or veterinary practice in excess of 250m² in gross leasable floor area (including the outdoor area associated with the activity); or

It is recommended that the nature and gross leasable floor area makeup of the deemed to satisfy wording associated with shop is consistent with the public notification triggers for a performance based matter involving the shop as the same land use in this case in both the Settlement and Township Zones.
In short, if the deemed to satisfy criteria allows for a shop of 250m² gross leasable area and an outdoor seating area of the same, then the gross leasable floor area triggers associated with a shop for a performance-based assessment should be one in the same.

We look forward to working with you on the next stages of the planning reforms and would be more than happy to meet and discuss this matter further.

Yours sincerely

Colin Shearing
Chief Executive Officer