



**COMPETITION POLICY REVIEW:
Final Report March 2015**

**SUBMISSION FROM THE
Large Format Retail Association (LFRA)
26th May 2015**

PO Box 78 Balwyn North VIC 3104 | 10/828 High Street Kew East VIC 3102
P (03) 9859 5000 F (03) 9859 6077

www.lfra.com.au

ACN 131 555 612 ABN 31 131 555 612

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1.0 Large Format Retail Association (LFRA) Overview

The Large Format Retail Association (LFRA) is the national peak industry association whose primary focus is on issues relating to appropriate planning and responsible development of Large Format Retail outlets. Retail members of the LFRA consist of some of Australia's largest and most respected Large Format Retailers including 61 retail brands as follows:

ABS Automotive Service Centres	Early Settler	Petbarn
Adairs	Fantastic Furniture	PETstock
Adairs Kids	Forty Winks	Pillow Talk
Amart Sports	Freedom	Plush
Anaconda	Goldcross Cycles	POCO
Autopro	Guests Furniture Hire	Provincial Home Living
Autobarn	Harvey Norman	Ray's Outdoors
Babies R Us	IKEA	Rebel
Baby Bunting	JB Hi-Fi	Sleepys
Barbeques Galore	JB Hi-Fi Home	Snooze
Bay Leather Republic	Joyce Mayne	SPACE
BCF	Kitchen Warehouse	Spotlight
Beacon Lighting	Le Cornu	Suite Deals
Bedshed	Lincraft	Super Amart
Bunnings	Masters Home Improvement	Supercheap Auto
Chemist Warehouse	Midas Auto Service Experts	The Furniture Spot
City Farmers	Nick Scali	The Good Guys
Costco	Officeworks	Toys R Us
Curtain Wonderland	Original Mattress Factory	Urban Home Republic
Dare Gallery	OZ Design Furniture	Workout World
Domayne		

The LFRA is supported by its' Patron, PwC, and 66 Associate members who are Large Format Retail developers, investors, owners and service suppliers:

ACTON Commercial	Domain Central	Mainbrace Constructions
ADCO Constructions	DOME Property Group	Major Media
ALTIS Property Partners	DD Corporate	Mc Mullin Group
Arise Developments	Eureka Home Maker Centre	Mirvac
Arkadia	Excel Development Group	Morgans Financial Limited
Ashe Morgan Harbour Town	Gadens	Newmark Capital Limited
AXIMA Logistics	Gazcorp	Norton Rose Fulbright
AXIOM Properties Limited	Gibb Group	Nunn Media
BBRC Property	Gregory Hills Corporate Park	Primewest
BWP Trust	Griffin Group	Ray White Retail
Blueprint	HLC Constructions	Realmark Commercial
Brecknock Insurance Brokers	Humich Nominees	RPS Australia Asia Pacific
Burgess Rawson	IZM Properties	Savills
CarbonetiX	Jana Group of Companies	Sentinel Property Group
CBRE	JBA Urban Planning Consultants	SI Retail
CEVA Logistics	JV Property Management	StarTrack
Colliers International	Lancini Group of Companies	Terrace Tower Group
Comac Retail Property Group	Lander & Rogers Lawyers	The Belgrave Group
Cornwall Stodart	La Salle Investments	The Buchan Group
CV Signage Solutions	LEDA Holdings	VALAD
Dart West Developments	Leedwell Property	Vaughan Constructions
Deep End Services	Leffler Simes Architects	Vend Property

Our representation is diverse. The LFRA clearly represent the interests of Large Format Retailers, but we also represent the interests of small operators as many of our members have franchised businesses.

Deep End Services recently undertaken an update of key economic data relating to the Large Format Retail sector which is summarised in the following table:

State	LFR Sales (\$m)	LFR floorspace (sqm)	LFR Floorspace per person (sqm)	Direct employment (No.)	Direct FTE employment (No.)	Indirect FTE employment (No.)	Total FTE employment (No.)
New South Wales	18,932	5,611,530	0.75	66,207	54,290	67,428	121,718
Victoria	13,872	4,113,928	0.71	49,049	40,220	49,954	90,174
Queensland	12,567	3,778,307	0.79	44,556	36,536	45,378	81,914
Western Australia	7,488	2,290,618	0.88	26,734	21,922	27,227	49,148
South Australia	3,887	1,153,475	0.68	13,808	11,322	14,062	25,384
Tasmania	1,247	371,652	0.72	4,444	3,644	4,526	8,169
Australian Capital Territory	1,168	345,863	0.89	4,099	3,361	4,174	7,535
Northern Territory	644	190,379	0.78	2,248	1,844	2,290	4,133
Total	59,805	17,855,752	0.76	211,145	173,139	215,038	388,177

Source: Deep End Services; LFRA; Australian Bureau of Statistics; Deloitte Access Economics (as at August 2014)

Deep End Services estimates that sales by Large Format Retailers for the financial year ending 30th June 2014 to be **\$59.8 billion** nationally and approximately **21.9%** of all retail sales. Furthermore, it is estimated that Large Format Retailers nationally occupy more than 17.8 million square metres of retail floor space and employ a total of approximately 388,000 (FTE) people both directly and indirectly.

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

In addition to the Competition Policy Review are the following inquiries that are of great interest to the LFRA:

- Productivity Commission's 2014 inquiry into the '*Costs of Doing Business: Retail Trade Industry*';
- Productivity Commission's 2011 inquiry into the '*Economic Structure and Performance of the Australian Retail Industry*';
- Productivity Commission's 2010 '*Performance Benchmarking of Australian Business: Planning, Zoning and Development Assessments*';
- Productivity Commission's 2007 review into the '*Market for Retail Tenancy Leases In Australia*'; and

- ACCC's 2008 inquiry '*Into the Competitiveness of Retail Prices for Standard Groceries*'.

All of the abovementioned inquiries noted the need to review planning and zoning laws across all jurisdictions in Australia to increase competition and improve productivity.

2.0 Investment + Competition = Jobs

The LFRA recently commissioned an evidence-based report on Large Format Retail in NSW titled '*Investment + Competition = Jobs*'. The report was prepared by planning consultancy firm JBA with economic input from Deep End Services; additionally the report's preface was written by Professors Allan Fels AO and David Cousins AM. A copy of '*Investment + Competition = Jobs*' is attached.

'Investment + Competition = Jobs' provides a detailed assessment of planning and zoning difficulties in NSW that the Large Format Retail sector is confronted with, the impact on the sector as a result of the difficulties and recommendations as to how to resolve the issues.

There is a strong correlation between the findings and recommendations in '*Investment + Competition = Jobs*' and that of Competition Policy Review. We strongly commend '*Investment + Competition = Jobs*' to you.

3.0 Response to the Final Report (March 2015)

3.1 Introduction

The LFRA made a submission in response to the issues paper dated 14th April 2014; and the draft report on 17th November 2014, in relation to specific areas of interest. As an industry body, we are particularly focused on issues associated with planning and zoning and other regulations that have the effect of stifling, or restricting business activity in our sector.

As outlined in our previous submissions, the LFRA's key areas of interest in relation to this Competition Policy Review are broadly summarised as follows;

- The current restrictions on trading hours in a number of states, most notably Western Australia, which are anti-competitive and contribute to a significant loss of productivity in the retail sector of the economy.
- The inconsistent planning and zoning regulations across the various states and territories of Australia that contributes to increased establishment; occupancy and compliance costs to retailers.
- The slow progress being made in most states and territories of Australia in relation to the key recommendations of the Productivity Commission arising from its 2011 report titled '*Economic Structure and Performance of the Australian Retail Industry*'.
- The fact that competitive impacts on existing business are still being considered as part of the planning system, when they should be excluded from planning altogether.

We have undertaken a review of the Final Report dated March 2015 and are very supportive of the vast majority of recommendations contained therein. We believe the Panel has undertaken an extensive and thorough review of all the relevant issues and information available and produced an excellent report to guide future policy in this area.

Arising from our key areas of interest, the LFRA will provide a response to some specific panel views and draft recommendations contained in the Final Report in the following section of the submission.

3.2 Response to the Final Report – Planning and Zoning

The Panel’s View— Planning and Zoning

Planning and zoning requirements can restrict competition by creating unnecessary barriers to entry. The regulations should encourage competition and not act to limit entry into a market.

Reform to, or reviews of, planning and zoning are already underway around the country. An opportunity exists to make comparisons across jurisdictions to determine ‘*best practice*’ as a basis for updating and improving current requirements. Implementing reform in this area should be advanced more quickly than has been the case to date.

The LFRA strongly agrees with the Panel’s views in relation to planning and zoning. We have advocated for planning reform to deliver positive outcomes by the removal of restrictions; simplification of processes and for national consistency across all jurisdictions to deliver ‘*best practice*’ outcomes. We also support the need to act more quickly in the implementation of planning reform as there are many states in Australia, that have fallen behind in terms of their planning policies and their actions to adopt reform.

Recommendation 9 — Planning and Zoning

Further to *‘Recommendation 8’*, state and territory governments should subject restrictions on competition in planning and zoning rules to the public interest test, such that the rules should not restrict competition unless it can be demonstrated that the benefits of the restriction to the community as a whole outweigh the costs, and the objectives of the rules can only be achieved by restricting competition.

The following competition policy considerations should be taken into account:

- Arrangements that explicitly or implicitly favour particular operators are anti-competitive.
- Competition between individual businesses is not in itself a relevant planning consideration.
- Restrictions on the number of a particular type of retail store contained in any local area is not a relevant planning consideration.
- The impact on the viability of existing businesses is not a relevant planning consideration.
- Proximity restrictions on particular types of retail stores are not a relevant planning consideration.
- Business zones should be as broad as possible.
- Development permit processes should be simplified.
- Planning systems should be consistent and transparent to avoid creating incentives for gaming appeals.

An independent body, such as the Australian Council for Competition Policy (see *‘Recommendation 43’*) should be tasked with reporting on the progress of state and territory governments in assessing planning and zoning rules against the public interest test.

The LFRA strongly supports *‘Recommendation 9’* in its entirety. We believe the *‘public interest’* test is the appropriate method to assess any planning restrictions either existing or proposed. We believe that restrictions should only be considered as a *‘last resort’* and in *‘exceptional circumstances’*, and suggest the definition of any public interest test, or process be expanded to include these types of considerations.

We strongly support the removal of anti-competitive policies, and unnecessary restrictions from any consideration in the planning process.

We strongly support the broadening of land uses within business zones, and the simplification of zoning generally to reduce the number and different types of land zones.

We support the proposal (as contained in ‘*Recommendation 43*’) for an independent body such as, the Australian Council for Competition Policy to have a lead role in the progress of planning and zoning reform to deliver best practice outcomes in a timely manner.

3.3 Response to the Final Report – Retail Trading Hours

The Panel’s View

Shop trading hours have been progressively deregulated across Australia. However, trading hours in Queensland, South Australia and Western Australia remain regulated to a greater degree than other states and territories.

The remaining restrictions create a regulatory impediment to competition by raising barriers to expansion and distorting market signals. The Panel believes that consumer preferences are the best driver of business offerings, including in relation to trading hours.

The growing use of the internet for retail purchases is undermining the intent of restrictions on retail trading hours, while disadvantaging ‘*bricks and mortar*’ retailers. This provides strong grounds for abandoning remaining limits on trading hours.

The Panel appreciates the concern of some independent retailers about their ability to compete in a deregulated environment. However, the Panel notes that independent and small businesses are able to differentiate their offerings to fulfil consumer demands and compete in the face of deregulated trading hours. The Panel also notes that, where restrictions apply to a particular sector or type of business, this can result in consumers having less flexibility and choice.

A general policy of deregulation of retail trading hours should not prevent jurisdictions from imposing specific restrictions on trading times for alcohol retailing or for gambling services to achieve the policy objective of harm minimisation. A time restriction on alcohol retailing may be found to satisfy the public interest test when a review is undertaken, even though general retail trading hours’ restrictions do not.

In response to the Panel’s view on retail trading hours in the Draft Report, we believe this view provides an accurate and balanced summary of the current system in operation across Australia; its strong negative effects and impacts on business and consumers.

The LFRA has consistently advocated that restrictions on trading hours result in a loss of productivity for retailers as well as an additional compliance and operational cost to the business. It is a most inefficient use of the significant capital investment made to establish a retail business, when it is restricted from operating to its full potential. This is most relevant and concerning with the Australian retail sector facing increased competition from global online retail businesses. We also believe that restricted trading hours have become increasingly out of touch with consumer’s expectations.

We strongly concur with all comments made in the Panel’s view.

Recommendation 12 — Retail Trading Hours

Remaining restrictions on retail trading hours should be removed. To the extent that jurisdictions choose to retain restrictions, these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day, and should be applied broadly to avoid discriminating among different types of retailers. Deregulating trading hours should not prevent jurisdictions from imposing specific restrictions on trading times for alcohol retailing or gambling services in order to achieve the policy objective of harm minimisation.

The LFRA strongly supports '*Recommendation 12*' in its entirety.

We strongly support the removal of all remaining restrictions on retail trading hours, in all states to create a nationally consistent position in relation to this issue.

We believe that the specific three days listed in the draft recommendation as exceptions where restrictions could be considered, are appropriate.

We also believe it is appropriate to allow some jurisdictions to adopt specific restrictions on trading times for alcohol, retailing or gambling services, on the public interest and policy objective of harm minimisation.

We support the proposal (as contained in '*Recommendation 43*') for an independent body such as, the Australian Council for Competition Policy to have a lead role in the progress of reform, to deliver best practice outcomes in a timely manner.

We also support the timeline for implementation for Western Australia, Queensland and South Australia to complete their reforms within two years.

4.0 Conclusion

The LFRA welcomes this opportunity to contribute to this ongoing process to finalise the Competition Policy Review.

The LFRA would be pleased to discuss any issues raised in further detail with the Panel at a future time.

Please contact the LFRA's CEO, Philippa Kelly, on 03 9859 5000 or pkelly@lfra.com.au regarding any aspect of this submission.