

**SUBMISSION**  
**TO**  
**A NEW APPROACH TO REZONINGS DISCUSSION PAPER**

This submission is made by the Retail Guild of Australia Inc., the representative group for the independent owners of IGA Supermarkets.

**EXECUTIVE SUMMARY**

The proposed framework is supported by IGA owners, subject to a right of appeal being afforded to third-parties.

When spot rezonings allow new large format supermarkets outside existing retail centres, this impacts not only IGAs but whole communities adversely.

That's why IGA retailers are firmly of the view that third-party rights of appeal should be given to communities, as they are in other States, on spot rezoning proposals for retail development. It is notable that no mention of third-party rights of appeal are made in the Discussion Paper.

Not only is this the right move from a planning perspective, but it will also contribute to building community confidence in the overall reforms proposed.

**IGA SUPERMARKET RETAIL PLANNING OBSERVATIONS**

IGA supermarkets are normally located in retail centres at the heart of local communities. Under the standard instrument these retail centres are zoned B1, B2 and occasionally B4.

The strategic planning of retail centres of all sizes in NSW is guided by activity centre-based planning policies. These policies encourage retail development to occur in centres identified as such, to ensure centres are supported. The fundamental principle underpinning these policies is the fact that retail centres serve their communities best if they serve the needs of the local residential community surrounding them. This is why IGA retailers support activity centres-based planning policies.

Unfortunately, IGA retailers continue to observe developers and sometimes supermarket competitors to IGA seeking spot rezonings for supermarkets – often outside of centres and on inappropriately located and / or cheaper land (see below). In most cases these applications are not supported by Council and are not permitted through the Gateway. The main reason for this is local communities usually want their local retail centres to thrive and Councils support that position, because it is consistent with activity centres-based policies.

Whether made by a developer or a competitor to IGA, a significant factor driving spot rezonings for large format supermarkets is the desire to pay less for the land. Usually, land not zoned for retail development is cheaper than retail zoned land. Whilst planning policy doesn't concern itself with price, the disparity in price between retail zoned land and other zonings is important, because it is a significant factor driving out of centre spot rezoning proposals for large format supermarkets.

**IGA RESPONSE TO DISCUSSION PAPER**

**PART A**

The outline of the current framework for rezonings does not mention the possibility of a third-party right of appeal, and it should. It is notable that most States in Australia afford third-parties rights of appeal for rezoning applications.

## **PART B**

Category 3 Rezoning Requests are applications that are not consistent with the strategic planning for the site. As outlined above, under the current system and classifications, these types of applications are being made under the current system, and for the most part, are refused entry into the Gateway. This refusal is usually because they are inconsistent with the strategic planning for the site. The communities that IGA retailers serve want their local retail centres supported. The proposed framework does not enable communities an avenue to dispute a Council's decision to support a Rezoning Request where it is inconsistent with the strategic planning for a site.

## **NEW ROLES**

Corrupt behaviour is an ever-present risk because a primary objective of most, if not all, spot rezoning applications is to achieve a substantial increase in the value of the property. The new rezoning framework does not address this ever-present problem. It is noteworthy that the discussion paper gives no specific guidance on how corrupt behaviour would be addressed, other than by the Department of Planning watching applications via a Portal. This is not a process that addresses the risk of corruption.

IGA retailers believe part of the solution to the increased risk of corruption in the proposed Rezoning Request framework is giving communities a third-party right of review for Category 3 Rezoning Requests.

## **INCONSISTANCY WITH SECTION 9.1 MINISTERIAL DIRECTIONS**

Councils should NOT be able to approve Category 3 Rezoning Requests for retail rezonings.

The planning of retail centres is a matter for strategic analysis which should only be undertaken as part of a greater regional strategic review of retail planning in an LGA.

## **SCOPING**

Councils and the Department of Planning should have the ability to refuse to issue study requirements at the scoping stage of a rezoning application. Resources of Council and the Department of Planning should not be wasted on applications with low merit, particularly where they are inconsistent with the strategic planning for a site.

The issuing of scoping requirements should be accompanied with a legislated statement that in no way indicates the rezoning application is supported or could be supported. The legislated statement should detail the issuing of scoping requirements is a tool used to enable the further investigation of an application, nothing more.

## **LODGEMENT**

Communities and consent authorities should have the right to assess and comment on Category 3 Rezoning Requests, particularly for retail rezonings. These rezoning requests directly impact the amenity of local centres and a community's quality of life.

## **EXHIBITION**

Consideration needs to be given to requiring applicants to pay for social media advertising of Rezoning Applications, particularly since local papers are no longer published in most NSW communities.

### **CONFLICTS OF INTEREST**

Where a voluntary planning agreement (VPA) is involved in a Rezoning Request the Council should NOT be the consent authority. The consent authority should be the Department of Planning.

### **NEW APPEALS PATHWAY**

It is difficult to understand how an appeal to the Independent Planning Commission would work because the discussion paper does not detail this proposal other than in a cursory way. In the absence of more detail, the Land and Environment Court of NSW should be the preferred route for review. The decisions of the Land and Environment Court of NSW self-evidently show the Court has experience dealing with strategic planning frameworks when considering development applications and appeals.

Public Authorities and Councils should have the right to appeal all Rezoning Requests. Also, communities with standing should have a right to appeal, as they do in most other States in Australia, on spot rezoning proposals.