

## PLANNING SYSTEM

Amendments to retail land use definitions - garden centre, artisan food and drink industry, local distribution premises, neighbourhood supermarkets and specialised retail premises

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<b>Related</b>	PS 13-001

# Amendments to Retail Land Use Definitions

This Circular is to advise local councils and other relevant planning authorities, community, industry and practitioners of a number of retail land use definitions (new or revised) introduced into the Standard Instrument (Local Environmental Plans) Order 2006 and certain other environmental planning instruments.

## Updating retail land uses

The NSW retail sector is dynamic and highly competitive. With constantly evolving consumer preferences and technology continuing to transform traditional retail, the NSW planning system must be able to adapt.

The NSW Department of Planning and Environment exhibited five strategic amendments to retail land uses from 3 April 2018 to 18 May 2018. The proposed definition amendments aimed to provide consistency, efficiency and clarity to the NSW planning system for retail and include:

- A new definition for 'artisan food and drink industry';
- A revised definition for 'garden centre'
- A new definition for 'local distribution premises'
- A new definition for 'neighbourhood supermarkets'; and
- Replacement of the definition for 'bulky goods premises' with 'specialised retail premises'.

This Planning Circular provides an overview of the purpose of the amendments, and the impact of the change for local government, stakeholders and the community.

## Revised 'garden centre' definition

### Overview of the amendment

A revised definition of 'garden centre' has been included in the *Standard Instrument (Local Environmental Plans) Order 2006* (SI LEP Order) to clarify the type of uses that may be included in a

garden centre and to remove the requirement for the uses to be ancillary to the retail sale of plants and landscaping and gardening supplies and equipment.

The amended definition of 'garden centre' replaces all definitions of 'garden centre' in standard instrument local environmental plans and certain other environmental planning instruments.

### Purpose of the amendment

The revised definition of 'garden centre' seeks to balance the views of stakeholders and deliver a contemporary definition which responds to the changing nature of the garden centre format.

The amendment to the SI LEP Order restructures the definition of 'garden centre' to clarify the principal and complementary uses that may be carried out in a garden centre. It removes the term 'ancillary', lists the uses that may be associated with a garden centre and restructures the definition to remove ambiguity.

Garden centres have evolved into places where customers can shop for their gardening and outdoor improvement needs. The amendment allows for a mix of complementary uses to better serve customer needs.

### Revised 'garden centre' definition

The definition of 'garden centre' will now read:

***garden centre*** means a building or place the principal purpose of which is the retail sale of plants and landscaping and gardening supplies and equipment. It may include a restaurant or cafe and the sale of any of the following:

(a) outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,

(b) pets and pet supplies,

(c) fresh produce.

**Note.** Garden centres are a type of retail premises—see the definition of that term in this Dictionary.

## Land use permissibility is not affected

The revised definition does not amend land use tables in local environmental plans. This means there is no change to where garden centres are permissible or prohibited.

For zones in which 'garden centre' is not a mandatory permissible use, local councils will continue to have the opportunity to identify areas where garden centres are appropriate, in consultation with their community.

## Principal purpose

The retail sale of plants and landscaping and gardening supplies and equipment must remain the principal purpose of a garden centre.

Further explanation on interpretation of the term 'principal purpose' can be found in [Planning Circular PS 13-001 How to characterise development](#).

The Department will develop further guidance material on interpretation of the amended definition.

## Other uses

The following other uses can also be undertaken in a garden centre:

- restaurant or cafe
- the sale of any of the following:
  - outdoor furniture and furnishings, barbecues, shading and awnings, pools, spas and associated supplies, and items associated with the construction and maintenance of outdoor areas,
  - pets and pet supplies,
  - fresh produce.

Reference to a 'restaurant or cafe' does not mean that only one restaurant or cafe can be included in a garden centre. It could include one or more of these, or a combination of both.

The sale of pets and pet supplies continues to be a secondary use allowed within a garden centre. The welfare of animals in NSW is governed by other legislation and regulations, which will regulate the sale of pets at garden centres.

## Need for the change

Feedback from local government and industry raised concern that the uses listed within the 'garden centre' definition, while being complementary to a garden centre, were not considered to be strictly ancillary to the principal purpose of the retail sale of plants and landscaping and gardening supplies and equipment. The change clarifies that these other uses can form part of a garden centre and do not need to be ancillary to the principal purpose.

## Consequential amendments

The revised definition of 'garden centre' also amended the definition in the following environmental planning instruments, to ensure consistency with the standard instrument definition:

- *State Environmental Planning Policy (Sydney Region Growth Centres) 2006*;
- *State Environmental Planning Policy (State Significant Precincts) 2005*
- *Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011*;
- *Sydney Local Environmental Plan (Green Square Town Centre) 2013*; and
- *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013*

## New 'artisan food and drink industry' definition

### Overview of the amendment

A new definition of 'artisan food and drink industry' has been introduced in the SI LEP Order to provide clarity for the growing artisan and craft food and drink industry.

The new land use term requires that as well as the manufacture of boutique, artisan or craft food or drink, at least one of the following services must be included – retail sales, a café or restaurant, tours, workshops and tastings.

### Purpose of the amendment

Boutique, craft or artisan food and drink products are increasingly popular among consumers who want an alternative to mass-manufactured offerings. Craft and locally produced goods command a price premium and support industries such as tourism and hospitality and provide local employment.

The new land use term will provide clarity for the growing artisan and craft food and drink industry such as microbreweries or cheese makers by establishing a new definition that reflects the nature of these uses.

## New 'artisan food and drink industry' definition

The new definition of 'artisan food and drink industry' is:

**artisan food and drink industry** means a building or place the principal purpose of which is the making or manufacture of boutique, artisan or craft food or drink products only. It must also include at least one of the following:

- (a) a retail area for the sale of the products,
- (b) a restaurant or cafe,
- (c) facilities for holding tastings, tours or workshops.

**Note.** See clause 5.4 for controls in industrial or rural zones relating to the retail floor area of an artisan food and drink industry.

## Land use permissibility

'Artisan food and drink industry' is a subset of the 'light industry' land use and is permissible wherever 'light industry' is permissible in local environmental plans and certain other environmental planning instruments.

For zones in which 'light industry' is not a mandatory permissible use, local councils will continue to have the opportunity to identify areas where artisan food and drink industries are appropriate, in consultation with their community.

## Principal purpose

The principal purpose of an 'artisan food or drink industry' must be the carrying out of an industrial activity involving the manufacture of boutique, craft or artisan food or drink.

Further explanation on interpretation of the term 'principal purpose' can be found in [Planning Circular PS 13-001 How to characterise development](#).

The Department will also develop further guidance material on interpretation of the new definition.

## Other uses

At least one of the following must also be undertaken in an 'artisan food and drink industry':

- retail sales
- a restaurant or café
- facilities for tastings, tours or workshops

## Restriction on gross floor area for retail sales

The retail sales component of an 'artisan food and drink industry' in industrial and rural zones will be controlled through a new provision in clause 5.4 of the SI LEP Order.

The new provision will apply the retail floor space restrictions for 'industrial retail outlets' currently contained in council LEPs.

## Need for the change

Feedback from local government and industry raised concern that the existing land use definitions were not adequately encompassing the growing artisan manufacturing industry. This was creating an environment where the inconsistent application of multiple land uses was occurring across local governments.

Demand for the new land use definition is linked to the emergence of changes in community expectations where customers are knowledgeable and passionate about products and seek a unique experience linked to the producer. In the same way that customers travel to wine regions to taste wine, artisan producers require areas where they can make and sell their products and offer customers an experience while tasting or testing the product.

## Consequential amendments

The new definition of 'artisan food and drink industry' was also included in the following environmental planning instruments, to ensure consistency with the Standard Instrument definition:

- *Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011;*
- *Sydney Local Environmental Plan (Green Square Town Centre) 2013; and*
- *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013.*

Amendments were also made to the following State Environmental Planning Policies:

- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP)* - artisan food and drink industries will be excluded from the term 'light industry' in the Codes SEPP, so that development for the purpose of an artisan food and drink industry cannot be undertaken using the exempt or complying development pathways;
- *State Environmental Planning Policy (Three Ports) 2013 (Ports SEPP)* - artisan food and drink industries will be excluded from 'light industry' in the land use tables and in clause 23 'Additional Permitted Uses' so that artisan premises will not be permissible on any land covered by the Ports SEPP.

# New 'local distribution premises' definition

## Overview of the amendment

A new definition of 'local distribution premises' has been introduced in SI LEP Order to enable smaller scale distribution premises to be permitted and controlled.

## Purpose of the amendment

The increase in online shopping and demand for faster, cheaper delivery has created a need for smaller distribution premises closer to centres where purchases can be picked up and delivered to the local surrounding area. Currently, these facilities are characterised as a 'warehouse or distribution centre' which are mandated as permissible with development consent in zones B5, B6, B7, IN1 and IN2.

The new land use term will allow councils to plan for smaller scale distribution centres which may be located in a wider range of zones, closer to centres.

The new term is not intended to encompass places for the pick-up of goods by customers, such as click and collect, but to cater to last-mile delivery by couriers and other delivery agents.

## New 'local distribution premises' definition

The new definition of 'local distribution premises' is:

**local distribution premises** means a building or place used for the storage or handling of items (whether goods or materials) pending their delivery to people and businesses in the local area, but from which no retail sales are made.

**Note.** Local distribution premises are a type of warehouse or distribution centre—see the definition of that term in this Dictionary.

## Land use permissibility

'Local distribution premises' are a subset of the 'warehouse or distribution centre' land use and are permissible wherever a 'warehouse or distribution centre' is permissible in local environmental plans and certain other environmental planning instruments.

For zones in which a 'warehouse or distribution centre' is not a mandatory permissible use, local councils will have the opportunity to identify areas where 'local distribution premises' are appropriate, in consultation with their community.

# Restriction on gross floor area for local distribution premises

The new definition does not impose any restriction on the gross floor area of a local distribution premises. Councils will be able to incorporate local provisions in their LEP relating to the size and scale of local distribution premises where they are to be permitted in additional zones.

## Need for the change

The increase in online shopping and demand for faster, cheaper delivery has created a need for smaller distribution centres closer to centres where purchases can be picked up and delivered to the local surrounding area.

## Consequential amendments

Along with Standard Instrument LEPs, the new definition of 'local distribution premises' was included in the following environmental planning instruments, to ensure consistency with the standard instrument definition:

- Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011;
- Sydney Local Environmental Plan (Green Square Town Centre) 2013; and
- Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013.

Amendments were also made to the following State Environmental Planning Policies:

- State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) – local distribution premises will be excluded from the term 'warehouse and distribution premises' in the Codes SEPP, so that development for the purpose of local distribution premises cannot be undertaken using the exempt or complying development pathways. The Department will investigate appropriate controls for local distribution centres to be carried out as complying development in the future.

# New 'neighbourhood supermarket' definition

## Overview of the amendment

A new definition of 'neighbourhood supermarket' has been introduced in the SI LEP Order to provide convenient daily shopping for consumers, rejuvenate smaller neighbourhood centres and encourage people to walk rather than use their car.

## Purpose of the amendment

The Standard Instrument LEP does not separately define supermarkets. Supermarkets are generally covered by the definition of a 'shop'. The B1 Neighbourhood Centre zone permits 'neighbourhood shops', however they are generally restricted to a maximum gross floor area under clause 5.4 of the Standard Instrument LEP that is not sufficient to accommodate a small supermarket. Many LEPs also permit shops in the B1 Neighbourhood Centre zone which enables a supermarket.

## New 'neighbourhood supermarket' definition

The new definition of 'neighbourhood supermarket' is:

**Neighbourhood supermarket** means premises the principal purpose of which is the sale of groceries and foodstuffs to provide for the needs of people who live or work in the local area.

**Note.** See clause 5.4 for controls relating to the gross floor area of neighbourhood supermarkets.

The principal purpose must be the sale of groceries and foodstuffs in a supermarket format. Groceries include food and other articles for household use.

## Land use permissibility

'Neighbourhood supermarket' is a subset of the land use 'shop' and are permissible wherever a 'shop', 'retail premises' or 'commercial premises' are permissible.

'Neighbourhood supermarket' is a mandated use in the B1 Neighbourhood Centre zone. Mandating 'neighbourhood supermarket' in the B1 Neighbourhood Centre zone will introduce the land use in areas where 'shops' may not currently be permissible but smaller 'neighbourhood shops' are permissible. Mandating the new land use will allow a supermarket larger than what is generally permitted as a 'neighbourhood shop'.

Where 'shops', 'retail premises' or 'commercial premises' are permitted in a zone, larger supermarkets will remain permissible as a 'shop'.

## Restriction on gross floor area for neighbourhood supermarket

The size of a 'neighbourhood supermarket' is restricted to a maximum gross floor area of 1,000 square metres to ensure compatibility with the scale and nature of the surrounding, predominately residential area.

The restriction has been introduced through a new provision under clause 5.4 - Controls relating to miscellaneous permissible uses.

## Need for the change

Permitting small-scale supermarkets up to 1,000 square metres in size in the B1 Neighbourhood Centre zone would serve the needs of people who live and work in the surrounding neighbourhood. The size is restricted to a maximum gross floor area of 1,000 square metres to ensure compatibility with the scale and nature of the surrounding, predominately residential, area. By including a specific land use term and definition it is clear to retailers, councils and communities that neighbourhood supermarkets can locate in these small centres.

## Consequential amendments

The new definition of 'neighbourhood supermarket' was included in the following environmental planning instruments, to ensure consistency with the standard instrument definition:

- Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011;
- Sydney Local Environmental Plan (Green Square Town Centre) 2013; and
- Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013.

A limit on the maximum allowable size of a 'neighbourhood shop' under clause 5.4 of the standard instrument has been introduced to further ensure consistency across land use terms. Council will continue to determine an appropriate size of a 'neighbourhood shop' for the local area that is not less than 80 square metres and not more than 1,000 square metres.

## New 'specialised retail premises' definition

### Overview of the amendment

The land use term 'bulky goods premises' has been replaced by a new term 'specialised retail premises' in SI LEP Order to reflect changing business models in the large format retail industry. This includes the development of formats such as homemaker centres, and the changing nature of retail and products that are being sold in the large format retail sector since the introduction of the term 'bulky goods premises'.

### Purpose of the amendment

Many specialised retailers no longer require the capacity to store large quantities of goods in their shops as customers order from the retailer and goods are dispatched from a central warehouse direct to the customer at a later date. This 'showroom style' model may also negate the need for customer loading facilities.

There is also a growing requirement for a larger floor plate because of the quantity and range of products on offer, rather than the size of an individual product.

The new definition of 'specialised retail premises' differs from the previous definition of 'bulky goods premises' in that:

- It is no longer a requirement that the goods be of such a size or weight as to require both a large area for handling, display and storage and direct vehicular access to loading facilities for members of the public. Only one of these requirements needs to be met.
- Retailers that stock a large quantity or volume of products are characterised as specialised retail premises even if those products are not large or heavy, but the quantity or volume of goods requires a large area for handling, display and storage or direct vehicular access to loading facilities for members of the public.

## New 'specialised retail premises' definition

The new definition of 'specialised retail premises' is:

**specialised retail premises** means a building or place the principal purpose of which is the sale, hire or display of goods that are of a size, weight or quantity, that requires:

- (a) a large area for handling, display or storage, or
- (b) direct vehicular access to the site of the building or place by members of the public for the purpose of loading or unloading such goods into or from their vehicles after purchase or hire,

but does not include a building or place used for the sale of foodstuffs or clothing unless their sale is ancillary to those goods being sold, hired or displayed.

**Note.** Examples of goods that may be sold at specialised retail premises include automotive parts and accessories, household appliances and fittings, furniture, homewares, office equipment, outdoor and recreation equipment, pet supplies and party supplies.

Specialised retail premises are a type of retail premises—see the definition of that term in this Dictionary.

## Types of goods that fall within the definition of 'specialised retail premises'

The definition includes a list of examples of goods that may be sold, displayed or hired at specialised retail premises. The term 'goods' includes accessories, equipment and supplies.

This list of examples is not exhaustive or exclusive – any goods that are of such a size, weight or quantity so as to require a large area for handling, display and storage or direct vehicular access to loading facilities for members of the public will meet the definition.

Types of goods that fall within the definition include:

- animal supplies including equestrian and pet goods;
- automotive parts and accessories;
- camping, outdoor and recreation goods;
- electric light fittings;
- floor, wall and window coverings;
- furniture, bedding, furnishings, fabric and manchester and homewares;
- household appliances and fittings;
- household electrical goods and home entertainment goods;
- party supplies;
- swimming pools and spas;
- office equipment and supplies;
- baby and children's goods, children's play equipment and accessories;
- barbeques, fireplaces and gas appliances;
- sporting, cycling, leisure, fitness goods and accessories;

## Ancillary goods

A comprehensive and full range of goods, of all shapes and sizes, can be sold, displayed and hired in a 'specialised retail premises'.

A 'specialised retail premises' can include the sale and display of foodstuffs and clothing, however they must be ancillary and/or incidental and/or sold in conjunction to the goods which meet one of the two nominated tests in the definition.

## Land use permissibility

'Specialised retail premises' will replace 'bulky goods premises' wherever the term occurs in a Standard Instrument LEP. This means 'specialised retail premises' will be permissible wherever 'bulky good premises' were permissible.

Like 'bulky goods premises', 'specialised retail premises' will be a subset of 'retail premises' and 'commercial premises' and will be permissible wherever these uses are permissible (as long as 'specialised retail premises' are not specifically prohibited). 'Specialised retail premises' will also remain a mandated permissible use in the B5 Business Development zone.

## Need for the change

The Department has received submissions from industry and councils that the current definition of 'bulky goods premises' does not reflect the current and future direction of large format retailing. The new definition clarifies that 'specialised retail premises' includes, the display, sale or hire of goods that are of a size or weight, or a quantity of products to require a large floor area or access for customer loading facilities.



## Effect on existing development consents

The change to the definition will not affect existing developments or development consents which were approved as bulky goods retail premises. They will continue to operate under the terms of their development consent unless modified by a new development consent.

## Consequential amendments

The new term 'specialised retail premises' has replaced 'bulky goods premises' wherever it occurred in all Standard Instrument LEPs. The new definition has also been included in the following environmental planning instruments, to ensure consistency with the standard instrument definition:

- *Sydney Local Environmental Plan (Glebe Affordable Housing Project) 2011*;
- *Sydney Local Environmental Plan (Green Square Town Centre) 2013*; and
- *Sydney Local Environmental Plan (Green Square Town Centre – Stage 2) 2013*.

Amendments were also made to the following State Environmental Planning Policies:

- *State Environmental Planning Policy (Exempt and Complying Development Codes) 2008 (Codes SEPP) – 'bulky goods premises' has been replaced with 'specialised retail premises'*;
- *State Environmental Planning Policy (Three Ports) 2013 (Ports SEPP) – 'bulky goods premises' has been replaced with 'specialised retail premises'*;
- *State Environmental Planning Policy State Significant Precincts) 2005 – 'bulky goods premises' has been replaced with 'specialised retail premises' in Schedule 3, part 31*.

## Savings and Transitional Arrangements

Applications lodged through the complying development or merit assessment pathway, prior to the introduction of the 'artisan food and drink industry'; 'local distribution premises'; 'neighbourhood supermarket'; and 'specialised retail premises', and which have not been determined when the changes commence, will be assessed as if the new definitions have not yet been made.

Due to the new definition of 'garden centre' being broader than the previous definition no savings or transitional arrangements are necessary.

## Commencement

The new definition for 'artisan food and drink industry' and the amended definition for 'garden centres' commenced on 27 July 2018.

The new definition for 'local distribution premises' and 'neighbourhood supermarket' and the amended definition for 'bulky goods premises' to known as 'specialised retail premises' commence on 31 August 2018.

## Further Information

For further information please contact Service NSW on 13 77 18.

Department of Planning and Environment Circulars are available at:

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**Authorised by:**

**Liz Develin  
Acting Secretary**

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