

3 August 2022

PSUP RIS Consultation
Office of Local Government
NSW Department of Planning and Environment

via email: olg@olg.nsw.gov.au

ARA SUBMISSION IN RELATION TO PROPOSED REGULATORY FRAMEWORK TO SUPPORT THE PUBLIC SPACES (UNATTENDED PROPERTY) ACT 2021

The Australian Retailers Association (ARA) welcomes the opportunity to comment on the proposed regulatory framework to support the new *Public Spaces (Unattended Property) (PSUP) Act 2021*, with reference to shopping trolleys.

The ARA is the oldest, largest and most diverse national retail body, representing a \$400 billion sector that employs 1.3 million Australians and is the largest private sector employer in the country. As Australia's peak retail body, representing more than 120,000 retail shop fronts and online stores, the ARA informs, advocates, educates, protects and unifies our independent, national and international retail community.

ARA members are concerned with how the PSUP Act regulations will impact on their use and management of Class 2 items, namely shopping trolleys. Our comments are made in that context.

In principle, the ARA supports the intention of the regulations to ensure shopping trolleys are not left unattended in circumstances where they could constitute a nuisance or risk to the public.

Retailers make every effort to ensure that trolleys are managed so that they are readily available for customers while not causing a nuisance or safety risk to the community.

We understand that a balance must be made between convenience for customers who use trolleys and any inconvenience or risk to the community, as well as environmental and aesthetic concerns. Similarly, retailers do not wish to see trolleys abandoned and have well established programs in place to minimise this behaviour where possible.

The ARA supports development of an industry code of practice, to support practices such as branding of trolleys so that owners can be readily identified and contacted. A code or guideline would also be helpful if it could include guidance to local councils around what constitutes a safety or access risk so that there is consistency across the state. Similarly, a code could also include central notification points of contact which would be efficient for both councils and large retailers who operate many stores. We believe that the ARA is uniquely placed to lead or participate in the development of such a code.

In relation to the Regulatory Impact Statement (RIS) the ARA makes the following recommendations, based on consultation with our membership, including Australia's largest supermarket operators.

RIS PROPOSAL	ARA RECOMMENDATION
<p>1. Risk-based unattended item periods/timeframes after which an authorised officer may take regulatory action in relation to unattended property in public: 3 Hours</p>	<p>ARA recommends that the timeframe be increased from 3 hours to 24 hours. Retailers use best endeavours to collect unattended shopping trolleys as soon as practicable and generally at least within 12 hours.</p> <p>We note that the 3-hour limit would be difficult for most retailers to meet without increasing the cost of collection, especially outside of normal trading hours and where trolleys have been abandoned some distance away from the relevant store. Consultation with ARA members indicates that 24 hours would enable a collection rate as high as 97% to be achieved.</p> <p>In an environment of high inflation, we believe that government should recognise all efforts to minimise cost pressures that could drive higher prices.</p>
<p>2. Mandatory notice periods: 3 hours (from 7am to 11pm)</p>	<p>ARA recommends that this timeframe also be increased from 3 hours to 12 hours, in-line with the rationale for Item 1 (above). We also submit that notice should be given between 8am and 5pm to coincide with normal business hours of operation.</p>
<p>3. Penalty Infringement Notices: \$660 and \$330</p>	<p>ARA recommends that the proposed penalty amounts be reconsidered to ensure they are proportionate and reasonable.</p> <p>We submit that the proposed \$660 fine for leaving a trolley unattended and the proposed \$330 fine for failing to collect a trolley placed in storage do not reflect the true costs involved in recovering trolleys and managing the scheme.</p> <p>If penalties are set too high, there is a risk that higher costs will be passed onto customers, adding to inflationary and cost of living pressures.</p> <p>Either that, or retailers may decide that providing trolleys is not viable, presenting a potential consumer safety issue. Unless the purpose of the regulation is to discourage the use of trolleys altogether, we believe the proposed penalty regime is too harsh.</p>
<p>4. Disposal/destruction of trolleys by local governments: After 1 day</p>	<p>ARA recommends that this timeframe be increased from one day to seven days, providing more time before trolleys can be disposed of or destroyed by local governments, in-line with the rationale for Item 1 (above).</p>

Thank you again for the opportunity to provide a submission to the Office of Local Government. We look forward to further engagement as consultation on the RIS progresses.

Any queries in relation to this submission can be directed to our policy team at policy@retail.org.au.

Yours sincerely,



Paul Zahra
Chief Executive Officer