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Competition Policy Review Secretariat  
The Treasury  
PARKES ACT 2600

**Re: Submission on the Draft Report**

I am writing in relating to the sections of the Draft report dealing with Planning and Zoning.

Whilst I can see the purpose for your draft recommendations they will be of little help to planning systems in their current form and are marred by what is often a problem when people unfamiliar with planning systems try to make recommendations about planning.

Let me begin by making some comments about section 8.3 in your draft report.

1. People who write submissions about planning and zoning are dissatisfied. This is hardly a surprising finding. The planning system spends a lot of its time telling proponents that they can't do things with land. This tends not to make you popular and hence people complain. What needs to be assessed is the merits of their complaints.

2. Barriers to entry

Saying zoning is a barrier to entry is not a very useful conclusion. Zoning is the ultimate barrier to entry. If we had no zoning then Aldi could potentially locate supermarkets anywhere in the city. The question is what would the relative costs of this outcome compared to the benefits of increased competition.

The 2011 PC Performance Review of Planning (their report is a surprising omission from your list in Box 8.7 given the recent nature of the review and its considerable attention to competition issues) had a much more analytical view of the impact of zoning and regulation on planning. They identified both positive and negative impacts of zoning and regulation on competition. (page 286):

*The potentially mixed impact of restrictive zoning and centres policy on businesses means that the competition effects of such policies cannot be generalised and should be considered on a case-by-case basis. That is, greater clustering of businesses through zoning may provide social benefits, increase the competitiveness of local market outcomes and offset the disadvantages of having a smaller number of businesses to compete with each other, up to a point. The point at which zoning and/or centres policy becomes so restrictive that a reduction in the number of competing businesses offsets the benefits of clustering of these businesses, will vary on a case-by-case basis. Furthermore, and contrary to the position advanced by some to the Commission during consultations, it is not clear that restrictive zoning policies would necessarily provide benefits to incumbent businesses over potential new entrants. The potential for higher land costs and more price competition associated*

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*with clustering in activity centres, for example, may mean that activity centres are a viable location for only the more efficient operators.*

Their findings seem to contrast rather sharply with your own conclusions and some explanation of what led you to different conclusions would be important in a final report.

3. Planning is “overly complex, geared towards very local issues, and can place undue weight on the impact of incumbents” p97 Draft paper

I am struggling with this conclusion. With respect, I am not sure how you have managed to become experts at planning systems operating across the country in a competition review. Submissions are not what one would usually call reliable evidence.

Planning is **complex** because it is dealing with complex issues. It is trying to balance the interests of a wide variety of stakeholders often in a complex political environment. Planners are making decisions that can have significant impacts on the property rights, well-being and economic health of a great many Australians. For large projects such as some of the retail developments mentioned in your report, these impacts can be very significant and will last for long periods of time.

In the NSW situation, the **impact of incumbents** is limited by the position of the land and Environment Court where it is an established principle that competition between trade competitors is not a relevant planning consideration.

The talk of local concerns is hard to follow. Clearly many of the impacts of development are local impacts which are considered as part of the planning process, but the inference seems to be that these are the only issues that are considered, perhaps because of some local bias. Many larger developments will not be considered by the local council but rather by planning decision panels operating at regional or for larger developments at a State level. Most complaints from the community about planning are that it doesn't give enough weight to local concerns.

4. The objectives of planning systems

The 2011 Productivity Commission Performance Benchmarking Review of Planning provides a summary of the objectives of Australian Planning systems on page 1:

*“Planning and zoning policies in Australia are generally designed to:*

- *preserve and enhance the conservation, use, amenity and management of land, buildings and streetscapes*
- *provide for the health, safety and general wellbeing of those who use these areas*
- *provide and coordinate the provision of community services, infrastructure and facilities*
- *ensure the uniform application of technical requirements and an orderly and efficient use and development of land” (Thompson 2007).*

*Over the last 20 years, the number of objectives within the planning system, and thus its complexity, has been continually expanding. For example, in December 2009, the Council of Australian Governments (COAG) added to existing local, state and territory objectives a wide-ranging set of national objectives, including providing for:*

- *nationally significant economic infrastructure such as transport corridors, international gateways, intermodal connections, networks between capital cities and major regional centres and major communications and utilities infrastructure*
- *population growth*
- *productivity and global competitiveness*
- *climate change mitigation and adaptation*
- *access of people to jobs and businesses to markets*
- *development of major urban corridors*
- *social inclusion*
- *health, liveability and community wellbeing*
- *housing affordability.*

Most planning systems already have an “economic” objective as part of their Acts.

The Draft report contains a submission that seems to complain that planning is not an area of government activity with clear simple goals. I am afraid, as the list of objectives above describes, that is because it is not a simple endeavour.

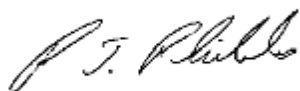
In their key findings, the 2011 PC report concludes (page XVIII):

*Planning systems vary greatly across the states and territories — but all suffer from ‘objectives overload’ which has been increasing*

Adding another competition objective is probably not a very useful strategy in the context of this “objective overload”. Whilst I am sympathetic to the aims behind Draft Recommendation 10, the suggested strategy will be ineffective and become part of objective overload. This will just add to complexity and not reduce it. My suggestion would be to consult both the authors of the 2011 PC report and some State Government planning agencies to consider some more effective mechanisms. For example the NSW Government published a draft Competition State Planning Policy in 2010. You could contact the Deputy Secretary, Policy and Strategy from the NSW Department of Planning and Environment. There are some real opportunities to improve reduce competitive barriers in planning –the submission from Aldi should be compulsory reading for State Planning agencies.

Please feel free to contact me if you require any further information.

Sincerely,



Professor Peter Phibbs