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Competition Policy Review
The Treasury
Langton Crescent
Parkes ACT 2600

Dear Professor Harper and Panel

Draft Report: Competition Policy Review

On behalf of ALDI Stores (ALDI), I am writing to you in relation to the Panel's Draft Report tabled in September 2014.

Generally speaking, the Draft Report accurately and thoughtfully analyses the chronic shortage of suitably zoned land for supermarkets in most built-up areas in Australia and makes a number of constructive recommendations in this regard. ALDI wishes to table additional views on previous independent analyses of land use planning and zoning issues and also comment specifically on Draft Recommendation 10.

Independent Analyses of Planning and Zoning Issues

In Box 8.7, the Draft Report makes reference to a number of previous independent reviews of planning and zoning issues including the NCP Assessments (2003), ACCC Grocery Inquiry (2008), Productivity Commission (PC) Inquiry into the Australian Retail Industry (2010) and the PC Study on Relative Costs of Doing Business in Australia (2014). Each of these analyses reaches important (and consistent) conclusions and makes useful recommendations on improved regulatory arrangements that would enhance grocery retailing competition.

In addition to those cited in the Draft Report, a study prepared for Federal Treasury in 2010¹ makes a number of recommendations complementary to those in other reviews and the current Draft Report. Specifically, the study for Treasury includes recommendations that:

- Regular supply and demand reviews are conducted on a regional basis to determine sufficiency of commercially zoned land (Recommendation 2)

¹ 'Planning System Barriers to Entry for Grocery Retailing', SGS Economics and Planning, July 2010
<http://www.treasury.gov.au/~media/Treasury/Access%20to%20Information/Disclosure%20Log/2011/An%20evaluation%20of%20planning%20systems/Downloads/An%20Evaluation%20of%20Planning%20Systems%20-%20Barriers%20to%20Entry%20for%20Grocery%20Retailing.ashx>

- Ensuring the definition of 'retail' is sufficiently broad to incorporate innovative retail formats (Recommendation 4)
- Adopting a nationally consistent methodology in all planning regimes for sequentially testing the net community benefit offered by proposals which do not immediately comply with 'centres' policy (Recommendation 5)

Each of these recommendations would enhance flexibility and therefore availability of land for new supermarkets, while still respecting the public interest in an organised and strategic overall planning framework. The 'sequential test' recommended by this study is along similar lines to the one proposed by ALDI in its June 2014 submission to this Review.

A performance benchmarking study of Australia's planning and zoning systems by the PC in 2011² identifies a set of 'leading practices' for policymakers and regulators. The study refers to the desirability of broad and simplified development control instruments and states:

"Originally, the primary objective of planning was to segregate land uses which were considered incompatible; but today, planning is being asked to serve much more complex objectives. In the extreme, planning systems suffer, on the one hand, from planners who try to prescriptively determine how every square metre of land will be used and, on the other hand, from developers who play a strategic game of buying relatively low-value land and attempting to rezone it to make a windfall gain. The scope for both would be reduced if zoning definitions were broadened and zones and other development control instruments were defined in terms of broad uses rather than prescriptive definitions.

If the prescriptiveness of zones and allowable uses were significantly reduced – particularly those relating to business definitions and/or processes – it would facilitate new retail and business formats to locate in existing business zones without necessitating changes to council plans to accommodate each variation in business model." (pp. XLV-XLVI).

Draft Recommendation 10

As currently written, Draft Recommendations 10 focuses on the inclusion of competition principles in planning and zoning legislation. ALDI supports the existing recommendation but believes additional elements are required.

As is acknowledged in the Draft Report itself as well as the earlier PC and other studies, the inflexibility and prescriptiveness of planning and zoning regulations has a detrimental impact on supermarket competition. This regulatory rigidity has a substantially greater impact on non-incumbent retailers seeking to establish and expand their store networks vis a vis mature and relatively stable dominant market players.

ALDI therefore believes that it is important for the Review's recommendation on planning and zoning to directly address the issue of regulatory simplification and flexibility. The elements of this proposition should include:

- Consolidating and simplifying the number of commercial/business and industrial zones, with retail development permitted 'as of right' in most of these;
- Regular regional retail floor space demand and supply assessments;

² 'Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments', Productivity Commission, April 2011
http://www.pc.gov.au/data/assets/pdf_file/0003/108840/planning-volume1.pdf

- Introduction of a 'sequential test' for supermarket proposals where it can be demonstrated that there is no available land in the existing centre; and
- Establishment of appeal rights and statutory timeframes associated with rezoning.

ALDI appreciates the opportunity to participate in this consultation process and looks forward to the finalisation of the Competition Review.

Please do not hesitate to contact me if further information is required.

Yours sincerely

A handwritten signature in black ink, appearing to read 'A Starr', written in a cursive style.

Andrew Starr
Managing Director