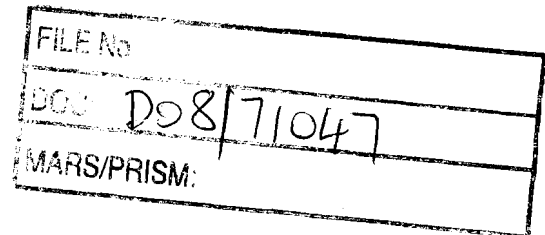


18 July 2008

Grocery prices inquiry - Submissions
Australian Competition and Consumer Commission
GPO Box 520
MELBOURNE VIC 3001

E-mail: grocerypricesinquiry@accc.gov.au



Dear Sir/Madam

Further Public Submission to the Grocery Prices Inquiry by the Urban Taskforce Australia in response to the submission by the NSW Department of Planning

Further to our public submissions made on 11 March, 2 June, 19 May and 7 July 2008 we wish to make a further submission, with particular reference to the submission from the NSW Department of Planning dated 4 July 2008.

The submission of the NSW Department of Planning (DoP) does not, in our view, fairly represent the situation. The headings in this submission correspond to the headings in the DoP submission.

1. Claim 1: Further retail development will be limited to relatively few, major centres

The DoP asserts that retail development can grow across the full spread of 800 existing centres mapped out in its subregional strategies for Sydney.

This is misleading because it does not distinguish between large format and small format retailing. NSW planning policies are strongly biased towards small format retailing. For example the only retail permitted in many zones is small neighbourhood shops of 80 square metres or less. This kind of arbitrary restriction is typical of the restrictions on retail formats that are analysed in great detail by *Choice Free Zone*.

The Bureau of Infrastructure, Transport and Regional Economics pointed out in its submission to the ACCC, the ability for a large chain store to be present in a locality can have a significant (17 per cent) impact on local prices. Planning rules that restrict the ability for large format stores to be established will have an impact on prices paid by consumers.

2. Claim 2: The planning system imposes a quota on the number of supermarkets

The DoP seeks to draw a subtle distinction between a "descriptive" definition of a centre and a "prescriptive" definition of a centre. This distinction is not made in the first eight draft subregional strategies. It is not clear that there is any practical difference.

The DoP has also not offered any assurance that new supermarkets will be permitted in the neighbourhood centres, small villages, villages or town centres. Instead it says that "the planning process to accommodate future growth and change will involve assessing supply and demand and ensuring that is providing [sic] for." This goes to the heart of the issues raised by *Choice Free Zone*. In other parts of economy the job of assessing supply and demand and developing an appropriate response is given to the entrepreneurs. For

supermarkets and retail more generally, the State planning authorities (inappropriately) see it as their job.

In any event issues we are raising go way beyond the draft subregional strategies – they were only a recent and prominent example of what's been going on. See, for example, *Woolworths Ltd v Wyong Shire Council* [2005] NSWLEC 400 for another typical example (summarised on page 58 of *Choice Free Zone*). See also page five of the Structure Plan for the South West Growth Centre located at this web address: www.metrostrategy.nsw.gov.au/uploads/growth-centres/SW%20Structure%20Plan%20Explanatory%20Notes.pdf.

3. Claim 3: Retail development will be limited to a few zone types

The DoP says that the Standard Instrument mandates retail to be permissible in five of the seven business zones.

However, it overlooks the fact that of the seven business zones, the full range of "retail premises" are only to be permissible in three zones. A further two of the zones are only allowed to have small "neighbourhood shops". The remaining two zones don't include any retail uses in their mandatory list of permissible uses.

Furthermore the DoP says that retail premises can be added in later as a "permitted use" when specific local zoning plans are prepared. However, this ignores the fact that any future consent authority must have regard to the objectives for development in a zone when determining any development application in respect of land within the zone.

Zone B5 "Business Development Zone" has an objective "to enable a mix of specialised retail uses that require a large floor area and warehouse uses in locations which are close to, and which support the viability of, centres". So developments that do not support the viability of centres, such as those with the potential to attract business away from centres, may not satisfy the objectives of the zone.

Zone B6 "Enterprise Corridor" exists to promote businesses along main roads and to encourage a mix of compatible uses. It is also intended to enable a mix of employment (including business, office, retail and light industrial uses) and residential uses. However, it is also an objective of the zone "to maintain the economic strength of centres by limiting retailing". So, developments concerned with retail are discouraged in zone B6.

A more detailed discussion of these issues was made in section 4 of our submission of 11 March 2008.

4. Claim 4: No additional centres will be created

We welcome the Department's assurance that new centres will be created. Unfortunately there is no reference to that in the draft subregional strategies and existing State policies caution planning authorities against the creation of "unnecessary" new centres (see section 2.3 of our submission on 11 March 2008).

The *National Charter of Integrated Land Use and Transport Planning* (available here: http://www.atcouncil.gov.au/documents/pubs/National_Charter_ATC_MAY_03.pdf) is a national policy document reflecting the views of State planning agencies across Australia.

The Charter is heavily focused on new developments being "orientated to support existing transit facilities" around "hubs". There is no reference in the document for the limitations on the supply of available land. Activity-intensive development – such as retail – is to be concentrated in "hubs", but:

- there is also no reference to the creation of new "hubs";
- the need to ensure that hubs are of an adequate size; and
- the policy fails to contemplate the possibility that the transport infrastructure at existing hubs may reach capacity.

5. Claim 5: Families in the west of Sydney will be disadvantaged because of the need to travel further shop [sic]

We refer to the points above.

As always, we remain available to meet with officers of the ACCC and/or answer any requests you may have for additional information.

Yours sincerely

Urban Taskforce Australia



Aaron Gadjel
Chief Executive Officer