Urban Taskforce
AUSTRALIA

7 October 2011

Mr Philip Weickhardt
Commissioner
Productivity Commission
L2, 15 Moore Street
Canberra City ACT 2600

Dear Mr Weickhardt,

Re: Submission in response to the
Economic Structure and Performance of the Australian Retail Industry:
Draft Productivity Commission Report

The Urban Taskforce is a non-profit organisation representing Australia's most prominent property developers and equity financiers. We provide a forum for people involved in the development and planning of the urban environment to engage in constructive dialogue with both government and the community.

Insofar as it relates to land use regulation, we support the tone and thrust of the above-mentioned draft report,. We strongly support your identification of town planning laws as a regulatory regime that is reducing the competitiveness of retailers. Retail productivity has been suffering for a long time, courtesy of the brutal planning regulations new retailer establishments face.

Your report should be an urgent wake-up call to every level of government. The Australian retail industry is in a rut, but government has the power to fix some of its most serious problems.

We are particularly pleased that you have highlighted how excessively prescriptive local planning rules and restrictions on new developments are harming the retail sector. Your draft report also appropriately emphasises that planning regulations that give businesses in some locations preference over others may be counterproductive.

Your unambiguous statement that governments should not consider the viability of existing businesses at any stage of the planning, rezoning or development assessment processes is very welcome.

Having said this, there are some specific matters that we urge you to re-consider.

1. **The Productivity Commission may be unwittingly endorsing one strand of town planning thought, to the exclusion of other competing town planning approaches**

   Draft recommendation 7.1 of the report says that

   > State and territory governments should broaden zoning *within and surrounding activity centres* to facilitate new retail formats locating in existing business zones (emphasis added).[1]

   This recommendation seems to suggest that zones should only be broadened "within and surrounding activity centres". That is, the presence of an "activity centre" should be a pre-requisite for multiple-use zonings.

[1] Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report* (2011) XXXIX.

This is a narrower, more restrictive, approach than the one taken by the Productivity Commission in its recent report: *Planning, Zoning and Development Assessments*. In that report the Commission identified a leading practice of:

> Broad and simplified development control instruments[2]

There was no text in this earlier report suggesting that this leading practice should be confined to areas "within and surrounding activity centres". Indeed, such a sweeping qualification to the leading practice would be contrary to the important reason for such broad and simplified development control interests:

> [Significant reductions in the prescriptiveness of zones and allowable uses] would increase competition by allowing a wider range of businesses and developers to bid for the same land, better harness the market in allocating land to its most valued use, and cater much more easily for innovations in business and service delivery without requiring rezoning. Reducing the need for rezoning would also deliver significant time savings in supplying land and approving developments. As well, it may reduce the use of alternative approval mechanisms, such as ministerial call-ins and state significant tracks, which would improve competitiveness by ensuring more businesses face the same assessment criteria.[3]

We appreciate that much of the town planning material the Commission had to wade through has been about 'activity centres' policies. Nonetheless, in recent years this has <u>not</u> been the only strategic planning approach accepted by state planning authorities. While, for the moment, it seems to be out of favour, an alternative land use planning approach is to allow for high intensity around centres <u>and corridors</u>.

The 2005 Sydney *Metropolitan Strategy*, rescinded by the former Labor Government in NSW just prior to its election defeat earlier this year, was very focused on a centres *and corridors* approach. This has not been readily acknowledged by the NSW Department of Planning in recent years, because personnel changes within the bureaucracy led to strategic planners with a different philosophical disposition gaining dominance. Nonetheless, the 2005 Metropolitan Strategy is clear.

Part B of the full Metropolitan Strategy was titled the *Centres and Corridors Strategy for Sydney*.[4] The Metropolitan Strategy's *Centres and Corridors Strategy for Sydney* articulated a "vision for centres", but immediately alongside this vision, with equal prominence, is a "vision for corridors". The Metropolitan Strategy's "vision for corridors" stated that

> Economic corridors will play a key role in the metropolitan and national economy, renewal corridors will be the focus for *diverse and liveable communities* and enterprise corridors will provide locations for important *local employment and services*. ... Existing and new infrastructure investment in these corridors will be used more efficiently by *concentrating new development* in these areas to support their role (emphasis added). [5]

Item B4.1 of the Metropolitan Strategy sought to:

> Concentrate retail activity in centres, *business development zones and enterprise corridors* (emphasis added)

Item B6 of the Metropolitan Strategy sought to:

> Focus development in *renewal corridors* to maximise infrastructure use (emphasis added)...[6]

Renewal corridors are defined in this way:

> Renewal Corridors generally follow transport and may join significant nodes or centres. The area of interest may be extended up to *one kilometre across*. They are usually a focus for *commercial*

[2] Productivity Commission, *Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments: Productivity Commission Research Report Volume 1* (2011) XXXVIII.
[3] Ibid XLVI.
[4] NSW Government, *City of Cities: A Plan for Sydney's Future: Metropolitan Strategy Supporting Information* (2005) 79 -117.
[5] Ibid 81; Government, *City of Cities: A Plan for Sydney's Future: Metropolitan Strategy* (2005) 2.
[6] Ibid 111.

> *development* and contain concentrations of employment, surrounded by or with the potential for complementary, higher density residential development (emphasis added).[7]

("Commercial development" in this context includes the possibility of retail development.)[8] It was the clear intent of the Metropolitan Strategy that retail and commercial activity should be capable of being located in broad *renewal corridors*, not just centres.

The Victorian Government published its metropolitan strategy for Melbourne in 2002 (*Melbourne 2030*). It carried out a review and released an update in 2008: *Melbourne @ 5 million*. The latter document revises *Melbourne 2030* and set out the Victorian Government's long-term planning framework for managing Melbourne's growth.

> *Melbourne @ 5 million* supports the creation of five "employment corridors" by linking activity centres, universities, research and technology precincts, medical precincts, and areas with high employment.[9]

The objective of the employment corridors is to:

- provide for substantial increases in employment, housing, education and other opportunities along each corridor and better link them through improved transport connectivity;
- link the growing outer areas to a greater choice of jobs, services and goods in the corridors; and
- provide transport networks that allow circumferential, in addition to radial movements.[10]

As a consequence of the introduction of *Melbourne@ 5 million* the State Planning Framework was amended so that it:

> ... supports the objectives of economic development by encouraging the concentration of major retail, commercial, administrative, entertainment and cultural developments into activity centres *and employment corridors*. (emphasis added)[11]

In Melbourne, the corridors approach was abandoned before it could be implemented following the election of Baillieu Government. In Sydney, the corridors approach was also not implemented, and it was abandoned in substance when the former Keneally Government adopted the *Metropolitan Plan for Sydney 2036* in December 2010.

In Sydney, in particular, there are good reasons why the 2005 Metropolitan Strategy envisaged commercial and retail activity being spread across centres, enterprise corridors, economic corridors, renewal corridors and – in certain cases – industrial areas. Excellent transport infrastructure does not just come in official designated "centres" - it also can be linear. High quality roads, bus lanes and light rail can create linear corridors suitable for development. (The latter two categories have transit stops which could also be designated as "activity centres", but they are typically so close together that properly defined 'walkable catchments' overlap; thus recognising the corridor as a whole is more logical.)

Additionally, there is simply not enough land close to transport, jobs and services, and there will never be enough land, to provide for a growing metropolis' needs if a centres-only approach is taken. In the context of the existing urban footprint, most business centres are surrounded by fragmented land holdings that were subdivided many decades ago. These lots, due to the proximity to the centre, typically carry a high land value in their current use. Planning authorities

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[7] Ibid 300.

[8] According to the NSW Government's Standard Instrument Dictionary, set out in the *Standard Instrument (Local Environmental Plans) Order 2006* "Commercial premises" means any of the following: (a) business premises, (b) office premises, (c) retail premises.

[9] The employment corridors are: Avalon Airport to Werribee, Melton, Melbourne Airport and Donnybrook (Hume-Mitchell); Caulfield to Dandenong; Melton to Sunshine and North Melbourne; Monash University/Chadstone to Box Hill, Austin Hospital and Bell Street; and Ringwood to Box Hill and Hawthorn: Victorian Department of Planning and Community Development, *Planning and Environment Act 1987: Victoria Planning Provisions: Amendment VC67: Explanatory Report* (2010).

[10] Victorian Department of Planning and Community Development, *Planning and Environment Act 1987: Victoria Planning Provisions: Amendment VC67: Explanatory Report* (2010).

[11] Victorian Department of Planning and Community Development, *Planning and Environment Act 1987: Victoria Planning Provisions: Amendment VC67: Explanatory Report* (2010) [Amendment to clause 17 – Economic Development].

have, to date, proven reluctant to vary intensity controls (height, floor space, etc) to a sufficient degree to justify the high cost of consolidating existing, high value, fragmented lots into single ownership. Therefore outward expansion of such centres is heavily constrained. (Even in the almost hypothetical scenario where planning authorities are generous with height and density controls in a high-demand area, as well-located residential lots become more scarce relative to demand, their value can be expected to increase, potentially eroding the viability of some development plans.)

Upward expansion of existing business centres (within their current footprint) is also constrained by four related factors.

Firstly, the proximity of residential areas and parklands to most urban centres leads to rigid height controls to prevent overshadowing. While in theory, it is open to a planning authority to tolerate increased overshadowing as an acceptable trade-off for the social and economic benefits of more dense activity centres, such a trade-off is rarely made in practice.

Secondly, transport authorities often assert there is a limit to the carrying capacity of road, rail and other public transport services. This usually leads to caps on intensity of land uses in many activity centres.

Thirdly, in inner urban areas, key buildings and areas within business centres are frequently subject to heritage controls which limit or prevent re-development.

Finally, in most functioning business centres, many existing buildings, even when they are several decades old, are serviceable and fit for purpose. Land values (and therefore developer acquisition costs) reflect the productive use that the current buildings have. In order to justify the demolition of such buildings (and subsequent loss of value), together with the costs of construction, the new building must be able to offer a much higher gross revenue than the building it replaces. This normally means significant extra height and car parking - the additional intensity required is very often well outside the boundaries of what planning authorities would be prepared to consider.

The centres *and corridors* approach to high intensity uses was formulated in recognition of the commercial and planning constraints on the re-development of many "activity centres". While the idea of promoting corridor development equally alongside centre development is presently out of favour with land use planning authorities, this situation may not last. Ultimately planning authorities will need to realise that lofty planning visions for many urban centres are incapable of realisation and, once again, accept the need for more intense corridor development too. **It would be a shame if this process were delayed unnecessarily because the Productivity Commission had (perhaps unintentionally) supported the view that more intense (retail or other) development should be limited to areas "w*ithin and surrounding activity centres*".**

We ask that draft recommendation 7.1 of the report be revised to say that:

> State and territory governments should broaden zoning ~~within and surrounding activity centres~~ to facilitate new retail formats locating in ~~existing~~ business zones (emphasis added).[12]

2. <u>Competition on the full range of factors important to consumers can only occur when retailers are given the freedom to select location in-line with market preferences</u>

The report says that:

> Competition among retailers is most intense when they are geographically close. While this type of localised competition is becoming less prevalent for goods that are easily purchased on the internet, to the extent that restrictive zoning and activity centres policies locate retailers closer than they would otherwise choose, these policies may improve competition and lower prices.[13]

The assertion that "[c]ompetition among retailers is most intense when they are geographically close" is an over-simplification of the economics of retailing. It is dangerous, because it gives

[12] Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report* (2011) XXXIX.
[13] Ibid 199.

the Productivity Commission's endorsement to land use regulation that centralises retail activity in a small number of hubs.

The academic research has shown that there are fixed and variable costs to shopping, and a consumer prefers a shop where the total costs are minimised. The fixed costs include travel costs, which are modified by store loyalty.[14] When choosing a retailer, a consumer's selection is based on a synthesis of the most attractive combination of:

- product purchase price;
- travel cost (both in time and transportation costs); and
- inventory cost, i.e. the cost to the consumer of holding the purchased item in their own home, pending use.

Generally speaking, consumers will seek to minimise these costs. The sum of these costs is the true price of a retail purchase, not the price marked on the shelf in the store.[15] Retailers compete on the true price of goods, not on the shelf price. That's why consumers make purchases at small-format convenience stores, where generic household essentials can be priced at a 50 per cent premium to major chain supermarkets.

We note that our views are supported elsewhere in the Commission's draft report:

> Location of retail competitors is important because travel distances matter for consumers. Retailers who are far away from their competitors may find it possible to charge higher prices than if they are closely located to each other. When assessing a potential location for a new store, retailers factor in access costs for consumers. And when assessing a new place to live, consumers factor in the location of shops amongst other factors like workplace, schools and environmental amenity (OECD 2008).[16]

A convenience store requires high prices because of its small scale of operation, but can be attractive in certain situations because it minimises travel and inventory costs.[17] Conversely, the food warehouse is attractive to consumers who have low inventory costs because they can perform the inventory service efficiently themselves, but benefit from the low prices charged by the warehouse.[18]

Travel costs and inventory cost are clearly differ between consumers. For example, high income earners who work long hours may value their personal time highly and therefore give reduced weight to the higher shelf price of a product when they have the opportunity to make a purchase at a convenient location.

An empirical academic study has examined how consumer choices vary, depending on characteristic specific to the consumer themselves. The robust conclusions of this study undermine the proposition that geographic proximity of retailers to each other is always good for competition:

- **The greater the physical distance between a consumer and any supermarket, the less likely a consumer is to patronise supermarkets.**[19] If supermarkets are geographically close to each other, but, as a result, are located at greater distance of a group of consumers, those consumers will face a higher true price of making purchases. That is, the lower product purchase price will may be offset by a higher travel cost. Some consumers will bear this higher cost, in any event, others will divert a higher share of their grocery expenditure to more expensive, more local, small-format convenience stores.

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[14] D R Bell, T Ho, & C S Tang"Determining where to shop: Fixed and variable costs of shopping" 35(3) *Journal of Marketing Research* (1998) 35(3) 352– 369.

[15] A Bhatnagar & B T Ratchford "A model of retail format competition for non-durable goods" *International Journal of Research in Marketing* (2004) 21, 39–59, 57.

[16] Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report* (2011) 206.

[17] A Bhatnagar & B T Ratchford "A model of retail format competition for non-durable goods" *International Journal of Research in Marketing* (2004) 21, 39–59, 57.

[18] Ibid.

[19] Ibid 41

- **When consumers are looking to buy perishable goods, such as milk and bread, they are more likely to choose a more convenient store, notwithstanding the higher shelf price.**[20] When land use policies restrict cost efficient retail formats in areas such as major road corridors and high density residential environments (because they are not part of a designated "activity centre") consumers who do not find the designated retail hubs convenient have less choice, and face higher shelf prices.
- **The higher the household income the more likely that the household will patronise a convenience store as compared to the supermarket.**[21] Urban planning policies that allowed supermarkets in areas popular with convenience stores would allow a store's ratio of fixed costs to sales volume to be lowered, and therefore improve the ability of lower and middle income earners to benefit from competition based on convenient location.
- **The larger the household the more likely they are to shop at a food warehouse.**[22] If government policies are used to centralise retailers in specific locations, and doing, it becomes impossible for a food warehouse format to exist (for example, because lot sizes are not sufficiently large to support the format in activity centres), then larger households are less likely to have their needs met.

The price mechanism is a method for consumers to pay for a service that a particular format provides, or to decide to perform certain services themselves.[23] **When land use regulation is used to centralise retailers in certain hubs because of alleged benefits for price competition (i.e. shelf price competition), governments deprive consumers of the ability to lower their travel costs by making purchases at more convenient locations.** As restrictive activity centres policies have the greatest impact on the most cost-efficient large format retailers (such as supermarkets and food warehouses), the inefficient small format convenience stores are allowed to bloom and charge consumers a premium.

We ask the Productivity Commission to modify its report so that it recognises that competition between retailers occurs on both price and location, and that land use regulation to promote competition by requiring retailers to all be in the same location are misguided. Such policies will only deprive consumers of the opportunity to make trade-offs between their travel costs and a products shelf price.

While there may be benefits in regulation land use to favour activity centres in certain circumstances, increased competition is not one of them.

3. <u>Retailers should be allowed to locate in a large number of areas, and rezoning should be allowed to proceed even if the rezoning is only enough for a single retail development</u>

The report says that:

> To minimise the anti-competitive effects of zoning, policy makers need to ensure that areas where retailers locate are both sufficiently large (in terms of total retail floor space) and sufficiently broad (in terms of allowable uses, particularly those relating to business definitions and/or processes) to allow new and innovative firms to enter local markets and existing firms to expand. [24]

This point is important, but it says nothing about <u>the number of areas</u> in which a retailer should be able to locate. For reasons discussed earlier in this submission, there are strong constraints, often not recognised by land use planners, on the capacity of existing business centres to accommodate market requirements. It is important that there be more opportunities for the community to access more retail over a greater range of geographic locations.

Furthermore, the text of this key point implies that land should not be zoned or rezoned to permit retail development if the zoning is not "sufficiently large". It allows planning authorities to invoke the Productivity Commission's name, when blocking proposed spot rezoning for new (competing) retail development, on the basis that the spot rezoning will not rezone sufficiently

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[20] Ibid 49.
[21] Ibid.
[22] Ibid 50.
[23] Ibid 57.
[24] Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report* (2011) 199.

large areas of land. The reality of town planning is that, in existing urban areas, efforts to rezone land on-mass are generally not successful. This is because of the not-in-backyard (NIMBY) opposition generated, the resource constraints of planning authorities and the absence of active proponents to commission studies and argue a case. As a result, most robust rezonings in existing urban areas are driven by proponents in the context of a specific proposal over a specific area of land.

If individual rezonings are able to be blocked because they are not "sufficiently large" it will stop most retail-related spot rezoning from occurring, as it will prove impossible to secure the co-operation of multiple private sector land holders to simultaneously seek (and agree to contribute to the costs associated with) the rezoning of their land.

4. Retailers should be allowed to locate in a large number of areas, and rezoning should be allowed to proceed even if the rezoning is only enough for a single retail development

The report says that:

> Providing sufficient land at the strategic planning stage, with sufficiently broad uses, should enable retailers to locate in areas where they judge they can best compete — planning should be able to accommodate even the newest of current business models requiring significant floor space. Under such conditions, a new retail proposal in a non-designated area should be rare. However, in this situation, consideration of externalities such as traffic congestion and the viability of existing or planned new centres can be an important aspect of city planning which may justify accepting some reduction in competition.[25]

For reasons outlined earlier in this submission, we do not believe that the need to consider "a new retail proposal in a non-designated area" will be rare. Furthermore we do not support the suggestion that "the viability of existing or planned new centres can be an important aspect of city planning which may justify accepting some reduction in competition".

In saying this, the Commission has not explained how public authorities are capable of making the types of commercial judgments that are necessary to determine the impacts that new development will have on "the viability of existing or planned new centres".

A planning authority will require an economic study to consider the impact of a proposed new development on the viability of existing or planned centres. This necessitates a demand and supply analysis.

Any assessment of the demand depends on a series of assumptions and these assessments can be highly sensitive to the assumptions that are made. It is often not possible to decide which assumptions are correct and as a result, different experts may come to different conclusions about the level of demand. Planning authorities that are reluctant to see more land rezoned are likely to seek the adoption of assumption that will support their preferred position.

Floorspace demand assessments are partially based on population projections. Population projections can be subject to quite significant revisions over time, based on the uncertainty of key inputs, such as immigration levels, interstate and interregional migration, fertility rates, mortality rates, household size and housing supply. Population projections are not intended as predictions or forecasts, but are illustrations of growth and change in the numbers of households and families which would occur if certain assumptions hold. There is no way of measuring the probability of the assumptions' accuracy.

For example, recent immigration figures have significantly exceeded the estimates laid down by demographers and were not anticipated in retail studies. The smaller the geographic unit being measured, the more sensitive population projects are to their assumptions. As a result, subregional or regional population projections are highly suspect when they related to a period more than five years hence. We note that the Australian Bureau of Statistics copes with the inherent uncertainty of population projections by providing 72 multiple alternative projections (each of which it readily concedes may be incorrect),[26] however most demand analysis' we

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[25] Ibid 229.

[26] Australian Bureau of Statistics, 3222.0 - *Population Projections, Australia, 2006 to 2101*.

have examined rely on a single projection, creating a misleading impression of certainty, when no such certainty exists.

Floorspace demand assessments are also partly based on the historical behaviours of consumers at given levels of income. The actual levels of income may be more or less than originally projected, and consumer behaviour may change (particularly in response to new technology, formats, competition or services) in ways that are inconsistent with historical averages. The dynamic impact of innovative market activity remains unaddressed.

The composition of individual households – mainly the balance between households occupied by individuals, family and group households has the potential to significantly change – this will impact on retail consumption patterns over time. For example, in recent years a mini-baby boom has been underway. This was not anticipated by demographers, and therefore not included in retail studies that pre-dated the boom.

Assessments of anticipated <u>supply</u> will often be inaccurate because of a lack of consistent and complete data on floorspace supply in the pipeline (particularly infill land), uncertainty about the rate of development and the production capacity of the construction industry.

The particular needs of new entrants and their willingness to compete head-to-head with incumbent retail players is unlikely to be reflected in any analysis prepared prior to the new entrant seeking to establish themselves in the market.

Estimates of supply also require a planning authority to make commercial judgments about the likelihood that land within a centre zoned to permit retail will actually be developed for retail (this is a common area of disagreement). This requires planning authorities to decide:

- the appropriate price for a developer to pay to acquire a site within a centre and the value of the land at its existing use, and whether or not there are other (non-retail) land uses permitted which would offer a better return;
- the practicality of a given developer or neighbouring land owners from forming a joint venture with an incumbent landowner;
- the level of rent that prospective tenants (e.g. retailers) can afford to pay and should pay;
- the relative ease of vehicular access that is necessary to make a given commercial development viable;
- the amount of car parking required to make a new development viable;
- the volume of pedestrian foot traffic required to make a given retail development viable;
- the ability of a given location to sustain an additional retail development; and
- the degree of difficulty for a new entrant in a locality to compete directly alongside incumbent players, without being able to compete on convenience (i.e. being able to locate closer to a particular pool of potential consumers).

There is little history of planning authorities making good decisions on these commercial issues. There is no reason to believe that this is capable of changing in the future. The inherent qualities of government agencies prevent them from making good commercial judgments, and the consultancy industry that services the public sector is no substitute for actual entrepreneurs risking their own capital.

We agree that planning authorities may need to consider externalities such as traffic congestion, but we do not think that commercial matters, such as the demand and supply of retail floor space, and the "viability" of centres should enter into consideration.

We ask that the text of the report be modified accordingly and, in particular, recommendation 7.2 be revised as follows:

> Local governments should significantly reduce prescriptive planning requirements to facilitate new retail formats locating in existing <u>and new</u> business or <u>multiple-use</u> zones and ensure that competition is not needlessly restricted.

5. Future proofing by preventing the "fragmentation" of land holdings would be a serious mistake

The report says that:

> [I]n new development areas where provision for centre expansion can be accommodated, local councils should avoid creating fragmented landholdings around centres that could prevent future expansion of businesses (including those requiring a significant footprint).[27]

This is effectively telling local government that they should oppose any development that involves strata subdivision in or near urban centres. Strata subdivision will fragment land holdings.

It is impossible to imagine the renewal or expansion of most suburban centres in the existing urban footprint if the ability to carry out strata subdivisions is precluded.

For example, the regional or suburban office market differs from a capital city central business district (CBD). In the CBD, there are large businesses, such as banks, publicly listed companies, top tier professional services firms, who will take out multiple floors in an office tower and are able to commit to long term leases. In regional and suburban centres premises are generally occupied by a wide variety of assorted small businesses, including health care practitioners, lawyers, architects, property managers, graphic designers, etc.

It is possible, and often preferable, to develop CBD office premises on the basis of single ownership. This can be achieved because developers who able to secure pre-commitments for several premium tenants can secure finance, and have a reasonable prospect of selling the completed building into a property trust or superannuation as long term secure income.

In the suburban and regional office market, the small businesses are unable to commit to long term leases (and are not sufficiently credit worthy for such a long-term lease to be useful for a developer). The absence of long-term leases, and the higher risks and costs of managing a series of small tenants, means there is little appetite by property trusts or large superannuation funds for these developments. However, small businesses may be willing to <u>buy</u> their individual office suites if the development is the subject of strata subdivision. Similarly self-managed superannuation funds and other 'mum and dad' property investors are interested buyers of strata subdivided office suites. As a result, it is essential for suburban and regional office development to be capable of strata subdivision. Without strata subdivision, the likelihood of commercial office development in most suburban and regional centres is remote.

In relation to residential development existing urban areas, the whole "activity centres" concept is dependent on there being a capacity for high density residential development in the centre. The idea of the "activity centre" is that people should be able to live literally on top of, or in the immediate vicinity of, retail and employment related development. This reduces the need to travel separately (by car) to access services and jobs. It boosts pedestrian activity and creates a more vibrant, people-orientated, streetscape.

In fact, the draft report quotes, with approval, the earlier report by the Productivity Commission that favours such multiple-use zoning:

> The NSW proposal of a single business zone applied across an entire centre with the mix of uses with a centre left to the market has the potential to be a leading practice in the area (PC 2011, p. 352)[28]

The "business zone" cited by the Productive Commission above, is "Zone B4 Mixed Use" under NSW's Standard Instrument, is designed to:

> To integrate suitable business, office, *residential*, retail and other development in accessible locations so as to maximise public transport patronage and encourage walking and cycling (emphasis added).[29]

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[27] Productivity Commission, *Economic Structure and Performance of the Australian Retail Industry: Draft Report* (2011) 231.
[28] Ibid 221-222.
[29] Zone B4 Mixed Use Land Use Table, of the Standard Instrument contained in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Higher density residential development in an activity zone necessarily involves strata subdivision of the site. In modern centres experiencing renewal, such development will often occur above a retail/commercial podium which fronts the street. This will, of course, fragment the ownership of the land.

If the draft report's view that "local councils should avoid creating fragmented landholdings around centres" stands, the "leading practice" identified in the Commission's recent work on planning, zoning and development assessment can never happen.

The development of urban centres necessarily involves fragmentation of land holdings. If government policy seeks to prevent this, it will simply prevent necessary residential and commercial office development from proceeding, and ultimately lead to the failure of the activity centres policy.

Concerns about the difficulties in redeveloping land that has been subject to strata subdivision are better dealt with via reforms the strata title legislation (by allowing, for example, owners' corporations to be wound up by a special majority vote) rather than land use restrictions preventing the creation of a strata titled property in the first place.

In new greenfield centres there an increasing preference for townhouse or small lot housing to be located within walking distance of services/retail hub. This is justified on the basis of both affordability and maximising the opportunities for pedestrian access to the community centre. This necessary involves fragmentation of land in the vicinity of centres.

The costs of preventing the creation of small residential lots within walking distance of greenfield centres (in relation to housing affordability, walkability and sensible use of land) would be disproportionate to the benefits of holding land, under-utilised, for thirty or more years until a greenfield centre needs to expand.

In relation to greenfield centres, a better approach would be to allow retailers to surround their sites with at-grade (rather than underground) car parking. This preserves a large amount of land in economic use (and while the land is relatively inexpensive, it is more cost effective than the costs of building and maintaining an underground car park). However it also ensures that as the need for retail expansion arises in the future, the site can be redeveloped with underground car parking with a greater volume of retail floor space. Regretfully, the tendency of many planning authorities these days is to prohibit at-grade (surface) car parking.

Thank you for the opportunity to comment on your draft report. Please do not hesitate to contact us if you require further information.

Yours sincerely
Urban Taskforce Australia

Aaron Gadiel
Chief Executive Officer