

Competition Policy Review Secretariat  
The Treasury  
Langton Crescent  
Parkes ACT 2600

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## UDIA Submission to the Competition Policy Review

The Urban Development Institute of Australia (UDIA) welcomes the opportunity to provide this submission to the Australian Government's Competition Policy Review. UDIA is the peak body representing the interests of the development industry around Australia, acting on behalf of over four thousand members across the country, from a wide variety of fields and professions.

Competition between businesses is one of the most fundamental tenets of market based economies, playing a critical role in the efficient allocation of resources, productivity improvements, and the welfare of individuals. In the past, removing barriers to competition has yielded considerable gains to the Australian economy and living standards, and the current review provides an excellent opportunity to further these gains.

UDIA is particularly interested in the impact of land use restrictions such as planning, zoning and development assessment processes on competition. Current land use restrictions pose considerable barriers to effective competition, by constraining the supply of urban land, concentrating market power, and creating barriers to entry for new businesses.

UDIA believes that significant reform of Australia's planning, zoning and development assessment processes should be pursued to increase competition, lower prices, expand consumer choice and drive innovation.

### The Impact of Land Use Restrictions on Competition

In the context of urban land use, competition is primarily about the ease with which land can be moved between different activities in response to market conditions. Where land can be easily moved between uses, markets will assign it efficiently to its highest value use, which can have beneficial flow on effects to prices and efficiency in other parts of the economy (Productivity Commission 2011).

The role of land use restrictions should therefore be to help correct economic externalities and provide a balance between economic outcomes and other goals, for example: neighbourhood amenity, environmental protection, housing affordability, and public safety. It is the view of UDIA

that in many instances, Australia's highly complex and prescriptive planning and land use regulations both create considerable barriers to competition, and work against the broader public interest.

It is the case that in most Australian cities, the supply of new land for development is heavily constrained by zoning controls, urban growth boundaries, and other regulatory limitations. The supply of new land, as well as the ability to redevelop brownfield sites, is limited to such an extent that considerable market power is effectively granted to landholders with appropriately located and zoned land, contributing to the rapid escalation in the price of urban land seen in recent years.

For example, the new residential zones currently being introduced in Melbourne as part of the Victorian Government's Metropolitan Planning Strategy will place a mandatory limit of two dwellings per lot for at least 50% of residential areas in Melbourne. This policy has the potential to lock large quantities of valuable urban land into an extremely limited range of uses, and is characteristic of planning systems throughout Australia.

Higher urban land prices flow through to businesses and households, increasing the costs of goods and services throughout the economy, damaging employment and the international competitiveness of Australian businesses. To create effective competition in land markets and reduce costs incurred by both businesses and households, local and state governments must ease limitations on land supply to ensure that there is always sufficient developable land available to meet changing demand and market conditions.

### Impact on Retail Competition

Planning and zoning restrictions on development can also present barriers to effective retail competition by creating local monopolies, limiting new market entrants, and allowing existing businesses to 'game' the system to gain an advantage over competitors.

In many instances planning and zoning restrictions substantially limit the number of available sites appropriate or desirable for running specific businesses. This can limit the number of businesses in an area, reducing competition, and can also act as a barrier to entry for some businesses. In locations where sites are extremely limited, businesses and land owners may essentially have local monopolies, allowing them to charge higher prices for goods and services, or higher rents.

Additionally, restrictive commercial zoning can limit the types and mix of businesses that can operate in a location, as well as the floor area, and product mix. This can limit the range of goods and services available to consumers, as well as prevent businesses from changing their format to adapt to changing consumer preferences and market demands.

Development assessment and approval processes have a tendency to unreasonably preference the interests of existing businesses over new market entrants. The impact of a new business on the

commercial viability of existing businesses is included as a relevant planning consideration in some systems, which is anticompetitive in nature.

Planning systems can also be susceptible to gaming by businesses to gain an unfair advantage over competitors. Monopolistic behaviour such as purchasing and withholding sites from competitors, as well as making vexatious objections to development proposals can delay and prevent other businesses from opening, damaging competition.

### Government Owned Developers and Competitive Neutrality

In addition to providing social housing, most state governments in Australia undertake commercial land development through state owned developers, with the two functions sometimes performed by different agencies. State governments need to be clear about the role of agencies involved in land development, with a focus on locations and sectors where there is a clear market failure.

Where the priority is placed on delivering a dividend to the State Government, it has the potential to put government development authorities in direct competition with private developers and, as noted in the terms of reference for this inquiry, governments should not be a substitute for the private sector in competitive markets. Direct government involvement in mainstream urban development constitutes a particularly big risk to effective competition where the government agency is granted a competitive advantage in the form of special concessions or privileges unavailable to the private sector.

UDIA believes that Governments need to ensure that their development authorities are maintained with the purpose of undertaking projects that the market is unable to, rather than directly competing with private developers, and that in line with the principle of competitive neutrality, government developers should not be granted benefits or privileges unavailable to private developers.

### Recommendations

There have been a number of reviews undertaken by the Productivity Commission and ACCC among others in recent years which have examined the negative impact of overly restrictive land use policies on competition and productivity, and most have made similar recommendations for reform.

The Productivity Commission recommended the following changes in their benchmarking study on state and territory planning and zoning systems, which UDIA supports and believes would go a long way to reducing barriers to competition created by land use regulations:

- Reductions in the prescriptiveness of zones and allowable uses therein
- Facilitation of more 'as-of-right' development processes

- Elimination of impacts on the viability of existing businesses as a consideration for DA and rezoning approval
- Consideration of impacts on the viability of centres only during the metropolitan and strategic planning stages
- Clear guidelines on alternative assessment paths, and
- Disincentives for gaming of third party appeals.

### Conclusion

UDIA thanks the Australian Government for the opportunity to provide this submission to the Competition Policy Review, and would welcome the opportunity to discuss any aspect of the submission in greater detail. For further information, please contact UDIA National on 02 6230 0255 or at [udia@udia.com.au](mailto:udia@udia.com.au).

### References

-Productivity Commission 2011, Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessment, Research Report, Canberra

-Productivity Commission 2011, Economic Structure and Performance of the Australian Retail Industry, Report no. 56, Canberra.

-Australian Competition and Consumer Commission 2008, Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, Canberra.