

Choice Free, or Too Free? Retail Planning Reform in NSW

A review by your Editor of the report "Choice Free Zone"
prepared by Sir Allan Fells on behalf of Urban Taskforce Australia.

In the last six months the whole philosophy underpinning zoning regimes and, in particular, their role in reinforcing a retail centres hierarchy has come under a concerted and somewhat unprecedented attack by interests in the development industry. Enlisting the services of the former ACCC Chairman Sir Allan Fells, on 20th May 2008 Urban Taskforce Australia with widespread publicity released the report "Choice Free Zone". It claims that the centres' hierarchy implemented by the NSW Planning System is anti-competitive in that it establishes barriers for new entrants, protects incumbent operators and constrains choice and opportunity. As a result, it is responsible for inflated prices for retail goods experienced by NSW consumers. The Urban Taskforce takes Fells and his fellow authors' observations and proceeds to put a case to the NSW Government that, as part of the Government's current Metro Strategy and Sub-regional Strategy initiatives, it should abandon the centres' hierarchy in favour of a laissez faire approach where location is generally dictated by developer preferences.

"Choice Free Zone" is quick to lay the blame for higher groceries on urban planning. However it does so without any review of other relevant factors. For example, the analysis is completely silent on the characteristics of the retailing environment in NSW. If it did embark down this path, it would note that:

- The two major supermarket chains (Woolworths and Coles) probably enjoy an unhealthy duopoly in grocery retailing in NSW, accounting for more than 80% of grocery sales

(National Association of Retail Grocers of Australia – www.narga.com.au) in a very small marketplace. By comparison, in the UK there are three major chains that control 58% of a considerably larger market twelve times the size of NSW (Tesco (25%), Sainsburys (16%) and Asda (17%) – www.neweconomics.org);

- Certain shopping centre owners, such as Westfield, perhaps may have an unhealthy hold on regional town centre shopping centre ownership, exacerbated by the small number of additional operators (AMP, Centro, QIC, Stockland etc) in the marketplace;
- There is little apparent tangible evidence that the availability of sites is restricted. Since 2001 the discount supermarket chain Aldi has been able to successfully establish itself in NSW (despite being one of the more vocal critics of zoning controls). Ironically, only a week after the release of the report, the Sydney Morning Herald announced that the Victorian Supermarket chain of Foodworks intends to significantly expand its presence in NSW from its current 91 stores. The Herald quotes the company saying "While we are investigating strong site locations, we have also conducted a geomapping analysis, which has identified hundreds of well placed store site prospects Australia wide and we are seeking entrepreneurial new retailers to fill these and capitalise on these exciting opportunities" (SMH May 31 2008 P.62); and

- Anecdotal evidence suggests that perhaps one of the biggest barriers to supermarket developments is local opposition, notwithstanding that sufficient zoned land may be available and the zoning may support such a use. In the last 12 months alone two applications for supermarkets that have been refused by local Councils due to resident opposition (Cooranbong in the Lake Macquarie LGA that achieved consent through an appeal to the Land and Environment Court, and Erskineville in the City of Sydney). A battle is also raging with local opposition in Moree (a proposed Big W) and Mullumbimby.

If Fells and his colleagues had undertaken a thorough analysis they might then have concluded that inflated grocery prices could also result from other factors such as limited market size and a lack of regulation on monopolies, rather than merely urban planning. They may also have noted that there are other additional, significant, barriers to the development of a supermarket in a locality, rather than merely the zoning of the land.

The report acknowledges in the executive summary that "consideration needs to be given to concrete options of an alternative planning model if this assessment is to have true context. This is outside the scope of the authors' expertise (p.14)". However, it also makes some pertinent and valid criticisms including:

- remarks that the definitions of the various centres in the hierarchy adopted by the Metropolitan Strategy



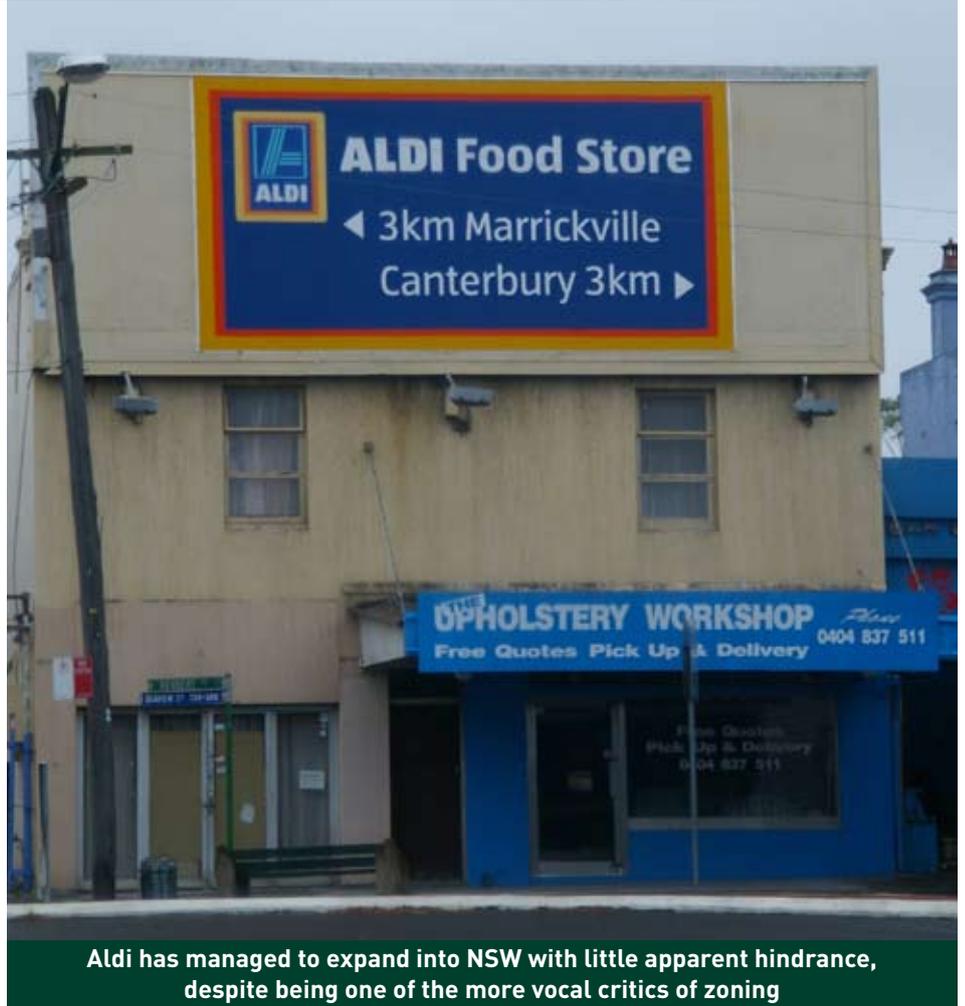
and their application to existing and proposed centres are both inaccurate and unrealistic in many instances;

- observations that the Hierarchy in the Strategy fails to take account of evolving formats of retailing such as genuine bulky goods outlets (where goods are large in scale and / or volume); and
- comments that “favouring retail development in town centres comes at a cost of increased congestion when transport infrastructure is at or near full capacity” (P.57) and the “ability of public transport networks to provide a viable transport option to private vehicles is struggling in Australia” (P.56).

However, these criticisms are not converted into any constructive recommendations by Urban Taskforce Australia.

Importantly, “Choice Free Zone” gives only scant regard to the negative impacts of allowing uncontrolled retail development. It does so in Part 3, where it notes that “the benefits and costs of land use planning are, in most cases, highly uncertain. Direct theoretical or empirical evidence is likely to have a limited role in resolving that uncertainty given the complexity of urban environments” (p.28).

Direct empirical evidence is everywhere and is generally convincing. Any Aussie tourist that has passed through abandoned and deserted town centres and shopping malls in regional and suburban cities of the United States, where market forces dictate retail location, will testify that such action



Aldi has managed to expand into NSW with little apparent hindrance, despite being one of the more vocal critics of zoning

may be more counter productive, than productive for the community as a whole. The website Deadmalls.com highlights the experiences in the USA by uncontrolled retail location. It presents nearly 300 examples of dead or dying shopping malls for our internet amusement and fascination.

Meanwhile in the UK, Planning Policy Guidance Note 6 (PPG6) seeks to stem the flight of retail activity out of centres to out-of-town locations by requiring local planning authorities to apply a ‘sequential test’ to any decision as to where significant retail provision should be located. The ‘first preference’ should

be for town centre sites, followed by edge-of-centre sites, and only then out-of-centre sites. The UK Commission for Architecture and the Built Environment (CABE) notes that PPG6 has resulted in a significant majority of new retail development being focused back in centres resulting in retail-led urban regeneration, which is bringing economic life and vibrancy back to many locations in rundown parts of the UK’s existing urban centres (www.cabe.org.uk).

Bizarrely, on Page 41, “Choice Free Zone’ seeks to use the observations of the late Jane Jacobs from her

“...tougher controls on mergers and acquisitions are needed...”



Image of dead mall in Florida, taken from deadmalls.com

seminal text “The Death and Life of Great American Cities” in support of its approach. Ms Jacobs must be turning in her grave. Here is but one quote from elsewhere within the book, which the authors may have missed ... “You can’t rely on bringing people downtown; you have to put them there”. Jacob’s principal and very scathing criticism in her book (that inner city communities were being destroyed by the planning of isolated unconnected spaces) must have escaped the authors of “Choice Free Zone”.

Closer to home, of course, you only have to spend a Saturday wandering along the vacant shop fronts and stare at the plethora of for-lease signs in the Hunter Street mall in the Newcastle CBD to realise what has been lost to the City by the march of retail expenditure to the Westfield and Stockland centres that proliferate in the suburbs. The only interesting aspect of the experience is observing tourists wondering where they can spend their tourism dollar.

Perhaps, if the authors had looked beyond the anti planning vitriol of American writers they may have found some “concrete options” (to use the report’s terminology). For example, the UK based “New Economics Foundation” calls for, among other things, the tackling of monopolies and recommends that tougher controls on mergers and acquisitions are needed including the introduction of legislation that outlaws predatory and anti-competitive pricing strategies (NEF, 2004, Ghost Town Britain). We have the ability to do this in Australia of course, however we have only recently seriously turned the spotlight on grocery prices, and is it too late?

It is not urban planning, but common sense, that suggests that retail, commercial, higher density residential, community, entertainment and other activities should be co-located in areas with good public transport. Libraries, hospitals, universities, shops and offices all enjoy economic and social benefits from agglomeration and the community enjoys economic and social benefits from convenient and affordable access to a wide choice of activities.

It is a shame that ‘Choice Free Zone’ chooses to target its criticism purely on the planning system in NSW. Hidden among its comments are some valid observations on the retail hierarchy in the Metropolitan and Sub-regional Strategies, which many planners would support, particularly as transport costs will inevitably go up in the future. However, they appear to have been quickly ignored or forgotten.