



SELECT COMMITTEE ON ACT SUPERMARKET

COMPETITION POLICY

INQUIRY INTO ACT SUPERMARKET COMPETITION
POLICY

Government Response

Presented by
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General Observations

The Government thanks the Select Committee for its timely examination of supermarket competition policy in the ACT. The inquiry process demonstrated that supermarket competition policy is a complex matter and that various aspects of the location and operation of supermarkets continue to be topics of interest to the Canberra community.

The Government notes that since the introduction of the Government's Supermarket Competition Policy Implementation Plan (SCPIP) in 2010 there have been several important shifts in the local supermarket sector. Some of these phenomena were addressed by the Select Committee and provide important context to the Government's responses to the Committee's recommendations discussed below.

Impact of Supermarket Site Releases Announced in May 2010

The anticipated delivery of the new supermarket sites at Dickson, Kingston, Casey and Amaroo announced in May 2010, will address the undersupply of 'full-line' supermarket space in Gungahlin and Central Canberra identified in the Martin Report.

A Shift in the Australian Competition and Consumer Commission's (ACCC) Approach to the Supermarket Sector

Across Australia, the ACCC has recently taken a more critical view than it had previously towards competition issues in the supermarket sector, including the expansion strategies of the two major national chains.

Changes in the Local Wholesaling Market

Supabarn's recent activities to set itself up as a grocery wholesaler available to supply independent operators, and the arrival of Costco in the Territory, have together combined to increase competitive tension within the local grocery wholesaling market.

Future Directions

In light of the above, the Government has formed the view that a specific Government supermarket competition policy is no longer needed in the form of the 2010 SCPIP, nor is there a clear need to maintain a Supermarket Competition Coordination Committee, particularly at a time when the allocation of public resources must be prioritised.

That said, the Government recognises, that it will nonetheless continue to have important roles in shaping the Territory's supermarket sector in the future in other ways in accordance with the community's interests.

For example, the Government supports the view, expressed almost universally during the inquiry, that maintaining the viability of local centres (and local centre supermarkets) is an important matter for public policy. Accordingly, the Government will ensure that the Territory Plan and its other planning activities provide an appropriate level of support for such centres across Canberra.

Similarly, the Government acknowledges that it will almost certainly need to continue to release new supermarket sites through greenfield land development and urban renewal processes to meet future demand. However, the Government anticipates that unless a situation warrants the direct sale of a site to a particular operator, the regulation of site acquisitions will be left to the ACCC.

RECOMMENDATION 1

The Committee recommends that the Minister for Economic Development report on all matters acted on and currently progressing in the carrying out of the Supermarket Competition Policy Implementation Plan and that report be part of future annual reports of the Economic Development Directorate.

Government Response: Agreed-in-part

The following actions have been taken to progress the 2010 Supermarket Competition Policy Implementation Plan (SCPIP):

- A full line supermarket site and an ALDI site have been released at Casey;
- A full line supermarket site and an ALDI site are in the process of being released at Dickson;
- A full line supermarket is in the process of being released at Amaroo;
- It is anticipated that a full-line supermarket site will be released this year at Kingston;
- A site has been direct sold to ALDI at Chisholm;
- Potential sites for new full-line supermarkets and the expansion of existing supermarkets have been investigated in master-planning processes for Erindale, Kambah Village, and Weston;
- Supermarket competition issues have been considered by ESDD in its review of Territory Plan policies for commercial zones; and
- Various applications for direct sales to enable the expansion of local centre supermarkets have been considered.

However, following on from the discussion in the 'Future Directions' section of this response, as the Government will no longer be maintaining the SCPIP as a formal policy it would not be appropriate to report on the Plan in EDD's future annual reports.

RECOMMENDATION 2

The Committee recommends that the reports of the Supermarket Competition Coordination Committee, particularly the annual report required by the Supermarket Competition Policy Implementation Plan, be included in future annual reports by the Minister for Economic Development and the Economic Development Directorate.

Government Response: Noted

Following on from the discussion in the 'Future Directions' section, the Government no longer intends to operate a standing Supermarket Competition Coordination Committee.

RECOMMENDATION 3

The Committee recommends that the Minister for Economic Development report to the Legislative Assembly as soon as possible on the implementation of, and response to, the recommendations of the Martin Review of the ACT Supermarket Competition Policy.

Government Response: Agreed

The Government has previously indicated that it generally accepted the findings of the Martin Review. The Government's implementation of the recommendations to date are summarised as per the response to Recommendation 1 above.

RECOMMENDATION 4

The Committee recommends that the Minister for Environment and Sustainable Development, as the minister responsible for planning issues, report on all matters referred to him as part of the Supermarket Competition Policy Implementation Plan by the Direct Sale Eligibility Assessment Panel and that this report be part of the annual report from the Environment and Sustainable Development Directorate.

Government Response: Noted

The Panel does not refer supermarket competition matters to the Minister for the Environment and Sustainable Development. Rather, the Panel has previously referred applications for direct sales to the SCCC where the proposed sale relates to a supermarket. The SCCC then considered the proposed direct sale against the supermarket competition factors outlined in the SCPIP and advised the Panel accordingly.

RECOMMENDATION 5

The Committee recommends that the ACT Supermarket Competition Policy which has been in place and in course of implementation since October 2009 be the subject of a review similar in focus to the 2009 review by Mr John Martin, that this review be conducted at the end of 2013, that the review proceed in a similar manner to the Martin Review process and that the review findings and recommendations be tabled in the Legislative Assembly by June 2014.

Government Response: Noted

For the reasons discussed in the 'Future Directions' section above, the Government will no longer be maintaining the SCPIP and does not intend to formally replace it at this time.

RECOMMENDATION 6

The Committee recommends that the retail hierarchy be incorporated in the Supermarket Competition Policy Implementation Plan.

Government Response: Noted

As discussed previously, the Government will no longer maintain the SCPIP as a formal policy.

However, the Government remains committed to maintaining a clearly defined hierarchy of centres across Canberra. This hierarchy will continue to be reflected in the Territory Plan, strategic spatial planning documents, and the Government's future land development activities.

RECOMMENDATION 7

The Committee recommends that the Territory Plan be revised to specify Gross Floor Area limits for supermarkets in local centres.

Government Response: Agreed

A new absolute limit on the gross floor area of supermarkets in local centres (of 1500m², of which not more than 1000m² may be the 'net selling area') has been proposed in Draft Variation (DV) 304.

This limit would apply to any proposal to expand an existing local centre supermarket as well as future supermarkets in local centres in new urban areas. It is expected that this policy change would provide greater certainty to proponents of supermarket developments as well as other interested parties in the community.

RECOMMENDATION 8

The Committee recommends that the supermarket Gross Floor Area limit for each local centre should be individually specified, given the differing size of local centres as they were originally developed.

Government Response: Noted

The identification of individualised supermarket floorspace limits for each of Canberra's 83 local centres would require a substantial and ongoing commitment of resources that in the Government's view would not deliver a commensurate public benefit.

Instead, the Government intends to introduce a general local centre supermarket floorspace limit (as per the response to Recommendation 7), whilst allowing for the possible introduction of centre-specific controls through the development of precinct codes covering individual local centres, if appropriate.

RECOMMENDATION 9

The Committee recommends that the supermarket Gross Floor Area limit prescribed for a local centre take into account the distance between the local centre and the nearest group centre.

Government Response: Noted

See the response to Recommendation 8.

RECOMMENDATION 10

The Committee recommends that the current provisions of the Territory Plan and Local Centre Development Code be reviewed to determine an exact definition of Gross Floor Area as currently applied to both supermarkets and other grocery and convenience stores in the ACT.

Government Response: Agreed-in-principle

It is believed that DV 304 responds to the Committee's intention in making this recommendation through proposing to control floorspace through a new concept - 'net selling area' - that will complement the use of 'gross floor area' as a measure.

RECOMMENDATION 11

The Committee recommends that supermarket Gross Floor Area be calculated according to the whole area of a business accessible by the consumer but not include areas inaccessible by consumers such as loading docks, administrative areas and food preparation, packing and storage areas.

Government Response: Agreed-in-principle

It is believed that the new concept of 'net selling area' proposed within DV 304, will effectively address the intention of the Committee in making this recommendation.

RECOMMENDATION 12

The Committee recommends that a small business impact statement is undertaken for similar businesses in a geographic area affected by a supermarket proposal under the ACT Supermarket Competition Policy Implementation Plan

Government Response: Noted

As discussed previously, the SCPIP will no longer be maintained by the Government. However, the Government recognises the importance of small businesses within local centres and elsewhere, and believes that the new controls on the maximum size of local centre supermarkets proposed by DV 304 will effectively support the viability of such businesses.

RECOMMENDATION 13

The Committee recommends that the small business impact statement referred to in Recommendation 12 should be paid for by the proponent of a proposal, be independently commissioned by ACTPLA, and be open to public comment.

Government Response: Noted

See the response to Recommendation 12.

RECOMMENDATION 14

The Committee recommends that the ACT Government should request that the Australian Competition and Consumer Commission consider acting to limit the market share held in the ACT by the major supermarket operators and act similarly to limit the market share held by the major supermarket operators in the ACT retail petrol market.

Government Response: Agreed-in-part

The Government will write to the ACCC to inform the latter of its proposed shift in approach (that is, while it continues to support greater competition in supermarket sector, the SCIP will no longer be Government policy, and that unless the Government believes that a particular situation warrants the direct sale of a site to a particular operator, the regulation of site acquisitions will be left to the ACCC).

RECOMMENDATION 15

The Committee recommends that the ACT Government provide an update on the situation for the introduction of an additional wholesaler in the ACT.

Government Response: Agreed

While no longer maintaining a formalised supermarket competition policy, the Government continues to be willing to consider providing support to any proposals that would credibly increase competition within the grocery wholesaling market in the Territory. Although discussions have previously been held with interested parties on this topic, these have not progressed to the stage where Government support through, for example, the direct sale of land, might be provided.

It is noted that the opening of a Costco outlet at the Canberra Airport offers a new option to consumers seeking to purchase many types of groceries in larger quantities. Supabarn is also understood to have recently commenced new wholesaling operations in support of its various ACT and NSW supermarkets and which also supplies several independent operators across Canberra who have re-branded as 'Supa Express' outlets.

RECOMMENDATION 16

The Committee recommends that the ACT Supermarket Competition Policy Implementation Plan be amended to include ease of access to supermarkets by people with mobility issues as a consideration in assessing new development applications for supermarkets and that this amendment be reflected in the Territory Plan.

Government Response: Agreed

As discussed previously, the Government will no longer maintain the SCPIP. However, the Government supports the apparent intent behind this recommendation and has proposed to include reference to providing ease of access for people with mobility issues in the objectives for the CZ4 Local Centres Zone via DV304.

RECOMMENDATION 17

The Committee recommends that one objective of the ACT Supermarket Competition Policy be the preservation of viable local shopping centres, and this objective be reflected in the Territory Plan.

Government Response: Noted

As indicated previously, the Government will no longer maintain the SCPIP. However, it does agree that preserving the viability of local centres is an important policy goal, noting that the Territory Plan already seeks to address this issue. As discussed above, Draft Variation 304 will further refine the Government's approach through proposing new floor area controls on local centre supermarkets. It is believed that these controls will adequately protect the viability of local centres without the need for a new objective for the CZ 4 Local Centres Zone.

RECOMMENDATION 18

The Committee recommends a study is made by the appropriate part of the Environment and Sustainable Development Directorate of future transport needs of the ACT and urban settlement patterns, and that the results of such studies be taken into account in ACT supermarket development.

Government Response: Noted

The Government has recently conducted extensive studies of transport needs in relation to future urban settlement patterns in the development of the recently released *ACT Planning Strategy* and the *Transport for Canberra* strategy. This work will inform future strategic planning and land release relating to new supermarket development.