

2022

**THE LEGISLATIVE ASSEMBLY FOR THE
AUSTRALIAN CAPITAL TERRITORY**

Variation to the Territory Plan 381 - Local Centre shop size

**Presented by
Mick Gentleman MLA
Minister for Planning and Land Management
April 2022**

Australian Capital Territory

Planning and Development (Plan Variation 381) Approval 2022

Notifiable instrument NI2022-

made under the

Planning and Development Act 2007, s 76 (Minister's powers in relation to draft plan variations)

1 Name of instrument

This instrument is the *Planning and Development (Plan Variation 381) Approval 2022*.

2 Commencement


This instrument commences on the day after its notification day.

3 Approval of draft plan variation

(1) I approve under section 76 (2) (a) of the *Planning and Development Act 2007* the plan variation 381 to the Territory Plan.

(2) In this section:

plan variation 381 to the Territory Plan means the plan variation in the schedule.


Mick Gentleman MLA
Minister for Planning and Land Management
22/2/2022



ACT
Government

Environment, Planning and
Sustainable Development

Schedule (See section 3(2))

Planning and Development Act 2007

Variation to the Territory Plan 381

Local Centre shop size

Final variation prepared under s76 of the
Planning and Development Act 2007

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1. EXPLANATORY STATEMENT

1.1 Background

Territory Plan variation V304 which commenced in April 2015, placed a maximum 1000m² gross floor area (GFA) limit on shops in local centres. Previously there was no limit on the GFA of a shop at local centres.

The development of V304 started with the commercial zones policy review (phase 1) discussion paper, released in 2011. There was feedback on various issues affecting development in commercial zones including supermarket sizes at local centres.

A total of 49 public comments were received about this discussion paper. Apart from individual comments, submissions were received from Woolworths Ltd, Coles supermarkets, Supabarn and various IGA supermarkets, five centre landowners/developers, Housing Institute of Australia, Planning Institute of Australia, a planning consultant, five community groups and/or associations and the ACT Greens. Importantly, there was

- strong support for:
 - limiting supermarket sizes in local centres; and to
 - assessing the potential economic impacts of 'significant' supermarket developments at adjacent centres.
- some support for:
 - reflecting centres hierarchy in commercial zones; and to
 - undertaking zoning changes on a case-by-case basis.

In 2013 the former ACT Legislative Assembly Select Committee issued its findings on the ACT Supermarket Competition Policy. Of relevance to the Territory Plan provisions was the following recommendation:

Recommendation 7 – The Committee recommends that the Territory Plan be revised to specify gross floor area limits for supermarkets in local centres.

Draft Variation DV304 was released for public comment in 2013 and was informed by the Select Committee recommendations of 2013 and the commercial zones policy review discussion paper of 2011.

DV304 proposed a maximum gross floor area of 1500m² for shops selling food (including supermarkets) in local centres. However, there was also a provision that set a 'net selling area' for these shops at a maximum of 1000m². For this provision the 'net selling area' was defined in the proposed rule as that part of the gross floor area of a shop that is:

- a) used for the display and sale of goods, and
- b) ordinarily accessible to the public.

A total of 14 submissions were received during the formal public notification period for DV304. The majority of submissions were from supermarket businesses and comments related primarily to the proposed GFA limits and the proposed re-alignment of commercial zones boundaries in some group centres. Key issues raised about DV304, which include comments about local centres:

- result in poor urban planning outcomes
- diminish convenience retailing
- create an oversupply of supermarket and retail space
- may affect the retail hierarchy of centres
- the proposed GFA limits are excessive
- the proposed introduction of the term 'net selling area' is considered to be unnecessary
- the definitions of GFA and NSA are potentially confusing and complex
- the proposed GFA limits may affect the viability of centres and result in pressure on available car parking areas
- the proposed GFA limits are considered to be inconsistent with the directions of the Commercial zones policy review (phase 1) discussion paper.

The recommended DV304 was revised in response to the public comments received. This included an amendment to the maximum GFA for supermarkets in local centres to 1000m² inclusive of net selling area and all 'back of house' floor space. The primary reason for the GFA limit of 1000m² was to maintain the existing hierarchy of commercial centres. However, it was noted, at the time, that some existing supermarkets in local centres had already been developed beyond the maximum 1000m² in the variation. A criterion was introduced to account for lawfully constructed supermarkets above this limit, already lodged development applications, and existing approvals that were already in place. V304 commenced in April 2015.

In recent times, the viability and competitiveness of local centres has come into question. With social and consumer behaviour change, particularly evident in response to COVID-19, the role of local centres in our urban fabric is changing. To further understand this change, a strategic investigation of the effectiveness of the Territory Plan policy for local centres is being conducted. Variation 381 facilitates changes to the local centre policies for supermarket sizes to improve both the viability and competitiveness of local centres.

1.2 Summary of the Proposal

This variation increases the maximum GFA for shops in local centres from 1000m² to 1500m².

1.3 The National Capital Plan

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The Planning and Land Management Act 1988 also required that the Territory Plan is not inconsistent with the NCP.

In accordance with section 10 of the *Australian Capital Territory (Planning and Land Management) Act 1988*, the NCP defines the planning principles and policies for Canberra and the Territory, for giving effect to the object of the NCP and sets out the general policies to be implemented throughout the Territory, including the range and nature of permitted land uses.

It also sets out the detailed conditions of planning, design and development for areas that have special significance to the National Capital known as designated areas and identifies special requirements for the development of some other areas.

1.4 Current Territory Plan Provisions

Rule R51A in the Commercial Zones Development Code

15.6 Shops – floor area	
R51A The maximum <i>gross floor area</i> for a <i>shop</i> is 1000m ² .	C51A An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1000m ² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following: <ul style="list-style-type: none">a) was lawfully constructed on or before 10 April 2015b) was subject to development approval issued on or before 10 April 2015c) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.

1.5 Changes to the Territory Plan

Detailed changes to the Territory Plan are noted in section 2 of this document.

1.6 Consultation on the Draft Variation

The draft variation was released for public comment between 7 May 2021 and 25 June 2021. A consultation notice under section 63 of the *Planning and Development Act 2007* (P&D Act) was published on the ACT Legislation Register on 6 May 2021. A public notice was placed on the ACT Government public notices website on 24 May 2021.

A total of four written submissions were received, which included submissions from Planit Strategic + Transport Town Planning, Molonglo Valley Community Forum, Canberra Town Planning on behalf of Inceptio Group and ALDI Stores.

Main issues raised by submitters included:

- support for the draft variation
- desire to maintain Canberra's centres hierarchy and achieve viable and competitive local centres

The above issues were considered and are detailed in a report on consultation.

A change to the draft variation was informed by the issues raised during consultation. The outcomes of consultation were considered by the Minister responsible for planning prior to approval of this variation.

1.7 Revisions to the Draft Variation Recommended to the Minister

No changes have been made to the draft variation following the referral of the recommended version to the Minister responsible for planning.

2. VARIATION

2.1 Variation to the Territory Plan

Variation to the Commercial Zones Development Code

1. Part D – Additional controls for local centres, Element 15: Use, 15.6 Shops – floor area, Rule R51A

Substitute

15.6 Shops – floor area	
<p>R51A</p> <p>The maximum <i>gross floor area</i> for a <i>shop</i> is 1500m².</p> <p>Note: For the purpose of this rule, the GFA of a shop includes any ancillary retail (such as liquor) and back of house areas and associated uses exclusively for the shop, such as offices, storage and circulation spaces.</p>	<p>C51A</p> <p>An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1500m² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following:</p> <ul style="list-style-type: none">a) was lawfully constructed on or before 10 April 2015b) was subject to development approval issued on or before 10 April 2015c) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.

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CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήσετε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, çempel:
PERSIAN	اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
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TURKISH	Tercümana ihtiyacınız varsa lütfen telefon ediniz:
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LEGISLATIVE ASSEMBLY
FOR THE AUSTRALIAN CAPITAL TERRITORY

STANDING COMMITTEE ON PLANNING, TRANSPORT AND CITY SERVICES
Jo Clay MLA (Chair), Suzanne Orr MLA (Deputy), Mark Parton MLA

Mr Mick Gentleman MLA
Minister for Planning and Land Management
Legislative Assembly for the ACT

Dear Mr Gentleman,

Thank you for your letter of 17 December 2021 in which you referred Draft Plan Variation 381 entitled *Local Centre Shop Size* to the Committee under Section 73(2) of the *Planning and Development Act 2007* for its consideration.

The Committee met on 17 January 2022 and agreed not to inquire and report on the Draft Plan Variation.

Yours sincerely,

A handwritten signature in black ink, appearing to be "Jo Clay", written in a cursive style.

Jo Clay MLA
Chair

17 January 2022



ACT
Government

Environment, Planning and
Sustainable Development

Planning and Development Act 2007

REPORT ON CONSULTATION

Draft Variation to the Territory Plan 381

Local Centre shop size

October 2021

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1. INTRODUCTION

This consultation report was prepared in accordance with s 69 of the *Planning and Development Act 2007* (the P&D Act).

The report describes the consultation undertaken on the draft variation with the public, the National Capital Authority (NCA), the Conservator of Flora and Fauna, the Environment Protection Authority (EPA), and ACT Heritage Council, and responds to the issues raised.

2. COMMENTS FROM THE PUBLIC

2.1 Details

Draft variation 381 (DV381) was released for public comment on 7 May 2021. The closing date for comments was 25 June 2021. A copy of DV381 that was released for public comments is at **Appendix 1**.

Copies of submissions received from the public are provided in **Appendix 2**.

The comments from the NCA, the Conservator of Flora and Fauna, EPA, and ACT Heritage Council were received and assessed prior to release of the DV381 are addressed in section 4.2 of this report.

2.2 Summary of matters raised

A total of four written submissions were received by Planit Strategic + Transport Town Planning, Molonglo Valley Community Forum, Canberra Town Planning on behalf of Inceptio Group and ALDI Stores.

The following Table 1 provides a summary of the considerations raised in the public submissions, as well as the number of submissions that raised the matter.

Table 1 Summary of matters raised in public submissions:

Issue	Number of submissions
Support for the draft variation	3
Desire to maintain Canberra's centres hierarchy	1
Concern that an increase in supermarket size alone may not achieve competitiveness of local centres	2
Desire to achieve viable and competitive local centres by considering related matters	2
Request consideration of a broader application of supermarkets of up to 1500m ² GFA in additional zones	2
ALDI expressed concern about its limited ability to acquire sites quickly and cost effectively in the CZ4 Local Centre zone	1

The comments from the NCA, the Conservator of Flora and Fauna, EPA, ACT Heritage Council and the ACT Parks and Conservation Service were received and assessed prior to release of DV381 and are addressed in section 4.2 of this report.

2.3 Issues and responses

The key issues raised are summarised below, and responses provided.

2.3.1 Support for the draft variation

Three of the four submissions support DV381 with the Canberra Town Planning submission indicating general support and the Molonglo Valley Community Forum indicating it would like to see the approval of DV381 expedited. The remaining submission from Planit indicates it does not object to DV381.

The submission by ALDI Stores which supports DV381 indicates that it is encouraged by the intent of DV381 to promote the economic viability and competitiveness of local centres.

The submission from Molonglo Valley Community Forum indicated it is supportive of the increase in supermarket size from 1000m² to 1500m² in the CZ4 Local Centre zone to bring the zone in line with the CZ5 Mixed Use zone. It also states that the 1000m² restriction has had dire consequences for residents of Coombs and Wright who consequently remain without a supermarket within walking distance of their homes.

Response

The support for DV381 and recognition of its intent to promote economic viability and competitiveness of local centres is noted.

2.3.2 Desire to maintain Canberra's centres hierarchy by clarifying a provision

The submission from Planit points out that zones for commercial centres in Canberra are based on a centres' hierarchy which contains:

- Local Centres to provide for the daily shopping needs of the neighbourhood.
- Group Centres to provide for the weekly shopping needs and hence contain larger full line supermarkets. A group centre typically services a catchment of 3-4 local centres (neighbourhoods).
- Town Centres to provide the employment, entertainment, specialty shopping and focal point for a whole district.

'To maintain the [centres'] hierarchy, controls are needed to ensure that each centre is viable but is prevented from growing beyond its purpose and diminishing the viability of higher level centres'.

To make sure that the definition of GFA is not subverted to disrupt the hierarchy the following note is suggested:

'Note: For the purpose of this rule, the GFA of a shop includes any ancillary retail (such as liquor) and back of house areas such as loading docks, offices, storage and circulation spaces exclusively within the supermarket space that are predominantly utilised by that shop or its customers.'

Response

The National Capital Plan indicates that one of the key principles of Canberra's urban structure is a hierarchy of centres.

This hierarchical principle, at the metropolitan level, means that:

- *Canberra Central continues to be the main location of office employment*
- **City** *is to be encouraged to develop as the most specialised retail, commercial, cultural, entertainment and tourist centre*
- **town centres** *provide retail, commercial, cultural, entertainment and other facilities to meet community needs, and serve also as locations for office-based employment.*

Each town should have a town centre. The Territory Plan will provide for a range of lower order centres to meet the varying needs of residents.

Centres at each level in the hierarchy form the focus of a range of retail, commercial and community facilities and services, in which specialisation increases at successively higher levels.

The Territory Plan sets out the remaining levels in the hierarchy as being **group centres** which contain a number of commercial zones and **local centres**, within the CZ4 Local Centre zone.

The term gross floor area (GFA) is defined in the Territory Plan to mean:

the sum of the area of all floors of the building measured from the external faces of the exterior walls, or from the centre lines of walls separating the building from any other building, excluding any area used solely for rooftop fixed mechanical plant and/or basement car parking.

It is not the intent of DV381 to disrupt Canberra's hierarchy of centres and the intent of the policy is to apply to the whole area of a shop lease, not just to the shopfloor area. To make this clear, a note will be added to Rule R51A to clarify this intent:

Note: For the purpose of this rule, the GFA of a shop includes any ancillary retail (such as liquor) and back of house areas and associated uses exclusively for the shop including, but not limited to, offices, storage and circulation spaces.

In the longer term there may be changes to Canberra's centres hierarchy as indicated in the ACT Planning Strategy 2018, which foreshadows an investigation consistent with the following action:

2.2.1 Investigate a new approach to Canberra's centres hierarchy policy, with consideration of:

- centre character
- centre catchments
- centre diversity
- employment
- the role of the centre in servicing the community and community usage trends
- leisure, entertainment and recreation activities
- economic resilience (ongoing viability)
- the role of other emerging activity centres and precincts within the ACT
- consumer behaviour and technological changes
- existing and future transport options

2.3.3 Concern that an increase in supermarket size alone may not achieve viability and competitiveness of local centres

A submission raised that the size of a supermarket is an important factor, but it is only one of a broad range of considerations. *'While the Territory is undertaking a strategic investigation into local centres, it is assuming (probably correctly, but maybe pre-emptively) that allowing larger supermarkets would assist these struggling centres'*

However, there are many factors that contribute to the success of the local centre, including sufficient:

- population within a walkable catchment
- spending capacity within the retail catchment
- community amenity to encourage visitation
- well managed businesses
- proximity to competition

Another submission suggests that *'substitution of Rule and Criteria 51A as proposed by DV381 will have a negligible impact on improving the viability and competitiveness of local centres ... emphasis is placed upon shops, particularly supermarkets, to achieve this outcome. The efficacy of existing planning controls, and any proposed variations thereto, in increasing the viability of all local centres within the ACT must be assessed with regard to the changing retail landscape, the functionality of a particular local centre in relation to its retail and other uses. The spaces it occupies, the urban realm interfaces, place making principles and urban economics'*

Local centre viability needs to be broader and experiences and uses require consideration rather than only relying on the size of supermarkets.

Response

It is acknowledged that increasing supermarket size alone, and creating greater opportunities at some centres, will not in itself guarantee the viability and competitiveness of a local centre in its entirety, or of all local centres.

The role of local centres in our urban fabric is changing, especially in response to the COVID-19 pandemic, and the consequent consumer behaviour change, which places greater importance on local centres.

As indicated in the ACT Planning Strategy 2018:

Many local centres are also transitioning to activity centres that provide lifestyle services, niche shopping and social connection, such as informal community meeting spaces. We need to capitalise on the historic planned structure of the city, while accommodating changes that are occurring to centres, as well as further changes articulated under this Strategy in order to meet our vision for a sustainable, competitive and equitable city. ...

Local centres are evolving and need to respond to different lifestyle and economic demands. For example, centres that may have traditionally accommodated a small supermarket, chemist and take-away food shop now support more diverse use such as cafes, niche supermarkets and small services such as bike stores, hair dressers and florists.

The Strategy mentions further initiatives including placemaking and creating spaces that are locally relevant and afford local communities' the opportunity to be involved in shaping their local neighbourhood and build on its character. This approach is reflected in the following action:

4.3.1 Continue to support local community and business capacity by developing place-making approaches to support vital neighbourhoods.

As noted above, in the longer term there may be changes to Canberra's centres hierarchy as indicated in the ACT Planning Strategy 2018, which foreshadows an investigation into a new approach to Canberra's centres hierarchy policy.

In the interim, DV381 facilitates immediate changes to the local centre policies for supermarket size which may assist in achieving greater viability and competitiveness at some local centres. It is noted that not all supermarkets will be able to expand or want to expand. There may not be sufficient room to accommodate additional development and/or additional carparking that may be generated by the development.

2.3.4 Desire to achieve viable and competitive local centres by considering additional related matters

A submission raised that 'ensuring the viability of Canberra's local centres will require further investigation and consideration of the changes in retail landscape, the functionality and mix of uses appropriate, the urban realm interface, place making principles, and urban economics'.

Government through planning policy needs to be at the forefront to adapt to consumers retail habits and community needs and a cookie cutter approach to local centres will not suffice.

Changes in retail shopping have been accelerated with the COVID-19 pandemic and have reinforced the importance of local centres and "shopping local".

Other changes include

- *‘Growth of online grocery sales*
- *Growth in click and collect sales and distribution hubs*
- *Consumers seeking a simplified grocery shopping format and experiences*
- *Growth in semi prepared meals and delivery services’*

ALDI has suggested more could be done to accommodate further growth and expansion in established local centres and other existing and planned retail nodes to promote viability and competitiveness. It also suggested that DV381 will have a limited impact on *‘future retail opportunities suitable for ALDI to establish new supermarkets in CZ4 Local Centre Zones due to existing contextual constraints associated with poor visibility and connectivity to major arterial and connector roads as well as fragmented ownership and lack of suitably sized land’*.

Furthermore, it is agreed, despite the issues raised above, that *DV381 is a positive step forward which is supported by ALDI as it will assist to deliver the revitalisation of local centres ... particularly in light of the recent changes in the urban fabric, role of centres as well as community behaviour changes post COVID-19.*

Response

The outcomes of any future investigation into Canberra’s centres hierarchy policy referred to in the ACT Planning Strategy and mentioned above under 2.3.2, may trigger further reforms to local centre policies.

2.3.5 Request consideration of a broader application of supermarkets of up to 1500m² GFA in additional zones

A submission raised that *‘consideration should also be given to the broader application of the code to permit a maximum GFA of 1,500 square metres for supermarkets in areas outside of those defined as local centres with emphasis placed on strengthening and enhancing existing and established nodes, consistent with the ACT Planning framework & ACT Planning Strategy 2018’*.

ALDI recommends that future reforms could include a review of commercial land uses within industrial zones and consider the potential to increase the maximum GFA for shops in the IZ2 Industrial Mixed Use zone to meet the needs of the workforce through appropriately-sized convenience retailing.

In support of this suggestion ALDI cites Victorian and NSW Planning reforms. The Victorian example includes allowing a leasable area of up to 1800m² for supermarkets in the Industrial 3 zone. ALDI also mentioned the Standard Instrument – Principal Local Environmental Plan which introduced a ‘B6 Enterprise Corridor Zone’ to enable small-format supermarkets to establish along busy roads and strategic corridors if they are able to satisfy qualitative retail impact and qualitative net community benefit assessment criteria.

Response

Actions are identified for industrial land in the ACT Planning Strategy 2018 with the primary purpose of these investigations being to recognise and protect existing industrial areas.

Another zone where supermarkets of up to 1500m² can be developed is the CZ5 Mixed Use zone. It is also acknowledged that in some instances suburb precinct codes may further limit the size of a shop in this zone, to make sure any impacts on Canberra's centres hierarchy are limited. There are currently no restrictions on shop size in the CZ1 Core zone and these zones occur in the City Centre, town and group centres.

2.3.6 ALDI expressed concern about its limited ability to acquire sites quickly and cost effectively in the CZ4 Local Centre zone

ALDI indicated that there is a limited supply of appropriately located and sized land within the Local Centre, often with poor visibility and connectivity to major arterial and connector roads.

Local centres typically lack an anchor tenant such as ALDI and this may lead *'to a decrease in vitality and loss of market integrity over time and impacts upon a centre's ability to revitalise in order to respond to the changing retail or demographic environment'*.

'As it stands, the existing high barriers to entry within the planning framework of the Territory Plan for new centres and nodes, associated with the constraints often present within the CZ4 Local Centre Zone, has affected and continues to affect ALDI's ability to acquire sites quickly and cost-effectively in local centres'.

Response

Local centres are the base level in Canberra's centres hierarchy. These centres were traditionally developed to serve the local area or suburb. On this basis they have traditionally been developed in the centre of a suburb, to effectively serve the local neighbourhood, provide convenience and encourage walking to the centre. This has meant that local centres are not always highly visible to passing traffic and are often not on major arterial roads and are sometimes not on collector roads. Group centres, being a higher level in the hierarchy, are usually on or very close to arterial and collector roads (and therefore more visible) and have a greater range of shops and services.

It is appropriate that local centres have a supermarket for convenience shopping to serve their local community. In the ACT it is desirable for opportunities to be provided for a range of small supermarket operators. It is also acknowledged that due to existing businesses and uses within a local centre, as well as surrounding community uses and parking requirements, there will be limited opportunity to expand existing local centres.

Sites for local centres in new areas are auctioned and are open to all supermarket operators. For instance, the Whitlam local centre is proposed to be released by the Government this financial year (2021-22), as indicated in the recently published Indicative Land Release Program 2021-22 to 2025-26.

3. SUMMARY OF CHANGES TO THE DRAFT VARIATION

3.1 Changes to the draft variation after public consultation

Topic	What has changed?
Gross Floor Area (GFA)	A note has been added to Rule R51A to clarify how GFA of a shop is determined.

4. COMPLIANCE WITH THE PLANNING AND DEVELOPMENT ACT 2007

4.1 Release for Public Comment (section 63)

DV381 was made available for public comment from 7 May 2021 to 25 June 2021. A consultation notice under s 63 of the P&D Act was published in the ACT Legislation Register on 6 May 2021 and a public notice was posted online on 24 May 2021.

4.2 Consultation with Government agencies (section 61 (b))

Consultation was undertaken with the following agencies and their comments reported in the draft variation that was released for public notification (**Appendix 1**): the National Capital Authority, the Environment Protection Authority, the Conservator of Flora and Fauna and the ACT Heritage Council.

4.3 Notice of Submission to the Minister (section 70)

In accordance with s 70 of the P&D Act, a public availability notice will be placed in the ACT Legislation Register stating that DV381 has been submitted to the Minister and that the documents are available for public inspection.

5. APPENDICES

APPENDIX 1
Draft variation 381 public release version



ACT
Government

Environment, Planning and
Sustainable Development

Planning and Development Act 2007

Draft
Variation to the
Territory Plan
381

Local Centre shop size

May 2021

Draft variation for public consultation prepared
under s60 of the *Planning and Development Act 2007*

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1. INTRODUCTION

1.1 Summary of the Proposal

The draft variation proposes to increase the maximum gross floor area (GFA) for shops in local centres from 1000m² to 1500m².

1.2 Outline of the process

The Commonwealth's *Australian Capital Territory (Planning and Land Management) Act 1988* allows for the Legislative Assembly to make laws to establish a Territory Planning Authority and for that Authority to prepare and administer a Territory Plan. The *Planning and Development Act 2007* (the Act) establishes the planning and land authority as the Authority that prepares and administers the Territory Plan, including continually reviewing and proposing amendments as necessary. The functions of the planning and land authority are administered by the Environment, Planning and Sustainable Development Directorate (EPSDD). The Director-General of EPSDD is the planning and land authority.

The Territory Plan is comprised of a written statement and a map. The written statement contains a number of parts, namely governance; strategic directions; zones (including objectives and development tables and zone or centre development codes); precinct codes; general codes; overlays; definitions; structure plans, concept plans and development codes for future urban areas.

The Territory Plan Map graphically represents the applicable land use zones (under the categories of residential, commercial, industrial, community facility, urban parks and recreation, transport and services and nonurban), precincts and overlays. The zone, precinct and overlay requirements are detailed in the Territory Plan.

Draft variations to the Territory Plan are prepared in accordance with the Act. Following the release of the draft variation under section 63 of the Act, submissions from the public are invited. At the conclusion of the consultation period the EPSDD (planning and land authority) submits a report on consultation and a recommended final variation to the Minister responsible for planning for referral to the Legislative Assembly standing committee responsible for planning. The Minister must consider any recommendations of the committee before deciding whether to approve the draft variation. If the Minister approves the variation, the variation and associated documents will be tabled in the Legislative Assembly. Unless disallowed by the Legislative Assembly within five sitting days, the variation commences on a day nominated by the Minister.

1.3 Public Consultation

Written comments about the draft variation are invited from the public by **25 June 2021**.

Comments should include reference to the draft variation and be addressed to the Territory Plan Section, EPSDD. Please also provide your name and contact details to assist in the assessment of the comments provided, and to enable EPSDD to contact you in relation to your comments, if required. Your personal information will be managed in accordance with the *Information Privacy Act 2014* and the EPSDD Information Privacy Policy, which is available for viewing on EPSDD's website.

Comments can be provided by:

- email to terrplan@act.gov.au
- mail to Territory Plan Section, GPO Box 158, Canberra, ACT 2601
- hand delivery to the Access Canberra Land, Planning and Building Services Shopfront, 8 Darling Street, Mitchell ACT.

Copies of written comments received with respect to the draft variation will be made available for public inspection for no less than 15 working days starting 10 working days after the closing date for comment. The comments will be available at the Access Canberra, Land, Planning and Building Services Shopfront, 8 Darling Street, Mitchell ACT and will be published on EPSDD's website. Comments made available will not generally include personal contact details unless you request otherwise.

A request may be made for parts of a submission to be excluded under section 411 or 412 of the *Planning and Development Act 2007*. A request for exclusion under these sections must be in writing, clearly identifying what parts of your submission you are seeking to exclude and how the request satisfies the exclusion criteria.

Further Information

The draft variation is available online at: www.act.gov.au/draftvariations until the closing date for written comments.

Printed copies of the draft variation (this document) and background documents are available for inspection and purchase at the Access Canberra Land, Planning and Building Services Shopfront, 8 Darling Street, Mitchell ACT, Monday to Friday (except public holidays) between 8:30am and 4:30pm. Please call 13 22 81 to arrange a copy for purchase.

2. EXPLANATORY STATEMENT

2.1 Background

Territory Plan V304 which commenced in April 2015, placed a maximum 1000m² GFA limit on shops in local centres. Previously there were no limits on the GFA of a shop at local centres.

There was a considerable lead up to V304, which started with the commercial zones policy review (phase 1) discussion paper, released in 2011. There was feedback on various issues affecting development in commercial zones including supermarket sizes at local centres.

A total of 49 public comments were received about this discussion paper. Apart from individual comments, submissions were received from Woolworths Ltd, Coles supermarkets, Supabarn and various IGA supermarkets, five centre landowners / developers, Housing Institute of Australia, Planning Institute of Australia, a planning consultant, five community groups and/or associations and the ACT Greens. Importantly, there was

- strong support for:
 - limiting supermarket sizes in local centres; and to
 - assessing the potential economic impacts of ‘significant’ supermarket developments at adjacent centres.
- some support for:
 - reflecting centres hierarchy in commercial zones; and to
 - undertaking zoning changes on a case-by-case basis.

In 2013 the former ACT Legislative Assembly Select Committee issued its findings on the ACT Supermarket Competition Policy. Of relevance to the Territory Plan provisions was the following recommendation:

Recommendation 7 – The Committee recommends that the Territory Plan be revised to specify gross floor area limits for supermarkets in local centres.

Draft Variation DV304 was released for public comment in 2013 and was informed by the Select Committee recommendations of 2013 and the commercial zones policy review discussion paper of 2011.

In this regard, DV304 proposed a maximum gross floor area of 1500m² for shops selling food (including supermarkets) in local centres. However, there was also a provision that set a ‘*net selling area*’ for these shops at a maximum of 1000m². For this provision the ‘*net selling area*’ was defined in the proposed rule as that part of the gross floor area of a shop that is:

- a) used for the display and sale of goods, and
- b) ordinarily accessible to the public.

A total of 14 submissions were received during the formal public notification period for DV304. The majority of submissions were from supermarket businesses and comments related primarily to the proposed GFA limits and the proposed re-alignment of commercial zones boundaries in some group centres. Key issues raised about DV304, which include comments about local centres:

- result in poor urban planning outcomes
- diminish convenience retailing
- create an oversupply of supermarket and retail space
- may affect the retail hierarchy of centres
- the proposed GFA limits are excessive
- the proposed introduction of the term 'net selling area' is considered to be unnecessary
- the definitions of GFA and NSA are potentially confusing and complex
- the proposed GFA limits may affect the viability of centres and result in pressure on available car parking areas
- the proposed GFA limits are considered to be inconsistent with the directions of the Commercial zones policy review (phase 1) discussion paper.

The approved DV304 was revised in response to the public comments received. This included an amendment to the maximum GFA for supermarkets in local centres to 1000m² inclusive of net selling area and all 'back of house' floor space. The primary reason for the GFA limit of 1000m² was to maintain the existing hierarchy of commercial centres. However, it was noted, at the time, that some existing supermarkets in local centres had already been developed beyond the maximum 1000m² approved in V304 which commenced in 2015. A criterion was introduced to account for lawfully constructed supermarkets above this limit, already lodged development applications, and existing approvals that were already in place.

In recent times, the viability and competitiveness of local centres has come into question. With social and consumer behaviour change, particularly evident post COVID-19, the role of local centres in our urban fabric is changing. To further understand this change a strategic investigation of the effectiveness of the Territory Plan policy for local centres is being conducted. In the meantime, DV381 facilitates immediate changes to the local centre policies for supermarket sizes to improve both the viability and competitiveness of local centres.

2.2 Current Territory Plan Provisions

Rule R51A in the Commercial Zones Development Code

15.6 Shops – floor area	
R51A The maximum <i>gross floor area</i> for a <i>shop</i> is 1000m ² .	C51A An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1000m ² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following: a) was lawfully constructed on or before 10 April 2015 b) was subject to development approval issued on or before 10 April 2015 c) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.

2.3 Proposed Changes

2.3.1 Proposed Changes to Territory Plan

This draft variation proposes to change the Territory Plan in the following way and as detailed in section 3:

- increase the gross floor area for shops in local centres from 1000m² to 1500m²

2.4 Reasons for the Proposed Draft Variation

The Environment, Planning and Sustainable Development Directorate is preparing this draft variation in response to the changing nature of our local centres, to improve their viability and competitiveness.

2.5 Planning Context

2.5.1 National Capital Plan

The *Australian Capital Territory (Planning and Land Management) Act 1988* established the National Capital Authority (NCA) with two of its functions being to prepare and administer a National Capital Plan (NCP) and to keep the NCP under constant review and to propose amendments to it when necessary.

The NCP, which was published in the Commonwealth Gazette on 21 January 1990 is required to ensure that Canberra and the Territory are planned and developed in accordance with their national significance. The *Planning and Land Management Act 1988* also requires that the Territory Plan is not inconsistent with the NCP.

2.5.2 ACT Planning Framework

Statement of Strategic Directions

The Statement of Strategic Directions sets out the principles for giving effect to the main objective of the Territory Plan as required by the *Planning and Development Act 2007*. The proposal is consistent with the Territory Plan's statement of strategic directions in terms of environmental, economic and social sustainability and spatial planning and urban design principles as follows:

2.3 Commercial and retail activity will be concentrated in centres and other planned nodes of intensive activity that are well served by public transport to ensure an efficient pattern of development. Primary emphasis will be placed on strengthening and enhancing existing and new centres and nodes, including improved urban design and encouragement of more mixed-use development.

The proposal is consistent with the ACT Planning Strategy 2018 action as follows:

4.3.2 Investigate planning mechanisms to respond to the changing role of local centres and their long-term viability and place within the hierarchy

2.6 Interim Effect

Section 65 of the *Planning and Development Act 2007* applies to the draft variation. This means that the provisions of Draft Variation 381 have interim effect, and apply to development applications lodged on or after **7 May 2021**.

During the period of interim effect, the Territory, the Executive, a Minister or a territory authority must not do or approve anything that would be inconsistent with the Territory Plan as if it were amended by the draft variation.

2.7 Consultation with Government Agencies

The EPSDD is required to, in preparing a draft variation under section 61(b) consult with each of the following in relation to the proposed draft variation:

- the National Capital Authority
- the Conservator of Flora and Fauna
- the Environment Protection Authority

- the Heritage Council
- the Land Custodian, if the draft variation would, if made, be likely to affect unleased land or leased public land – each custodian for the land likely to be affected

National Capital Authority

The National Capital Authority provided the following comments on 27 April 2021.

Thank you for the referral for Draft Variation 381, Local Centre shop size. The proposed variation is not inconsistent with the National Capital Plan and the NCA has no objections to DV381.

Response

Noted

Conservator of Flora and Fauna

The Conservator of Flora and Fauna made the following comments on 4 May 2021.

I have no comment on this draft variation.

Response

Noted

Environment Protection Authority

The Environment Protection Authority provided the following comments on 4 May 2021.

The Environment Protection Authority (EPA) has reviewed the Draft Variation 381 (DV381), which proposes to change Rule R51A in the Commercial Zones Development Code by increasing the maximum gross floor area of a shop from 1000m² to 1500m². The EPA has no comment on the Draft Variation.

Response

Noted

Heritage Council

The Heritage Council provided the following comments on 3 May 2021

The Council advises that it does not object to the proposed TPV 381. The changes will not affect heritage places, as the provisions of the Heritage Act 2004 will continue to guide the management of heritage places and objects within RZ4 zones.

Response

Noted

3. DRAFT VARIATION TO THE TERRITORY PLAN

The Territory Plan is varied in all of the following ways:

Variation to the Commercial Zones Development Code

1. Part D – Additional controls for local centres, Element 15: Use, 15.6 Shops – floor area, Rule R51A

Substitute

15.6 Shops – floor area	
<p>R51A</p> <p>The maximum <i>gross floor area</i> for a <i>shop</i> is 1500m².</p>	<p>C51A</p> <p>An existing <i>shop</i> that exceeds a <i>gross floor area</i> of 1500m² may be redeveloped up to its existing <i>gross floor area</i> where the shop complies with one of the following:</p> <ul style="list-style-type: none">d) was lawfully constructed on or before 10 April 2015e) was subject to development approval issued on or before 10 April 2015f) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.

Interpretation service

ENGLISH	If you need interpreting help, telephone:
ARABIC	: إذا احتجت لمساعدة في الترجمة الشفوية ، إتصل برقم الهاتف :
CHINESE	如果你需要传译员的帮助，请打电话：
CROATIAN	Ako trebate pomoć tumača telefonirajte:
GREEK	Αν χρειάζεστε διερμηνέα τηλεφωνήστε στο
ITALIAN	Se avete bisogno di un interprete, telefonate al numero:
MALTESE	Jekk għandek bżonn l-għajnuna t'interpretu, çempel:
PERSIAN	: اگر به ترجمه شفاهی احتیاج دارید به این شماره تلفن کنید:
PORTUGUESE	Se você precisar da ajuda de um intérprete, telefone:
SERBIAN	Ако вам је потребна помоћ преводиоца телефонирајте:
SPANISH	Si necesita la asistencia de un intérprete, llame al:
TURKISH	Tercümana ihtiyacımız varsa lütfen telefon ediniz:
VIETNAMESE	Nếu bạn cần một người thông-ngôn hãy gọi điện-thoại:

TRANSLATING AND INTERPRETING SERVICE

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APPENDIX 2
Copies of public comments received on draft variation 381



9th June 2021

The Territory Plan Team
EPSDD

Draft Variation 381 – Submission

Dear Territory Plan Team,

Introduction

Canberra has been designed according to a hierarchy of spaces based on catchments for retail, education, entertainment, employment and other important community functions.

As a general principle, each suburb should have at its heart a viable local centre that provides for the day to day needs of the neighbourhood. The local centre should contain a supermarket and associated shopping opportunities such as a chemist, bakery, hair salon, news agent and other similar services.

The local centre should be the meeting place for the local community.

There are many factors that will contribute to the success of the local centre. It will need sufficient population within a walkable catchment, sufficient spending capacity within the retail catchment, sufficient community amenity to encourage visitation, and well run businesses.

The size of the supermarket is only one of a broad range of considerations, but it is acknowledged that it is an important factor.

Retail Hierarchy

The retail hierarchy provides for:

- Local Centres to provide for the daily shopping needs of the neighbourhood.
- Group Centres to provide for the weekly shopping needs and hence contain larger full line supermarkets. A group centre typically services a catchment of 3-4 local centres (neighbourhoods).
- Town Centres to provide the employment, entertainment, specialty shopping and focal point for a whole district.

To maintain the retail hierarchy, controls are needed to ensure that each centre is viable but is prevented from growing beyond its purpose and diminishing the viability of higher level centres.

Controls on Supermarkets

It is noted in the background information that, DV304 proposed a maximum gross floor area of 1500 m² for shops selling food in local centres. However, there was also a provision that set a 'net selling area' for these shops at a maximum of 1000 m². For this provision the 'net selling area' was specifically defined. The confusion of adding a new specific definition was not supported and hence the GFA limit of 1000 m² was introduced.

The viability and competitiveness of some local centres is now considered questionable.

While the Territory is undertaking a strategic investigation into local centres, it is assuming (probably correctly, but maybe pre-emptively) that allowing larger supermarkets would assist these struggling centres.

The purpose of this submission is not object to the change, but to ensure that the change does not allow the local centres to grow beyond their place in the hierarchy and start to affect the viability and competitiveness of the established Group Centres or neighbouring Local Centres. If one local centre expands to a small group centre size as an example, the viability of the surrounding local centres could become questionable. Obviously, there is an upper limit to the amount of retail space that can ultimately be supported.

As foreshadowed in the explanatory statement and earlier draft variations, without specific clarification there is an opportunity to subvert the definition of GFA into 'net-selling area' by attributing the ancillary retail or other parts of the shop to other uses within the local centre. This could allow for a supermarket much larger than intended to be established.

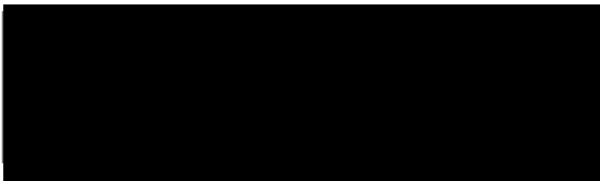
To ensure that proponents do not take advantage of this opportunity, the GFA of the shop should be clarified with a note associated with the rule.

We suggest the following:

Note: for the purpose of this rule, the GFA of a shop includes any ancillary retail (such as liquor) and back of house areas such as loading docks, offices, storage and circulation spaces that are predominantly utilised by that shop or its customers.

This would be a relatively simple change to the proposal that does not rely on the introduction of new definitions, and would ensure the intent of the change is realised.

Sincerely



Planner · Environmental Engineer

Molonglo Valley Community Forum

Submission to Draft Variation 381 - Local Centre shop size

To the Environment, Planning and Sustainable Development Directorate,

The Molonglo Valley Community Forum (the Forum) would like to express its support for DV381, which will bring the restrictions that apply to the maximum size of shops on CZ4 (Local Centre) zoned land in line with the rules that apply to CZ5 (Mixed Use) zoned land.

The existing 1,000 square metre shop size restriction for CZ4 land has had dire consequences for residents of Coombs and Wright, who today still have no supermarket within walking distance of their homes. A summary of how this rule has affected the commercial viability of a supermarket at the Coombs Shops is included at [Attachment A](#).

The Forum would therefore like to see the expedited approval of DV381 to minimise any remaining uncertainty regarding supermarket shop sizes on CZ4 land.

Yours sincerely,



Molonglo Valley Community Forum
info@mvcommunityforum.org.au



Find us on Facebook [@mvcommunityforum](#)

Attachment A – The Coombs Shops Saga

When the Coombs Estate Development Plan (EDP) was devised and approved in 2011-12, there was no statutory limit on the size of shops on CZ4 (Local Centre) or CZ5 (Mixed-Use) zoned land. Theoretically, a full-line supermarket of ~3000m² could have been built on any of the sites around the John Gorton Drive/Steve Irwin Avenue/Fred Daly Avenue intersection. However, as the Coombs Shops site was the first site scheduled to be sold, it was expected that a supermarket would be constructed there first, which would significantly reduce the viability of any additional supermarkets on the surrounding sites.

Simultaneously, and in response to the 2009 *Review of ACT Supermarket Competition Policy*, the ACT Government released the *ACT Supermarket Competition Policy Implementation Plan*. The actions outlined in this report led to the release of Territory Plan Draft Variation (DV) No. 304 in March 2013. This DV restricted the size of shops on CZ4 and CZ5 sites to 1500m², with a "net selling area" of 1000m² for shops selling food (including supermarkets) as a mandatory planning control. As DV No. 304 had an interim effect, these were the de facto rules on supermarket sizes in the ACT until the approval of the final Territory Plan Variation (TPV).

Two years later, TPV No. 304 was approved. Based on comments received during the consultation period, a number of changes were made which reduced the maximum permitted size of shops on CZ4 sites to 1000m², while keeping the larger 1500m² restriction for CZ5 sites and removing all references to "net selling area" from both zones. This required changes to the sale conditions of the CZ4-zoned Coombs Shops site, which was due to go to auction that same month and had been advertised with the previous shop size restrictions outlined in DV No. 304.

The Coombs Shops site was sold at auction to its current owner in March 2015, who then submitted two development applications that were refused for being inconsistent with the Territory Plan. Following an ACAT hearing, development approval was given in December 2016 for a set of shops that included space for a 1000m² supermarket.

One year later, the ACT Government sold the Koko Molonglo site in Wright, which is located diagonally opposite the Coombs Shops. Because the Koko Molonglo site is zoned CZ5, the maximum shop size is 1500m² and thus it could attract a larger supermarket tenant than the Coombs Shops. This is usually avoided during the EDP process by the use of location-specific planning controls that restrict the maximum size of shops on CZ5 sites located near CZ4 sites (as seen in newer suburbs like Taylor and Denman Prospect) but this wasn't done in Coombs and Wright because both EDPs pre-dated the shop size changes undertaken as part of TPV No. 304.

None of this would have been an issue if the owner of the Coombs Shops had submitted, built and opened a compliant set of shops in the 33-month period between the two sites being sold. Unfortunately that did not occur, and Coombs and Wright residents are now stuck with a largely empty set of shops and no realistic expectation of a supermarket within a 3.5 kilometre radius until late 2022, a full seven and a half years after the Coombs Shops site was originally sold at auction.

25 June 2021

Territory Plan Section

Environment, Planning and Sustainable Development Directorate
GPO Box 158
Canberra, ACT 2601

Via email: terrplan@act.gov.au

RE: Commentary on Draft Territory Plan Variation No 381 – Commercial Zones Development Code

Dear Sir/Madam

Thank you for the opportunity to provide comments regarding Draft Territory Plan No Variation 381 (**DV381**). Canberra Town Planning provide this submission on behalf of Inceptio Group.

This submission explores the impact of the proposed changes to the Commercial Zones Development Code under DV381 in relation to 'CZ4 – Local Centre' zones. We believe it is important for the authority to understand the impacts of the proposed changes on affected stakeholders including but not limited to the community, property owners and traders.

Background

DV381 proposes to alter the Commercial Zones Development Code to permit an increased maximum gross floor area of 1,500 square metres for shops in local centres.

Prior to the introduction of Territory Plan Variation, No 304 (**Variation 304**) on 10 April 2015, there were no restrictions in place relating to the maximum gross floor area of a shop situated in a local centre. Variation 304 was introduced to institute a maximum gross floor area of 1,000 square metres for any shop located in a 'CZ4 – Local Centre' Zone. Shop is an umbrella term under the Territory Plan that includes supermarket use.

This variation was informed by a general review of the Territory Plan from 2009 to 2011 and the 2013 ACT Supermarket Competition Policy issued by the former ACT Legislative Assembly Select Committee. Variation 304 was considered a compromise between increasing retailing competition, improving accessibility for individuals with limited mobility and maintaining the hierarchy of commercial zones.

The purpose of DV381, as identified by the Planning and Development (Draft Variation 381) Consultation Notice 2021, is to improve the "viability and competitiveness of local centres". Although an investigation into the efficacy of existing policies concerning local centres is currently being undertaken, the Environment, Planning and Sustainable Development Directorate expects that DV381 will enable "immediate changes to ... supermarket sizes" to further its aim.

Planning Controls under DV381

Following the introduction of DV381, which has interim effect from 7 May 2021, both Rule and Criteria 51A are substituted as follows:

Part D – Additional controls for local centres	
Element 15: Use	
15.6 Shops–floor area	
R51A The maximum gross floor area for a shop is 1500m ² .	C51A An existing shop that exceeds a gross floor area of 1500m ² may be redeveloped up to its existing gross floor area where the shop complies with one of the following: d) was lawfully constructed on or before 10 April 2015 e) was subject to development approval issued on or before 10 April 2015 f) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.

DV381 alters Rule 51A of the Commercial Zones Development Code to permit a maximum gross floor area of 1,500 square metres for shops in local centres. Criterion 51A has been amended to account for lawfully constructed shops with a gross floor area larger than this revised limit only for shops that were constructed prior to 2015.

According to ACTMAPi, there are currently 513 blocks in the Australian Capital Territory zoned as 'CZ4 – Local Centre' which may be affected by DV381. Approximately 20 per cent of these CZ4 blocks encompass an area greater than 1,500 square metres.

There are currently 79 local centres in suburban areas and rural villages across the ACT.

Local Centre context

As indicated above, Canberra suburbs that incorporate Local Centres for the most part provide a mix of suitable uses and service a local demographic. The viability of local centres remains dependent upon the serviceability and future uses of development on CZ4 zoned lands. Serviceability factors include:

- accessibility for customers, vehicles, pedestrians etc
- convenient car parking
- provision of goods loading areas
- interface with public realm, amenity such as open spaces, parks and other facilities.

Any development in local centres should also account for the general locality, constraints of the site, and be developed in accordance with the needs of the community it serves.



CZ4 – Local Centre Zone Objectives

The CZ4 Zone Objectives aim to ensure a mix of uses appropriate to the commercial hierarchy. The objectives require that proposals for development in local centres must be suitable for the relevant centre without compromising commercial ventures in town centres, group centres and other commercial zones.

Existing and proposed planning controls which aim to increase the viability and competitiveness of local centres should be considered in the broader Canberra retail context, the scale, nature, and character of the local centre within the suburb and community it serves. The policy aim should be to improve the viability of centres in turn improving the urban realm outcomes for the relevant suburb, as well as the Territory as a whole.

Statement on DV381

Whilst the proposed Variation of the Territory Plan to reflect ongoing change within Canberra’s local centres is generally supported, it is imperative that any changes made are carefully considered to promote viable functional developments within Canberra’s local centres and to ensure that they continue to serve the ongoing and changing needs of the communities within which these centres operate.


The substitution of Rule and Criteria 51A as proposed by DV381 will have a negligible impact on improving the viability and competitiveness of local centres in our opinion. We note that emphasis is placed upon shops, particularly supermarkets, to achieve this outcome. The efficacy of existing planning controls, and any proposed variations thereto, in increasing the viability of all local centres within the ACT must be assessed with regard to the changing retail landscape, the functionality of a particular local centre in relation to its retail and other uses. The spaces it occupies, the urban realm interfaces, place making principles, and urban economics.

Local centre stakeholders including Government through planning policy need to be at the forefront of adapting to the change in consumers retail habits and community needs. A cookie-cutter approach to local centres will not suffice as consumers are more inclined to support centres that offer broader experiences and uses, more than just grocery shopping, therefore local centres viability will rely on much more than the size of supermarkets.

This reflects changes in the retail landscape and the modified role of local centres given altered social and consumer behaviours over time, which have only been accelerated with the COVID-19 pandemic. Changes in the retail shopping landscape have only reinforced the importance of local centres and “shopping local”.

Changes in consumer needs and shopping patterns include but not limited to the following:

- Growth of online grocery sales
- Growth in click and collect sales and distribution hubs
- Consumers seeking a simplified grocery shopping format and experiences
- Growth in semi prepared meals and delivery services



Concluding Comments

Ongoing evaluation of the Territory Plan and its implication within local centres throughout the ACT is necessary to ensure it reflects the changing retail landscape and consumer behaviour. Whilst such analysis is generally supported, it is imperative that any variation to relevant planning controls is carefully considered to support the viability of local centres. Planning policy should provide a framework which encourages both private and public investment to ensure local centres of the future support the future needs of the community they serve, are attractive and integrated within open public spaces.

It is our opinion that DV381 places too much prominence on the role of supermarkets to achieve this outcome. Ensuring the viability of Canberra's local centres will require further investigation and consideration of the changes in retail landscape, the functionality and mix of uses appropriate, the urban realm interface, place making principles, and urban economics.

Consideration should also be given to the broader application of the Code to permit a maximum gross floor area of 1,500 square metres for supermarkets in areas outside of those defined as local centres with emphasis placed on strengthening and enhancing existing and established nodes, consistent with the ACT Planning framework & ACT Planning Strategy 2018.

Should you require any further information regarding our comments on Draft Territory Plan Variation 381 please do not hesitate to contact me on [REDACTED]



Canberra Town Planning



ALDI Stores

(A Limited Partnership)
ABN 90 196 565 019

10 Burando Road, Prestons, NSW 2170, AUSTRALIA

PRESTONS REGION

Locked Bag 7055
Liverpool Retail
NSW 1871

Telephone: (02) 8783 3000
Facsimile: (02) 8783 3199

24 June 2021

Territory Plan Section
Environment, Planning and Sustainable Development Directorate (EPSDD)
GPO Box 158
Canberra ACT 2601

Sent via email: terrplan@act.gov.au

To Whom it May Concern,

RE: PLANNING AND DEVELOPMENT (DRAFT VARIATION 381) CONSULTATION NOTICE 2021

ALDI Stores (ALDI) welcome the opportunity to provide a submission to the Environment, Planning and Sustainable Development Directorate (EPSDD) as the planning and land authority (the Authority) to express our upfront **support** for Draft Variation 381 (DV381) to the Territory Plan to increase the maximum gross floor area (GFA) for shops including supermarkets in local centres from 1,000m² to 1,500m².

ALDI is encouraged by the intent of the Authority to promote the economic viability and competitiveness of local centres in the wake of the COVID-19 pandemic through the proposed DV381 as a first step in this economic and social recovery.

This submission provides an overview of ALDI's operations in the ACT, our support of the DV381 as well as some constraints of the CZ4 Local Centre Zone beyond floor space caps that have the potential to act as a barrier for ALDI to be able to fully contribute to these local centres.

1. ALDI Operations

ALDI is a grocery retailer offering high quality retail products to residents and workers in the ACT and has demonstrated the ability to reduce grocery prices and increase choice in local markets. ALDI support substantial additional jobs in its supply chain, with most of its products sourced from Australian companies and growers.

Each new ALDI Store contributes to the economic growth and viability of its centres by employing on average 20 people on an ongoing basis and supporting other employment within ALDI and indirectly through the

company's supply chain. The development of a new ALDI Store creates around 25 construction jobs for the duration of the project.

The operational efficiency of ALDI Stores centre on a standardised design that results in enhanced amenity and sustainable competition impacts on local centres. The standard ALDI Store format and associated supply chain efficiencies are key to ALDI's lower grocery prices. A typical ALDI Store generally requires 1,600m² of gross floor area, including a standard floor plate of retail floor space (1,100m²) and 'back-of-house' floor space (500m²), with a core range of 1,600 products.

ALDI Stores are managed in such a way that fewer articulated vehicle deliveries are required daily, typically 2-3 deliveries. These operational factors ensure that ALDI Stores are compatible with a range of adjacent and neighbouring land uses, including residential and commercial development. The delivery operation of vehicles owned and/or managed by ALDI demonstrate compatibility with a range of neighbouring land uses including residential and commercial development due to the strict management of timing and frequency.

There are currently twelve (12) ALDI Stores in the ACT, with eleven (11) of these located in the CZ1 Core Zone as prescribed by the Territory Plan and one store, ALDI Chisholm, is located in the CZ3 Services Zone.

There are currently no ALDI Stores located in the CZ4 Local Centre Zone due to the existing maximum gross floor area cap of 1000m² imposed by the Commercial Zones Development Code.

2. Support of Draft Variation 381

It is understood that the following variation is proposed for Rule R51A in the Commercial Zones Development Code of the Territory Plan:

15.6 Shops – floor area	
<p>R51A</p> <p><i>The maximum gross floor area for a shop is 1000m² 1500m².</i></p>	<p>C51A</p> <p><i>An existing shop that exceeds a gross floor area of 1000m² 1500m² may be redeveloped up to its existing gross floor area where the shop complies with one of the following:</i></p> <ul style="list-style-type: none"> <i>a) was lawfully constructed on or before 10 April 2015</i> <i>b) was subject to development approval issued on or before 10 April 2015</i> <i>c) was the subject of a development application lodged on or before 10 April 2015 that was subsequently approved.</i>

Section 13 of the Territory Plan defines 'gross floor area (GFA)' as the following:

“Gross floor area (GFA) means the sum of the area of all floors of the building measured from the external faces of the exterior walls, or from the centre lines of walls separating the building from any other building, excluding any area used solely for rooftop fixed mechanical plant and/or basement car parking.”

ALDI agrees that the DV381 has the ability to deliver the economic enhancement of local centres with respect to retail development in association with the Statement of Strategic Directions held at Section 2.1 of the Territory Plan in the following ways:

- Direction 1.13 – DV381 will enhance the vibrancy of centres as places of social, cultural and business exchange.
- Direction 1.24 – DV381 will promote new development and re-development being planned conveniently with respect to commercial facilities and residential land uses.
- Direction 2.3 – DV381 will provide an opportunity for commercial and retail activity to ensure efficient patterns of development in new centres and nodes.

The DV381 is consistent with the intent of the use of land in the CZ4 Zone as prescribed by Part D Element 15 of the Commercial Zones Development Code as it will assist to encourage shops and supermarkets to establish, including an ALDI Store, and thereby enhance opportunity for increased convenience retailing readily available to the local community and compatible with nearby residential areas.

ALDI is able to demonstrate consistency with the objectives of the CZ4 Local Centre Zone by providing a convenient retailing environment to meet the daily consumer needs of local residents. Further, positive employment outcomes associated with the establishment and operation of an ALDI Store satisfies the provision of local employment and business investment and the operation of the ALDI Store has shown proficiency in adapting to changing social and economic circumstances, particularly in the midst of the COVID-19 Pandemic.

The implementation of DV381 provides an opportunity for ALDI to potentially locate a small format supermarket in the CZ4 Local Centre Zone. However, ALDI considers that the draft plan variation is unlikely to have a significant impact on addressing the demand for more store growth in the ACT due to the potential existing constraints that are often associated with sites located in the CZ4 Local Centre Zone that are identified below.

3. Constraints with the CZ4 Local Centre Zone

There is an inadequate supply of appropriately located and sized land within the Local Centre CZ4 Zone in identified and new centres. Further, many of these areas identified in the Local Centre CZ4 Zone are embedded deep within established low density residential areas and therefore offer poor visibility and connectivity to major arterial and connector roads, which is an important consideration for ALDI in terms of site selection.

Outside of shopping centres, which are typically zoned CZ1 Core, grocery retail development is severely constrained by a lack of appropriate available land that accommodates the conditions that ALDI require to establish new stores.

Lower order centres such as the CZ4 Local Centre Zone typically lack an anchor tenant such as ALDI. As a result, land in the Local Centre CZ4 Zone may experience a decrease in vitality and loss of market integrity over time and impacts upon a centre's ability to revitalise in order to respond to the changing retail or demographic environment.

ALDI's market analysis and site selection process is rigorous and recognises the benefits of location in existing centres and retail nodes of intensive activity, which is well served by public transport and good connectivity to the road network. To be genuinely competitive and attractive to customers, ALDI recognises that it is essential to be able to secure appropriately sized and located sites in centres and retail nodes.

As it stands, the existing high barriers to entry within the planning framework of the Territory Plan for new centres and nodes, associated with the constraints often present within the CZ4 Local Centre Zone, has affected and continues to affect ALDI's ability to acquire sites quickly and cost-effectively in local centres.

4. SUMMARY

There is a strong demand for the continued expansion of ALDI throughout the ACT and its various planned retail nodes and emerging centres. ALDI is capable of meeting this demand and contributing to the ACT's economic growth should circumstances provide for this.

The benefits associated with the establishment of ALDI Stores in local centres in the ACT will create overall positive economic and social welfare impacts that would be benefitted by local communities and residents. The nature of changes such as DV381 promote this potential future contribution for the purposes of viability and competitiveness. However, more could be done to accommodate further growth and expansion in established local centres and other existing and planned retail nodes.

It is anticipated that DV381 is likely to provide a limited impact on new future retail opportunities suitable for ALDI to establish new supermarkets in CZ4 Local Centre Zones due to existing contextual constraints associated with poor visibility and connectivity to major arterial and connector roads as well as fragmented ownership and lack of suitably sized land.

Notwithstanding, DV381 is a positive step forward which is supported by ALDI as it will assist to deliver the revitalisation of local centres. This proposal needs to be matched by further future changes and increased flexibility in the ACT planning system for centres and retail nodes, particularly in light of the recent changes in the urban fabric, role of centres as well as community behaviour changes post COVID-19.

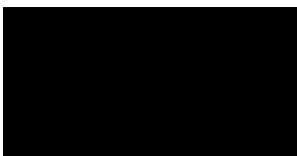
It is recommended that future reforms assessed and presented by the Authority could include a review of the interaction of commercial land uses within industrial zones such as potential amendments to the maximum GFA for shops in the IZ2 Industrial Mixed Use Zone to meet the needs of the workforce within industrial zones through viable and appropriately-sized convenience grocery retailing.

Recent examples of similar planning reform in Victoria and New South Wales (NSW) removed planning barriers for retail shops without effect on the retail hierarchy of centres. In Victoria, an increase in the flexibility of small scale supermarket floor space limits in industrial zones by Amendment V8 and Amendment VC100 to the Victoria Planning Provisions, originally proposed in July 2012, allows for a leasable area of up to 1,800m² for supermarkets without the requirement of a permit (consent) in the 'Industrial 3 Zone.' These provisions have enabled ALDI to operate within these zones to meet the needs of workers and businesses. Further, NSW planning reforms under the Standard Instrument—Principal Local Environmental Plan introduced a 'B6 Enterprise Corridor Zone' for business, office and specialised retail along busy roads and strategic corridors which support multi-purpose trips and enable small-format supermarkets to establish subject to the satisfaction of qualitative retail impact and qualitative net community benefit assessment criteria.

Thank you for the opportunity to comment on Draft Variation 381 to the Territory Plan. We request that ALDI is kept informed of the progress of Draft Variation 381 and are advised of opportunities to make submissions for any future public exhibition periods.

Please do not hesitate to contact the undersigned should you require further clarification of this matter.

Yours Sincerely,
ALDI Stores



Property Director