

**SUBMISSION TO SELECT
COMMITTEE ON ACT
SUPERMARKET COMPETITION
POLICY**

COLES SUPERMARKET

NOVEMBER 2011

coles

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

CONTENTS

EXECUTIVE SUMMARY	5
1 INTRODUCTION	8
1.1 Purpose.....	8
1.2 Background.....	8
1.3 Structure of Submission.....	16
2 COLES SUPERMARKETS IN THE ACT.....	17
2.1 Introduction.....	17
2.2 Overview of Coles Supermarkets	17
2.3 ACT Supermarket Floorspace Provision	18
2.4 Coles and Woolworths Market Share.....	20
3 THE OPERATION OF THE POLICY AS IT INTERACTS WITH THE PLANNING SYSTEM.....	26
3.1 Overview.....	26
3.2 The Existing ACT Retail Hierarchy	26
3.3 Commercial Centres	27
3.4 Zoning of Land	28
3.5 Development Controls	30
4 THE APPROPRIATENESS OF SETTINGS AS IT APPLIES TO THE ACT GOVERNMENT DIRECT SALES, GROUP CENTRES AND LOCAL CENTRES.....	31
5 THE IMPACT OF THE POLICY ON OPERATORS AND CONSUMERS	33
6 FUTURE APPLICATIONS OF PLANNING AND COMPETITION POLICIES	35
6.1 The Operation of the Policy as it Interacts with the Planning System (Terms of Reference (2)(a) and (2)(d)).....	35
6.2 The Appropriateness of Settings as it Applies to ACT Government Direct Sales, Group Centres and Local Centres (Term of Reference (2)(b)).....	39
6.3 The Impact of the Policy on Operators and Consumers (Term of Reference (2)(c)).....	40
6.4 Expected Outcomes.....	41
APPENDIX 1.....	42

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

List of Figures

Figure 1 – Capital Cities Supermarket Sqm per 1,000 People	19
Figure 2 – Coles and Woolworths Combined Share of Supermarket Space.....	20
Figure 3 – Coles & Woolworths Individual Space Share	21
Figure 4 – Growth in Space by Operator.....	21
Figure 5 - Coles & Woolworths Share of Supermarket Space by Planning District in the ACT	24

List of Tables

Table 1 – Overview of Martin Review Recommendations.....	10
Table 2 - ACT Supermarket Operators – Share of Floorspace	20
Table 3 – Supermarket Representation across the ACT	25
Table 4 - Overview of the Direct Sale of Land to Supermarket Providers in the ACT	32
Table 5 – Possible Future Supermarket Floorspace Scenario in Commercial Centres, ACT Over 5 Years.....	41

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

EXECUTIVE SUMMARY

This submission has been prepared in response to the Legislative Assembly for the Australian Capital Territory (ACT) Select Committee's Inquiry into ACT Supermarket Competition Policy.

Coles is a key division of Wesfarmers, one of Australia's leading companies, employing more than 100,000 employees and serving over 11 million customer transactions a week. Coles currently operates eight full line supermarkets in the ACT (plus one in Queanbeyan) with a total leasable floor area of 25,607 sqm and 1,073 staff (full time/part-time/casual) representing 7% of the total ACT retail employment.

While Coles welcomes the opportunity to make a submission in relation to this Inquiry, we note that Competition in the grocery sector has been subject to intense scrutiny in recent years, and planning decisions regarding allocation of land and the granting of development approvals for supermarket decisions particularly so. Coles welcomes the need for competition in retailing and generally supports the findings of the Martin Review, September 2009 and Productivity Commission Report, April 2011. However the findings and recommendations of these reviews and Inquiries have resulted in little effective change. Supermarket competition policy continues to operate relatively unchanged, with few meaningful outcomes from the Martin Review in particular, implemented to date (refer Table 1).

The continued operation of Supermarket policy in its' current form and context will be to the disadvantage of both operators and consumers in the ACT due to the operation of the policy as it interacts with the planning system (Terms of Reference (2)(a) and (d)), coupled with the limitations identified in relation to the Direct Sale process (Term of Reference 2(b)). From Coles' perspective, Supermarket policy in the ACT as it stands is the most restrictive in Australia. This has been to the disadvantage of consumers.

Coles is generally supportive of the existing ACT retail hierarchy, we have concerns with the micro-management of development within commercial centres which involves a number of commercial zones. These commercial zones impose excessive limits on growth

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

and change within a centre. To address this issue and in response Term of Reference 2(a) and (e), Coles recommends that:

- Commercial zones (e.g. CZ1, CZ2, CZ3, CZ5) across the City Centre, Town Centres, Group Centres and Local Centres be rationalised by making them all Core Zone 1 (CZ1) for each level of the hierarchy and without any sub zones within each centre.
- Where sites available at Group Centres are limited, commercial opportunities should not be precluded by the occupation of excessive areas of land for residential purposes.
- The existing number of commercial zones within Group Centres and Local Centres should be rationalised from six to one zone across the entire centre, together with less restrictive planning control requirements (which vary by locality) for floor areas, plot ratios, building heights, street frontage and setbacks etc.
- Development controls should be revised to include less restrictive planning control requirements (which vary by locality) for floor areas, plot ratios, building heights, street frontage and setbacks etc.
- A wider definition of allowable uses encompassed in a single commercial zone (refer to Recommendation 3), as this will mean that it is less likely that land with that zoning will require rezoning in order to be put to a different use

Further, the current operation of the Direct Sale process does not adequately address competition issues in the ACT to the disadvantage of consumers.

Coles, supported by a national chain of stores and the financial strength of a broad based national company, is the only full-line supermarket provider in the ACT with the ability to compete aggressively with Woolworths on a sustained basis (refer Section 2). Yet Woolworths by all measures dominates the ACT market with by far the largest market share of supermarket floorspace (41.5%) in the ACT and has benefited from the direct sale of land in the ACT (refer Table 4).

Supabarn and Aldi have been the chief beneficiaries from the direct sale of land in recent years, either as whole sites or to enable the enlargement of existing stores (Table 4). Aldi and independents (Supabarn, IGA and Foodworks) are now well represented in the ACT market (with around 35% of supermarket floorspace). As noted in the Martin Review (pg 4), *"overall, independent supermarkets (like IGA) in the ACT have a greater share of supermarket space compared to other parts o the country"*.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Coles however is the only supermarket operator in the ACT which has not benefitted from the sale of land for grocery supermarkets through the direct sale process by the ACT Government and, as noted above, remains underrepresented in the ACT market. Coles is not currently a major force in the ACT market, with around half of Woolworths total supermarket share (24% of the total market share of supermarket floorspace in the ACT) and, as noted in Table 3, there are no group centres where Coles and Woolworths directly compete.

This has been to the disadvantage of consumers in the ACT. As shown in Appendix 1, Woolworths is, on average more expensive than Coles, while Supabarn and IGA are significantly more expensive than both Woolworths and Coles.

To ensure the maintenance of Coles as a competitive participant in the market (particularly as Woolworths' only effective competitor, and considering the cost to the consumer due to the comparatively large market share now occupied by Supabarn and Independents), consideration must now be given to the provision of similar benefits to Coles through the Direct Sale process, to provide for the selective expansion in Group Centres of the full-line competitive supermarket offer.

As such, and in response to Term of Reference 2(b) and (e), there needs to be more transparency in the assessment of Direct Sales, and a requirement for the ACT Government to clearly recognise the importance of competition between Coles and Woolworths within the process.

1 INTRODUCTION

1.1 Purpose

This submission has been prepared in response to the Legislative Assembly for the Australian Capital Territory (ACT) Select Committee's Inquiry into ACT Supermarket Competition Policy.

Coles is a division of Wesfarmers, one of Australia's leading companies. Coles Supermarket employ more than 100,000 employees and serves over 11 million customer transactions a week. It is an Australian owned company and forms a key part of the Wesfarmers Ltd portfolio.

1.2 Background

The purpose of the Select Committee Inquiry is to review the Supermarket Competition Policy in the ACT established in 2008. The Supermarket Competition Policy seeks to maintain a balance of competitive retail grocery performance throughout the Territory in respect of keen prices, service delivery, convenience, product diversity, innovation and adaptation to changing market trends.

It is expressed in the following terms:

"The ACT Government believes that Canberrans are best served by a diverse and competitive retail grocery supermarket sector that supports consumer choice and convenience. In considering the use or scale of land for grocery supermarkets, the ACT Government will take into account the capacity of a retailer to access suitable sites as well as the nature of the benefits a particular type of supermarket may bring, such as product diversity, quality of service, environmental gains, integration with existing retail/commercial centre, footprint and car parking."

The Inquiry Terms of Reference are as follows:

(1) The Assembly notes:

- (a) that ACT consumers are best served by policies that promote supermarket competition; and
- (b) that development approval processes should be free from inappropriate political interference and offer certainty to supermarket operators and protection for ACT consumers;

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

- (2) establishes a select committee to review the ACT Supermarket Competition Policy, including, but not limited to:
 - (a) the operation of the policy as it interacts with the planning system;
 - (b) the appropriateness of settings as it applies to ACT Government direct sales, group centres and local centres;
 - (c) the impact of the policy on operators and consumers;
 - (d) impacts on the retail hierarchy; and
 - (e) future applications of planning and competition policies
- (3) the decision to exercise the call-in power to approve the Giralang DA are not the subject of the Committee's inquiry while the matter is before the Supreme Court;
- (4) the Committee shall report back to the Assembly no later than the last sitting week in April 2012; and
- (5) the Committee shall consist of one member nominated by the Government, one member nominated by the Opposition and one member nominated by the Crossbench, to be nominated to the Speaker by 4 p.m. on the day of passage of this motion.

Competition in the grocery sector has been subject to intense scrutiny in recent years, and planning decisions regarding allocation of land and the granting of development approvals for supermarket decisions particularly so. There has been a host of reviews, plans and documents commissioned by the ACT Government, the Australian Competition & Consumer Commission (ACCC) and the Productivity Commission on the topic of supermarket competition. Whilst Coles welcome the opportunity to provide a submission to this Inquiry into the ACT Supermarket Competition Policy, we strongly urge Government to implement the recommendations of these previous reviews and affect policy change.

Coles welcomes the need for competition in retailing, and generally supports the findings of the Martin Review, September 2009 and Productivity Commission Report, April 2011.

A brief overview of the findings and recommendations of these documents is provided in the proceeding sections. This provides a useful starting point to inform the Inquiry.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

1.2.1 ACCC Inquiry into the competitiveness of retail prices for standard groceries

In July 2008, the ACCC published the findings and recommendations of its Inquiry into the competitiveness of retail prices for standard groceries. The ACCC made a number of recommendations on how to reduce a number of evident barriers to entry and expansion in grocery retailing. Among those recommendations, the ACCC recommended that:

"...all appropriate levels of government consider ways in which zoning and planning laws, and decisions in respect of individual planning applications where additional retail space for the purpose of operating a supermarket is contemplated, should have specific regard to the likely impact of the proposal on competition between supermarkets in the area. Particular regard should be had to whether the proposal will facilitate the entry of a supermarket operator not currently trading in the area."

1.2.2 The 'Martin Review'

The 'Review of ACT Supermarket Competition Policy' (September 2009) prepared by John Martin (referred to as the "Martin Review"), considered the grocery sector within the ACT. This Review was prompted in part by recommendations in the 2008 ACCC Inquiry into the competitiveness of Retail Grocery prices. The ACCC found that zoning and planning regulations and decision-making processes can create barriers to new supermarkets entering particular area markets and recommended that decisions affecting additional supermarket space should take into account the impact on competition between supermarkets in an area.

The report found that existing Group Centres only included a single full line supermarket¹ and that this market was dominated by Woolworths. The review noted and endorsed the 'consistent comments' received suggesting that there is a case for the existing Group Centres to be upgraded including the provision of a second supermarket to introduce diversity and competition to the grocery market. Submissions were also received that some local centre supermarkets could be more competitive if they increased floor space to the 800 to 1200 m² range.

The Martin Review made a number of recommendations (pages 13-15) which have been implemented to varying degrees however it is Coles' opinion that few meaningful outcomes have been achieved to date (refer to Table 1).

Table 1 – Overview of Martin Review Recommendations

¹ Refer to pages 4-5 of the Martin Review.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

No.	Recommendation	Implemented
1	<p>There is a need to address:</p> <ul style="list-style-type: none"> A shortage of larger full line supermarket capacity generally in central Canberra and Gungahlin; and 	Yes, in part. Some pre-commitments in Group Centres
	<ul style="list-style-type: none"> The benefits of encouraging further full line independent supermarket chains to expand in the ACT to provide competition and diversity and potentially support an alternative source of wholesale grocery supply that could contribute to the price competitiveness of independents including smaller retailers. 	Some outcomes specific to Supabarn & Aldi expansion & commitments
2	<ul style="list-style-type: none"> Ensure there is an adequate response to market and competition signals of demanding larger format supermarkets relative to the overall size of centres; 	No meaningful outcomes achieved to date
	<ul style="list-style-type: none"> There should be a more flexible approach to allow new entrants into new area development and into existing Group Centres. 	No meaningful outcomes achieved to date
3	<ul style="list-style-type: none"> The supermarket competition policy in the ACT requires substantial overhaul to address impediments in the planning and development regime; 	Review of ACT planning policy underway, however no meaningful outcomes achieved to date
	<ul style="list-style-type: none"> A framework taking competition factors into account is required to free up retail zoning provisions particularly in group centres, to better reflect evolving consumer and market needs and address the barriers to new supermarket entrants at the retail and wholesale levels. 	Review of ACT planning policy underway, however no meaningful outcomes achieved to date
4	<ul style="list-style-type: none"> The ACT Government note that it is in no way constrained from intervening through the planning and land allocation system to achieve increased supermarket competition at sites where proposed acquisitions by a major chain have received informal ACCC clearance. 	No action
5	<ul style="list-style-type: none"> Any form of cap on the market share of participants should be rejected. 	No action
6	<ul style="list-style-type: none"> An alternative source of wholesale supply would be encouraged by a restricted approach for particular sites that precluded Metcash controlled ventures as well as the two major chains. 	No meaningful outcomes achieved to date
7	<p>Processes, Procedures and Criteria</p> <ul style="list-style-type: none"> Establish and regularly review processes, procedures and competition criteria to enable the government to facilitate entry of suitable independent full line chains in suitable new and redeveloped group centres to achieve a better balance of competition tension, choice and diversity; 	Achieved in part through the ACT Supermarket Competition Policy Implementation Plan
	<ul style="list-style-type: none"> The approach could involve either limited tender direct sales or appropriate clauses in the lease requirements if it was considered more appropriate to ensure ownership integration in the sale of a new group centre (possibly even a single developer); 	No meaningful outcomes achieved to date
	<ul style="list-style-type: none"> Special zoning mechanisms for this purpose could be cumbersome and vulnerable to legal challenge in contrast to the targeted, site by site and transparent direct sales process. The redevelopment of existing group centres is where flexibility in approach is most likely to be required to secure the best overall outcome in collaboration with property owners. 	Achieved in part through Commercial Centres Review and Group Centre Master Planning

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

No.	Recommendation	Implemented
8	<ul style="list-style-type: none"> ▪ The ACT Government endorse the identified market and competition analysis approach together with the adoption of suitable eligibility criteria to identify and facilitate entry by new full line supermarket competitors. 	Achieved in part through the ACT Supermarket Competition Policy Implementation Plan
9	<p>Coordination Mechanism</p> <p>Establishing a formal coordination mechanism between ACTPLA, LDA, ACT Treasury and the facilitation arm of CMD to create a cohesive and transparent approach to planning and competition issues in growth areas and existing centres addressing:</p> <ul style="list-style-type: none"> ▪ Zoning reform in group and town centres; ▪ The evolution of local centres; ▪ Facilitation of new supermarket entry on a site by site basis; and ▪ Maintaining up to date data and analysis of the sector. 	Achieve in part. Coordination body established but ongoing issues relating to lack of transparency
10	<p>Regular Review and Assessment</p> <p>CMD establishing and chairing a forum between the key agencies and industry stakeholders to periodically (at least yearly);</p> <ul style="list-style-type: none"> ▪ Review planning/zoning processes; ▪ Assess progress on the supermarket competition framework; ▪ Identify changes required to the framework; ▪ Ensure processes are updated to respond to changes in grocery retailing development; and ▪ Make recommendations to the ACT Government on possible changes. 	Not known
11	<p>Urgent attention be given to Central Canberra Shortages</p> <ul style="list-style-type: none"> ▪ Addressing the shortage of full line supermarket capacity and competition in some existing central Canberra group centres (south Canberra/Kingston, north Canberra/Dickson). 	Achieved through Direct Sales and Pre-commitments.
	<ul style="list-style-type: none"> ▪ Utilising a combination of direct sales (consistent with recommended procedures and criteria) and zoning flexibility in tandem with the ongoing ACTPLA planning framework reviews of Dickson and Kingston town centre precincts. 	Achieved in part.
12	<p>Other Group and Town Centre Reviews</p> <p>The ACT Government should progressively review other group and town centres, moving away from the 'one size' fits all approach, learning from and drawing on the redevelopments such as Jamison where new entry and expansion of existing supermarkets has improved competition.</p>	Achieved in part through Commercial Centres Review and Group Centre Master Planning
13	<p>Facilitating Local Centre Competitiveness</p> <ul style="list-style-type: none"> ▪ Drawing on Recommendation 2, no artificial constraints should be placed on supermarkets in appropriate local centres to expand in a way that is consistent with public amenity and enables those stores to provide a more competitive offer against full line stores in larger centers. Local centre independent stores could be boosted if moves to increase independent wholesale competition are successful. 	Some outcomes specific to Woolworths expansion & commitments
	<ul style="list-style-type: none"> ▪ Reinforce ACTPLA's approach to allow the market to determine these parameters in existing local centres and to space local centres in developing areas either more widely or apply more flexible conditions subject to regular market feedback. 	Some outcomes specific to Woolworths expansion & commitments
	<ul style="list-style-type: none"> ▪ For existing local centres facing sustainability pressures, solutions should be based on conversion to intense, multi-storey residential usage combined with a proportionately scaled commercial and 	Achieved in part through Commercial Centres

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

No.	Recommendation	Implemented
	convenience usage.	Review
14	<p>Growth Area Initiative New approaches will be needed in Gungahlin and Molonglo. The following options are based on the present proposed group centre configuration and the two major chains position in the town centre.</p> <ul style="list-style-type: none"> ▪ Amaroo – consideration of full line independent plus a possible ALDI (released in 2010/11); ▪ Casey – one of the two full line supermarkets to be an independent plus a possible ALDI (released in 2010/11); ▪ The future multiple supermarket group centre development in Molonglo offers a further opportunity to facilitate specific independent entry but the approach should be informed on progress in Gungahlin and some existing centre ‘gap filling’ under the overarching approach to supermarket competition policy. 	Achieved in part through Pre-commitments in Amaroo and Casey.
15	<p>Existing Area Redevelopment Dickson and Kingston Group Centres As a priority pursue the immediate opportunities offered by the two ACTPLA Urban Planning Framework Reviews for Dickson and Kingston/South Canberra to apply the overarching supermarket competition policy framework proposed by this Review including the competition criteria linked to direct land sales.</p>	Achieved through Group Centre Master Planning
	<p>Other Group and Town Centres Over time it would be appropriate under the overarching framework to review other group and town centres.</p>	Achieved through Group Centre Master Planning processes at selected centres
	<p>Local Centres As stated in Recommendation 13, reinforce the ACTPLA market driven approach to new local centre renewal. For declining local centres facilitate conversion to intense, multi-story residential usage combined with a proportionately scaled commercial and convenience usage.</p>	Achieved in part through Commercial Centres Review

1.2.3 ACT Supermarket Competition Policy Implementation Plan

The ACT Supermarket Competition Policy Implementation Plan issued in 2008 sets out how the Government intends to address the findings of the Martin Review within the context of this policy. The Implementation Plan endorses the findings of the Martin Review, and adopts its findings as policy.

The Plan provides a framework for greater competition, and identifies the key elements of the framework as follows:

- A need to address a shortage of larger full line supermarket capacity generally in central Canberra and Gungahlin;
- Encouragement for further full line independent supermarket chains to expand in the ACT;

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

- Facilitation of the entry of suitable independent full line chains into new and redeveloped Group Centres;
- Recognition that market and competition signals are demanding larger format supermarkets relative to the overall size of centres;
- New entrants should be allowed into new area developments and existing Group Centres;
- More flexibility in retail zoning provisions, particularly in Group Centres to reflect evolving consumer and market needs and to address barriers to new supermarket entrants; and
- No cap on the market share of participants.

The Implementation Plan also provides the only ACT definition of supermarkets based on size or number of lines carried. It describes a 'large format or full line supermarket' as generally being over 2,500m² and carrying around 30,000 items. In contrast a convenience / local supermarket is described as under 1,500m². The Implementation Plan does not describe or define supermarkets which fall between these two extremes.

1.2.4 Productivity Commission Report

The Productivity Commission undertook performance benchmarking in 2010 of States and Territories planning and zoning systems and land development assessments². The Commission assessed how the planning systems impact on competition and on the functioning of cities and to identify practices to avoid unjustifiable restrictions on competition and to ensure adequate supplies of urban land.

With respect to competition and retail markets in the ACT the Commission report noted the following:

- Prescriptive zones and complex use conditions (such as floor space caps) appear particularly restrictive in the ACT;
- The ACT makes extensive and area-specific use of floor space caps. For example, retailers in zone CZ3 in the city centre and town centres and CZ2 in town centres are limited to 200m² per lease (although in some cases, other zones in these centres allow for larger size stores). Retailers in other centres are limited to 100 to

² Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments, Productivity Commission, Commonwealth Government, April 2011

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

500m² of gross floor area, depending on the particular shop and the particular centre.

- The ACT also has a legacy of 'one full line supermarket per group centre' and this has been assessed to be an 'ongoing impediment to supermarket competition and diversity' (Martin 2009, p.15). The ACT Supermarket Competition Policy Implementation Plan (released in January 2010) is intended to allow multiple supermarkets into 'Group Centres' but nevertheless still restricts the accessibility of new sites to competing supermarkets.
- One of the most overt restrictions on competition was the undertaking of the ACT government in May 2009 to exclude particular supermarkets which have a large market share from locating at some sites and promote expansion by selected chains which currently have a smaller market share. The government has explicitly excluded Woolworths from bidding for location on four newly released supermarket sites and Coles from bidding on three sites. At the same time, Supabarn has been given an unimpeded opportunity to anchor one site at Kingston and another site at Casey has been earmarked by the government for use by Aldi and Supabarn (Barr 2010).
- The ACT policy is an example of a government using a regulatory constraint to competition (that is, the barrier to local market entry) in an attempt to boost another aspect of competition (increased variety of businesses in the market place). There may be instances when the benefits of such regulatory action exceed the opportunity costs of the restriction to the community. However, given the explicit competitive advantage afforded to particular operators and the higher grocery prices that are expected to result in the local ACT markets involved, it is not clear that this particular policy will result in a net increase in competition in the ACT grocery market, in fact there is evidence to the contrary (refer Appendix 1)

1.2.5 ACTPLA Commercial Zones Policy Review

In July 2011, ACTPLA sought public views about commercial zones in the ACT with a focus on Local and Group Centres. Supermarket Competition was a focus of the review and in particular, the Martin Review's recommendations relating to changes to planning policies affecting new supermarket development. Key points for consideration in this Review included:

- Should restriction on the size of supermarkets and other shops in CZ2 and CZ3 zoned land within group centres be changed or removed?

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

- Should land be rezoned in group centres to CZ1 to facilitate new supermarket developments?
- What should be the maximum gross floor area of supermarkets in local centres?

The review formed part of an ongoing community consultation exercise and it is expected that community views captured through this review process would be used by ACTPLA to inform future variations to the Territory Plan. Results of the review have not been made publicly available.

1.3 Structure of Submission

This submission seeks to inform the Select Committee Inquiry on ACT Supermarket Competition Policy. In particular it provides an overview of Coles Supermarket operation in the ACT and a response to the Inquiry terms of reference (highlighted in brackets below).

The report is structured as follows:

- An overview of Coles Supermarket operation in the ACT and how its operation sits in the context of other supermarket providers across the various centres in the ACT (Section 2);
- 2(a)(d) The operation of the policy as it interacts with the planning system and impacts on the retail hierarchy (Section 3);
- 2(e) The appropriateness of settings as it applies to the ACT Government direct sales, group centres and local centres (Section 4);
- 2(c) The impact of the policy on operators and consumers (Section 5); and
- 2(e) Future applications of planning and competition policies (Section 6).

2 COLES SUPERMARKETS IN THE ACT

2.1 Introduction

This section of the submission provides an overview of Coles Supermarket operation in the ACT and how its operation sits in the context of other supermarket providers across the various centres as defined by the ACT Retail Hierarchy. The information provides a more accurate picture of supermarket competition in the ACT and seeks to inform the Inquiry.

According to the Commonwealth Productivity Commission³, competition in urban land use is *'about the ease with which land can be moved between different activities in response to market conditions. Competition is generally considered desirable because, in its 'perfect' state, competition delivers an allocation of land between alternative possible uses which maximises the net value of that land to current (and future) society'*.

Coles welcomes the need for competition in retailing. Competition between supermarkets is important for efficient markets. Efficient markets are essential because it is the most effective means of ensuring the efficient supply of customer-focused goods and services. Markets create incentives for businesses to produce goods and services that customers want and at competitive prices.

2.2 Overview of Coles Supermarkets

Coles has had a market presence in the ACT since 1967, with the opening of its first supermarket in Curtin. This was one year after the opening of Canberra's first supermarket at Dickson in 1966. Coles currently operates eight full line supermarkets in the ACT (plus one in Queanbeyan) with a total leasable floor area of 25,607 sqm and 1,073 staff (full time/part-time/casual) representing 7% of the total ACT retail employment.

Contrary to popular perception Coles' market share of supermarket space (by floorspace) in the ACT represents only 23.6% (Refer Table 2, page 20). Coles' supermarket share in the ACT is the lowest of all Capital Cities in Australia (refer Figure 3).

³ Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments, Productivity Commission, Commonwealth Government, April 2011

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Coles has supermarkets in the following Town and Group Centres:-

Town Centres

- Belconnen
- Woden Plaza
- Gungahlin
- Tuggeranong

Group Centres

- Manuka
- Jamison
- Curtin
- Chisholm

Coles has initiated direct sale processes with the Economic Development Directorate to acquire sites within Erindale and Weston Group Centres and are currently in discussions regarding a supermarket site at Dickson. To date, Coles as a principal operating entity has not benefited from the direct sale process.

It is noted that Woolworths has now been successful in competing in Local Centres with its recent expansion into local centres at Bonner, Giralang, Dunlop and Charnwood. At this point in time Coles is not actively pursuing sites in Local Centres and believes that this space should be reserved / made available to smaller independent operators to ensure ongoing diversity, viability and competitiveness.

Accordingly Coles has a strong interest in ensuring that the commercial centres are managed appropriately in the ACT.

2.3 ACT Supermarket Floorspace Provision

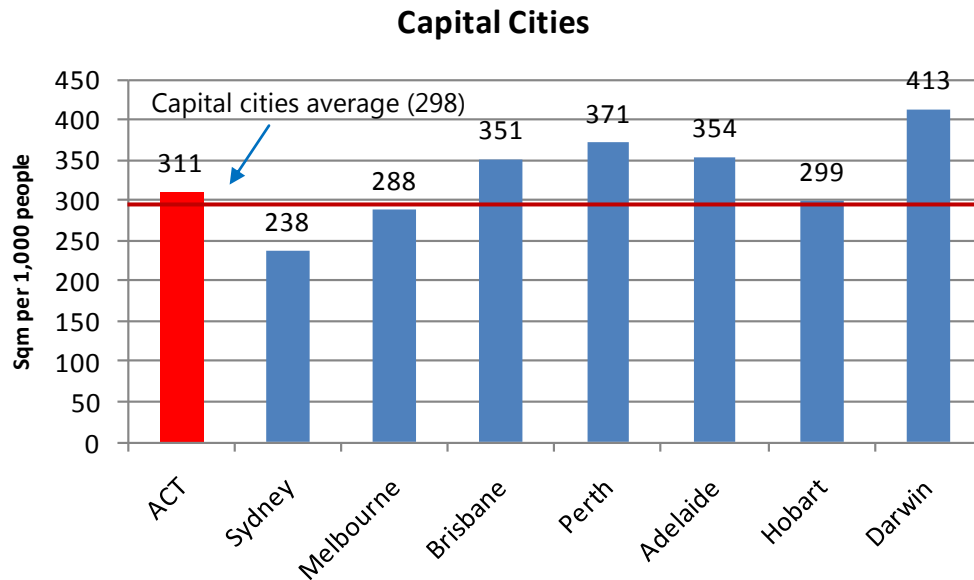
The ACT has around 108,500 sqm of supermarket space for its 350,000 residents or 311 sqm per 1,000 of population, which is around the Australian capital cities average at 298m² (Figure 1).

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Figure 1 – Capital Cities Supermarket Sqm per 1,000 People



Source: Coles

The ACT market is diverse in terms of the number and style of supermarket operators present. Table 2 shows supermarket operators share of floorspace in the ACT. Woolworths has by far the largest market share of supermarket floorspace (41.5%) in the ACT. Aldi and independents (Supabarn, IGA and Foodworks) are also well represented (35% of space). The Martin Review (pg 4) notes that *“overall independent supermarkets (like IGA) in the ACT have a greater share of supermarket space compared to other parts of the country. This derives from the domination by independent supermarkets of local shopping centres in the ACT”*.

As demonstrated in Table 2, Coles is a secondary player in the ACT market, with around **half of Woolworths total supermarket share (23.6%)**. Furthermore, there are significant differences between Coles and Woolworths supermarket provision in terms of number of stores (8 vs 13 stores) and average size of supermarket (3,201 sqm vs 3,467 sqm).

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Table 2 - ACT Supermarket Operators – Share of Floorspace

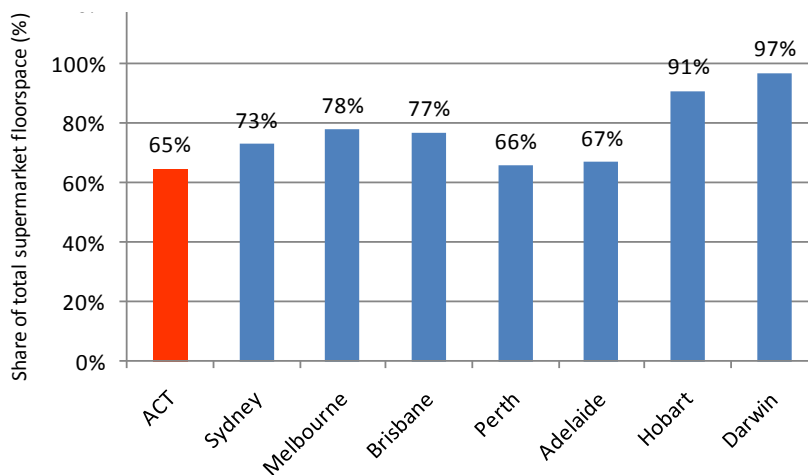
Business	Stores (No.)	Floorspace (sqm)	Average store size (sqm)	Share of supermarket floorspace (%)
Woolworths	13	45,076	3,467	41.5
Coles	8	25,607	3,201	23.6
Supabarn	3	9,250	3,083	8.5
Aldi	7	9,243	1,320	8.5
IGA	28	17,649	630	16.3
Foodworks	5	1,724	345	1.6
TOTAL	64	108,549	1,696	100.0

Note: Excludes 57 convenience stores with estimated floorspace: 12,300 sqm (Source: ACTPLA)

2.4 Coles and Woolworths Market Share

Interestingly, the combined market share of supermarket space by Coles and Woolworths in the ACT at 65% is significantly **below** the Australian average of combined share of supermarket space at 77% as shown on Figure 2. This is despite the overall provision of supermarkets in the ACT being within the national average. This means that independent operators are already particularly well represented in the ACT market (refer to Table 2)

Figure 2 – Coles and Woolworths Combined Share of Supermarket Space



Source: Coles

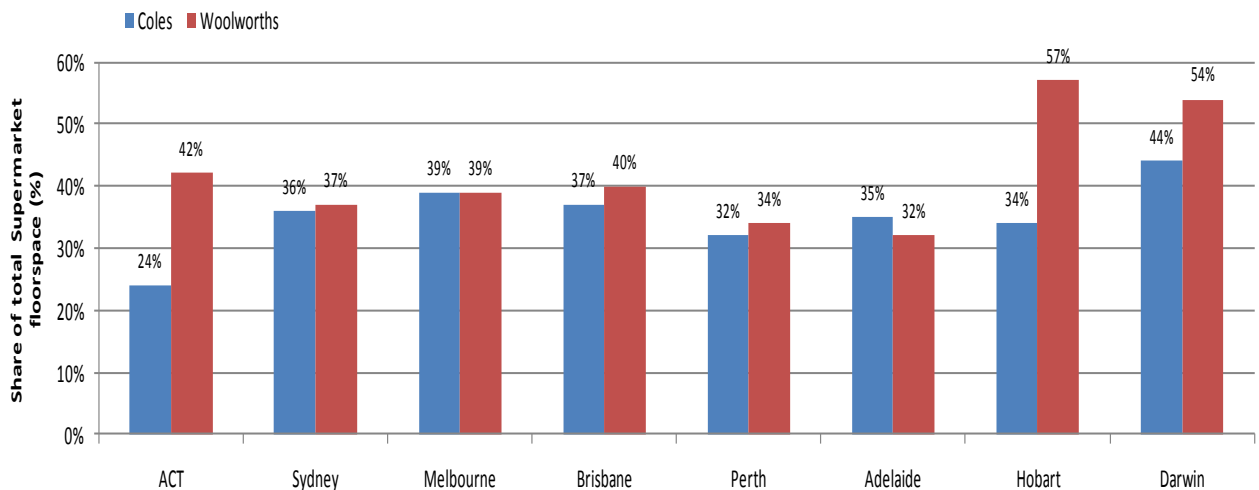
Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Furthermore, within the ACT, Woolworths portion of supermarket space represents 42% whereas Coles represent only 24% (refer to Figure 3). Coles' supermarket share in the ACT is the lowest of all capital cities in Australia.

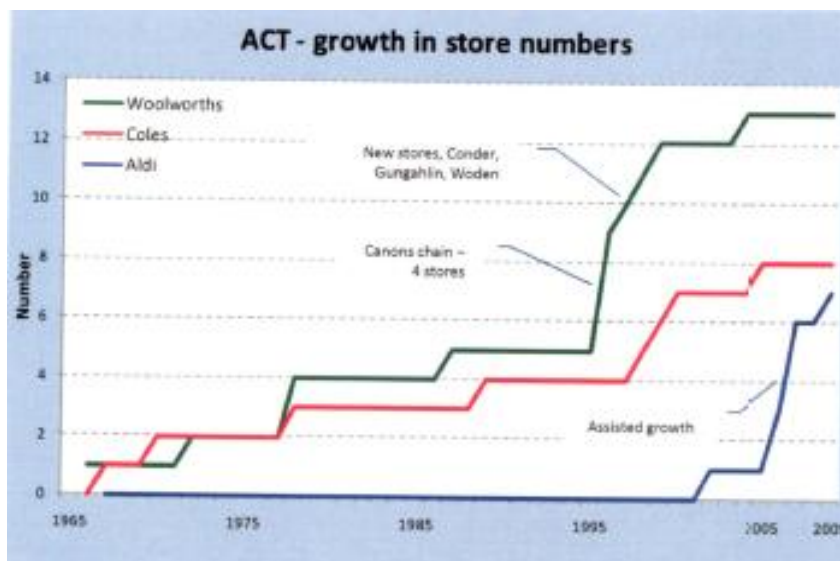
Figure 3 – Coles & Woolworths Individual Space Share



Source: Coles

Figure 4 shows the growth in store numbers and floorspace from new stores, acquisitions and expansions. It is evident from Figure 4 that Woolworths have been the market leader in store numbers and space since 1975. This growth has been through the acquisition of the Cannons chain in 1995 (4 stores), IGA Charnwood in 2004, the aggressive expansion of existing stores and development of new stores in the late 1990's/2000's along with more recent expansion into local centres at Bonner, Giralang, Dunlop and Charnwood.

Figure 4 – Growth in Space by Operator

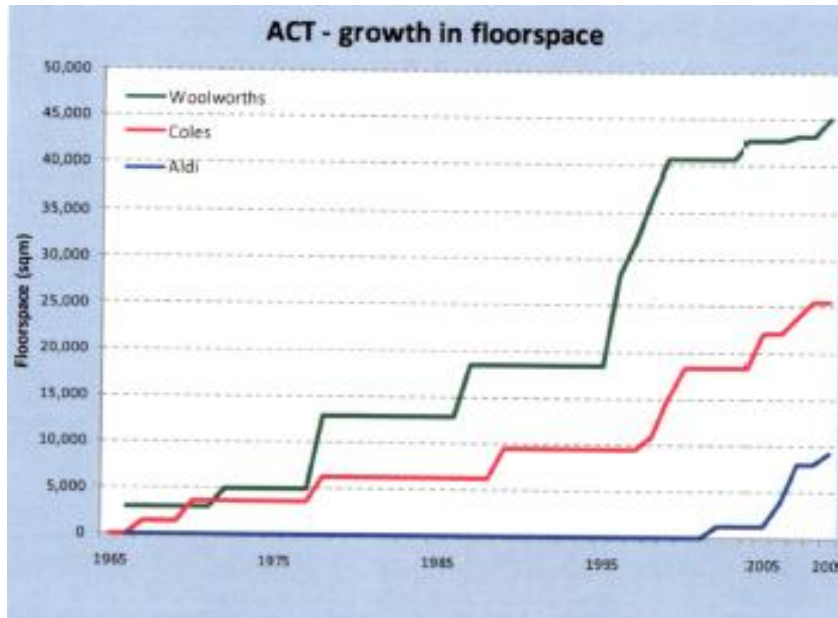


Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Source: Coles



Source: Coles

In the last 10 years, Coles has opened stores at Manuka, Gungahlin, Woden and expanded its Jamison, Curtin and Belconnen supermarkets. Coles have also acquired an independent supermarket in Chisholm which has also been expanded.

Aldi have secured 10 stores in the ACT (7 existing / 3 to be constructed). The Territory Government assisted through the direct sale of land with Aldi stores at Condor, Kippax and Chisholm Group Centres. The Government has also announced that future development in Casey and Dickson Group Centres must accommodate an Aldi.

Supabarn is also an active player with a new store in Civic, the expansion of its store in Wanniasa and the refurbishment of its store in Kaleen. The Government has also announced that future development in Casey and Kingston Group Centres must accommodate a full line Supabarn.

More recently, a 13,500m² Costco has opened at Canberra Airport with a 13,000m² Master's Hardware Store, Big W DDS and a new full-line 4,600 m² Woolworths supermarket to open shortly. Once open, this supermarket will take Woolworth's share to 14 stores and a 45.4% share of supermarket floorspace in commercial centres in the ACT.

Figure 5 provides an overview of Coles and Woolworths current market share across the ACT planning district.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

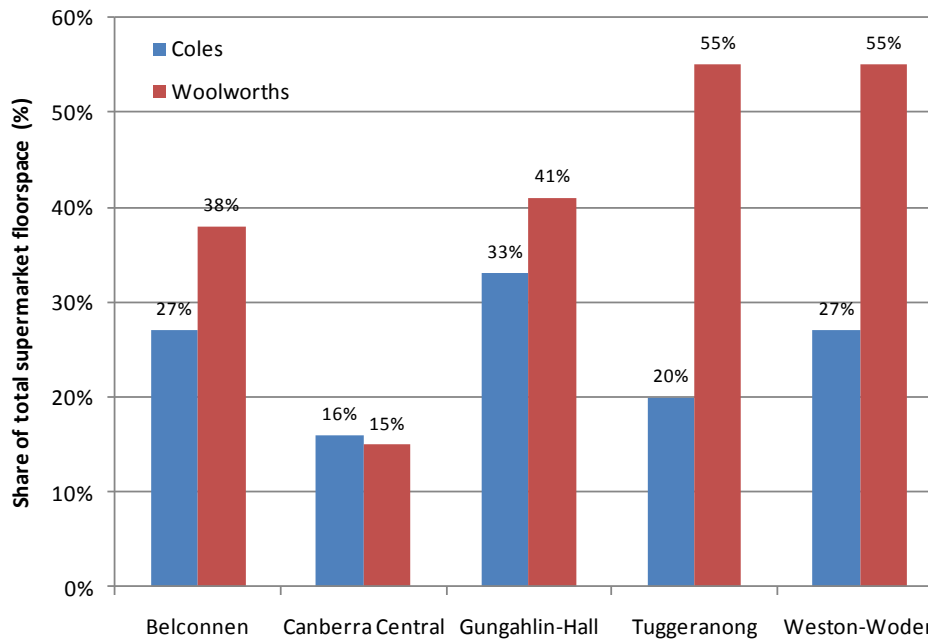
COMMERCIAL IN CONFIDENCE

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Figure 5 - Coles & Woolworths Share of Supermarket Space by Planning District in the ACT



Source: Coles

Table 3 indicates supermarket representation in the three highest tiers of the ACT Retail Hierarchy. At the Town Centre level, Coles and Woolworths directly compete in all centres. Where 4 out of the 8 Coles stores in the ACT have Woolworths as a direct competitor, only 4 of the 13 Woolworth's stores have Coles as a competitor. Group Centres have much lower levels of direct competition between supermarkets. Woolworths are in 9 of the 17 Group Centres, with only 3 of the 9 stores having a direct competitor (Aldi), none of which are Coles. Coles are represented only in 4 of the 17 Group Centres. There are no group centres where Coles and Woolworths compete directly.

Coles, supported by a national chain of stores and the financial strength of a broad based national company, is the only full-line supermarket provider in the ACT with the ability to compete aggressively with Woolworths. Whilst other stores can compete with Woolworths to some extent they do not have the financial resources to go 'head to head' on a sustained basis. This view is supported by the ACCC (2008)⁴ in their investigation of the

⁴ ACCC (Australian Competition and Consumer Commission) 2008, Report by ACCC Inquiry into the Competitiveness of Retail Prices for Standard Groceries, July, Canberra

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

impact of the proximity of competitors on the pricing behaviour of the two dominant supermarket chains (Woolworths and Coles), whereby it was reported that prices at the major supermarkets were lower when a competitor is located nearby.

Table 3 – Supermarket Representation across the ACT

ACT Retail Hierarchy	Supermarkets in Centre
Civic	S, A, I x 2
Town Centres	
Belconnen	C, W, A
Gungahlin	C, W, A
Tuggeranong	C, W, A
Woden	C, W
Group Centres	
Calwell	W
Casey	A*
Charnwood	W
Chisholm	C, A*
Condor	W, A
Curtin	C
Dickson	W, A*
Erindale	W
Hawker	I
Jamison (Macquarie)	C, A
Kaleen	S
Kambah	W
Kingston	I
Kippax (Holt)	W, A
Manuka	C
Mawson	W
Wanniassa	S
Weston	W, A

Abbreviations: C = Coles, W = Woolworths, S = Supabarn, A = Aldi, I = IGA

* To be constructed

Source: Coles

3 THE OPERATION OF THE POLICY AS IT INTERACTS WITH THE PLANNING SYSTEM

3.1 Overview

The ACCC⁵ identified that zoning and planning regimes, including existing centres' policies, act as an artificial barrier to new supermarkets being established with the unintended consequence of potentially impacting on competition between supermarkets.

The planning system must be responsive to changes in demographics resulting in demands for goods and be flexible enough to accommodate growth.

3.2 The Existing ACT Retail Hierarchy

The Territory Plan promulgates a '*hierarchy*' of commercial centres which has 'been developed to ensure that people have a convenient and equitable access to goods, facilities and services wherever they live or work within Canberra'. The hierarchy consists of:

- The City Centre as the main centre for employment, services and entertainment;
- Town Centres providing major decentralised employment locations and shopping and entertainment destinations;
- Group Centres providing for the weekly shopping and service needs of the community; and
- Local Centres providing the daily needs of the local community.

Coles is generally supportive of the existing ACT retail hierarchy, which it considers to be well established and understood by all. Coles also supports the retention of the existing retail hierarchy as a means of maintaining sustainability in urban development patterns.

Whilst the hierarchical nature of commercial zones appears to be working, Coles has concerns with the micro-management of development within commercial centres which involves a number of commercial zones. These commercial zones impose excessive limits on growth and change within a centre without due regard to emerging market trends. Once a centre is established there is no sound planning reason to limit the type of use within the commercial centre, for example to prescribe a supermarket within one area of a

⁵ 2008 ACCC Inquiry into Retail Grocery Competition

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

centre rather than the other. This view is supported in the Martin Review (page 15), which suggests that *"the whole centre be zoned 'core' to allow greater density development for mixed commercial and residential uses"*. The rigid nature of the ACT planning system also effectively precludes the introduction of a second supermarket in group centres. As such, these planning and zoning restrictions within group centres inhibits supermarket competition. The Martin Review recommends that the zoning of centres should be modified to encourage competition between supermarket operators.

3.3 Commercial Centres

The Territory Plan needs to provide for growth of existing and new commercial centres. Centres need to be responsive as the population density in an area changes and consumer needs shift over time with changes in demographics.

To enable more diverse, viable and competitive commercial centres, Coles suggest that commercial zones (e.g. CZ1, CZ2, CZ3, CZ5) across the City Centre, Town Centres, Group Centres and Local Centres be rationalised by making them all Core Zone 1 (CZ1) for each level of the hierarchy and without any sub zones within each centre. Local Centres are currently the only commercial centres in the retail hierarchy with a specific zone (e.g. CZ4).

The above approach would allow for more direct competition between supermarket operators, particularly at the Group Centre level, which has much lower levels of direct competition between supermarkets (Table 2).

Coles also support recent movements to diversify the range of uses accommodated within Group Centres, and specifically the introduction of medium density housing where appropriate. Residential development in commercial centres can bring positive benefits and contribute to its vitality and viability as it:

- Supports existing economic activity;
- Encourages a more vibrant centre which people use at all times (i.e. during the day and the night time economy);
- Provides residential options for a number of smaller households;
- Reduces the need to travel;
- Revitalises commercial centres;
- Add to the safety of the centre through passive surveillance.

Successful Group Centres generally accommodate a range of uses and activities, encouraging multi-purpose trips rather than necessitating a number of separate trips to

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

separate locations. Centres need to be able to accommodate growth and as such the planning system must be flexible enough to accommodate a mix of uses and provide opportunities for economic growth so that effective markets can develop and prosper.

It is important to understand also that the site areas available at Group Centres are limited, and commercial opportunities should not be precluded by the occupation of excessive areas of land for residential purposes. This can be addressed by allowing residential development to expand up rather than outwards with increased height permissible for residential developments in Group Centres.

3.4 Zoning of Land

The zoning of land affects the location, quantity and use of land for specific activities and can also affect competition within local markets.

The Productivity Commission's Report highlights a number of key points of relevance to this policy inquiry:

- Competition restrictions in retail markets are evident in all states and territories. They arise: from excessive and complex zoning; through taking inappropriate account of impacts on established businesses when considering new competitor proposals; and by enabling third party objectors to delay the operations of new developments.
- Leading practices to improve planning, zoning and assessment include:
 - providing clear guidance and targets in strategic plans while allowing flexibility to adjust to changing circumstances and innovation (so long as good engagement, transparency and probity provisions are in place);
 - strong commitment to engage the community in planning outcomes;
 - broad and simple land use controls to: reduce red tape, enhance competition, help free up urban land for a range of uses and give a greater role to the market in determining what these uses should be;
 - risk-based and electronic development assessment;
 - limiting timeframes for referrals, structure planning and rezoning;
 - transparency and accountability, including for alternative rezoning and development assessment processes as well as having limited appeal provisions for rezoning decisions;
 - limiting anti-competitive objections and appeals, with controls on their abuse;

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

- collecting and publishing data on land supply, development assessment and appeals.

The Productivity Commission Report concluded that *'if the prescriptive nature of commercial zones and allowable uses were significantly reduced — particularly those relating to business definitions— it would facilitate new retail and business formats to locate in existing business zones without necessitating changes to council plans to accommodate each variation in business model'*.

We suggest that the existing number of commercial zones within Group Centres and Local Centres should be rationalised from six to one zone across the entire centre (e.g. similar to the existing Local Centre commercial zone CZ4) together with less restrictive planning control requirements (which vary by locality) for floor areas, plot ratios, building heights, street frontage and setbacks etc. This will allow more flexibility to adjust developments to meet changing demographics and needs without requiring rezoning. Reducing the need for rezoning would also deliver significant time savings in supplying land and approving developments.

As well, it may reduce the use of alternative approval mechanisms, such as ministerial call-ins which would improve competitiveness by ensuring more businesses face the same assessment criteria.

The Productivity Commission Report supports this view by recommending changes to planning and zoning systems which could in turn improve competition. Changes proposed include:

- reductions in the prescriptiveness of zones and allowable uses therein;
- facilitation of more 'as-of-right' development processes;
- elimination of impacts on the viability of existing businesses as a consideration for DA and rezoning approval;
- consideration of impacts on the viability of centres only during the metropolitan and strategic planning stages;
- clear guidelines on alternative assessment paths; and
- disincentives for "gaming" of third party appeals.

3.5 Development Controls

Existing development controls in the Territory Plan affect the development yield that can be economically achieved on sites in commercial centres. The Group Centre Development Code prescribes a maximum height of two storeys and a maximum plot ratio of 100%, unless compliance with the given criteria can be established. In such instances development above these thresholds may be approvable. Beyond the height and plot ratio controls, the requirement to provide car parking in accordance with the Parking and Vehicular Access Code tends to be the most significant limiting factor to development.

It must be recognised that the primary role of a commercial centre is to provide a range of goods and services for the catchment population and that the ability of commercial operators to operate effectively within commercial centres may be impacted on by increased residential populations.

Coles also support a wider definition of allowable uses encompassed in a commercial zone, as this will mean that it is less likely that land with that zoning will require rezoning in order to be put to a different use for the following reasons:

- wider zoning definitions also provide greater scope for the market to allocate land to its best use, albeit within the uses allowed by the zone;
- a small number of narrowly defined commercial zones increase the likelihood that certain activities will be effectively precluded from that local area.

4 THE APPROPRIATENESS OF SETTINGS AS IT APPLIES TO THE ACT GOVERNMENT DIRECT SALES, GROUP CENTRES AND LOCAL CENTRES

It is acknowledged through prior reviews and Inquiries that there is a lack of Supermarket competition in the ACT (refer Section 1). The ACT Government has the ability to address competition issues and as noted in the Martin Review, *"the ACT Government has taken initiatives in recent years [through the Direct Sale of sites, aimed at achieving better facilitation of potential shopping centre modernisation and expansion whilst not prejudicing sound urban planning procedures"*.

In Coles' opinion, the current operation of the Direct Sale process does not adequately address competition issues in the ACT. Coles is particularly concerned that there is a lack of transparency in the assessment of Direct Sales, and draws attention to the need for the ACT Government to clearly recognise the importance of competition between Coles and Woolworths within the process.

Coles, supported by a national chain of stores and the financial strength of a broad based national company, is the only full-line supermarket provider in the ACT with the ability to compete aggressively with Woolworths on a sustained basis (refer Section 2). Yet Woolworths by all measures dominates the ACT market with by far the largest market share of supermarket floorspace (41.5%) in the ACT and has benefited from the direct sale of land in the ACT (refer Table 4).

Supabarn and Aldi have been the chief beneficiaries from the direct sale of land in recent years, either as whole sites or to enable the enlargement of existing stores (Table 4). Aldi and independents (Supabarn, IGA and Foodworks) are now well represented in the ACT market (with around 35% of supermarket floorspace). As noted in the Martin Review (pg 4), *"overall, independent supermarkets (like IGA) in the ACT have a greater share of supermarket space compared to other parts o the country"*. This has been to the disadvantage of consumers in the ACT. As shown in Appendix 1, Supabarn and IGA are significantly more expensive than both WW and Coles.

Coles however is the only supermarket operator in the ACT which has not benefitted from the sale of land for grocery supermarkets through the direct sale process by the ACT Government and, as noted above, remains underrepresented in the ACT market. Coles is not currently a major force in the ACT market, with around half of Woolworths total supermarket share (24% of the total market share of supermarket floorspace in the ACT)

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

and, as noted in Table 3, there are no group centres where Coles and Woolworths directly compete.

The above has been to the disadvantage of consumers. As shown in Appendix 1, Woolworths is, on average more expensive than Coles, while Supabarn and IGA are significantly more expensive than both Woolworths and Coles.

To ensure the maintenance of Coles as a competitive participant in the market (particularly as Woolworths' only effective competitor, and considering the cost to the consumer of the comparatively large market share now occupied by Supabarn and Independents), consideration must now be given to the provision of similar benefits to Coles through the Direct Sale process, to provide for the selective expansion in Group Centres of the full-line competitive supermarket offer.

Table 4 - Overview of the Direct Sale of Land to Supermarket Providers in the ACT

Business	Direct Sales Granted	
	Existing (Built)	Future (To be Built)
Woolworths	Mawson	-
Coles	-	-
Supabarn	Wanniassa	Casey, Kingston
Aldi	Condor, Kippax	Casey, Dickson

We note that in assessing the Direct Sale of land, Coles does not support the capping of floor space that an individual supermarket operator can control in the ACT. It is Coles' opinion that introducing a market share cap will distort the operation of the market and unduly punish efficient and competitive supermarkets. (The idea of capping individual supermarket floorspace was suggested in the Martin Report, but not included as a recommendation).

5 THE IMPACT OF THE POLICY ON OPERATORS AND CONSUMERS

A host of reviews, plans and documents commissioned by the ACT Government, the Australian Competition & Consumer Commission (ACCC) and the Productivity Commission have been conducted on the topic of supermarket competition (refer Section 1).

Coles is concerned that, despite the findings and recommendations of these reviews and Inquiries, supermarket competition policy continues to operate relatively unchanged, particularly with regard to the Martin Review of which few recommendations have resulted in meaningful outcomes to date (refer Table 1).

It is Coles' opinion that the continued operation of Supermarket policy in its' current form and context will be to the disadvantage of both operators and consumers in the ACT due to the issues that have been identified in Section 3 in relation to the current operation of the planning system, coupled with the limitations identified in relation to the Direct Sale process (Section 4). From Coles' perspective, Supermarket policy in the ACT as it stands is the most restrictive in Australia and there is no evidence to suggest that the current policies are promoting competition nor resulting in any real benefits to ACT consumers.

As noted in Section 4, and shown in Appendix 1, existing policy has resulted in an increased cost to consumers. An independently compiled price check, commissioned by Coles, shows a comparison of the price of 500 identical and commonly purchased grocery products by Canberrans in Coles, Woolworths, Superbarn & Super IGA supermarkets. This price comparison data shows the competitive pricing between Coles and Woolworths and a significant price differential (to consumers) over Superbarn and Super IGA's supermarkets.

This data showed the following percentage and dollar differences on the commonly purchased groceries*. In terms of percentage difference:

- IGA 11% more expensive than Coles; 10% more expensive than Woolworths and 7% more expensive than Superbarn;
- Superbarn is 4% more expensive than Coles, 3% more than Woolworths;
- Woolworths is 1% (0.8%) more expensive than Coles

In terms of annualised price differences:

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

- IGA is \$2,112 more expensive per annum than Coles (based on this basket of indicators); \$1,956 more expensive per annum than Woolworths and \$1,404 more expensive per annum than Superbarn;
- Superbarn is \$708 more expensive per annum than Coles and \$552 more expensive per annum than Woolworths;
- Woolworths is \$156 more expensive per annum than Coles.

* This data shows dollar price differences as a month's grocery shop multiplied by 12 to get an annual grocery shop. The research uses identical products that are representative of top selling grocery lines in supermarkets nationally.

6 FUTURE APPLICATIONS OF PLANNING AND COMPETITION POLICIES

The following recommendations are made for the future application of planning and competition policy in the ACT in response to Term of Reference (2)(e). In making these recommendations, reference is made to Terms of Reference (2)(a)-(d).

6.1 The Operation of the Policy as it Interacts with the Planning System (Terms of Reference (2)(a) and (2)(d))

Existing Retail Hierarchy

While Coles is generally supportive of the existing ACT retail hierarchy, we have concerns with the micro-management of development within commercial centres which involves a number of commercial zones. These commercial zones impose excessive limits on growth and change within a centre. Once a centre is established there is no sound planning reason to limit the type of use within the commercial centre, for example to prescribe a supermarket within one area of a centre rather than another.

Recommendation 1:

To enable more diverse, viable and competitive commercial centres, Coles suggest that commercial zones (e.g. CZ1, CZ2, CZ3, CZ5) across the City Centre, Town Centres, Group Centres and Local Centres be rationalised by making them all Core Zone 1 (CZ1) for each level of the hierarchy and without any sub zones within each centre. Local Centres are currently the only commercial centres in the retail hierarchy with a specific zone (e.g. CZ4). This approach would allow for more direct competition between supermarket operators, particularly at the Group Centre level, which has much lower levels of direct competition between supermarkets.

This will also allow more flexibility to adjust developments to meet changing demographics / needs without requiring rezoning. Reducing the need for rezoning would also deliver significant time savings in supplying land and approving developments.

Commercial Centres

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Coles support recent movements to diversify the range of uses accommodated within Group Centres, and specifically the introduction of medium density housing where appropriate.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Recommendation 2:

Where sites available at Group Centres are limited, commercial opportunities should not be precluded by the occupation of excessive areas of land for residential purposes. This can be addressed by allowing residential development to expand up rather than outwards with increased height permissible for residential developments in Group Centres.

Zoning of Land

The zoning of land affects the location, quantity and use of land for specific activities and can also affect competition within local markets.

Recommendation 3:

We suggest that the existing number of commercial zones within Group Centres and Local Centres should be rationalised from six to one zone across the entire centre (e.g. similar to the existing Local Centre commercial zone CZ4) together with less restrictive planning control requirements (which vary by locality) for floor areas, plot ratios, building heights, street frontage and setbacks etc. This will allow more flexibility to adjust developments to meet changing demographics and needs without requiring rezoning. Reducing the need for rezoning would also deliver significant time savings in supplying land and approving developments. As well, it may reduce the use of alternative approval mechanisms, such as ministerial call-ins which would improve competitiveness by ensuring more businesses face the same assessment criteria.

Development Controls

Existing development controls in the Territory Plan affect the development yield that can be achieved on sites in commercial centres. The Group Centre Development Code prescribes a maximum height of two storeys and a maximum plot ratio of 100%, unless compliance with the given criteria can be established.

It must be recognised that the primary role of a commercial centre is to provide a range of goods and services for the catchment population and that the ability of commercial operators to operate effectively within commercial centres may be impacted on by increased residential populations.

Recommendation 4:

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Development controls should be revised to include less restrictive planning control requirements (which vary by locality) for floor areas, plot ratios, building heights, street frontage and setbacks etc.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

Recommendation 5:

Coles also recommends a wider definition of allowable uses encompassed in a single commercial zone (refer to Recommendation 3), as this will mean that it is less likely that land with that zoning will require rezoning in order to be put to a different use.

6.2 The Appropriateness of Settings as it Applies to ACT Government Direct Sales, Group Centres and Local Centres (Term of Reference (2)(b))

The Direct Sale Process

The ACT Government has the ability to address competition issues and as noted in the Martin Review, through the Direct Sale process in particular. Coles is the only supermarket operator in the ACT which has not benefitted from the sale of land for grocery supermarkets through the direct sale process by the ACT Government and, as noted elsewhere in this submission, remains underrepresented in the ACT market.

As a matter of simple equity and, just as importantly, to ensure the maintenance of Coles as a competitive participant in the market (particularly as Woolworths' only effective competitor), consideration must be given to the provision of similar benefits to Coles through the Direct Sale process, to provide for the selective expansion in Group Centres of the full-line competitive supermarket offer.

Recommendation 6:

There needs to be more transparency in the assessment of Direct Sales, and a requirement for the ACT Government to clearly recognise the importance of competition between Coles and Woolworths within the process.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

6.3 The Impact of the Policy on Operators and Consumers (Term of Reference (2)(c))

Prior Reviews and Inquiries

As noted in this submission, competition in the grocery sector has been subject to intense scrutiny in recent years, and planning decisions regarding allocation of land and the granting of development approvals for supermarket decisions particularly so. Coles welcomes the need for competition in retailing and generally supports the findings of the Martin Review, September 2009 and Productivity Commission Report, April 2011.

However the findings and recommendations of these reviews and Inquiries have resulted in little effective change. Supermarket competition policy continues to operate relatively unchanged, with few meaningful outcomes from the Martin Review to date (refer Table 1).

The continued operation of Supermarket policy in its' current form and context will be to the disadvantage of both operators and consumers in the ACT due to the operation of the policy as it interacts with the planning system (Section 3, Term of Reference (2)(a)), coupled with the limitations identified in relation to the Direct Sale process (Section 4, Term of Reference 2(b)). From Coles' perspective, Supermarket policy in the ACT as it stands is the most restrictive in Australia. As a result, there is no evidence to suggest that the current policies are promoting competition nor resulting in any real benefits to ACT consumers.

Recommendation 7:

Whilst Coles welcomes the opportunity to provide a submission to this Inquiry, we strongly urge Government to implement the recommendations of previous reviews and affect change to the current policy.

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

6.4 Expected Outcomes

The following table 'tests' a possible future scenario that may follow from the implementation of the above recommendations. It indicates how supermarket provision in commercial centres could be developed and expanded and what Coles' market share of supermarket space might look like.

Table 5 – Possible Future Supermarket Floorspace Scenario in Commercial Centres, ACT Over 5 Years

ACT Existing Floorspace Summary				ACT Future Floorspace Summary			
Centres	No. Stores	Sq m GFA	% Share of GFA	No. Stores	Sq m GFA	% Share of GFA	Assumptions
Woolworths	13	44,995	41%	17	55,095	36%	Assumes WW open new stores in Bonner (1,500m ²), Dunlop (1,500m ²), Giralang (1,500m ²), Canberra Airport (4,600m ²) and extend Charnwood (1,000m ²)
Coles	8	25,607	23%	12	39,407	25%	Includes Coles Belconnen extension and assumes Coles open stores at Dickson (3,700m ²), Erindale (3,600m ²), Weston (3,500m ²), Kambah (2,000m ²) and extend Curtin (additional 1,000m ²)
Aldi	8	11,321	10.4%	11	15,221	9.8%	Assumes Aldi open new stores at Chisholm (1,300m ²), Casey (1,300m ²) and Dickson (1,300m ²)
Supabarn	3	7,775	7.1%	7	21,775	14.1%	Assumes Supabarn open at Casey (3,500m ²), Kingston (3,500m ²) plus 2 additional stores (7,000m ²)
IGA	30	17,709	16%	35	20,859	13%	Assumes a further 5 new stores
Foodworks	5	1,918	2%	6	2,263	1%	Assumes one new store
TOTAL	67	109,325	100%	88	154,620	100%	

Estimates of future sq m GFA of supermarket floorspace are derived from average store size as shown in Table 1

Excludes the Costco at the airport – 13,500m²

Note the above figures exclude other convenience stores in Group/Local Centres.

Sources: Coles, Supermarket Retailing in the ACT, ACTPLA (Attachment 1), Martin Review, 2009

Submission to Select Committee on ACT Supermarket Competition Policy

Coles Supermarket

COMMERCIAL IN CONFIDENCE

APPENDIX 1