



LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY

SELECT COMMITTEE ON A.C.T. SUPERMARKET COMPETITION POLICY

MEMBERS: CAROLINE LE COUTEUR MLA *CHAIR*, JOHN HARGREAVES MLA *DEPUTY CHAIR*, ZED SESELJA MLA

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**Submission 1**

**ACT Government**

**November 2011**

**Submission to the ACT Legislative Assembly Select Committee  
Inquiry into ACT Supermarket Competition Policy**

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## 1. Introduction and Background

The ACT Government welcomes the opportunity to make a submission to the Legislative Assembly's Select Committee Inquiry on ACT Supermarket Competition Policy and address the important issues raised within its terms of reference.

Supermarkets play a key role in supplying food and other essential groceries to the vast majority of Canberra's residents. While supermarkets in Australia have always been operated as private businesses, the effective functioning of the sector as a whole is a matter of public policy interest – perhaps more so than any other form of retailing – given its significance within contemporary urban life. As this submission will detail, certain features of the contemporary ACT supermarket sector present a situation where on balance there is a case for public policy intervention in the interests of improving the sector's competitiveness and choice for consumers.

The submission begins with a general review of the competition characteristics of the ACT supermarket sector and the Government's supermarket competition policy. Next, it examines the supermarket competition policy in the context of the ACT's planning system. Following this, the implementation of the policy to date and its impacts are discussed. The submission concludes with general summarising observations, and notes that the policy may change in the future to reflect changing circumstances.

Throughout this submission certain terms are used with specific meanings. These include:

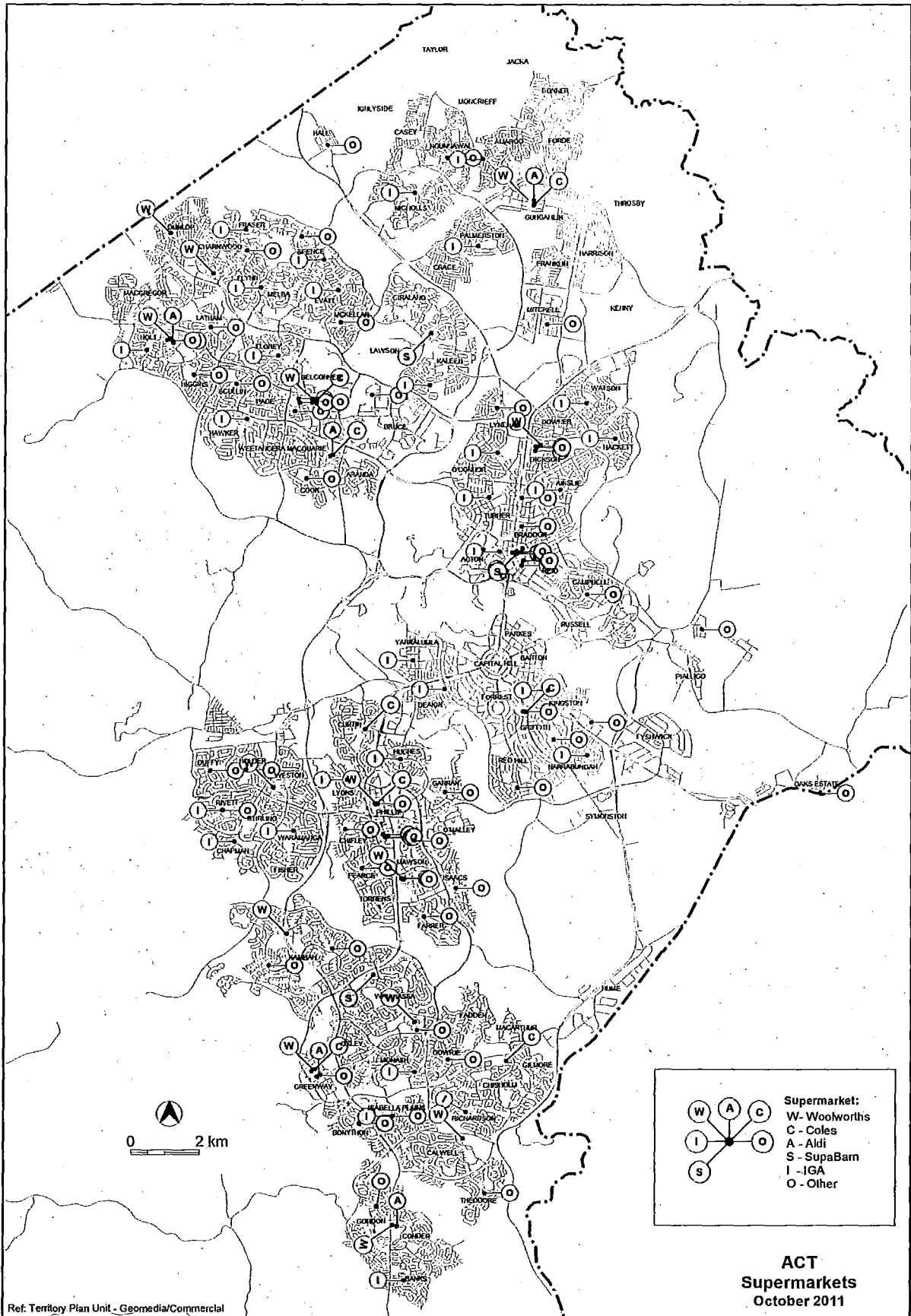
- Full-line supermarkets – Supermarkets of more than 2500m<sup>2</sup> gross floor area (GFA) and carrying 30,000+ product lines.
- Major supermarket chains – This refers to the Woolworths and Coles groups, which account for a very high proportion of full-line supermarket floorspace and sales across Australia and within the ACT. While Aldi is also a large national chain, it operates with a different business model that is not analogous to Woolworths' and Coles' full-line business models.
- Independent supermarkets – All supermarkets independent of the three major national chains, i.e. the Woolworths, Coles, and Aldi groups. In the ACT, the largest independent operator is currently the Supabarn group with three full-line supermarkets.

Given differences in format within the sector, it is recognised that defining a 'supermarket' can be difficult. The Territory Plan defines supermarkets as a type of shop, specifically, a 'large shop selling food and other household items where the selection of goods is organised on self-service basis'.<sup>1</sup> In negative terms (i.e. in terms of what supermarkets are not), they can be distinguished from more specialised grocery shops (such as, for example,

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<sup>1</sup> See the 'Definitions' section of the Territory Plan available at: <http://www.legislation.act.gov.au/ni/2008-27/copy/80892/pdf/2008-27.pdf>

bakers, greengrocers, or butchers), or produce markets (such as the Belconnen and Fyshwick markets), which have different organisational and built forms. In some contexts, large shops selling a broad range of nonetheless niche products, such as for example, Asian, or organic groceries, might or might not be considered supermarkets. The scale of supermarkets can also vary considerably.



Note: 'Other' supermarkets are those not associated with either of the two major chains, the Aldi group, or the larger independent groups (i.e. Supabarn or the IGA groups).

## 2. The Need for the Promotion of Competition within the Current ACT Supermarket Sector

### 2.1 National and Local Supermarket Sector Inquiries

The Government's approach to supermarket competition in the Territory has its origins in two landmark investigations into the grocery retailing sector. The Government's 2008 policy statement (see Section 2.2 below) coincided with general concern around the competitiveness of the supermarket sector nationally following a period of notable food price inflation. In July 2008, the Australian Competition and Consumer Commission (ACCC) released a report following its inquiry into 'the competitiveness of retail prices for standard groceries'.<sup>2</sup> Across Australia as a whole, the report's findings included that:

'Grocery retailing is workably competitive, but there are a number of factors that currently limit the level of price competition, including:

- high barriers to entry and expansion, particularly in relation to difficulties in finding new sites for development.
- the limited incentives for Coles and Woolworths to compete aggressively on price.
- limited price competition that Coles and Woolworths face from the independent sector. Independent supermarkets tend to focus on convenience and service. A key factor inhibiting price competition from the independent retailers is the wholesale prices of packaged groceries supplied by Metcash.<sup>3</sup>

The ACCC further noted:

'Statistics analysed by the ACCC suggest that Coles and Woolworths account for approximately 70 per cent of packaged grocery sales in Australia and approximately 50 per cent of fresh product sales, such as meat, fruit and vegetables.

Coles and Woolworths have maintained a fairly consistent share of supermarkets above 1000m<sup>2</sup> over the last 10 years, with each having just over 30 per cent of stores nationally. Coles and Woolworths are much more significant in relation to larger stores, accounting for around 87 per cent of all supermarkets above 2000m<sup>2</sup>.<sup>4</sup>

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<sup>2</sup> The report is available at:

<http://www.accc.gov.au/content/item.phtml?itemId=838251&nodeId=ada0fb93c16b68d5a78ac665943b688d&fn=Grocery%20inquiry%20report,%20overview.pdf>

<sup>3</sup> ACCC (2008) 'Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries'. p. xiv

<sup>4</sup> ACCC (2008) 'Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries'. p. xv

The ACT Government recognised that these findings resonated locally, while acknowledging that many issues are beyond the control of the Territory due to the distribution of responsibilities within Australian federalism and a general normative orientation against encroaching regulation within Australia's liberal market economy.<sup>5</sup> Nonetheless, it has seen an opportunity to take pro-competition action particularly by addressing the ACCC's observations regarding the difficulties faced by supermarket operators in finding new sites for development.

The Government engaged the former ACCC commissioner Mr John Martin to examine supermarket competition issues specifically in the ACT. Mr Martin's report, *Review of ACT Supermarket Competition Policy* ('the Martin Report') built on retail planning data collected by the (then) ACT Planning and Land Authority, grocery price data collected by the (then) ACT Department of Treasury, and public submissions.<sup>6</sup> The report was released publicly in October 2009 and, among other observations, noted that:

- Woolworths and Coles collectively accounted for approximately 70% of all supermarket turnover and 60% of floorspace. When the full-line market is considered as distinct from smaller convenience retailing, the two major chains control 90% of the market.
- Aldi groceries were typically significantly cheaper than Woolworths or Coles, with independents such as Supabarn being slightly more expensive than the two major chains.
- There were various points of non-price competitive difference between operators, including aspects of service and product range.
- A notable lack of full-line supermarket capacity in certain geographic sub-markets, including in the Inner North, the Inner South, and the Gungahlin district.
- There was scope to increase competition within the grocery wholesaling market.

In total, the report made fifteen recommendations (set out in full at Appendix 'A'), proposing various planning system reforms, land release initiatives, and new administrative arrangements.

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<sup>5</sup> The term 'liberal market economy' is used here specifically in a sense informed by P. A. Hall and D. Soskice (eds) (2001) *Varieties of Capitalism: The Institutional Foundations of Comparative Advantage*. Oxford: Oxford University Press. Specifically, these authors draw a distinction within developed economies between those with more historically activist state roles in economic development (such as Japan, Germany, France, and the Scandinavian countries, which are characterised as 'coordinated market economies') and those with historically less activist states (such as the predominantly Anglophonic countries).

<sup>6</sup> The Martin Report is available at:

[http://www.business.act.gov.au/data/assets/pdf\\_file/0003/167025/Supermarket\\_Competition\\_Policy.pdf](http://www.business.act.gov.au/data/assets/pdf_file/0003/167025/Supermarket_Competition_Policy.pdf)

## 2.2 The Government's Supermarket Competition Policy

The first iteration of the ACT Government's Supermarket Competition Policy (SCP) was a brief statement of principles issued in 2008. The 2008 SCP set out that:

'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 sale 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 SCP was extended and given greater detail by the Supermarket Competition Policy Implementation Plan (SCPIP) released in 2010.<sup>7</sup> The SCPIP provides for the following 'key elements' for Government activity vis-a-vis the sector:

- 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;
- Facilitation of the entry of suitable independent full line chains into new and redeveloped Group Centres;
- Support for an alternative source of wholesale grocery supply which would be encouraged by a restricted approach for particular sites;
- Recognition that market and competition signals are demanding larger format supermarkets relative to the overall size of centres, including in some Local Centres;
- Elimination of artificial constraints on supermarkets in appropriate Local Centres expanding in ways that are consistent with public amenity and enables those stores to provide a more competitive offer against full line stores in larger 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 address barriers to new supermarket entrants;

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<sup>7</sup> The SCPIP is available at:

[http://www.economicdevelopment.act.gov.au/data/assets/pdf\\_file/0003/138594/ACT\\_SUPERMARKET\\_COMPETITION\\_POLICY\\_IMPLEMENTATION\\_PLAN\\_from\\_web\\_site.pdf](http://www.economicdevelopment.act.gov.au/data/assets/pdf_file/0003/138594/ACT_SUPERMARKET_COMPETITION_POLICY_IMPLEMENTATION_PLAN_from_web_site.pdf)

- A progressive review of Group and Town Centres should be instituted;
- No cap on the market share of participants;
- The articulation of a transparent set of Supermarket Competition Factors to help identify and facilitate entry by new full line supermarket competitors;
- The establishment of formal inter-departmental coordinating group for developing and delivering comprehensive whole-of-government advice on the Supermarket Competition Policy to the Government; and
- Regular consultation with industry stakeholders.

The SCPIP anticipated that the Government's main mode of intervention would be through strategic land release, supported by planning policy reform.

Further details of how the SCPIP has been operationalised will be discussed in section four.

### 3. Supermarket Competition Policy and the Planning System

#### 3.1 Background

The formation of the Government's supermarket competition policy has taken place in the context of certain legacies and goals of Canberra's urban planning.

Historically, retail planning in Canberra (as elsewhere) has been structured around a hierarchy of centres.<sup>8</sup> Within planning theory, such hierarchies – combined with the restriction of out-of-centre development – are held as facilitating equity in terms of relative geographic access to employment, retailing and other services. Individual centres usually incorporate the co-location of retailing, employment activities, and some forms of social infrastructure. This co-location can reduce the number of trips people need to make and the distance of those trips. In cities where most trips are made by car, such as Canberra, fewer and shorter trips are likely to mean lower levels of carbon emissions and lower private transportation costs. The public may also benefit through lower road-building costs and lower costs in providing effective public transport than would be the case if commercial and other activities were inappropriately dispersed. The concentration of commercial development and other land uses such as community facilities that generate the coming and going of large numbers of people also can protect the amenity of people who would prefer to live in quieter, predominately residential areas.

Canberra's hierarchy of centres has changed over time, with different planning strategies being used in the original greenfield planning of parts of the Tuggeranong and Belconnen districts, and the allowance of Fyshwick to emerge as a hub for bulky-goods retailing. However, the contemporary hierarchy of centres approximately matches the hierarchy originally set out in the 1960s by the National Capital Development Commission, with the following elements:

- The city centre (or Civic), which has commercial and other development generally serving the Canberra metropolitan area as a whole.
- Town centres at Belconnen, Tuggeranong, Woden and Gungahlin, with commercial and other development generally serving district populations.
- Group centres such as the Jamison, Manuka and Lanyon centres whose commercial and other development generally serves 'groups' of nearby suburbs (see Appendix 'B' for a full list).

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<sup>8</sup> 'Hierarchies of centres' have been common in the urban planning of cities in Australia, New Zealand, the United Kingdom, Western Europe, and elsewhere since the Second World War. See, for example, M. Quirk (2008) 'Responses to Retailing Change in Canberra', *Urban Policy and Research*, 26(4): 445-465; National Capital Development Commission (1970) *Tomorrow's Canberra*, Canberra: Australian National University Press; or, NSW Department of Planning (2009) *Draft Centres Policy*, Sydney: State of New South Wales.

- Local centres such as the Ngunnawal, O'Connor or Chapman shops, which generally provide convenience shopping and other services and facilities to the surrounding suburb. Historically, these centres have featured both a relatively small supermarket along with other specialist shops and businesses.

The tables below provide a general indication of the distribution of supermarket gross floor area across the different centre types across the different districts of Canberra:

*Table 1: Supermarket Provision by District and Centre Type (m<sup>2</sup> GFA)*

Centre Type	Belconnen	Gungahlin	Canberra Central	Tuggeranong	Woden & Weston Ck	Total
Town	9423	10208	7132	11070	8050	45883
Group	15185	0	8113	14751	7112	45161
Local	5337	1852	7541	4061	3740	22531
Total	29945	12060	22786	29882	18902	113575

Source: ACT Commercial and Industrial Floorspace Inventory, Environment and Sustainable Development Directorate

*Table 2: Distribution of Supermarket GFA by Centre Type across Districts (Percentages)*

Centre Type	Belconnen	Gungahlin	Canberra Central	Tuggeranong	Woden & Weston Ck	Average
Town	31.5	84.6	31.3	37.0	42.6	40.4
Group	50.7	0.0	35.6	49.4	37.6	39.8
Local	17.8	15.4	33.1	13.6	19.8	19.8

Source: ACT Commercial and Industrial Floorspace Inventory, Environment and Sustainable Development Directorate

The distribution of different proportions of GFA at different centre types within a district is largely a function of the planning strategies used at the time of its greenfield planning. For example, the planning of most of Central Canberra (i.e. the Inner North and the Inner South) predated the emergence of supermarket retailing and the concept of a group centre anchored around a large supermarket. These local centres were thus initially intended to accommodate a number of small specialist grocery retailers (e.g. a baker, a butcher, a grocer, and so on). Over time, though, the viability of such specialist grocery businesses has often declined. In contrast, group centres were conceptually integral to the planning of the Belconnen and Woden districts from the 1960s onwards, and later, in much of the Tuggeranong and Gungahlin districts.

### 3.2 Current Statutory Planning Policy

The hierarchy of centres is set out in the ACT's strategic plan (i.e. currently the Spatial Plan) and the statutory Territory Plan.<sup>9</sup> Within the latter, Civic, the town centres, and the group centres are made up of combinations of three different Commercial zones (i.e. the CZ 1 Core Zone, the CZ 2 Business Zone, and the CZ 3 Services Zone), while local centres have their own zone (i.e. the CZ 4 Local Centre Zone). Each of these different centre types has an associated development code which sets out various policies used in the assessment of development applications as per the requirements of the *Planning and Development Act 2007*.

The most relevant policies (in terms of competition) are those restricting the sizes of supermarkets in different locations. In short, the Territory Plan's current policies seek to direct supermarkets to 'core' areas within centres, for a number of reasons. However, it is recognised that such policies may make it difficult for new supermarket competitors to find sites (given past land release and development decisions). The table below outlines the maximum sizes for supermarkets (in terms of gross floor area) in different zones within different centres.

*Table 3: Planning Controls for Maximum Supermarket Size in Different Centres, Gross Floor Area<sup>10 11</sup>*

	<b>City</b>	<b>Town centres</b>	<b>Group centres</b>
CZ 1 – Core Zone	No maximum size	No maximum size	No maximum size
CZ 2 – Business Zone	Not applicable	Non-mandatory 200m <sup>2</sup> limit	Mandatory 100-300m <sup>2</sup> limit (depending on location)
CZ 3 – Services Zone	Mandatory 200m <sup>2</sup> limit	Mandatory 200m <sup>2</sup> limit	Mandatory 300m <sup>2</sup> limit (except for a specified block at Chisholm with a 1500m <sup>2</sup> maximum)

For local centres (i.e. the CZ 4 Local Centre Zone), there is currently no quantified maximum size for supermarkets, however, Criterion 33 within the Local Centres Development Code provides that:

<sup>9</sup> Both the Spatial Plan and relevant codes within the Territory Plan are currently under review. A draft revised ACT Planning Strategy to update the Spatial Plan has recently been released for public consultation. The policy content of the Territory Plan is being reviewed in stages, having commenced with reviews with policies for the Community Facility Zone and residential development.

<sup>10</sup> 'Non-mandatory' refers to where a 'criterion' complements a 'rule' and allows for development applications to be assessed in a non-prescriptive, performance-based manner (i.e. against the performance 'criterion').

<sup>11</sup> The Territory Plan defines 'gross floor area' as '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'. Gross floor area should not be confused with other spatial measures sometimes used in relation to retail architecture.

'A proposal to carry out development in a local centre must have regard to any significant adverse economic impact on other commercially viable local centres.'

Historically, this policy has been generally intended to restrict supermarket sizes at local centres so as to avoid the cannibalisation of trade by one 'over-developed' centre from other centres, with the intention of ensuring that a maximum number of local centres retain economic viability and are thus able to provide convenience shopping services.

### *3.3 Planning and the Level of Supermarket Floorspace Supply*

While the Government does, in some ways, regulate the level of supermarket floorspace through the planning system to pursue various public policy interests, this regulation is bounded, with existing and would-be supermarket sector participants having considerable freedom to operate within the market.

In greenfield areas, sites for new centres are identified within the structure and concept planning of new suburbs. The size of these centres will generally be based on projections of per capita floorspace demand using industry benchmarks and spatialised retail modelling conducted by the Environment and Sustainable Development Directorate. Sites may then be released specifically for supermarkets (through lease controls) or more generally for a range of commercial land uses including potentially a supermarket if a developer or operator believes there would be demand for such a facility.

Post land-release, the ACT's planning system does not regulate market entry or exit behaviours of particular supermarket operators. If a circumstance arises where a development application needs to be submitted, such as, for example, if a supermarket expansion or centre redevelopment is proposed, the application is assessed on its merits against the relevant provisions of the Territory Plan. In such cases, the planning system does not assess the proposal against targets or quotas for floorspace. The operator of a supermarket, thus, is not a matter for consideration within the Territory Plan. Within the broader constraints of the Territory Plan in terms of issues such as (for example) building height, set back, or plot ratio controls, market participants are largely free to propose more floorspace on suitably zoned land if they believe the market will bear such an increase.<sup>12</sup>

These arrangements therefore do not view 'oversupply' as a public policy issue except in very specific circumstances. As discussed above, the most significant of these would be an 'oversupply' of floorspace at one local centre which might undermine the viability of other nearby local centres. In keeping with best practice recently suggested by the Productivity Commission, the Government's primary policy concern in managing change impacting on

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<sup>12</sup> There is, however, a potential restriction on the withdrawal of supermarket floorspace through redevelopment at local centres, see Rule 6 and Criterion 6 of the Local Centres Development Code.

local centres is the viability of those centres and consumers' interests rather than the competitive impacts of change on individual businesses as such.<sup>13</sup>

Overall, the Government's general view is that the risks of taking an overly-restrictive policy stance would outweigh the risks of 'oversupply'. While the latter may in extreme cases lead to 'retail blight' (or shop closures) at some centres, the former would likely stifle innovation and beneficial competition. The Government believes that it is important to recognise that the poor performance of individual businesses or shopping centres is often as much a function of factors such as the attractiveness of business' offers, or investment and maintenance decisions by shopping centre owners, as the quantum of competing floorspace.

Table 4, based on 2010 retail expenditure modelling commissioned by the Environment and Sustainable Development Directorate, suggests there is some scope to expand supermarket floorspace in the ACT from the perspective of expenditure per square metre of floorspace benchmarking.

Across Australia, it is understood that supermarket planning sometimes uses turnover benchmarks in a range between \$8000-\$10000 per square metre of floorspace (these figures are technically known as 'retail turnover densities' or RTDs). In 2010 it was estimated that the Canberra average supermarket RTD was \$12,114. Geographically, estimated average RTDs varied from \$11,514 in Tuggeranong to \$13,216 in Gungahlin.

*Table 4: Estimated Retail Turnover Densities ACT Supermarkets by Centre Type and District (2010)*

Centre Type	Belconnen	Gungahlin	Canberra Central	Tuggeranong	Woden & Weston Ck	Average
Town	12852	13727	10838	11631	14164	12669
Group	12017	0	13425	11970	12587	12345
Local	10594	10401	11008	9534	10555	10519
District Average	12026	13216	11816	11514	12857	12114

Source: 2010 ACT Retail Model, Environment and Sustainable Development Directorate

The Government recognises that care should be exercised in using benchmarks for planning purposes. Intellectually, the practice of benchmarking proceeds from the proposition that past assumptions and practices will remain valid or appropriate in the future. In the case of supermarket retailing, the use of benchmarks assumes (for example) that all producers face common costs, that they similarly have a common expected rate of return, and that consumer spending behaviours are largely fixed. Accordingly, the Government does not set benchmarks as formal targets in its planning and policy-making, but uses the practice among

<sup>13</sup> See Productivity Commission (2011) *Performance Benchmarking of Australian Business Regulation: Planning Zoning and Development Assessments*.

others in understanding the sector and evaluating the potential impacts of decisions and interventions.

## 4. The Implementation of the Policy to Date and its Impacts

The implementation of the Government's supermarket competition policy – that is, the directions set out in the SCPIP – has to date had three dimensions: 1) administrative initiatives; 2) strategic land release; and 3) the review of planning policies.

### 4.1 Administrative Initiatives

The administrative implementation of the Government's supermarket competition policy has seen the creation of an inter-departmental (now, inter-directorate) committee, known as the Supermarket Competition Coordination Committee (SCCC). As well as advising the Minister for Economic Development and Cabinet on supermarket-related matters, the SCCC also advises other relevant administrative committees such as the Direct Sale Eligibility Assessment Panel. In providing advice on land release and planning policy matters the SCCC considers several factors specified within the SCPIP:

- the commercial and community characteristics of a particular centre;
- the nature, existing presence and capabilities of a proposed supermarket operator;
- the competitive supermarket dynamics in the local and wider area including the potential to facilitate new wholesaling operations;
- the price and non-price nature of the proposed supermarket operator including source and quality of fresh produce and the levels of customer service;
- impact on competition in the wholesale market for groceries and liquor; and
- amenity issues including impact on surrounding development and infrastructure such as road access.

The SCCC is also in the process of reviewing supermarket competition policy issues as they relate to local centres in the context of the Martin Report's call for the growth or 'evolution' of local centre supermarkets in some circumstances.<sup>14</sup>

The SCCC is required to report annually to Government on its activities in implementing the SCPIP and on events, issues, and trends within the sector.

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<sup>14</sup> See, the Martin Report, Recommendation 9, p. 24. At some local centres the expansion of supermarkets may entail a reduction in the number of, or space available to, other specialist shops.

## *4.2 Strategic Land Release*

As the Martin Report suggested<sup>15</sup>, the Government's main policy lever to facilitate desired outcomes in the supermarket sector is through the release of unleased Territory land whether through a competitive process or, in certain circumstances where there is a clear public interest to do so, through direct sales. Following the Martin Report's recommendations, SCIP-associated land release initiatives have been spatially focused on group centres, and on competition within the full-line market.

In this vein, in May 2010 the Government announced a suite of land releases for new supermarkets at the Kingston, Dickson, Casey, and Amaroo group centres. Land release elsewhere has also been proposed by supermarket operators and considered by the Government. The progress of these and other land release initiatives are outlined below.

It is imperative to note that the Government's approach is not 'anti-Woolworths' or 'anti-Coles' but pro-competition. To the extent that the major supermarket chains are treated differently by the Government's policy, this is a function of specific circumstances, for example, such as where a major chain already operates within a catchment and that further land release to it would, in effect, be restrictive of competition rather than pro-competition.

### Kingston

The Government's May 2010 announcement provided for the release of a site with a pre-commitment to Supabarn for a 3400m<sup>2</sup> full-line supermarket, with a deed of agreement being subsequently reached between Supabarn and the Government. In June 2011, ESDD released a master-plan for the group centre as a whole, including identifying a site for a supermarket at Section 19, Blocks 47 and 48 as part of a future mixed use development. Work will be undertaken to progress land release consistent with the vision articulated in the master-plan.

### Dickson

The Government's May 2010 announcement provided for the direct sale of a site to include a full-line supermarket of 3500m<sup>2</sup> to any supermarket operator other than the incumbent in the Dickson group centre (Woolworths). The master-plan for the centre released by ESDD in May 2010 nominated Block 19, Section 30 for this purpose. Since then work has been undertaken to progress the release of land consistent with the vision articulated in the master-plan. The Government is also committed to releasing land for an Aldi at the centre.

### Casey

Within its May 2010 announcement, the Government indicated that the purchaser of the site for the planned Casey group centre would be required to sell a supermarket site to Aldi,

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<sup>15</sup> See, the Martin Report, p.77

a site to Supabarn, and hand-back a third site to the Government for potential future release three years after the construction of the Supabarn. On 16 May 2011, Worth Street Pty Limited purchased the group centre site from the Land Development Agency (LDA). An estate development plan is expected to be submitted in due course.

#### Amaroo

Within its May 2010 announcement, the Government indicated that the purchaser of the site for group centre planned for the suburb of Amaroo would be required to sell a supermarket site to a purchaser other than Woolworth or Coles. Community consultation around the design of the group centre was conducted by the LDA in March 2011 and it is expected that a land release process will commence early in 2012 following land servicing.

#### Chisholm

The Government has agreed to the direct sale to Aldi of an unleased block at the Chisholm group centre subject to their receiving development approval. The sale was announced in July 2011.

#### Local centres

Direct sale applications for contiguous land have been received from a number of local centre supermarket operators or owners seeking to expand, with these having reached various stages of processing.

#### Wholesaling

Following its decision to vacate the site of the wholesale warehouse it established at the Canberra Airport in 2010, Supabarn has recently expressed a desire to secure land for a distribution warehouse elsewhere. The Government remains, in principle, supportive of such plans with it being anticipated that a new wholesaling warehouse could be established at an industrial site such as Mitchell or Fyshwick.

### *4.3 Planning Reform*

Supermarket competition matters have also been considered within planning policy reforms currently underway. The ACT's statutory planning document, the Territory Plan, is currently undergoing a staged review. In May 2011, a public discussion paper with a focus on the objectives and structure of the Commercial zones, the Group Centres Development Code, and the Local Centres Development Code was released by the Environment and Sustainable Development Directorate. Among the other issues raised, it canvassed the public's views on policies relating to supermarkets, including the possible expansion of the CZ 1 Core areas of centres, the revision of supermarket size restrictions within centres' CZ 2 Business and CZ 3

Services zones, and a possible specified maximum size for supermarkets at local centres.<sup>16</sup> Consultation closed in July 2011 and ESDD is in the process of considering possible policy changes.

ESDD has also addressed supermarket competition through its group centre master-planning program. The Dickson and Kingston master-plans both made provision for further supermarket sites in those centres, and new supermarket development has been proposed in the draft Kambah Village master-plan recently released for public consultation.

#### *4.4 Impacts of the SCPIP*

It is difficult to assess thus far the impacts of the administrative, land release processes, and planning reform processes initiated since the introduction of the SCPIP. However, within Government it can be said there is now stronger awareness and understanding of supermarket sector issues and dynamics, and greater institutional capacity to address issues associated with the sector in the future.

Beyond the Government, as the land sales announced in May 2010 are completed, and new supermarkets are constructed and opened, it is expected that tangible benefits to consumers will become observable. The SCCC expects that it will be in better position to evaluate the possible price and other effects of the current SCPIP at this time. Further land releases potentially resulting from group centre master-planning processes, and planning policy changes arising from the review of the Territory Plan are also expected to improve competition and choice within the ACT retail grocery market in so far as they enable the emergence of new supermarkets in the redevelopment of centres. As of the present moment, and not insignificantly, the main external impact of the SCPIP has perhaps been to signal to the ACT community and the business sector the Government's willingness to take strategic action to ensure the better functioning of key markets, including to enhance choice and diversity for consumers.

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<sup>16</sup> The Commercial zones policy review discussion paper is available at:  
[http://www.actpla.act.gov.au/data/assets/pdf\\_file/0020/21296/Commercial\\_zones\\_policy\\_review\\_discussion\\_paper\\_web.pdf](http://www.actpla.act.gov.au/data/assets/pdf_file/0020/21296/Commercial_zones_policy_review_discussion_paper_web.pdf)

## 5. Conclusions and Looking Ahead

The ACT Government's supermarket competition policy attempts, through strategic interventions, to improve competition within the ACT grocery retailing and wholesaling markets and to, ultimately, ensure that consumers are able to choose between retailers providing a wide range of competitively-priced groceries. The policy proceeds from the considered assessment that taking evidence-based action will likely lead to better outcomes than a 'do-nothing' approach would, given the current structure of the market and past planning and development decisions.

The two major national supermarket chains control a very substantial proportion of the ACT's full-line grocery retailing market. While this is not in itself necessarily problematic, one or the other of the major chains tend to dominate many of the various geographic sub-markets within Canberra, particularly group centre catchments where there is only a single full-line supermarket at that group centre. Accordingly, the Government believes that increased supermarket land release at group centres, whether for competing full-line supermarkets or Aldi outlets, is desirable.

Further, while the convenience shopping and weekly grocery shopping markets (primarily provided at local centres and group/town centres respectively) are believed to be differentiated to some extent, it is believed there is scope to allow some local centre supermarkets to expand so as to enhance their viability within the broader ACT grocery market and improve their offer to consumers.

While recognising the limited capacity of the ACT Government to influence the wholesale market, it is nonetheless believed that there is potentially some value in facilitating greater competition within grocery wholesaling as opportunities arise.

In the period since the release of the Martin Report, the sector has subsequently seen a number of notable events. These include:

- the arrival of the large American wholesaler Costco, which has commenced operations from premises at Canberra Airport;<sup>17</sup>
- the new Chairman of the ACCC recently indicating that he intends to potentially take a more activist role in addressing competition across a number of sectors, including the supermarket sector;<sup>18</sup>
- an announcement by the Woolworths group of its intention to open a very large retailing operation at Canberra Airport incorporating a large supermarket, a Big W, and a Dick Smith;

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<sup>17</sup> While the Government welcomed the arrival of Costco at the Canberra Airport, it should be noted that planning decisions around retailing development at the Airport are made by the Commonwealth.

<sup>18</sup> ACCC (2011) 'ACCC will closely watch use of market power warns ACCC Chairman', Media release, 18 October

- the opening and closure of a wholesaling operation at Canberra Airport by the Supabarn group;
- the Woolworths group demonstrating interest in commencing operations at the local centre level in the ACT<sup>19</sup>; and,
- the Coles group undertaking major refurbishments of a number of its supermarkets across Canberra, and expressing a desire to expand operations in a number of group centres in direct competition with Woolworths.

The Government recognises that its supermarket competition policy will likely need to adapt over time to reflect events such as these and other changing circumstances. Over time, it will be important to evaluate the actions taken previously and observe developments in what is a very dynamic market.

Overall, the Government's approach is nuanced. It recognises and affirms long-standing policy goals, such as an effectively functioning hierarchy of centres and viable local centres, but also that in some circumstances there may be a community benefit in change from the status quo. It is recognised there may be limits to the amount of supermarket retailing that can be supported across the Territory as a whole or within geographic sub-markets without there being potential impacts on the operation of Canberra's hierarchy of centres. In some cases change may have effects on individual businesses. However, such risks need to be, and indeed are, carefully considered against the Government's obligation to pursue the broader public interest in a dynamic, competitive grocery retailing sector.

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<sup>19</sup> Including at Dunlop, Bonner, <http://www.realcommercial.com.au/property-retail-act-bonner-5792457> (accessed 17 October 2011), and Giralang, <http://www.accc.gov.au/content/index.phtml/itemId/885636/fromItemId/751043>

## **Appendix 'A' – Recommendations of the Martin Report**

### **Recommendation 1**

The review recognises that while there is reasonable supermarket competition in the ACT region retail grocery market, there is a need to address:

- a shortage of larger full line supermarket capacity generally in central Canberra and Gungahlin; and
- 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.

### **Recommendation 2**

Given the trends identified, planners and decision makers in the ACT need to ensure there is an adequate response to market and competition signals demanding larger format supermarkets relative to overall size of centres. This includes reinforcing efforts to ensure local centre viability by enabling some local supermarkets to expand. This should be complemented by a more flexible approach to allow new entrants into new area development and in existing group centres.

### **Recommendation 3**

The supermarket competition policy in the ACT requires substantial overhaul to address impediments in the planning and development regime. 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.

### **Recommendation 4**

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.

### **Recommendation 5**

Any form of cap on the market share of participants should be rejected.

### **Recommendation 6**

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.

### Recommendation 7

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 competitive tension, choice and diversity.

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).

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.

### Recommendation 8

The ACT Government endorse the above market and competition analysis approach together with the adoption of suitable eligibility criteria to identify and facilitate entry by new full line supermarket competitors.

### Recommendation 9

Establish... a formal co-ordination 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:

- 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.

### Recommendation 10

CMD [to establish and chair] a forum between the key agencies and industry stakeholders to periodically (at least yearly):

- 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.

### Recommendation 11

Urgent attention be given to Central Canberra... [and]...addressing the shortage of full line supermarket capacity and competition in some existing central Canberra group centres (south Canberra/ Kingston; north Canberra/ Dickson).

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.

### Recommendation 12

The Government should progressively review other group and town centres, moving away from the "one size" fits all approach, learning from and drawing on redevelopments such as Jamison where new entry and expansion of existing supermarkets has improved competition.

### Recommendation 13

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 centres, Local centre independent stores could be boosted if moves to increase independent wholesale competition are successful.

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.

For existing local centres facing sustainability pressures, solutions should be based on conversion to intense, multi story residential usage combined with a proportionately scaled commercial and convenience usage.

### Recommendation 14

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.

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.

Recommendation 15

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.

Over time it would be appropriate under the overarching framework to review other group and town centres.

As stated in Recommendation 13, reinforce the ACTPLA market driven approach to new local centre development and renewal. For declining local centres facilitate conversion to intense, multi-story residential usage combined with a proportionately scaled commercial and convenience usage.

## **Appendix 'B' – List of Group Centres**

- Calwell
- Chisholm
- Curtin
- Erindale (Wanniassa)
- Jamison (Macquarie)
- Kingston
- Manuka (Griffith)
- Weston
- Wanniassa
- Charnwood
- Conder
- Dickson
- Hawker
- Kaleen
- Kambah
- Kippax (Holt)
- Mawson

It is also anticipated that new group centres will be developed at Casey and Amaroo in the near future.