



**LEGISLATIVE ASSEMBLY FOR THE AUSTRALIAN CAPITAL TERRITORY**

**SELECT COMMITTEE ON ACT SUPERMARKET COMPETITION  
POLICY**

(Reference: [ACT supermarket competition policy](#))

**Members:**

**MS C LE COUTEUR (The Chair)**  
**MR J HARGREAVES (The Deputy Chair)**  
**MR Z SESELJA**

**TRANSCRIPT OF EVIDENCE**

**CANBERRA**

**WEDNESDAY, 18 APRIL 2012**

**Secretary to the committee:**  
**Mr A Snedden (Ph: 6205 0199)**

**By authority of the Legislative Assembly for the Australian Capital Territory**

Submissions, answers to questions on notice and other documents, including requests for clarification of the transcript of evidence, relevant to this inquiry that have been authorised for publication by the committee may be obtained from the Legislative Assembly website.

## **WITNESSES**

<b>GOSS, MR RUSSELL</b> , Policy Manager, Australian National Retailers Association .	<b>1</b>
<b>HARATSIIS, MR BRIAN</b> , Chief Economist, MacroPlan Dimasi .....	<b>32</b>
<b>HENRICK, MR KEN</b> , Policy Manager, Master Grocers Australia .....	<b>8</b>
<b>HOLBOROW, Mr Wayne</b> , Design and Development Manager, Leda Holdings Pty .....	<b>44</b>
<b>MARA, MR CHRIS</b> , Government and Regulatory Affairs Manager, Coles.....	<b>32</b>
<b>MILLS, MR CHRIS</b> , National Property Manager, Coles .....	<b>32</b>
<b>MOODIE, Mr Wayne</b> , Regional Manager, NSW/ACT, Colonial First State Global Asset Management .....	<b>44</b>
<b>NOLAN, MR PETER</b> , Spokesperson, Giralang Residents Action Group .....	<b>53</b>
<b>OSMOND, MS MARGY</b> , Chief Executive, Australian National Retailers Association.....	<b>1</b>
<b>PETSAS, MR ARTHUR</b> , Director, Argos Pty Ltd .....	<b>17</b>
<b>WHEELER, MR CHRIS</b> , Partner, King & Wood Mallesons.....	<b>25</b>

## **Privilege statement**

The Committee has authorised the recording, broadcasting and re-broadcasting of these proceedings.

All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege.

“Parliamentary privilege” means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively, and enable those involved in committee processes to do so without obstruction, or fear of prosecution.

Witnesses must tell the truth: giving false or misleading evidence will be treated as a serious matter, and may be considered a contempt of the Assembly.

While the Committee prefers to hear all evidence in public, it may take evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly; but any decision to publish or present in-camera evidence will not be taken without consulting with the person who gave the evidence.

*Amended 9 August 2011*

**The committee met at 10.02 am.**

**GOSS, MR RUSSELL**, Policy Manager, Australian National Retailers Association  
**OSMOND, MS MARGY**, Chief Executive, Australian National Retailers Association

**THE CHAIR:** Good morning. I would like to welcome you to this hearing of the inquiry by the Select Committee on ACT Supermarket Competition Policy. I thank you very much for attending via teleconference. I understand that you have been sent a privilege statement. Can you confirm that you have read this and understand the privilege implications?

**Mr Goss:** Yes.

**Ms Osmond:** Yes.

**THE CHAIR:** Thank you very much. Before we go to questions, is there an opening statement that you would like to make?

**Ms Osmond:** Sure, if you do not mind.

**THE CHAIR:** Certainly.

**Ms Osmond:** I will take a minute to give you a positioning on who we are and what our thoughts are before we go to a more detailed discussion. Could I start by thanking you for giving us the opportunity to take part and also to do it “remotely”. Please accept our apologies for not attending in person.

ANRA, as an organisation and representing its members, certainly welcomed the review and the further discussion by the committee of this matter. ANRA, you may be aware, represents some of the largest retailers in the country. I make this point only because there are a number of retail organisations, and for clarity’s sake in the industry sector all of our members have an annual turnover in excess of \$100 million. It is quite a small membership but they are effectively national retailers; therefore we are speaking on a larger national stage with the ACT being an important part of that marketplace.

In terms of the original policy, certainly we understand that its original reason for being was to encourage new supermarket entrants into the ACT market. The key reasons for this were to drive a higher level of competition and effectively lower prices for customers, which is, of course, a critical issue that exercises our members’ minds on a daily basis.

The original policy was motivated by what we think is a perception of what a lack of competition looks like, and a flawed perception at that. It does not recognise the fact that they genuinely create competition in other parts of the country. It does not understand or allow for those things that generate lower prices and a better range for customers and consumers. It flies in the face of some fairly significant reviews in this space that have occurred over the last several years, not the least of which are the Productivity Commission inquiry from last year, the ACCC inquiry and, of course, the

COAG findings not so very long ago. So from our perspective we are very happy to be having this conversation this morning, and once again we thank you for the opportunity.

**THE CHAIR:** Thank you very much. You said there were factors that genuinely created competition in other parts of the country. What specifically are you referring to there that we could do better in the ACT?

**Ms Osmond:** Effectively what we know is that the presence of the large operators like Coles or Woolworths generates lower prices. It generates a level of competition and the absence of them leads to higher prices. Effectively, whether we like it or not, the independent operators nine times out of 10 will be charging much higher prices.

**THE CHAIR:** But we have got the large operators in the ACT. They have, between the two of them, about 80 per cent of the market, so clearly we have got that. Are you suggesting something else?

**Mr Goss:** The data we have got from our members, if you take a floor space measure, shows that the combined majors are around the 60 to 65 per cent mark, with the independents currently at around 35 per cent. What is the basis for the estimate of 80 per cent market share by the two majors?

**THE CHAIR:** We have a million submissions, some of which give figures around those numbers.

**Ms Osmond:** It may very well be that that is the figure that is quite often quoted as a national slice of the market and it is not entirely accurate.

**THE CHAIR:** In the interests of brevity I will not bother finding the references. Basically you are saying that the ACT should have more Woolies and Coles, regardless of what percentage we currently believe we have now. Is that the message?

**Ms Osmond:** Basically we are saying that a more competitive marketplace is one that is left open to the marketplace to determine as opposed to government intervention in the players that are or are not allowed to be part of the marketplace.

**MR HARGREAVES:** Thanks very much for making yourselves available. In the executive summary of your submission you recommend that the ACT government ceases to operate a specific supermarket competition policy. Does that mean that you believe the marketplace itself should set the levels of competition?

**Ms Osmond:** The ACCC previously has found that there is workable supermarket competition in Australia. We believe that is the case. Certainly, from a consumer's point of view, with respect to prices that are available to them, there are lower prices where there are as many entrants as possible in the marketplace. Please do not for a moment think that we are saying that this is only about Coles and Woolies. Our members are very heavily in favour of as much competition as possible.

**MR HARGREAVES:** How can that competition be assisted? If we look at the resources available to the major groups as against the smaller operators, we seem to

see that the larger groups have a lot more resources at their disposal, such that they can outbid for blocks of land, within the territory particularly. Therefore the opportunity for the smaller operators, even if they collect together to operate a large floor area supermarket, just does not exist. Do you have any views on that?

**Ms Osmond:** I have seen significant growth in groups like Aldi, IGA and Costco without the benefit of this kind of intervention in other parts of the country. From our perspective I suppose there is an element there that if the land in question is owned by the ACT government, achieving a maximum outcome from that process of leasing the land would seem to us to be a major priority for the taxpayers of the ACT as well.

**Mr Goss:** Another key point to consider is that in some instances a group of smaller independents just cannot provide the goods and services that are ultimately it is going to be of benefit to ACT consumers when Coles and Woolworths are in a position to provide that.

**THE CHAIR:** I have found one of the many references to the market share of Woolies and Coles. In submission No 4—there are many other references—on page 3, figure 2, it has Woolworths at a little over 60 per cent and Coles at a fraction less than 30 per cent of the full-line supermarket share in the ACT. There are figures similar to that scattered throughout the 22 submissions that we have. So there seems to be some level of lack of clarity in terms of the shares of the various full-line supermarkets. I know that figure is only full-line. I could find some other figures but I know that full-lines have a large proportion.

**Mr Goss:** Yes, the floor space measure that I discussed earlier considered a broader definition. We will have to go over our numbers and look at the subset of full-line supermarkets rather than the broader floor space of all supermarket operations in the ACT.

**THE CHAIR:** Or you might want to take it on notice and look at some of the other submissions. I just found in 30 seconds that there are lots of references to a higher proportion than you have been talking about for Woolworths and Coles.

**MR SESELJA:** One of the concerns that has been put, particularly by independent supermarket operators, is this: if the argument that is being made by ANRA is accepted, that there is basically very little restriction on who buys particular sites and the like, Woolworths in particular but probably both majors will more and more encroach into that smaller supermarket local centre, as we call them in the ACT. Do you have a response to that? Is that something that your members would see as the opportunity that would arise if there are no restrictions on the sale of some of those sites?

**Ms Osmond:** I cannot comment on the individual commercial aspirations of the members in terms of what they may or may not do in that space, but I would have to say to you that critically here this is an issue about customers and what they want. The capacity to provide a full range in a modern, state-of-the-art environment is something that many shoppers clearly want. Some of the provisions in terms of planning restrictions in the ACT are preventing the modernisation of existing stores, which is also an issue.

The important part of this discussion comes back to what customers want. Customers want a great place to shop, they want terrific prices and they want variety. In the end run, from an independent perspective, one of the things that we see, for example, in the fresh fruit and veggie space is that the market share for large supermarkets dropped substantially in that space because shoppers made the decision to want to shop in a variety of different styles of shops. And that drives what is available, because that is what they want. I suppose my response to you would be that this needs always to come back to what the customers want.

**MR SESELJA:** One of your members, Coles supermarkets, has made a submission to the inquiry, and it takes a slightly different approach, I think, from what you are arguing. It says that in some cases Coles should be a beneficiary of direct sales. Is that something that you would agree with? You seem to be arguing that effectively we should just put them out to market, allow the highest bidder and go from there. Would you have a different view from what has been expressed by Coles?

**Ms Osmond:** Coles would undoubtedly be taking a very specific commercial view. From our perspective, ANRA has in the past said on behalf of members, and continues to say, that an open marketplace and as much competition as possible are a good thing. That is in keeping with what the Productivity Commission findings were and our submission.

**MR SESELJA:** In your submission you say that you believe the competition policy is actually pushing up prices, and you cite some evidence. You talk about the IPA study and the like. Are you able to expand a little bit on how you specifically see that the supermarket policy has actually pushed up prices for consumers?

**Mr Goss:** We first consider the case of the presence of Coles and Woolworths within a one-kilometre vicinity, and the evidence referred to by the ACCC grocery review back in 2008. The figures quoted were around 0.7 to 0.8 per cent lower prices if those businesses were located within close proximity to each other. And consider the evidence that was gathered by the Institute of Public Affairs back in 2010. Their investigation into the likely consequences of the government's ACT supermarket policy was that it would likely require the price of groceries at new supermarket sites to be between \$7 and \$13 more expensive than the cheapest ACT supermarket site, that it would increase the mean price of the ACT basket of groceries by roughly \$8 compared to the cheapest basket available in the ACT, and increase the price of the mean basket of groceries in the ACT by \$1.05 or 1.2 per cent after adding an additional third increase on top of inflation.

**THE CHAIR:** Continuing on from where you were quoting in your submission, in paragraph 3.8 of your submission you also refer to this quote:

The presence of the MSCs and ALDI has a positive influence on the competitiveness of pricing in individual regions ...

I think everyone would agree with that. How do you think we should go about ensuring that there are at least three viable supermarket chains?

**Ms Osmond:** The evidence in other parts of the country is that a deregulated marketplace leads to lots of players, and not just three. You have got Coles, you have got Woolies, you have got Aldi, you have got Costco, you have got IGA. Then you have got a wealth of other smaller players in the chain market, all of whom are showing good growth figures.

I think the important thing to keep in mind too is that in a fairly desperate and difficult time for the retail sector anything that promotes that growth, particularly within the supermarket sector, because it is the one that is largely still creating jobs within the sector—one of the things that we see within the discretionary spend part of the retail community, which is sort of fashion, books, videos, electronics, all those sorts of things, is a significant drop for a whole range of reasons in terms of the ill health of the sector and people's willingness to spend.

But supermarkets continue to be a really critical part and there is growth in all of those players. So I suppose what we are saying is that in places that do not have that kind of supermarket policy there are even more players and they are thriving, all of them.

**MR SESELJA:** In paragraph 5 of your submission you offer an alternative approach. Then in paragraph 5.1 you say, effectively, that one way to do it would be offering more sites for development across the ACT. What exactly do you mean by that? Do you think that the number of sites at the moment is not sufficient? I am not quite sure what you mean by that conclusion.

**THE CHAIR:** Where would these sites be that are not being offered?

**Mr Goss:** In terms of specific locations, I do not think ANRA is in a position to detail that at this point. I think we would have to take that on notice, but—

**MR SESELJA:** I am interested to get to the bottom of what you mean because it is clear that obviously you want to see as much open competition as possible and as few restrictions by government when they release sites and throw them open to the market. I think that is clear. I am just trying to get to the bottom of it. When you say “more sites”, do you think that at the moment, quite aside from the mechanism of release of those sites—that there simply are not enough supermarket sites being released to the market at the moment?

**Mr Goss:** I think for us it was purely a question of barriers to entry for a potential entrant in however you want to define an area. I do not have a magic number of supermarket sites that ANRA thinks is appropriate for the ACT, but certainly, intuitively, if more sites are on offer for potential entrants who have been excluded from bidding for other sites, we are likely to see an increase in competition.

**Ms Osmond:** I suppose it also creates a kind of sensation that the ACT is open, from our point of view. You are seeing so many new players come in in the food space—the Costcos of this world and others—that a sensation that it will be easy to do business and get on with developing sites in the ACT would lend a lot more value to the willingness of other players to enter the market.

**THE CHAIR:** Who are these other players who you think have not entered the ACT market because they do not think it is open for business? We have got a Costco here, of course.

**Ms Osmond:** I suppose I am making a generic statement there in that in the wider sense within the retail community there are new brands of stores coming in all the time. Costco is relatively new to the Australian market and there will be more players. There is a whole range of discussion at the moment about which other overseas supermarket players may choose to enter the Australian market.

While I cannot give you specific names at the moment, it is a given that there will be more players and there will be more opportunities. So I am flagging it with you as something that should be considered in the future.

**THE CHAIR:** One of the things which a number of the submissions to us have pointed out is that there is a large increase in retail floor space in the ACT that has both happened recently and that is planned—Costco being one of them, the new large Woolies out near Costco and quite a few other developments, such that it appears that the ACT will have a very high, and certainly higher than we have had in the past, retail floor space, supermarket floor space, compared to our population. What effect do you think this is going to have?

**Ms Osmond:** Bottom line: if people do not want to shop there and it is not going to make a buck, it will not get developed. If people are expressing an interest in wanting to shop and having the opportunity, there will be an appetite for more development. Effectively if there has been growth it would have been the product of consumer demand.

**THE CHAIR:** And you do not think it is going to lead to any closed shops, because that is obviously one of the major concerns in the ACT, that there is growth in some areas and it is going to lead basically to other shopping centres dying?

**Mr Goss:** ANRA by no means argues for the protection of some businesses that may no longer attract the demands of locals where a newer and, in the views of consumers, better offer is available to them. We think that if a large amount of retail floor space is developed, then that can only benefit ACT consumers. It is likely to reflect a larger variety of goods on offer and potentially greater access.

**THE CHAIR:** Mr Hargreaves?

**MR HARGREAVES:** Not just yet.

**THE CHAIR:** I think we have possibly come to the end of our questions. Thank you very much for attending by phone today.

A transcript will be sent to you and you will have a chance to correct this if there are any issues. Would it be okay if we do think of some subsequent questions to send them to you as questions on notice?

**Ms Osmond:** Absolutely; no dramas at all.

**THE CHAIR:** Thanks, because I think after the day and a half of hearings it is

possible we may come back with some more things for many of the witnesses. Thank you very much on behalf of the committee.

**MR SESELJA:** Thanks very much.

**MR HARGREAVES:** Yes, thank you.

**HENRICK, MR KEN**, Policy Manager, Master Grocers Australia

**THE CHAIR:** Thank you very much for agreeing to take part early and I would like to welcome you today on behalf of all the committee.

The first thing I need to do is draw your attention to the privilege statement which I understand you have been sent. Can you confirm that you have seen it and you agree to it?

**Mr Henrick:** No, I have not seen it.

**THE CHAIR:** Okay, in that case—

**Mr Henrick:** It will have been sent but my hard drive, my computer, collapsed on Friday.

**MR HARGREAVES:** I had the same problem. Mine collapsed on Friday too.

**THE CHAIR:** Okay, in that case I will read it to you. The committee has authorised the recording, broadcasting and rebroadcasting of these proceedings. All witnesses making submissions or giving evidence to committees of the Legislative Assembly for the ACT are protected by parliamentary privilege. Parliamentary privilege means the special rights and immunities which belong to the Assembly, its committees and its members. These rights and immunities enable committees to operate effectively and enable those involved in committee processes to do so without obstruction or fear of prosecution.

Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly. While the committee prefers to hear all evidence in public, it may be taken as evidence in-camera if requested. Confidential evidence will be recorded and kept securely. It is within the power of the committee at a later date to publish or present all or part of that evidence to the Assembly, but any decision to publish or present in-camera evidence will not be taken without consulting the person who gives the evidence.

Now you have heard them, are you happy to agree to the conditions?

**Mr Henrick:** Yes, I understand that statement. Thank you very much.

**THE CHAIR:** Thanks. So this hearing is being broadcast live. It is not much of a broadcast given that you are disembodied by phone. Nonetheless, at least the audio will be comprehensible. Thank you very much for agreeing to appear today. Before we go on to questions, is there an opening statement that you would like to make?

**Mr Henrick:** Yes, very briefly. The ACT market is an extremely concentrated supermarket market, one of the most concentrated within Australia, remembering that the Australian market with the combined market share for Woolworths and Coles of about 80 per cent is the highest in the world by very, very far. The ACT market is somewhere in excess of a 90 per cent market concentration for the chains.

Those figures are really quite extraordinary in the international context. The top four supermarket chains in the United Kingdom have about 80 per cent. The top two chains in the United States, which has the largest retailer in the world, Walmart—Walmart and Kroger have a combined share in the United States market of about 20 per cent. So from that you can see that what we have in Australia is quite remarkable internationally.

**THE CHAIR:** Yes. We have had quite a bit of evidence of that, but I actually quoted those figures back to ANRA. They said they believe that the two majors are in fact only 65 per cent.

**Mr Henrick:** Yes, but they have been dodging these figures for a number of years now. The reality is that when they quote that lower figure they are quoting what is called a share of stomach.

**THE CHAIR:** Share of stomach? What does that mean?

**Mr Henrick:** They are including in that data all food sales—basically, all food sales, not just supermarket sales. So they are trying to include delis and restaurants and all sorts of other sales, not supermarket sales.

**THE CHAIR:** So restaurants? That is—

**Mr Henrick:** I am not sure about restaurants but they are certainly including broader food sales than just supermarket sales, which has the effect of making their market share look smaller. It is not, in fact, small. Within the supermarket sector, which is what we are talking about, the market share, from a variety of data collection sources, is around 80 per cent. It varies depending on the assumptions that you make in the data collection but it is within the range of 77 to 81 per cent and most of the data sources say that it is about 80.

**MR SESELJA:** You are talking about market share. What is your assessment then of floor space? Floor space is one of the things they were quoting. So when you look at the supermarket sector, what is your assessment of the two majors' share of floor space in the ACT?

**Mr Henrick:** I do not have those figures available to me but—

**MR SESELJA:** Is that something you could get to the committee?

**Mr Henrick:** my understanding is that floor space and market share are pretty directly related. It means that if they have got 80 per cent or 90-plus per cent of the market share in the ACT they have got the vast majority of the floor space already. What you need to consider in that is that they have the floor space in the town centres and the group centres where most of the foot traffic is. That is where most of the customers are and that is why they have the market dominance that they have.

**MR HARGREAVES:** Does this share that you talk about include such things as fresh food marketplaces?

**Mr Henrick:** No. We are talking about supermarkets.

**MR HARGREAVES:** In terms of their claim that it is 65 per cent and not 90 per cent—

**Mr Henrick:** No, the 65 per cent figure includes other types of retailing. It is apart from supermarkets and grocery. That would include delis and primary fruit and vegetable shops and places like that.

**THE CHAIR:** Is there some document anywhere comparing these two models? It is a significant issue for us that we basically have one set of people saying, “We do not really dominate the market,” and the other set of people saying, “No, these two really do dominate the market.” It is going to make it difficult.

**Mr Henrick:** I have never seen that figure but I can certainly provide the committee with a report that my former organisation commissioned a couple of years ago. The work was done by Accenture. And they made the point that because all of the data is collected on different bases and different assumptions there is no single figure that everybody can agree on. Having said that, when they go in and analyse the data that is collected by various organisations—AC Nielsen, Planet Retail, IbisWorld et cetera—they come up with that range figure between 77 per cent and 81 per cent, somewhere in there. It is certainly not the figure that the big chains quote to try to minimise the look of the market share.

**THE CHAIR:** If you have got that Accenture documentation that would be useful.

**Mr Henrick:** I am happy to provide that.

**THE CHAIR:** It is a substantive issue to us what the market share of the ACT is.

**Mr Henrick:** I understand. It is a very important issue. Let me tell you that back in the early 1990s Woolworths and Coles used to quote the AC Nielsen market share figures to show how well they were doing in the market because what those figures showed was that they were growing their market share very substantially. Suddenly it became politically difficult for the chains to continue to say, “We are growing our market share,” when everybody thought they had too much market share. So at that point they invented a new set of figures, which are the figures that they now quote.

**THE CHAIR:** Mr Hargreaves.

**MR HARGREAVES:** Thanks very much for your submission. I notice in the conclusion to your submission you talk about the competition policy providing an appropriate policy framework for the introduction of a competition test in the planning regime. Could you expand on that for us?

**Mr Henrick:** Yes. We recommended that to the ACCC inquiry in 2008.

**MR HARGREAVES:** You also seem to support the three-tier hierarchy. Could you expand a bit on that?

**Mr Henrick:** Yes. The three-tier hierarchy is a valid way to look at a market. You have got the local centres, which are very important to local communities within the ACT and, for that matter, within the rest of Australia. They provide convenience and walkability and all the other things that modern town planners talk about. The group centres provide convenience also and are alternatives to the town centres. And the town centres are really the hub of the different regions within the ACT. So we think that is a valid way to plan a town.

I lived in the ACT for many years and I think that there were problems with the original planning of the ACT which resulted in a lot of issues for retailers particularly, retailers not just in grocery but in all sorts of sectors. The town planning back in the early days basically provided that developers came in and built a whole suburb at a time. All the houses were sold within a matter of months. The population grew up there. All the kids left home and went to live somewhere else or went to study in other places and the population of the suburb collapsed over a fairly short period and became unviable for the retailers.

But that is no longer the case. I think the ACT is big enough now to maintain that three-tier system and we think that is a good approach.

**MR HARGREAVES:** Can I ask you for your perspective of the effect on supermarket competition of suppliers to the various supermarkets, the supply chains, say, the Metcash involvement. Do you think that that contributes to the monopolistic approach in the sense that the smaller chains do not have the same access to the bulk suppliers that these others do?

**Mr Henrick:** That is a complicated question. The major chains, Woolworths and Coles, have their own supply chain and distribution system. The independents benefit from the market share that Metcash can acquire. But I know that within the ACT retailing sector there are different points of view on that.

**MR HARGREAVES:** Would the emergence of another big one have an effect, do you think, or would it make not much difference at all?

**Mr Henrick:** The difficulty with introducing another wholesaler into the market is that—and the ACCC inquiry in 2008 found this—if you introduce another wholesaler into the market it may mean that the two wholesalers that would then be in operation would be less viable than the one large one that they have now. I am not saying that it cannot be done. I am not qualified to say that. But I think that on the raw figures it would be difficult for another wholesaler to set up to supply independents.

**MR HARGREAVES:** Harking back to your three-tier system, which is, in fact, as you know, the way we operate here, do you reckon that it supports true competition or would it condemn various players to a segment of the marketplace?

**Mr Henrick:** I am trying to think of the best way to answer that question. I guess that the market at the moment is in three parts—the two big chains plus the independent sector. The way that the ACT system has worked in practice is that the chains have dominated both the town centres and the group centres and the independents have largely been left to the local centres. If the major chains are allowed to continue to

acquire market share and sites, because it is the sites that are the essence of all of this, they will continue to grow their market share and it will get to the point where independent retailers will find it very difficult to survive.

We think that we have seen in the last several years a new tactic being adopted by the chains, in which they go into a local community and build a store that is in fact too large to be supported by the population of that catchment. Therefore, that has two effects. First of all, they keep the other major chains out of that market. The second one is that they destroy independent businesses who are competitors with them in that market. Those independent businesses are not even necessarily grocery competitors. They are simply other businesses that have local pedestrian traffic diverted to a new shop.

We have seen it in places like Maitland, for example, in New South Wales, where the main street used to be High Street and a new Woolworths store went into a centre a couple of blocks away, diverted the foot traffic and most of the shops in that main street are now deserted.

**THE CHAIR:** Mr Seselja.

**MR SESELJA:** You make recommendations about applying a particular test but it is not clear from reading your submission your views on how the current policy is working. So I would like to drill down a little on that, if I may.

**Mr Henrick:** I must admit that I am a bit confused about what has been happening in the ACT. The Martin report, I thought, was a very good report. It put its finger on the essence of the problem, which was market concentration. What Martin recommended was that the acquisition of sites by Woolworths and Coles effectively be frozen until a more competitive market emerged. And he was recommending that the independent sector should be encouraged to acquire full-line supermarkets on any available sites that were coming. That was a good plan. Yet since that time there have clearly been decisions taken there by the ACT government to allow Woolworths and Coles to continue to acquire sites.

If they continue to acquire sites they continue to acquire market share and if you have got 90 per cent of the market in the hands of two big players like that you are not promoting competition if you are allowing them to continue to grow.

**MR SESELJA:** I am interested in exploring this a little further because we are looking particularly now at the implementation. So we had a blueprint and now we are looking at how this is actually playing out and how it may play out in the future. There are a couple of things that have emerged. You have touched on one or two of them. One is—and this has been a concern that has been put to us, I know, by many of your members, I am sure—the size of some of these new local supermarkets. This 1,500 metres seems to be about the new size that is considered acceptable. That is, I think, how it is being implemented at the moment. I am interested in your views as to whether that is a good thing or a bad thing and whether that is viable going forward.

**Mr Henrick:** I think that if we are talking about the local centres—

**MR SESELJA:** That is right, local centres.

**Mr Henrick:** I think a 1,500-square metre supermarket is probably about the right size for a local centre, because it gives them enough flexibility to have the range and diversity of products to be able to be seen as a valid competitor with the largest supermarkets in the group centres and the town centres.

**MR SESELJA:** So your concern would not be around the size of those local centres but presumably—and I do not want to put words in your mouth—about who owns those supermarkets in those local centres?

**Mr Henrick:** That is correct. You are exactly right. If we keep handing sites to Woolworths and Coles, their market share grows and it becomes a matter of whether or not what is available to the independent sector as market share is a viable market share. And if it is not they will collapse. You have seen in the submission the graph that we reproduced from the Accenture report of the way that the Woolworths and Coles market share has grown nationally since 1975. Nothing has happened in planning regulation or in competition law during that period that changed the trajectory of that growth. Unless something is done it will continue to grow like that, and sometime within our lifetimes, I expect, or within yours perhaps, maybe not mine, but within the foreseeable future, there will come a point at which the independent sector will not be viable any longer.

**MR SESELJA:** One other aspect I wanted your views on is in terms of the implementation of the policy. Talking about specific sites and direct grants, obviously you are not fussed about Woolworths and Coles being excluded, but in some cases other independents have been excluded and concerns have been raised in industry about whether or not other IGAs or other independents should be able to bid. In some cases that has not been the case. I am interested in your views on that aspect of the policy.

**Mr Henrick:** Our submission to the Martin review basically said that any independent should be able to bid. I think the draft of the Martin report originally had various controls on who would be able to bid and so on. But people come into this industry from various backgrounds, and as long as they can raise the money and as long as they are prepared to bring their skills from other industries into the market, basically it is a commercial risk that they take. If they fail, then they fail and somebody else will come into the market to replace them. But we should not be excluding people on presumptions of the skills that they could bring.

**THE CHAIR:** Following on from the discussion you had with Mr Seselja, you are thinking that 1,500 square metres is an appropriate size for a local supermarket?

**Mr Henrick:** Yes.

**THE CHAIR:** As you may be aware, five years ago all existing local supermarkets were substantially smaller than that.

**Mr Henrick:** That is right, yes.

**THE CHAIR:** So if we are looking at 1,500 as the new size, what does that imply for local shopping centres in existing areas where we currently would take possibly three local centres to produce 1,500? If we let them expand to 1,500, does that mean that two of the supermarkets are not going to survive? I can see that it would probably be good for the supermarket that survives, but will it lead to some closing?

**Mr Henrick:** I do not know that, but from my memory of living in Canberra some of those local centres would find it difficult to develop the 1,500 square metres. The physical space is just not there for them. But, if that were to take place over time and the market was to decide whether or not a local centre can expand to a size that can compete with the group centres and the town centres, that is what should happen. Let the market decide it. Let the independent investor in that supermarket decide whether or not that particular site, whichever one it is, is worth investing in and whether they can get a return on it.

**THE CHAIR:** The other thing I would like to follow up on is something Mr Hargreaves mentioned. In your conclusions you say there is an opportunity for the planning regime to draw down the competition principles. Could you expand a bit more on that, particularly taking into account what the ACT can do from a constitutional point of view? I thought that one of our issues was that competition policy really was the province of the federal government.

**Mr Henrick:** Yes, it is, of course. We have got dichotomy between—this is not just for the ACT but right across Australia—local governments, which make planning decisions, and the competition laws that apply at federal level. The problem that we have now is that the local government decisions that are taken do not take competition into account, as a generalisation. They have in a few cases, but as a generalisation local government planners do not take competition issues into account.

**THE CHAIR:** In the ACT they are meant to for some developments, certainly for local centre developments.

**Mr Henrick:** Yes, I appreciate that, and they are in some other places as well apart from the ACT.

**THE CHAIR:** Could the ACT constitutionally do more, and would it be a good idea if they could?

**Mr Henrick:** I think they can, constitutionally. What we recommended in 2008 from the independent sector was that the ACCC develop a model for a competition test which could be applied by local governments when they made those decisions. Let me give you an example. In Hurstville in Sydney there is a large Westfield shopping centre. Inside that shopping centre are a large Coles, an ALDI and a Woolworths Food for Less. The Woolworths Food For Less is in a part of the shopping centre which is really away from most of the traffic, so it is not a great location. Across the street from the Westfield is the Hurstville railway station, which has commercial space above it. That space was refurbished about five or six years ago and Coles were given the space for a supermarket above the railway station. The two Coles stores are less than 100 metres apart in a direct line.

What we said should have happened was that if the local government authority had applied a competition test in that circumstance Coles would have been given the option to stay where they were or to acquire the new site and divest the first site. If they had the vest of the first site, that would have allowed, let us say, Woolworths to upgrade from the Food For Less to a full-range supermarket in the former Coles site and it would have freed up the Food For Less site for a new independent competitor to come in. That would have given us four competitors instead of one competitor with 80 per cent of the available floor space plus an ALDI plus a Food For Less.

**THE CHAIR:** Possibly I was not paying enough attention, but I thought you said they were just moving from one site to another. How would the local government have power to stop that? That is one of the big issues in the ACT.

**Mr Henrick:** As I said, if they had applied a competition test they would have said that giving one competitor 80 per cent of the local floor space was—

**THE CHAIR:** Sorry, I appreciate that, but the problem we have in the ACT, and I assume elsewhere, is that the planning authority can talk about size of the building and it gets approval when that is built. But when I build my supermarket and I am IGA or whatever I can then a month later sell it to whomever and the planning authority is not involved at that point. My question is: how does the planning authority get involved in a change of ownership?

**Mr Henrick:** If there is a competition test applied—and we think that should have been developed by the ACCC—it would show that. The ACCC already has powers under section 50 of the Competition and Consumer Act to look at the acquisition of sites or leases or shares in businesses or so on. If a competition test is applied at that point then the local government planning authority, wherever it is, would be able to say, “This is likely to result in a substantial lessening of competition, and therefore that acquisition is blocked.” That would then open it up to a new competitor coming into the market.

**THE CHAIR:** So the local government would evaluate it and then tell the ACCC and the ACCC would do something?

**Mr Henrick:** It does not exist. This test does not exist at the moment. So what we are saying is that the arrangement would have to be made so that either the test was applied by the local government authority and the decision made by the local government authority or that the local government authority would refer their concerns to the ACCC for decision.

**THE CHAIR:** And the ACCC would still be the body, however their mechanism works, that has the power? That is where I was really trying to go.

**Mr Henrick:** Yes; that is correct.

**THE CHAIR:** Thank you. Mr Seselja?

**MR SESELJA:** No.

**THE CHAIR:** In that case, thank you very much for your time. I think it is possible that at the end of the hearings we may end up with questions that have arisen from the discussions with other parties so, if you are agreeable, it is possible that we may send you some questions on notice.

**Mr Henrick:** Yes, absolutely; I am very happy to do that.

**THE CHAIR:** Thank you. The other thing we will definitely send you is a transcript of this hearing as soon as it is available so that you can make corrections to it, if necessary.

**Mr Henrick:** And I will send you a copy of that Accenture report that I referred to.

**THE CHAIR:** Thank you very much. That would be very interesting.

**Meeting adjourned from 10.56 to 11.17 am.**

**PETSAS, MR ARTHUR**, Director, Argos Pty Ltd

**THE CHAIR:** We will now resume this hearing of the Select Committee on ACT Supermarket Competition Policy. I welcome you here today, Mr Petsas. I understand that you have seen the privilege card?

**Mr Petsas:** Yes.

**THE CHAIR:** Could you confirm that you are happy to agree to what is in it?

**Mr Petsas:** Yes.

**THE CHAIR:** Thank you very much. You also need to be aware that this is being webstreamed live; thus everything you say is in the public arena. Before we begin questioning, is there an opening statement that you would like to make?

**Mr Petsas:** If I may.

**THE CHAIR:** Of course.

**Mr Petsas:** In general it leads into my quick overview in terms of what I submitted as evidence to the committee as part of the submission. I would like to thank you, Madam Chair, and the committee for providing me with the opportunity to appear before you today. I am here today in my capacity as director of a family company which has its roots firmly embedded in the Canberra community.

Argos, as a lessee of properties across Canberra, has a mixture of tenants, including the major retailers, and has a very strong interest in the outcomes and the development of commercial centres within Canberra. It is our opinion that the ACT supermarket competition policy neither recognises nor is recognised by the territory plan, despite its reference to land use, and it does not work.

In our submission, and in summary, we outline the following points. The existing ACT hierarchy has served the ACT community well for decades and in respect of suburban centres is widely accepted as effectively and appropriately managing and balancing competing commercial investments and developments with nearby residential areas. The territory plan has provided the basis for ensuring that appropriate commercial investment occurs in Canberra, and companies like ours have relied upon the planning provisions of the territory plan to initiate such investment and carry the associated risks with it.

Over the last 10 years we as a company have embarked on a process of renewal of and investment in centres we have interests in, which in large part has been in response to the changing demographic, the changing market, the change in retail offering and an overall increase in competition. This investment has ensured the ongoing viability of those centres. It is important to emphasise that this process was delivered successfully for those centres and in full compliance with the provisions of the territory plan.

We do not support the current policy or the resulting ad hoc or piecemeal planning approvals approach of retailers using the planning process to drive market share

objectives and where additional development opportunities, particularly for major supermarkets, are introduced in the absence of supporting analysis. These actions have not and will not increase competition, but if they proceed to approval they will further entrench the existing duopoly and result in these things happening. It will substantially decrease the market share of local independent supermarket operators and local independent suppliers as well as independent small businesses. It will ultimately result in poor urban planning outcomes. It will ultimately create an oversupply of supermarket space in the ACT, effectively closing the operation of independent supermarket businesses. And it will impact on the overall financial viability of centres around Canberra.

There are recent examples where retailers have used and exploited the local centre policy to establish stores, thereby opening up a new tier of “majors” competition and, in turn, redefining, in our opinion, what constitutes local centres. The territory plan should ensure that there are no adverse effects on the overall function of the centre in terms of the economic, social, traffic, parking and urban design impacts. This provision currently exists in the territory plan, and it is critical that it remains.

A policy approach to suburban centres cannot be a one-size-fits-all approach. The best planning outcomes can only occur on a case-by-case basis that considers the demographics as catchment population varies across different centres.

With respect to the appropriateness of settings as it applies to ACT government direct sales, group centres and local centres, we outline the following in our submission. It is our opinion that with the exception of Dickson and possibly Weston Creek, there is no other group centre that can sustain two full-line supermarkets. Manuka, which is considered one of Canberra’s largest group centres, had both Coles and Woolworths trading in that centre, with Woolworths eventually closing. The introduction of a second full-line supermarket in group centres will only lead to an oversupply of supermarket retail space and result in the closure of surrounding small businesses and the existing supermarket, whilst taking further market share away from surrounding group and local centres.

It is clear that the population within the catchment of many Canberra urban areas has reduced over the last few decades and there is no obvious scope to increase population density and hence catchment population. However, the overall provision of retail floor space in higher order centres such as Woden and Civic has increased dramatically. This, coupled with the longer trading hours in these centres, has placed significant pressures on the viability of the lower order centres.

Any future consideration and/or expansion of existing centres needs to ensure that fundamental planning principles are retained, such as convenience and economic and social benefit. It is our strong opinion that Canberra does not have the population or the projected population growth to sufficiently support a market or a centre that has two major retailers as a general principle or norm.

With respect to local centres, local centres are defined in the territory plan relative to local residents’—within the immediate surrounding suburb—convenience needs. It is important to note that the term “convenience retail” or “convenience shopping” in planning has a specific meaning. It means a relatively small shop tailored to meet the

daily milk, bread and newspaper needs of the local community. Any direct sales entertained in local centres must be for a purpose commensurate with the role of that centre in the hierarchy. Group and local centres need convenient access and need to differentiate themselves from the town centres, as this is their core strength.

We strongly support the existing territory plan hierarchy and consideration of alternative centre uses on a case-by-case basis. We do not support the concept of major retailers being located in local centres. We emphasise that centres should be able to adapt and change, but this needs to be done in a transparent, clear and consistent manner within a defined framework and, importantly, should service the local community without impacting adversely on surrounding centres.

We strongly believe that the establishment of major full-line supermarkets within local centres is not consistent with local centre policy or with the above statement of intention for local centres. The proposed local centre policy will redefine and change the fundamental objectives of the local centres across Canberra and ultimately result in serious consequences.

We consider that local centres should service the local community without impacting adversely on surrounding centres. The size of a local supermarket needs to meet the local needs, appropriate size and scale. A full-line supermarket offering provided by the major retailers requires a greater catchment than just the local suburb for it to be viable.

With respect to the supermarket's impact on the retail hierarchy, we made the following comments in our submission. The structure of urban development in the ACT is predicated on the hierarchy of commercial centres as expressed through the territory plan. The hierarchy derives from a logical spatial analysis process which sought to locate different scales of centres that were appropriate relative to their catchment whilst ensuring the most efficient provision of infrastructure, including public transport, social services and retail offer.

A cursory examination of the positioning and layout and access provisions of local centres with respect to group centres and then town centres, with Civic as the metropolitan node, clearly reflects this hierarchy as it has been implemented across the territory. As an example, group centres are well positioned relative to arterial roads for accessibility purposes, by both car and bus, whereas local centres are positioned within the immediate neighbourhood that they service.

Until recently, the commercial centre hierarchy has been well understood and supported by both planning policy and development application decisions. Even relatively recent policy documents, such as the concept plans released for Gungahlin local centres, demonstrate a consistent approach to the scale of local centres. However, more recent planning decisions purportedly made in line with supermarket competition policy have blurred the line between local and group centres with what has previously been understood to be group centre scale development approved and facilitated by direct sales in local centres.

A continuation of this policy approach will ultimately result in the loss of investor confidence, a decentralisation of group centre functions to local centres and a

lessening of community, infrastructure and efficiency dividends arising from this hierarchy. Increased retail development in local centres will inevitably reduce the competitiveness of other competing local centres and detract from the viability of group centres. Should the integrity of the hierarchy be further undermined by the loss of decentralisation of retail facilities, the policy imperative of co-location of community assets would also be undermined, thereby reducing community convenience and benefit.

In conclusion, the existing system does not work. In a perfect market, the planning system would not and should not be required to address competition requirements. As a result of the ACT government's implementation of the Martin report, it is our understanding that the major supermarket chains have and will continue to exploit the lack of a comprehensive approach to competition issues through the planning system as a means of either maintaining or increasing their market share at the expense of surrounding centres, which will ultimately result in poor planning outcomes.

We strongly support the existing territory plan hierarchy and consideration of alternative centre uses. We do not support the broad concept of major retailers being located in local centres. The territory plan should ensure that there are no adverse effects on the overall function of the group and local centres in terms of economic, social, traffic and parking and urban design impact. This provision currently exists and it is critical that it remains.

**THE CHAIR:** While I do not disagree with your conclusion, one of the things you said was that the current policy settings on sales were going to lead to an increase in the current duopoly. You touched a little bit on the reasons for that. We have had other evidence suggesting the opposite. Why do you believe that the current settings and increased opportunities for more supermarkets will simply lead to an increased share by the duopoly?

**Mr Petsas:** I guess this is our opinion. The policy seems to us to be a reflection of the existing market share—that is, the share that Woolworths and Coles may have—and tends to favour other retailers. It does not necessarily favour the introduction of new entrants into the retail market. The reality is that the market is sophisticated enough and the retailers are sophisticated enough to seek out those investment opportunities for themselves.

We disagree in terms of having a policy setting that skews or is favoured towards one or other retailer. That is what we believe the current policy does. It reflects the fact that Woolworths may have the dominant market share presently, therefore, it is skewed towards the other existing retailers and not necessarily new entrants into the marketplace. So we see a continuation of that existing duopoly.

**THE CHAIR:** I am slightly confused. I thought you said it was skewed anti-Woolworths, in effect.

**Mr Petsas:** Yes.

**THE CHAIR:** But there are other players apart from the duopoly, if we go anti-Woolworths, so it is not necessarily in favour of the duopoly.

**Mr Petsas:** I guess we see a continuation. Again we are looking at it from a different perspective. The retailers that will appear before you will have their own viewpoint and I cannot comment on it from their perspective. We are looking at it from a building owner's perspective, and from what we see. We have assets, as I said, across Canberra. Who our tenants are is not necessarily important for us other than ensuring that the premises are occupied and tenanted and the centres are viable. So we have no, if you like, favour towards a particular retailer.

But what is clear to us is that the policy approach has meant that one or two of the major retailers have too much of the market share and attempt to introduce, through a direct sales process, an exclusion of a particular retailer—that is, Woolworths in certain instances—in favour of others. To us that will not in effect impact on or reduce the duopoly that current exists. There is nothing in the policy to us that identifies opportunities for other new entrants into the marketplace other than a continuation of the situation as it is.

**MR HARGREAVES:** I just want you to reiterate what you said before. In your recommendations, you are strongly supporting the existing hierarchy.

**Mr Petsas:** Yes.

**MR HARGREAVES:** But you are also saying—and this is not necessarily in conflict—in your third recommendation to vary the supermarket competition policy to include consistent definitions in the supermarket activities. But I thought I heard you say, “If it ain't broke, why are you fixing it?” Did I or didn't I?

**Mr Petsas:** No. I guess our point is that we believe the retail hierarchy, or the planning hierarchy as it currently stands, is one we and many other investors in Canberra have invested against. That is pretty clear and defined. I think what you are finding and what we have tried to articulate in our submission and here this morning is that, as a result of the policy, you are now finding situations where retailers are looking at maintaining or growing their market share in ways we believe are not consistent with the existing territory plan. So that third recommendation is about that—if the policy is to be retained in its current form, there needs to be a greater alignment between it and the planning process with clear definitions about what is appropriate consistent with that existing hierarchy.

**MR HARGREAVES:** I might ask you the same question I asked earlier this morning. Just as some background, I am a big supporter of the tiered system. One of the things that worries me is that if we are not careful about the planning regimes and making them articulate the three-tier system, will the unintended consequence be to condemn some of the smaller operators to the third tier and make it impossible for them to actually operate in the third and the second tiers?

**Mr Petsas:** I am not sure I have got a full answer to your question. As I said, the hierarchy and the relevant tiers have worked effectively. I think you are finding now that, as Canberra grows and evolves, centres are evolving themselves and seeking alternate uses and flexibility in those uses. Suburbs like O'Connor and Yarralumla and all of these other sorts of suburbs are now evolving and taking on a different face

through people like us investing in our assets. I think you will see a continuation of that moving into the future.

As I said, because the hierarchy historically has been very well defined in terms of the relevant tiers—you have got the centres, you have got the town centres, you have got the associated group centres associated with that and then the third tier in local centres—our strong opinion is that that tiered approach is still appropriate and needs to be retained. The reality is that what gives each of those individual centres, be it at group centre or local centre level, their competitive advantage is the convenience. The minute you start trying to dabble by introducing full-line major supermarkets in these tiers in a planning context, it is fraught with danger because you ultimately then are impacting the surrounding suburbs.

In my submission I outlined that anything that happens into the future needs to consider the urban, social and economic benefits but also the urban planning that comes in. One of those important ones is parking. Parking is fundamental to some of those local centres and group centres—the convenience of it. You are seeing developments now pop up across local centres and others with proposed developments which include basement levels. The reality is that we would prefer to walk to our local centre. If we use our car, we do not want to go down two flights of basement levels and then go up an escalator with a trolley. It is the convenience that gives it the competitive advantage, and they are fundamental principles embedded within the existing hierarchy which should be retained.

**MR HARGREAVES:** You mentioned—this will be my last question—the changing face of the local centres. The two examples you used were very good ones—Yarralumla and O'Connor. Are we seeing a change in the social access of those assets that you guys have got so that it is going to a different social experience? People are now going there for restaurants, cafes, professional services and things like that, and we might be seeing the death of the small supermarket and, therefore, its transition into the group centres. Are we seeing that happening?

**Mr Petsas:** No, I do not think so. I think people still want the convenience of being able to grab some bread and milk and even other things that you conveniently can get, and I think that will continue. Yes, culturally society has changed generally. Canberra is not alone—every city in Australia is the same. We are evolving and changing, but we are creatures of habit and we still want the convenience of being able to get those luxuries at any point in time. People are working different hours, longer hours et cetera, so I think the key word is “convenience”—having the offering there. But does that mean having a full-line supermarket at the expense of everything else? My view is no.

The flexibility of use into the future needs to be about alternate uses—more urban density, restaurants. One of the projects that we are embarking on into the future is the local centre around Watson, and we are exploring alternate uses. We are not seeking out a retailer. Those opportunities are there if you want to pursue them, but we are not seeking those out. I think the fundamental problem is that you have got a policy here that now, in essence, hinders potentially one retailer, ie, Woolworths, and they are exploring utilising the planning process to derive and maintain their market share to the detriment of everything else. To me, that is not good.

As I said, we have all invested around a very, very well-defined and tiered hierarchy in the territory plan, and that is fundamental. If everyone is suggesting that we throw that away then it is opening the floodgates and then we are talking about a completely different ball game. But what does that mean? I do not think anyone fully understands the consequences of that, and that is our concern.

**MR SESELJA:** You highlight in your submission the issues around a retailer—I assume that is Coles—submitting direct sale applications at Kambah, Erindale, Weston Creek and Kippax. Presumably that would be facilitated competition between Coles and Woolies at those group centres. What is the issue with those? I am not as familiar with Kippax, but what is the problem with having competition between the majors at a place like Kambah or Erindale?

**Mr Petsas:** As I said before, I will let the retailers talk about their own interests. My commentary is purely based on what we see as it relates to the assets that we have where some of those retailers are located. Fundamentally, the market is not large enough to sustain two major retailers. As I indicated in my submission, barring Dickson and Weston Creek, I do not think any of those other group centres have the population growth to sustain it. All that will ultimately happen will be is that one will take half of the profits that the other currently has and they will sit there and compete.

People can philosophically take a view that that is good for competition from a consumer's perspective, but, ultimately, I can tell you that that is not the case because one will close its doors and will then look at an alternate positioning in the market place. That is exactly what happened at Manuka. My concern with Dickson is that the proposal currently in the public forum suggests that you will have Woolworths, you will have Coles and you will have Aldi with three or four basement levels of parking. Fundamentally, you have lost that convenience of parking, so you will end up with bad planning outcomes.

People do not fully appreciate the impact from a planning perspective. It is only when it happens that people will start complaining. Yes, that may be offset by competition and prices will be reduced because the retailers will have to go head to head and compete, but at what expense? What we are saying is—again, like I said, we are looking at it from a different perspective—people need to take a step back and actually understand the consequences of policy and how it interacts with the hierarchy and the planning process to ensure that you end up with good outcomes.

**MR SESELJA:** A couple of other questions. You have said that you understand that Aldi has recently refused two direct sales of land in group centres. Is your point there that Aldi is saying there is not enough demand for them to be taking those sites?

**Mr Petsas:** Again, I am not sure if Aldi is appearing before you, so purely from what we hear around in the marketplace, the market is not large enough to sustain two or three retailers in those particular centres.

**MR SESELJA:** What group centres are they?

**Mr Petsas:** I think one of them is Kaleen and I think the other is in Tuggeranong

somewhere.

**MR SESELJA:** Wanniasa?

**Mr Petsas:** Yes, one of those.

**MR SESELJA:** You have also said later in your submission that you think the ideal size in local centres is somewhere below 1,000 square metres. The master grocers earlier gave evidence on the phone saying that 1,500 metres was reasonable for local centres. What do you base your analysis on in terms of the size you are saying should be in local centres?

**Mr Petsas:** Again, I am sure the retailers will have a different viewpoint. The size comment I would make relates to two issues: one is in terms of scale and size and its relationship to the rest of the facilities within the centres. I will use ours as an example. I think anything above 1,000 square metres is creating a supermarket size that probably has a greater ability to economically impact some of the surrounding local centres. So it takes on a different context, if you like. It also takes away those other opportunities that you currently see in terms of the alternate uses that we are talking about. So if there is a butcher in the centre, if there is a chemist in the centre et cetera, the increasing size of that retailer then starts drawing away from the ability of those independents to actually operate. Again, you are losing the convenience and the independents. So it is scale and size.

Currently from what we know and from reports we have read, there are not many, if any at all, that are currently above 1,000 square metres. I think one of the largest is Ainslie. The other probably getting close to that is Hawker. At Kaleen we initially had a supermarket size of around 300 square metres. Through a direct land grant process some years ago—this is where the flexibility comes into it—we expanded that to double, so it is around 600 to 800 square metres. Is that an appropriate size? Yes. Does it meet the local needs and is it consistent with the territory plan? Yes. Is anything above 1,000 square metres? I think you then start encroaching on some dangerous territory in terms of it not being consistent. We philosophically believe 1,000 square metres is probably the scale and size appropriate for local centres, because you are then not impacting on the other tiers as defined within the territory plan.

**THE CHAIR:** Unfortunately we are going over time and I can see that our next witness is already here. Thank you very much for attending. It is possible that the committee may have some additional questions after we have talked to everybody. Would you be okay to take question on notice?

**Mr Petsas:** More than happy to.

**THE CHAIR:** Thank you. You will receive very shortly a transcript of the hearing for you to correct if there are any changes that are necessary. Thank you very much for appearing today. We will have a brief intermission while we change witnesses.

**Short adjournment.**

**WHEELER, MR CHRIS**, Partner, King & Wood Mallesons

**THE CHAIR:** Thank you very much for appearing, Mr Wheeler. Can I first just check that you have seen a copy of the privileges statement and that you are happy to abide by its requirements?

**Mr Wheeler:** I am.

**THE CHAIR:** Thank you. And you also appreciate that this is being webstreamed live?

**Mr Wheeler:** Really? I did not know that.

**THE CHAIR:** Hopefully you are still happy to proceed on that basis.

**Mr Wheeler:** I will just redo my hair, but I will be fine then.

**THE CHAIR:** Before we ask questions, would you like to make an opening statement?

**Mr Wheeler:** Yes, please, and thank you to the committee for allowing me to appear on behalf of our clients. I am here representing the Nikias Diamond and Nikias Nominees groups and bringing essentially a perspective of local centres to the discussion. By the tenor of the speaker who preceded me, and having looked at the other submissions, you are getting a wide range of viewpoints and stakeholder input into your deliberations.

The perspective, though, from our clients is one of the needs and demands of a local centre, and in particular the proposed development at Giralang, about which there are Supreme Court proceedings. I realise that I am not going to be talking about those today, because they have been specifically excluded from the terms of reference, but I think the concepts and the issues that have been generated through Giralang at a general level are worth while understanding.

The topic that you are focusing on is competition with supermarkets in the territory and it is interesting to see whether those objectives are in fact being achieved through the implementation plan, which actually is the territory's policy under review.

I guess the experience from Giralang has been that the opportunity is there to develop and provide greater amenity, but there are so many constraints in the system that actually prevent competition that in some cases you need to ask the question: why do you bother?

Tied into competition are a variety of other things. The job of our planning authority is a difficult one, because on the one hand they are trying to achieve a variety of different balancing acts, of which competition is but one thing they need to consider, but they are not overseers of delivering competition in the territory. Yet the story of Giralang has been one of obstacles, in large part brought about by competitors concerned about the enhanced competition that another player will have on their neighbouring local centre or neighbouring centre. They veil those objections in a

variety of different ways, but do not be misled; they are driven by anticompetitive thoughts.

The viewpoint for an existing local centre is different from the viewpoint for a greenfields site, and this actually is part of the problem: we have sprinkled throughout most of Canberra all these 1940s, 50s and 60s local centres that are really fixed in time; they are like little time machines reflecting how the world looked back then. But that of course is not a constraint that is available in the greenfields sites of Gungahlin, in particular, where basically the government can slice and dice how it likes. The opportunity presented itself in Giralang to actually start afresh.

**THE CHAIR:** In Giralang?

**Mr Wheeler:** In Giralang. The residents were motivated. The previous speaker was highlighting convenience and amenity as being significant drivers for local centres, and that is true. These are areas that service the local residents, providing amenity, and the residents in Giralang basically demanded a particular sort of product because the centre had deteriorated—in fact to the extent that it became unviable. To become a successful centre it needs to be viable, and the issue essentially became one of the size of that viability in getting the right balance.

There have been four DAs lodged since 2004 for the Giralang site, which is a large number of DAs, and it is a long period of time from 2004 to now, 2012. They may nearly be there, but maybe not. So the opportunity presented itself for this older local centre in an older part of Canberra to produce and develop a 21st century local centre, redefine what local centres are, with a view to providing service to the residents around it, which is why it is there. In large part the reason why those DAs got further refined was the size of the supermarket; there was a question of what was appropriate. But in essence the success of a local centre is determined by the success of its supermarket. If you do not have a successful supermarket you will not in general have a successful local centre.

Other local centres are impeded, I guess, when other supermarkets look at their opportunities for expansion to be able to compete. They are constrained by their physical size, there is mixed ownership, there are existing shops on either side, and so the only thing is to either buy out those shops to expand or move out the back. Giralang had the opportunity of basically starting from scratch and that is what was done. The design was one of a mixture, in fact, of at grade car parking; you heard the convenience argument before from the previous speaker. The car parking offering at Giralang is one of at grade with also basement, and the answer to why we have that is that we could and the opportunity presented itself to provide that. So people can choose; again it comes back to choice.

It is one thing to look at the supermarket policy itself, but you have to look at the framework. The framework that allows or does not allow competition to occur is a combination of many things. It is a combination of our planning system, the territory plan itself, the DA approval system and who can object, how they object and what distance they will go. But it is also a function of our lease variation charge, which on one hand might be described as a housing tax but the other reality of course is that it is a renewal tax; it does not encourage renewal, particularly of older centres. The last

thing is the price for additional land. That is not talked about very often, but it is quite critical to the ability of existing centres to expand. In the submissions that you have you will see that there are quite a few proposals in place to expand existing centres, both local and group, across the territory, and critical to those is the ability to get additional land.

The territory, through the LDA, has the ability to grant additional land rights, but what you do not often hear about is how the price is determined for that additional land. The price ordinarily should be determined by the value of the additional crown lease that is to be issued, but that is not always how it happens. There is a degree of—blackmail is not the right word to use—excessive use of power to determine the price. So the government needs to be mindful—there are ongoing discussions about this—of not misusing its dominant position as the controller of the land to exert an exorbitant price.

If you want to expand, if you want to react to competition—competition is a healthy thing; it encourages everyone to raise the bar and to provide greater service—in some cases you may need to expand; in other cases you may not. But for those who choose to expand, not only is LVC an issue but also the additional price you have to pay; it is a combination of those things, plus the development risk of getting approval.

The issue is that the combination of all those policy settings is not the greatest framework for encouraging competition. The best way for competition to thrive is if you have opportunity for all and it is a transparent process. We have that in some cases but not completely.

**THE CHAIR:** Thank you. There are obviously a lot of questions from that. One of the obvious ones to start on is that local centres, group centres or town centres expanding can create some issues with other centres, given that the ACT's population, certainly in the existing areas, is not expanding rapidly. How do you think it should be considered—or should it at all be considered—in terms of planning decisions?

**Mr Wheeler:** How impact should be considered?

**THE CHAIR:** Yes. Should the impact on other areas of the expansion of supermarkets in one area be considered and, if so, how would that be considered?

**Mr Wheeler:** That is the essential question. In the territory plan of course there is a requirement to take that into account.

**THE CHAIR:** Yes. I will pursue all of that.

**Mr Wheeler:** That is a difficult job, to be honest, for ACTPLA to manage. Almost by definition “impact” means what is the effect of competition on you, on the neighbouring areas. So it implies a degree of acknowledgement of some tolerance for allowing that to occur. On the threshold point of should that be taken into account, I guess the answer is yes because the submission of our clients is not one of rampant laissez faire development at any cost. That is not the issue; the issue is the right balance to achieve viability and therefore the success of your own local centre. Should noticing the impact of that expansion and its impact on other centres be taken into

account? I think the answer is yes. But the tolerance has to be properly looked at. It is a given that there will be impact; actually, you want impact, because if you did not have impact you would not have competition and therefore you would have nothing at stake. That is an inherent factor of the market at work. You do not want overwhelming impact, I guess, is the right thing, and what that really means is different for every situation. We want to have the flexibility to be able to determine that, and it is not just economic.

**THE CHAIR:** By “overwhelming” you mean leading to someone else going out of business? Is that what you mean by “overwhelming”?

**Mr Wheeler:** One of the previous Treasurers was famed for making a comment to the Property Council on one occasion of, “We will squeeze you until you bleed but we won’t kill you.” I think he said that with some mirth. The idea is not quite like that. But there is a question of if something challenges the viability of another centre, then that is probably overwhelming. If it is only going to have some impact, impact that does not actually mean that you can no longer operate, that is probably the essential threshold.

There is also an analysis, of course—and this is the other thing about impact—that if there is an operator in another centre that is operating at suboptimal level and someone else in a different circumstance could improve their operations by all sorts of different means, what is the right baseline? Is the right baseline that we are going to reward the underperformer and the underperforming level is the right level or should it be operating at this particular level and that is the right threshold? That is the other thing that needs to be properly considered. You do not want to reward—slackness is an uncharitable term, but the community has a baseline expectation of performance and that is the proper measurement.

**THE CHAIR:** Mr Hargreaves.

**MR HARGREAVES:** Would that not take care of itself? If you have got an underperforming entity, the marketplace will deal with that rather savagely and rather quickly, will it not?

**Mr Wheeler:** In the long run, yes, though, of course, the market is not perfect. Taking the situation in Giralang as an example, what you have there—because that local centre has not been operating for some time, the other centres that are around that, if you like that grew up in those circumstances, were sort of enhanced because of that non-performance. They then became sort of used to that, but they were protected as well by that additional enhancement of not having a competitor close by or servicing those other needs. So there can be other reasons why not maintaining the standard can be maintained.

**MR HARGREAVES:** But will not the conclusion of Giralang—we are not going to go too far into that as you well know—mean that the marketplace will then deal with those other things on the periphery of Giralang?

**Mr Wheeler:** That is true, yes.

**MR HARGREAVES:** So the people who are making their business decisions on how they actually conduct themselves will either flourish or pay the penalty for taking advantage of an opportunity?

**Mr Wheeler:** Indeed, and this is the other thing, too, that people do not always properly acknowledge or recognise. The opportunity should be available to others to be able to respond to competition. If one centre expands and sees an opportunity and wants to actually grow and survive, then in a properly functioning marketplace that opportunity should be available to others as well. If they do not take up the challenge, if they choose not to, then they also choose to take the consequences of that.

**MR HARGREAVES:** You mentioned in the conclusion of your submission—I thank you very much; it was very good—that the territory plan has potential flexibility to permit renewal of existing centres. We have heard and we know that the infrastructure in some of the existing local centres is pretty limited in terms of its floor plan. Apart from going down with the car parking, there is not a lot out the back in a lot of the local centres for this to actually happen. Is the only renewal of those existing centres raising them to the ground and having something else emerge?

**Mr Wheeler:** Again, another good question. I was actually thinking about that sort of question in preparing for this presentation. You see this problem actually across the city. One of the lamentable points about the city at the moment is the state of Civic—old Civic as opposed to new Civic, we could call it. With the Sydney Building you have this regrettable appearance. In large part that is because of the multiplicity of ownership. Small units multiply owned cannot be centrally enhanced or controlled. That often is the case for the older local centres—not all of them but a good number of them. There is split ownership where that opportunity does not exist.

That does not mean that the owners themselves, if so motivated, cannot actually collaborate together. I think the government actually has available to it levers that encourage that sort of market activity to get together. For one reason or another it has not chosen to take advantage of that. I mentioned the LVC regime before. Part of that new tax actually is the ability to modify or provide exemptions or incentives.

It is a discussion, it is a bugbear for another day as to why that was not in place. But if that were all in place—actually, they have always been there; the regulatory power has always been there to encourage greater renewal in those centres and to overcome the inherent restraints caused by ownership and physical form. There just needs to be the will to actually put in place.

**MR SESELJA:** I have a couple of questions on a couple of different areas. You say on page 5 of your submission that one of the responses of the government to the dominance of Coles and Woolies has been to provide preferential treatment to Supabarn. You talk about picking winners and the like. I have been critical of the picking-winners approach, but the argument that is put forward by the government, and partly in the Martin report, is that you need to have another supermarket that is able to in some way compete. What do you say to that argument? Why does that not have validity, given the government has gone out of its way to push that as a way of increasing competition with Woolworths and Coles?

**Mr Wheeler:** Yes, that is a difficult thing. I guess our submission is that the best way to encourage competition across the board is to make sure the system is flexible enough to give as many opportunities to as many people in as many locations as possible, and that is the best way to encourage competition.

Why? It is because it allows the market and people's own opportunities the greatest chance of success. The problem with choosing a winner-takes-all policy is that there are inherent distortions, and is the cost of those distortions worth the risk? If a chosen one is given preferential treatment, it is putting all your eggs in one basket, and if something happens to the chosen one, then where are you?

Giralang is a classic example. To do any development in this town takes a long time. It is not the case that you come up with an idea and suddenly see it the next day. There is a lot of lead time, there is a lot of effort, there is a lot of risk therefore. So to have all your eggs in one basket in that context is a big risk. The better risk, the better rationale, is to give as much opportunity to as many people as possible.

**MR SESELJA:** On that issue that you have raised in terms of the time it takes, obviously one of the blockages to competition is that if it takes an inordinate amount of time for supermarkets to be built and developed it means that there is less competition. With Giralang, what do you put that down to? It seems it has taken longer than in other areas. Why has it taken so long? Why has it been so particularly contentious in your view?

**Mr Wheeler:** The answer is anti-competition. That is the short answer. It is actually a reflection on our planning system. I know there are a lot of philosophical aspects to our planning system that each of you as members of the committee have perhaps a different viewpoint on. But Giralang is actually the worst example of abuse of the planning system. If anyone is so motivated—and I mean anyone—under our planning system they can stall a development for as long as they like. All it takes is basically money.

You have to ask yourself: is that a good thing? It really boils down to limiting objections and the ability to appeal. Actually, maybe there is a distinction between objections and the right to object, which should be broadened, but the right to appeal should be narrowed. I do not think we actually have quite the right balance between those two.

**MR SESELJA:** You talk about a distortion of the system and you talk about those appeals, but at Giralang it seems that it was also the government itself directly sort of intervening in various ways in that system. I am interested in your thoughts as to why that was particularly the case with Giralang and not at some other proposed supermarket developments?

**Mr Wheeler:** The planning authority has a job to do. It is a difficult job. It is a difficult task. I am the first to admit that. Their role is to not only police the territory plan but to get the balance right. The issue with some of the earlier developments was perceptions that the development size was too great. That is where the greater resistance was. There were four DAs. The first one was essentially resident-objected to, because that was primarily residential. So then the approach was taken of a more

collaborative effort with the residents—actually, a very close relationship with the residents. In one sense it is probably the right model that you really want to have. The residents were on board. So each time the size reduced. The second DA was essentially opposed by the planning authority because they saw it as being too large.

The other two were refinements of that for one reason or another. There was a concern generally about the size. So it was a compromise ultimately about the size of the supermarket to get the thing through, to get it as less risky in terms of objection as possible to get the thing through. So it was a compromise.

**MR SESELJA:** Just finally on that, Neil Savery raised concerns. He said that the process there had been compromised by the government. Do you share those concerns?

**Mr Wheeler:** The decision of Giralang was a planning authority decision. The planning authority made its independent decision. That is actually one of the strengths of our system—there are enough detractors of our planning authority, but one of the good things about it, even on a national level—stepping back and looking at the DAF assessment model—is that the ACT actually is in many places an exemplar for the structure, that is, keeping the planning authority and the chief planner independent from government.

We are seeing more and more of a relaxation of that independence between the two, in part because of the Hawke review and integration of services. Again, it is a balance here. But that essential point of keeping independence in planning decisions is something—it is a temptation for, I know, members of the Assembly and the community. But it is a critical thing to keep the decisions as independent as possible.

Ultimately, in Giralang a political decision was made to say enough is enough. But that was not interference with the decision. It was actually to protect the integrity of the independent decision in the first place.

**THE CHAIR:** Unfortunately, we have pretty much run out of time. I suspect that the committee may have some more questions on notice for you, Mr Wheeler, if that is acceptable.

**Mr Wheeler:** Absolutely.

**THE CHAIR:** Thank you. A transcript will be sent to you as soon as possible so that you can correct it for any errors. We will adjourn this hearing until 2 o'clock.

**Mr Wheeler:** Thank you very much.

**Meeting adjourned from 12.16 to 2.01 pm.**

**MARA, MR CHRIS**, Government and Regulatory Affairs Manager, Coles  
**MILLS, MR CHRIS**, National Property Manager, Coles  
**HARATSI, MR BRIAN**, Chief Economist, MacroPlan Dimasi

**THE CHAIR:** I do not think we are going to run very much behind time. We are now quorate. If witnesses would like to have a seat we will start. Given our timetable, I think we need to keep on going, basically. Welcome, gentlemen, to this hearing of the Select Committee on Supermarket Competition Policy. First of all, I would like to draw your attention to the blue privileges card in front of you. Hopefully you have all had a chance to read this and if so, can you please all indicate your agreement to it?

**Mr Haratsis:** Yes.

**Mr Mara:** Yes, thank you.

**THE CHAIR:** The other thing I need to let you know is that right now this is being webstreamed live and of course is all being recorded by Hansard. So if you have any problems with that, now is the time to speak up. I was going to ask whether you would like to make an opening statement. I possibly do not need to ask that question given that there is a PowerPoint demonstration. So it is over to you.

**Mr Mara:** Sure. Brian Haratsis, the chief economist from MacroPlan Dimasi, is giving me some assistance on this today. We will make a brief opening statement and Brian is going to start off with that in relation to the slides you will see above. Brian, kick it off.

**Mr Haratsis:** Madam Chair, would it be helpful to have a copy of this?

**THE CHAIR:** If you could give us a copy of it, it would certainly be helpful to the committee, absolutely. I assume we can watch it.

**Mr Haratsis:** Thank you, Madam Chair. What I was thinking was that it would be useful to have it in front of you so that you could make notes perhaps.

**THE CHAIR:** Yes, lovely.

**Mr Haratsis:** And then I could run through the presentation. In regard to the terms of reference, the first note and the theme of this presentation is that ACT consumers are best served by policies that promote supermarket competition. And what I wanted to do was give you an independent analysis—and I am actually operating here as an independent analyst—about how I look at that and provide information which may be useful to you in your interpretation of that. So my presentation is on sustainable supermarket floor space and assessing the key issues.

The starting point for retail and retailing not just in the ACT but in Australia is population and population growth, particularly for supermarkets, because supermarket expenditure is directly related to population growth. And it would be no surprise that these are ACTPLA figures that population growth has been strong and will remain strong in the ACT.

The next point that is important in Canberra is that consequently employment is high but unemployment is very low, and incomes in the ACT are very high. And this graph is just intended to indicate that that position is likely to persist. So we have got significant growth in population. That has a direct correlation to supermarket expenditure—high expenditure levels, low unemployment. Consequently, looking at any numbers means that you need to interpret any other numbers in light of that. That is from an economist's perspective.

So my starting point in trying to understand what constitutes a competitive retail network is to look at retail floor space and ask the question, "If I looked at retail floor space as one measure, what would it actually tell me?" We have prepared the numbers for retail floor space in Australia. These are in the submission to you.

What I have prepared for you is an average of all capital cities in terms of floor space. As you can see, it is around 298 square metres per 1,000 people, and the ACT sits at 311. But if we exclude Melbourne and Sydney, the average is around 350 square metres per 1,000 people. And what I would say to you about that is that in an interpretation it is more likely—and an economist like me would be saying it—that you would exclude a Melbourne and a Sydney from that consideration.

The rationale for that is, firstly, the size of Canberra and, secondly, the age of places like Melbourne and Sydney where there are significant unplanned suburbs with no supermarkets in them whatsoever. They have not had the benefit of the planning networks that you have got here and the forward planning to be able to make provision for the future.

But the starting point really is square metres per capita. What does the square metres per capita actually mean? To understand whether that is a high or a low number, we need to understand how that relates to retail turnover. Is retail turnover relatively high or relatively low?

I will go to the next slide. What I can tell you is that retail turnover in the ACT is relatively high. I will take you on a journey a little here. We have got a series of numbers in which we are comparing for you the total ACT region, including Queanbeyan and Yass, with the total Gold Coast region. As I run through, I do not—

**MR HARGREAVES:** Why did you pick Gold Coast instead of, say, Newcastle or Adelaide or somewhere like that?

**Mr Haratsis:** I have actually prepared Newcastle before. I selected it because of the size and I was trying to get just a region with a similar sizing. But I would be happy to—

**MR HARGREAVES:** Is Wollongong an example? Are there any other regions which are of comparable size, other than the Gold Coast?

**Mr Haratsis:** It is interesting that there are not a lot if you actually want to get almost a contained region. In my analysis I have included Queanbeyan as well as Yass because I am trying to look at it on what I would say is an economist's base rather than a state boundary's base. But it is a good question.

**MR HARGREAVES:** Picking up on that, I guess where my curiosity is going is that in regard to some of the places that we would use to compare the ACT with in terms of its size, Launceston and places like this, it has been largely population-based as opposed to income, demography-based, or both. It seems to me that if we are talking about retail or that sort of stuff having a combination of the same numbers of people in the catchment and the same types of income relative to per capita, it might have been, from an economist's perspective, a decent sort of pointer. Am I wrong?

**Mr Haratsis:** Yes, and that—

**MR HARGREAVES:** I am wrong?

**Mr Haratsis:** No, you are right. I will come to that, because one of the issues—

**MR HARGREAVES:** Even a blind warthog gets an acorn every now and again then.

**Mr Haratsis:** You are correct. The issue is that there is no region in Australia that actually has the same income potential as this region. It is absolutely unique and outstanding in that respect. So that is the reason. But yes, if I could find one, I would do that. And yes, the answer is: it is better to benchmark against a number of regions. And I would actually invite that because what you will find is quite a similar outcome to the kinds of outcomes that I get here, which are: in terms of retail floor space provisioning on a region base, it is relatively low here. And if you then adjust for income, what you will find is that you could actually establish a case for even a higher provisioning, depending on how much income you want to allocate to food and to non-food.

What I have done for you here is provide not just a series of numbers but all supermarket operators.

**THE CHAIR:** Can we go up a line?

**Mr Haratsis:** Sure.

**THE CHAIR:** FLG?

**Mr Haratsis:** That is food, liquor and groceries.

**MR HARGREAVES:** I have another couple of words in my mind which clearly are not right.

**Mr Haratsis:** Sorry, Madam Chair.

**MR HARGREAVES:** Football—

**Mr Haratsis:** If it was Melbourne, it would be football, football and football.

**MR HARGREAVES:** Believe that if you will, Mr Haratsis.

**THE CHAIR:** Please continue.

**Mr Haratsis:** So what I was wanting to demonstrate to you was: in terms of the existing number of stores, if you compared yourself with the Gold Coast, the number of stores is about the same but what you find is floor space is significantly lower in the ACT. Store sizes are smaller, which is a characteristic of your planning network and the way that you have run your system here. Total floor space per 1,000 people is about 10 per cent lower in the ACT. If we have a look at the average sales per square metre, it is about 10 per cent lower on the Gold Coast.

If you then have a look at the highest performing sales in terms of turnover per square metre—and turnover per square metre is the right measure, because that measures how much money a supermarket turns over, and it is the best measure of its viability; it is the only consistent measure we have—what you find is that it is around 20 per cent higher turnover for the highest performing, and it is around 15 per cent higher for the lowest performing. And I am confident that we could look at this against other regions and we would come out with a similar outcome. But I thought this might be some useful information.

In terms of retail turnover and using that to interpret floor space, because there are two clear parts to this—one is understanding the physical outcome, the other is the financial outcome; I have used the Urbis national averages; we have our own national averages—for regional centres it is \$10,877. If we look at SGS consultants, whom ACTPLA have used to construct the retail model, the number they have actually used is \$13,246 per square metre in a town centre. So what I am wanting to show you here is that it is not only on a regional level, with the kinds of statistics I use, but if I actually use your own statistics, you are very clear in the ACT that your retail turnover is substantially higher than the rest of Australia.

If I take you right down to the supermarket centres, it is an interesting comparison. It needs some interpretation. The supermarket centres are enclosed and full line in the Urbis averages, and we are comparing that against main street supermarkets, not smaller supermarkets in your main street in your local centres.

**THE CHAIR:** Would they be equivalent to our group centres? I was going to ask you—

**Mr Haratsis:** Yes.

**THE CHAIR:** How do your Urbis figures line up with what we have here?

**Mr Haratsis:** They would be called group centres.

**THE CHAIR:** So the subregional centre would be equivalent to our town centre?

**Mr Haratsis:** Some of the smaller town centres. Let us discount department-store-based centres.

**THE CHAIR:** And the regional centres?

**Mr Haratsis:** That would be Woden. They are not direct comparisons but what you find when you get to the local centres is that at \$10,000 or \$10,500 per square metre, that is very high by Australian standards. In other words, your local centres trade much more strongly than local centres around the rest of Australia.

In conclusion, from my point of view, on any criteria that I use to try to examine the competitiveness of the network here, what I actually find is that your floor space numbers are too low. They are probably somewhere in the range of 10 per cent too low. They could be up to 20 per cent too low. Your retail turnovers are too high on a per square metre basis. And the issue for that is that consumers are not getting the competitive framework that they actually require. What I can show you is that for other regions, supermarket operators are able to compete away the higher retail turnover densities and that that translates into lower prices for consumers. That is on a very consistent base throughout Australia. So hopefully that has provided some information and some insight from an economist's perspective.

**THE CHAIR:** The obvious question is: quite a few of our submissions have told us somewhat the opposite, that the ACT has a very high provision of retail space. I should have been flicking through to find the exact references. While other people are talking, I will find you a reference. But we had the same problem this morning where the Australian National Retailers Association gave us one figure for the share of the market by Woolies and Coles, whereas a number of our other submissions had very different figures. Can you shed some light on that? You may or may not have seen any of our other submissions, but the two lots of figures are not the same.

**Mr Mills:** It comes down to market definitions, I think—I assume.

**THE CHAIR:** Would you like to expand particularly on the market share one, because we have had one interpretation, and that showed a very significant difference?

**Mr Mills:** Coles has about 50 per cent of Woolies' market share in the ACT, which is very unusual. That is the lowest we have in any capital city in Australia.

**THE CHAIR:** But how big do you think that makes Woolies or Coles? We heard from the Australian National Retailers Association, and I believe you are members of that.

**Mr Mills:** Yes.

**THE CHAIR:** They said that the share of the two of you—this is my memory—is about 65 per cent.

**Mr Mills:** Yes, that is about right.

**THE CHAIR:** We have figures here which are more like 80 to 90 per cent.

**Mr Mills:** Yes, well, that is just incorrect.

**THE CHAIR:** The reasoning given to us was that it was on different bases—that is,

your 65 per cent included whole of stomach, I think the gentleman called it, in other words, all food items. Is that what is going on, or do you have any idea why the figures are very different?

**Mr Mara:** Can I just make a point. Often when “groceries” is defined, it could be just dried groceries, like scanned data. So they are just counting boxes that are sold through the scanner at the checkout. There are a whole range of people who do not actually use scanners or have that kind of system or do not report it through to Nielsen or whoever actually does the calculations. That is a very narrow share of the food market. The ACCC and the ABS use a broader one, which includes not only that data but also fresh food and whoever else sells food, for example, fast food, which is a share of stomach, if you like.

**THE CHAIR:** So you include ready-to-eat and not just groceries?

**Mr Mara:** We are including that here particularly but, in terms of what the ACCC and the ABS count, their market assessment is that Coles and Woolies have about 55 to 60 per cent of the market. That is their official, if you like, calculation based on that market. There are 30,000 specialty food retailers in Australia, whether they are butchers, bakers, fruit and vegetable shops, those kinds of things. They all compete outside our front door. But often the narrow definition is used and, essentially, that is a dry grocery market and excludes all those players.

**THE CHAIR:** You do not happen to have any documentation reconciling these blocks of figures? I mean, 65 versus 90 is a significantly different idea of the Canberra market.

**Mr Mara:** I would refer you in the first instance to the ACCC’s report of the 2008 grocery inquiry. Do not take our word for it—they do a full assessment of the market shares.

**Mr Mills:** In our submission to the committee, we just copied the ACTPLA floor space table, which is probably slightly out of date because Woolies have opened at the airport a very large store. But that table has Woolworths at 41.5 per cent. I guess it would be about 44 per cent now in the ACT. We are at 23.6 per cent, Supabarn is 8.5 and Aldi is 8.5. That means that Coles and Woolies have in the ACT about 65 per cent of the market and the independents have 35 per cent. That is a very high percentage in capital city terms. In fact, I do not think there is another capital city in Australia that has as high a percentage of independents as the ACT.

**Mr Haratsis:** Just in terms of reconciliation, we think ACTPLA floor space numbers are correct. If you take each of the parameters, we think their numbers are correct. So if that is a starting point, really, a lot of the other analysis falls out of it. We think the retail turnovers, the ACTPLA retail model, we have got are correct, which are high. We know what the national averages are. We know Coles’s trading conditions in the ACT. I can tell you that Coles trades significantly higher on a per square metre basis in the ACT than any other state or territory. Our internal data is entirely consistent with ACTPLA data and data sets.

The kinds of reconciliation differences that are tougher ones, for example, in the

ACT—and one of the reasons it was a good question—show that a bit more than 10 per cent of expenditure in the ACT, based on the flybuys data, is not driven from the ACT population. It is very high—10 per cent of the network is a lot. On ACTPLA's last count, excluding the new Woolworths, we are talking about 108,000 square metres of retail floor space. So that would justify a 10,000 square metre block on its own. So there are issues around that reconciliation about what we are actually measuring here. For example, my retail floor space per capita number does not include people from outside the ACT.

**MR HARGREAVES:** Mr Mills, you mentioned that the ACT is unique in terms of capital cities.

**Mr Mills:** Yes, in terms of independents that is right.

**MR HARGREAVES:** How many other capital cities have a three-tier system in operation?

**Mr Mills:** By that do you mean the—

**MR HARGREAVES:** We have local centres, group centres and major centres.

**Mr Mills:** I think Brian could probably answer that around the country. New South Wales does not have that. Victoria, as I recall, does not have anything that is as hierarchical. Bear in mind that the ACT is judge, jury and executioner here because you completely control who goes where when, the rent and everything like that.

**MR HARGREAVES:** Does that make comparisons a bit difficult?

**Mr Mills:** It does, because it is the most regulated market in the country. And if you ask what that achieves, it has actually achieved quite a diverse range of operators because you have a large number of independents that trade very successfully here. We are obviously very keen to expand our market share here, and our view of life is pretty simple; we want to compete in the group centres, which is what the Martin report suggests where the competition should be won and lost and where the fight should be. We do not want to play in the local centres; we do not think that is a market that Coles should be in. We think that is something the independents are quite willing and able to operate profitably in, and good luck to them. Woolies have made a move into those areas for their own reasons, and that is up to them. That is a commercial decision for them. We do not want to play there. We just want to concentrate on the group centres, and there is not a group centre where there are two full-line supermarkets going head to head in the ACT.

What you have is Aldi, and Aldis, I would submit to you, are not full-line supermarkets. In fact, Aldis are great as far as we are concerned because they actually help us because they draw more people to the centre and our sales go up—same with Woolies, I know. They are actually a benefit to us. They are not actually really a competitor in terms of the full-line offer. So for Aldi on that, it is the more the merrier.

**MR HARGREAVES:** Am I hearing this correctly? I asked a question earlier on of other witnesses whether it was true that the planning regime and the three-tier system

were actually condemning the smaller operators to the third tier. What I am hearing you telling me is that that is not a bad place to be if you happen to be a small player anyway—

**Mr Mills:** Well, it depends. Sorry, I am not trying to interrupt.

**MR HARGREAVES:** You are doing a good job of it, though.

**Mr Mills:** Pardon me, I will let you finish.

**MR HARGREAVES:** Thank you. I would like your view on that. Also, I heard you saying that Coles is about making sure that the planning regime is consistent for competition at the group centre level—maybe you have got some concern about that—but at the town centre as well, I would assume. So is the concern of your part of the industry really around town centres and group centres and not so much about the local centres? Am I right?

**Mr Mills:** Correct. In the ACT you have the full-line offer that competes with Supabarn. They are obviously in some parts of Sydney, just a few stores. I cannot think of one where they actually compete head to head with Coles or Woolies. Their business model is clearly to go into a lucrative market and dominate that market. That is great. I mean, that is exactly what you would expect them to do.

IGA has a range of offers. They have the small little IGAs in the local centres and then you have them in the Kingston area, for example, in a group centre and then you have the Supa IGAs. They tend to be the full-line offer and they are bigger, and I guess they would go head to head except, again, there is not a single group centre where they compete with Coles or Woolies in the ACT. They would avoid that situation because their business model is different. Their pricing structure is different. They have got a different supply arrangement and they have no need to compete. If you offered them a site next to a Woolies or a Coles it would be interesting to see whether they took it. We expect to compete with Woolworths, and I guess what we are saying is that we would like the opportunity to compete with Woolworths in the group centres.

**MR SESELJA:** Before I go on to some other questions, I just want clarification: the ACTPLA numbers you are talking about in terms of floor space that you have based your assessment on, it is not clear to me what that includes. Does that include your butchers and your fish and chip stores, or is it just supermarket spaces?

**Mr Mills:** The definition in ACTPLA which I think we copied—I just looked at it again a second ago—excludes 57 convenience stores with an estimated floor space of 12,000 metres. So it excludes the really small stuff. That is the bigger definition of supermarkets.

**MR SESELJA:** Just a narrower version of market.

**Mr Mills:** It gets very confusing. If you start to include all the little ones, then you end up having a very complicated debate.

**MR SESELJA:** Going to your submission, I want to get a flavour of exactly where you are coming from. You have made it clear here that you want to be competing particularly at group centres.

**Mr Mills:** Yes.

**MR SESELJA:** You are talking also about the direct grants process. We heard from one of your associations earlier which suggested they just want to see a free market operating and that people should be able to bid for whatever. Why the direct grant process? Why should Coles be able to get a direct grant where there is a Woolies? Why should someone else not be able to compete with Coles?

**Mr Mills:** Absolutely. I guess there is no other avenue for us to apply other than via direct grants. In some cases we have done that. Dickson is hopefully going to come up a bit later this year. That will be an expression of interest. I think we have banged on the door at Dickson for years, trying to get in there. It is just a case of making as much noise as possible to hopefully get an opportunity, because we have not got anything for years. Woolies has dominated the market via acquisitions and expansions and Coles has been left behind.

**MR SESELJA:** Is there a reason for that?

**Mr Mills:** Woolies bought Cannons some years ago, and that gave them a big leg-up. I think it is also fair to say they have expanded their network quite efficiently over the years and they have gone for opportunities probably more than Coles. I was not here, but they have been pretty aggressive about expanding, and they are going into some of the local centres, which we do not want to do. They are having a go at it, and there is nothing to stop them buying businesses and operating in a small store in a local centre. That is the free market system.

**MR SESELJA:** Sure. But putting aside the local centres, why has Coles not undertaken those kinds of expansions?

**Mr Mills:** In the local centres our view is we do not want the competitiveness—

**MR SESELJA:** No, putting those aside.

**Mr Mills:** I do not think we have had the opportunity actually. I do not think we have had much of an opportunity in there.

**THE CHAIR:** But a lot of these Woolies are not down to direct sales.

**Mr Mills:** No, it is just historical, that is right. In fact, I am trying to think whether there have been any via direct sale in the last 10 years, and I cannot think of any.

**THE CHAIR:** You say you are not interested in the local scale market, but are not the Coles Express stores coming up in Shell servos? Is that not—

**Mr Mills:** They are very small.

**THE CHAIR:** But in terms of convenience, it is directly competing, I would have thought, with the smaller supermarkets.

**Mr Mills:** It is a very different market. It is where you are driving home and you are in the car and you want to pick up something quickly. Not every suburb has a little local centre you can just walk to or pop out to easily.

**THE CHAIR:** Yes, but there are a lot more of them than there are stations in each suburb.

**MR HARGREAVES:** Service stations are a shrinking facility anyway.

**THE CHAIR:** Service stations are a shrinking facility but it seems to me that you are in fact in the local business—

**Mr Mills:** We certainly—

**Mr Mara:** We are a convenience business.

**THE CHAIR:** I think I interrupted you, Mr Seselja.

**MR SESELJA:** No, that is okay. I think it was along the same lines. I am interested in your overall assessment because that is not clear. You talked about some frustrations, I suppose, with the implementation of the supermarket policy. You do not believe that anything has actually changed. Are you able to expand on that for us a little bit? There have been changes. Some of those have happened outside the supermarket policy. Obviously there has been more coming online at the airport and the like, and that is not related to the supermarket policy. Obviously there have been moves at Dickson—the changes there. I am interested in your views on why you believe there has been no change. Could you expand on that point that you have made in your submission?

**Mr Mills:** Looking at it from the point of view of a bit of an outsider, it looks to me like the system is there to protect the independents. That is a legitimate goal, if that is what the elected officials want to do. But that is the result of it, basically. Nothing has changed particularly in the ACT in terms of major supermarkets for a very long time, except for direct grants to Supabarn in Casey and Kingston and Aldi in a whole range of centres, including most likely Dickson.

**MR SESELJA:** You talk about there needing to be more transparency in the assessment of direct sales. What do you mean by that? Where is the lack of transparency at the moment?

**Mr Mills:** I am not sure that I can expand on that. I think the direct sale process is a bit of a lottery. I am not an expert on Kingston but as I understood it we certainly were excluded and Woolworths were excluded. So that really leaves you with IGA and Supabarn.

**MR SESELJA:** My understanding was that IGA were excluded from Kingston as well.

**Mr Mills:** You have to ask why you would not just have said, “Put it out in the market and let everybody apply that wants to apply.” You probably would have got a better price for the land, and then the ACCC would deal with the competition issues. That would be my straightforward view on it. I do not see why you need another level of government saying, “You can’t be there.” The ACCC already fulfils that role.

**MR SESELJA:** So you are not talking about the direct sales generally; you are talking about some specific direct sales where there has been that statement by the government that only Supabarn need apply, in a couple of cases?

**Mr Mills:** It seems to be the case, yes.

**MR SESELJA:** More broadly on the direct sales, you do not have a—

**Mr Mills:** I just do not think we have got anything, so I think we would have to take the view that it has not worked for us.

**MR SESELJA:** But when it comes to expansion in group centres, you would be comfortable with any sort of open process presumably for additional sites?

**Mr Mills:** I think that is inevitable, yes. The reality is that with the group centres, we do not own them. It is our landlords, future potential landlords, who would be applying for that site. If you look at Weston and Erindale, they are owned by institutions. So they will have to decide that they want to do it and we will obviously be encouraging in the background. But at the end of the day they will have to do it. It will not be us that will be buying the land.

**MR SESELJA:** I know there has been a presentation in terms of market concentration and the like, but a number of the other submissions, as you would expect, have raised concerns about the expansion in group centres and having two full-line supermarkets. The Tuggeranong Hyperdome, who we will hear from later, has said that if Erindale, for instance, were to get two major supermarkets competing, that would have a significant impact on their business. I am interested in your response to that.

**Mr Mills:** It might mean they would have to invest more money in the centre to compete.

**THE CHAIR:** And maybe look at it also from a Dickson point of view. Clearly you must have done the analysis of that, given what you are planning to do. What impact would another supermarket in Dickson have on the surrounding local centres?

**Mr Mills:** I am not even sure what local centres are around there, to be honest.

**THE CHAIR:** You are planning to open another supermarket there.

**Mr Mills:** Yes.

**THE CHAIR:** Presumably you are planning to get customers. Where do you think

they are coming from; that would be the other way of looking at it?

**Mr Mills:** I think most of them would come from Woolies. Where they have opened next to us there is a major impact on business, particularly if they go in bigger, with a better offer. It would be the same for us if we opened and they had, say, a 2,000-metre box and we had a 4,000-metre box. The guy with the bigger box will obviously win—the better offer, more convenient et cetera. I expect that in Dickson the overwhelming impact—and Aldi will be there too—would be on Woolworths. That is the most profitable store they have in the ACT; it is a phenomenal business. They will do everything they can to protect it.

**THE CHAIR:** So you have not done any work on the impacts? There are actually local centres around—

**Mr Mills:** I do not think so. We have certainly done it on Erindale and Weston, where we have looked at the economic impact. But most of the impact is concentrated on the nearest competitor, which is Woolworths, rather than—

**Mr Haratsis:** Perhaps, Madam Chair, I could amplify this a little bit. When economic impact assessments are done, the key issue is whether or not a store remains viable. The rationale behind that from a planning perspective is to make sure that your centre's hierarchy works, industry and the community facilities, and that it is efficient investment. The reason that I presented the retail turnover density figures was to demonstrate that most stores in the ACT could withstand 20 or 30 per cent impacts because they are the kind of levels that most stores are actually trading over the national levels.

An interesting starting point for every impact assessment in the ACT is the benchmark number that you would like to achieve for your consumers because the key question is only this: how many stores and how much floor space do you want to maximise the competitiveness of your system? It is not: how high do you want to set your retail turnover? My suggestion would be that you look at sustainable retail turnover in other states because supermarkets, whether they are independents or whether they are nationals, can trade at those kind of levels and they can trade successfully. And that is 20 or 30 per cent higher in the ACT. So the network impacts would be absolutely minimal.

**Mr Mills:** And that will not stop them—

**THE CHAIR:** Unfortunately we are running out of time. There is a possibility that we will end up with some more questions after we have finished our deliberations, so if we could send questions to you, that would be appreciated. One thing we will certainly send to you is a copy of the transcript as soon as one is available, for your corrections. Thank you very much for your attendance today. It has been very useful.

**MOODIE, MR WAYNE**, Regional Manager, NSW/ACT, Colonial First State Global Asset Management

**HOLBOROW, MR WAYNE**, Design and Development Manager, Leda Holdings Pty Ltd

**THE CHAIR:** Good afternoon, it is Caroline Le Couteur here. I am the Chair of the committee investigating supermarket competition. Am I speaking to Wayne Moodie?

**Mr Moodie:** Wayne Moodie and Wayne Holborow.

**THE CHAIR:** Great.

**Mr Moodie:** There are two Waynes.

**THE CHAIR:** Thank you, gentlemen, and welcome to this inquiry of the select committee. Have you been given a copy of the privileges statement?

**Mr Moodie:** Is that the document that was sent to us, I think, yesterday and we—

**THE CHAIR:** It was emailed yesterday; so it sounds like the answer is yes.

**Mr Moodie:** I think so.

**THE CHAIR:** What I have to ask next is whether you agree with the conditions of it. Can you find it because it has got some statements about privilege?

**Mr Moodie:** Does it say that the record of the hearing will be transcribed by Hansard in accordance with the Legislative Assembly (Broadcasting) Act?

**THE CHAIR:** That is certainly true. There is another thing that I think I should probably read out to you:

Parliamentary privilege means the special rights and immunities which belong to the Assembly, its committees and members. These rights and immunities enable committees to operate effectively and enable those involved in the committee process to do so without obstruction or fear of prosecution. All witnesses who make submissions or give evidence to committees of the Assembly are protected by parliamentary privilege.

So that is something that is important and that you must know. The statement continues:

Witnesses must tell the truth. Giving false or misleading evidence will be treated as a serious matter and may be considered a contempt of the Assembly.

So there is all of that as well as the fact that we are going to record it. Are you happy to agree to that?

**Mr Moodie:** Yes.

**THE CHAIR:** Great. Talking about recording, as well as being recorded, this hearing

is being webstreamed live. Obviously from your point of view it is a picture of a phone, but the audio is being streamed live on the Assembly's website.

**Mr Moodie:** Right.

**THE CHAIR:** Thank you, gentlemen, for agreeing to appear. Do you have an opening statement to make?

**Mr Moodie:** Yes. I can probably make some comments. First of all, I will make an introduction so that the committee knows whom they are speaking to. Wayne Holborow is the design and development manager from Leda. I am the regional manager for New South Wales and ACT for Colonial First State. We manage the centre on behalf of the owners, who are Leda and Centro. I just thought I would let everyone know where we both sit in the organisation.

I will also provide a little information about Tuggeranong as an overview. Tuggeranong Hyperdome is located in the Tuggeranong town centre. It was developed approximately 25 years ago by Leda. The centre is approximately 76,000 square metres, with annual foot traffic of about 7.2 million people.

In terms of our submission, probably it can be summed up in three key points that we felt we wanted to make to the committee. We wanted to really stress the importance of the town centre hierarchy, the population size, lack of growth in the Tuggeranong Valley at the moment, and the health and viability of the town centre.

**THE CHAIR:** It is always very hard on the phone because we cannot see you, but is that the end of your opening statement?

**Mr Moodie:** Yes.

**THE CHAIR:** Great. Thank you very much. I think most people have spoken about the town centre hierarchy. Do you see the possible introduction of additional supermarkets in group centres such as the Erindale centre, which is what you have talked about a lot in your submission, as changing the hierarchy so that there is not the same difference between group and town centres? Is that sort of basically what you are saying or do you think it is going to be more impacting on local centres? Could you please comment on that?

**Mr Holborow:** Our concern is the fact that the supermarket policy really just seeks to provide a diversity of choice, and we can understand that. It should not be to the detriment of the established town centre hierarchy. Moreover, the fact that if centres such as Erindale town centre wanted to provide an additional supermarket infrastructure, there does not seem to be the economic or population support for doing that. As a consequence, we do not see the position being suggested by the planning department where they say we might want to put a 1,500 square metre supermarket in. They are talking about putting in 30,000 square metres of retail. We are saying that it is unsustainable retailing for a population and also it draws against the hierarchy of the town centre.

You are getting a situation where these regional centres are competing directly with

the town centre, which is against the hierarchy. Leda invested and purchased Tuggeranong far in advance of the population. We were told that the population would grow to 150,000 and it has been stymied at around 80,000 to 90,000. This would be destroying that hierarchy.

**THE CHAIR:** You think it impacts most on Tuggeranong as a town centre rather than on the local centres in the area?

**Mr Holborow:** It draws from the available resources and the available people that sustain the selling environment. Canberra is just inundated with far too much retail, and it is unsustainable.

**MR HARGREAVES:** Thanks very much for being available. Yes, I live in Tuggers; so I can understand what you are saying. I know about the health of the town centre as well and the competition one might feel from Erindale and some of the smaller group centres. You mentioned in your submission that there were 11 local centres and the possibility of them expanding out to 1,500 square metres. Do you really think there is any possibility of that happening?

**Mr Holborow:** Sorry, the—

**MR HARGREAVES:** You have got 11 of the local centres—

**Mr Holborow:** Yes.

**MR HARGREAVES:** Your Monashes, your Gowries and that sort of story. In your submission you are a bit concerned that if the supermarket policy regime found its way into the planning regime and allowed 1,500 square metres instead of what is usually about 600 or 800—

**Mr Holborow:** Yes.

**MR HARGREAVES:** Do you really think there is a possibility of these local ones expanding out to 1,500 square metres if allowed to?

**Mr Holborow:** Like I say, given any development opportunity to expand, they will take that opportunity the second it is sustainable.

**MR HARGREAVES:** Would you think that they would be operating and conducting business in a catchment which would sustain supermarkets of that size? For example, we talked about the Richardson shops and the proximity the Richardson shops have to the Chisholm shopping centre. Do you think it would be a good business decision to expand the Richardson supermarket out to 1,500?

**Mr Holborow:** I think you have just got to understand that the whole idea of a local centre is that it provides for convenience shopping at a local level. If these things become so big, they compete against the main centre hierarchy, which is a much broader thing. So if you keep on letting the little centres do more than just your grocery shopping to pick up your knicks and knacks in the afternoons or to save you the big trip to the city, you will compete against us, and we just cannot survive.

Our biggest centres, which provide for a much bigger retailing offering and bigger supermarket offering, offer diversity. If these little ones go up to 1,500 square metres, they will be offering the same things as we are offering.

**MR HARGREAVES:** Yes, my instinct tells me that they are more likely to go broke than to compete with the group centres. I do not know what your feeling is—you might like to share your views—but it seems to me that the fear you express is more properly placed in terms of allowing the group centres to expand at the cost of the town centres. For example, at Erindale, which is probably the biggest group centre that you guys would compete against, if in fact the planning regime allowed that area to expand out considerably greater, that would be a significant threat to the viability of the hyperdome.

**Mr Holborow:** Absolutely and we have already put a submission in regarding that planning policy. In particular, we have said that you also look at your infrastructure and your transport. We have got a bus interchange and now we are supposed to be having a bus hub.

When you talk to the planning department and to the local transport department they are saying that it looks like they have positioned the hub in the wrong spot. Erindale looks like becoming the centre of the town centre.

**MR HARGREAVES:** Yes. Maybe they positioned the town centre in the wrong spot in the first place.

**Mr Holborow:** Yes. As I said, we purchased this site. If you have been there a long time, you will know that we bought it when our main customers were kangaroos and koalas, and I cannot—

**MR HARGREAVES:** Not a lot of koalas, I have to tell you.

**Mr Holborow:** Anyway, as I said—

**MR HARGREAVES:** The people from Weston Creek ate them long before you blokes turned up.

**Mr Holborow:** Yes. Anyway, we were there for a long time and the whole growth was going to get up to 150,000 people. We have got negative growth out there at this point in time. We just cannot understand a supermarket policy that is trying to offer diversity of choice just because potentially one retailer managed to get in and be a little bit more dynamic than the others—that it should cut across the whole planning regime that set up the hierarchy of town centres.

**MR HARGREAVES:** Yes, thanks for that. One last question: this relates to something that we do not have a lot of our submissions displaying expertise in. I refer to the effect of supermarkets on the surrounding businesses in a large town centre. We know, or residents of Tuggers have known, that you have had two significant sized supermarkets in the hyperdome since Pontius Pilate. But I am interested to know: if these are successful competitors, what is the effect on the surrounding businesses

around them? Do they draw customers into those surrounding businesses? Do they drain it? What is Leda's experience in that sense?

**Mr Holborow:** Obviously, main town centres, which are our pride and joy—most of the centres in Queensland, New South Wales and Canberra—are all anchored by major supermarkets. A major supermarket of 4,000 plus square metres offers diversity of choice for a customer whereas a small supermarket of 1,500-odd square metres offers more necessity or essential purchasing stock. So we do not see supermarkets competing against other businesses outside our town centre. They just support the infrastructure of our town centre.

**MR HARGREAVES:** Do you see them as being a magnet for the small businesses to exploit?

**Mr Holborow:** That is why we have got over 200 speciality shops.

**MR HARGREAVES:** Why did Myer leave?

**Mr Holborow:** Myer left as a business. As a business they cannot sustain themselves—the way their business model runs. Their business model runs on the basis of fashion, and it is a high-quality fashion. High quality in today's internet society is a very competing market. They just cannot survive as a business out of city centre environments. That is why they are looking to go to Woden or—

**MR HARGREAVES:** Or wherever.

**Mr Holborow:**—the city centre. You would know better than I do, Wayne. In Melbourne they are moving out of the smaller regional locations to position themselves in a CBD location.

**MR HARGREAVES:** So having the big sort of supermarket chains might act as a bit of a positive magnet for the micro businesses if you like or the really super small ones but it does not translate into those bigger anchor tenants?

**Mr Holborow:** Yes. Unfortunately, the retail industry is changing. It is a very difficult market at the present point in time. A lot of small businesses have had to change their models with internet sales. Also, discount department stores and discount purchasing is the flavour of the month. That is the customer base and that is why we were able to secure Big W to fill in a large slice of the Myer space. Department store businesses trade better, have a different model, have a different cost base and can survive in regional locations.

**MR SESELJA:** One of the other submissions we have was from Coles and Coles put it to the committee that in fact there is scope for growth in supermarkets. In fact when I put to them your concerns about group centres having competition between major players they suggested that Tuggeranong needed to invest in its facility. I am interested in your response to those two issues, particularly what analysis you have done in terms of the scope for additional supermarket space in Tuggeranong.

**Mr Holborow:** Obviously with the negative population growth that we are currently

experiencing we have been able to secure Coles to do a major upgrade and Woolworths to do a major upgrade to reposition their assets. We are getting Kmart to do a major upgrade on their assets and we are getting Target to do a major upgrade on their assets. We have spent in excess of \$25 million in the last 18 months repositioning our assets. It is the centre's 25th anniversary this year. We have spent \$4½ million by putting a separate trading operator in Limelight, having not been able to procure an acceptable commercial arrangement with Hoyts. In that case we provided a much better offering and, we consider, a value offering in regard to our loan. We run that business ourselves as our own business model. In Tuggeranong we are investing substantially in the redevelopment and repositioning of the Myer circumstance. As I said, they are the upgrades that we are doing.

In regard to our basic infrastructure, we just upgraded the food court. This year we will be upgrading all our toilets and amenities. Yes, there is a need for all clients, all investors, to invest in their products. But I think, as a sign, equally our tenants have got to come to the party and reposition their assets.

Coles have been able to pull back a lot of the turnover and growth that Woolworths has had, and good luck to them. They have got a good business model and they are doing well with that business model. But I do not believe it justifies, unless there is an economic justification or population growth, simply saying, "Put another Coles down the road."

**MR SESELJA:** You have said in your submission:

We are concerned with the propensity of the government to grant direct sales to facilitate full line supermarket development in locations which, prima facie, are not suitable for full line supermarket development.

Are you able to give us some examples of what you specifically mean by that?

**Mr Holborow:** Sorry, I did not hear the question specifically.

**MR SESELJA:** I am quoting from your document. When you go through the committee's terms of reference, under (b) you say:

We are concerned with the propensity of the government to grant direct sales to facilitate full line supermarket development in locations which, prima facie, are not suitable for full line supermarket development.

I am interested in some examples of that propensity and where you are particularly concerned about those direct sales.

**Mr Holborow:** I will let Wayne answer.

**Mr Moodie:** I think one of the examples could probably be that in the master plan they were suggesting the area towards the back of the centre. If I look at Tuggeranong there is currently an open-air car park. There was some mention of it in the master plan. It was not necessarily specified but it is probably more around the context of the facilities that go with the supermarket, the space that they require for parking and the locations, and looking at the current plan in terms of where the developments sit at the

moment particularly around the Tuggeranong area.

**MR HARGREAVES:** Which open-air car park was that, the one near Vinnies or the one near the Good Guys?

**Mr Moodie:** It is the one up the back near Good Guys.

**MR HARGREAVES:** Okay, got it.

**Mr Moodie:** Looking at the master plan, when we were going through the process of preparing a submission that was an area that we had some concern about at the time we were looking at the submissions.

**MR SESELJA:** So that is what you are referring to when you talk about that propensity?

**Mr Moodie:** I think it is just one example of the areas that could be chosen for people to try to develop these types of developments and then not necessarily have the space to be able to build the proper facility and also have the car parking.

**Mr Holborow:** And an example of that—and we were very upset—was that adjacent to us, in the Home World development, that development was designated a site that was supposed to be specifically bulky goods. Yet the developers there were able to sneak in a development application to let an ALDI go in there. If anybody knows the Homeworld site it is basically going to be vacant premises in the not too distant future. That is an example where fragmented planning rights—and the development was specifically supposed to be a minimum of 500 square metres and not to be supermarket orientated centres—have been allowed to get away with a minor planning amendment or a lease variation change and you are getting fragmented retail happening.

**MR SESELJA:** You have also said in your submission that the way that the competition policy interacts with the planning system has created significant uncertainty. Are you able to expand on that point a little?

**Mr Holborow:** Our planners are saying to us that currently there are two master plans out there, the Erindale and the Tuggeranong master plans, and those plans contemplate all sorts of what I consider to be unrealistic solutions associated with master plan development. For example, they are suggesting that we should put multi-storey residential on the top of our shopping centre. They are suggesting that the shopping centre should be split into two halves and provide for a mall strip running down the centre. I just think it is planning gone mad.

**THE CHAIR:** But I was also going to ask: it may or may not be planning going mad but how is planning interacting with the supermarket policy and what precisely would you want to change?

**Mr Holborow:** Sorry; that was not taken in the context of the supermarket policy. That was taken in regard to the master plan policies that are currently in place.

**THE CHAIR:** But you said here that they interact in a way that creates significant uncertainty. What would you like to change?

**Mr Holborow:** The supermarket policy.

**THE CHAIR:** And what change would you like to make to the supermarket policy?

**Mr Moodie:** To come back to the certainty around how the hierarchy was set up originally and the ability to set up the 1,500-square metre centres, little supermarkets and so forth. I know they are around the fringe that will all—

**Mr Holborow:** I suppose, just to cut through it, we wanted a link. If any development is approved it has got to be sustainable development. The sustainability for development is the continuation of the growth or the demonstration of expendable financial income. We cannot do any development around this country unless we can demonstrate it has no negative impact on any adjacent centres and it is economically viable. And we think that that should be the litmus test done on any of these policies or any of these—

**THE CHAIR:** To say no negative impacts on any surrounding centres does sound possibly a little anticompetitive.

**Mr Holborow:** I think there is a problem in that there is no test in regard to that. Your policy simply says “to encourage competition”, and we want to provide for that competition in some format. The format should be on the basis of economic, sustainable grounds and it does not have a material impact on any other centres in the region. About 10 years ago there was a retail moratorium which said that no additional retail could be put in place unless it was demonstrated through population growth and economic means. There seem to be no criteria.

**THE CHAIR:** There are currently criteria for local centres at any rate and I think also for town centres they were significant ones. It is certainly something the Greens would push for. But you would like that stronger than what it is at present?

**Mr Holborow:** Yes.

**THE CHAIR:** My only other question is: when you talked about wrong locations you were talking about purely within the Tuggeranong town centre, which I appreciate is the area you know best. Is there anywhere else that they have got wrong in terms of direct sales or is it just in the Tuggeranong town centre that they have made a mistake?

**Mr Holborow:** Sorry; the direct sales?

**THE CHAIR:** You have said—and Mr Seselja quoted your point:

We are concerned with the propensity of the government to grant direct sales to facilitate full line supermarket development in locations which, prima facie, are not suitable ...

Mr Seselja asked whether you had any examples and you talked about the Tuggeranong town centre. I was just wondering whether there was anywhere else where, in your opinion, the government had got it wrong.

**Mr Holborow:** I could not be specific on that.

**THE CHAIR:** We are running out of time and possibly out of questions as well at this point. Gentlemen, thank you very much for your attendance. We will send a transcript to you as soon as there is one. It is possible that we may end up with some supplementary questions. So thank you very much.

**Mr Holborow:** Thank you.

**Mr Moodie:** Thank you.

**Meeting adjourned from 3.04 to 3.15 pm.**

**NOLAN, MR PETER**, Spokesperson, Giralang Residents Action Group

**THE CHAIR:** Welcome to this hearing of the Select Committee on ACT Supermarket Competition Policy. Thank you very much for attending, Mr Nolan. In front of you there is a blue card. Have you had a chance to read it?

**Mr Nolan:** I have.

**THE CHAIR:** And you are happy to agree with what it says?

**Mr Nolan:** I am.

**THE CHAIR:** The other thing I should point out is that this is being webstreamed live so anything you say will become public instantly.

**Mr Nolan:** No problem.

**THE CHAIR:** Do you have an opening statement that you would like to make?

**Mr Nolan:** I am a representative of the Giralang Residents Action Group. GRAG has submitted a submission to this committee in relation to particular issues surrounding the status of the Giralang shops and the development applications preceding. I do understand that the terms of reference for this group specifically exclude dealing with that particular issue as it relates to the matter before the courts at the moment. It is certainly not my intent to bring that issue forward at the moment but to put forward some positions on supermarket competition policy as has been experienced by the Giralang residents.

There are not a great deal of points to be made but in an overarching sense I would like to state that I think that over-regulation or protectionism in the context of supermarket competition policy may not actually provide the sort of outcomes that might be expected. In fact, a high level of regulation or a high level of interference or protectionism can only serve the vested interests of the few. I am not sure that it will have any impact at all at the lowest level in terms of what goes into someone's shopping trolley and the price that they pay at the till.

Certainly our experience in terms of the contrivance around the Giralang shops has been that where there are rules in place to provide for changes in lease purpose where it can be demonstrated that there has been no economic viability for a centre, it has presented disastrous results for the community. It was most certainly an issue that was taken quite seriously by the Stanhope government in terms of addressing the issue of tax on change of lease purpose. I would certainly fully back the decision that has been made in that regard and reject some of the sentiments that have been put forward by groups such as the Property Council of the ACT and the like around the fact that these are impediments to progress. In fact what I think they do is to keep a level of honesty and integrity in the process.

What happened with Giralang was that that particular site was left to run down. I know it is probably not a matter that is of any particularly great news or interest to this group at this point but that site was left to run down for the purposes of being able to

contrive a scenario in which there was a demonstrable lack of viability in the shopping centre. In fact there was quite serious viability in a number of the retail endeavours that were being conducted on that site, but for the fact that the owners of the supermarket, who also held the leases on all of the other sites within the shopping centre, were able to place such constrictions on the leases of those tenants that were actually doing well that they were forced to leave. In that scenario the whole of the centre became run-down, derelict and unsustainable. That was used as evidence to suggest that it should become a set of town houses rather than a local amenity. That was very problematic because everybody who had been around Giralang knew that if that shopping centre had a decent lick of paint and some decent stock on the shelves it could have been an ongoing concern in any regard.

A number of the other shopping centres in the region have benefited greatly from the shutting down of the Giralang shops. Notably Supabarn and the IGA at Kaleen have done very well out of that scenario. They of course are the parties who are bleating about the fact that at this point in time the issues around there being a centre rebuilt at Giralang would cause them undue financial hardship and would cause their demise. I find that to be quite fictional, effectively.

I think that the issues around whether or not you have a large chain supermarket, a full-line supermarket, if you like, lining up against the likes of an IGA in a commensurate region really bear no relevance to each other in that nobody goes and does their full-line supermarket shopping at an IGA. Nobody turns up to an IGA to purchase a trolley full of groceries. They simply grab the five or six things that they need on the way home, plus their beer or cigarettes or whatever it might happen to be. It is convenience retailing and that is its purpose.

The other contrivance that has been raised in relation to that site is about this arbitrary 1,500-metre floor plan which, again, seems to hark back to some early considerations of the territory plan around local centres. But there does not seem to be anything that is set in concrete that says that that should be the case. I do not think that it is a particularly useful arbitrary mark. It does not actually provide any benefit in that, if running a shoebox is unviable, and running a slightly larger centre is completely viable, why would you want to constrain the ability to run a slightly larger centre? Having said that, if you can run six, seven or eight retail endeavours on the one site over a size that is greater than 1,500 metres and those endeavours, in conjunction with each other, are actually able to be viable together, there should be no reason why you would stick to some sort of arbitrary limit in that regard.

As I say I think that what we find is that the voices that are the loudest in terms of changes of rules or in increasing regulation around these types of scenarios tend to be those with a significant vested interest in their commercial survival or their commercial ability to continue. In fact people who are represented at a community level and who get involved in groups such as GRAG have no such concerns about any of those types of rules and find protectionist or overly restrictive rules to be quite contrary to public interest.

There are three main points that are made in this submission and I will go through them in turn. The first is around the benefits of ensuring local shopping centres.

**MR HARGREAVES:** You are making a couple of points, Mr Nolan, that we have heard before. It is significant that a member of the community as opposed to business is sustaining the same argument. What I am seeing as a bit of a thread coming through a lot of the evidence is that those businesses are saying: “What’s in my business interests? What position should I take which benefits my business interests?” It could be the Tuggeranong Hyperdome, Coles or Woolworths. I suspect that from some of the others—and from their submissions it is there—the thread is, “I’ll either congratulate or criticise the planning regime because it suits my business interests.”

**Mr Nolan:** Absolutely right, and push for particular changes.

**MR HARGREAVES:** Yes but what I am hearing you saying is that, as the community sitting out there, you have picked it up and you are saying: “Hang on a tick, what about us? This is what we as a community want out there. We do not give a bugger about whether or not you blokes are going to make a quid. If you give us the sort of things that our community demands and would require, we will support you and you will make money out of it.” Is that what I am hearing?

**Mr Nolan:** That is absolutely right. I do not think it is the role of this committee or the ACT government to provide the sorts of protections against, basically, capitalism. The market determines what it is that is going to be viable in these scenarios. When you put forward protectionist or overly rigid frameworks within which people will work, all that serves to do is to find loopholes and ways in which particular vested interests in this argument are able to contrive outcomes for themselves rather than to actually deliver to the consumer what it is that they are looking for. If they are working hard to provide quality product at a decent price, no matter who they are, they are going to receive custom.

If Giralang was not a viable concern would Woolworths be interested in putting a site on it? Of course they would not. So how can it be tenable or arguable that Giralang was at any point not commercially viable? Any proprietor worth their salt who was prepared to put the work in and was not looking to make a capital profit overnight by turning it into something that it was not—that is, a set of town houses—would have been able to make a good fist out of turning Giralang into something that people would have supported. The only place where I see any people from Giralang these days that I know is at the Kaleen Supabarn, and that is a very disappointing outcome for Giralang.

**THE CHAIR:** Absolutely. What do you think can be done to guard against that sort of behaviour of shops becoming unviable? I live in Downer. During my residence there, the local shops have demised in a very similar sort of scenario.

**Mr Nolan:** One of the things that was a bit disconcerting to me was to find that even though there were rules in place around change of purpose clauses and demonstration of lack of commercial viability, there was actually no framework within which that was to be measured. There were no guidelines and principles or sets of rules by which these decisions would be made. It was kind of the vibe of the thing, if you like. That was frustrating for us because we knew that, for instance, just because one set of proprietors with a particular vested interest was not able to make a fist of it or was in a scenario where it was actually to their benefit to demonstrate that they could not make

a fist of it, it did not mean that that centre was not commercially viable.

The GRAG submission puts forward that there should be no scenarios in which a change of purpose on a local commercial centre should be able to be applied. I am personally not of that view completely. I think that there probably are the odd one or two scenarios that might take place which mean that you do not want to end up with a genuinely derelict abandoned site because it really is not commercially viable. So how to place the onus back on groups who are running those types of centres is a difficult thing. First of all I would say that you need a very rigid set of hard-line position statements that will demonstrate that nobody is going to be able to get away with just changing the purpose of a site overnight because they were able to demonstrate that they were not making a fist of it. That is off the cards and it is not something that they can try and do. You take away the incentive, if you like, to be able to do that.

I think that the change in the rules around the taxation of the benefits has certainly worked in that favour but I see that there is a very big push on from the Property Council to be able to change those rules. I do not think that is a very good idea at all, certainly in terms of local centre sites and those types of zones. But you would want to put in place some fairly clear guidelines that state that that will only happen under the most extreme circumstances.

Also there are probably some rules that could be put in place around the upkeep of local centres and potentially government money spent on the upkeep of local centres in a dollar-for-dollar kind of context, so that those centres do remain vibrant and appealing, and so that people want to go to them. The poor old Giralang primary school that still sits behind the Giralang derelict site is really on a hiding to nothing in trying to deal with the fact that there is just a condemnable site sitting in front of it at the moment, and it has been for the last seven years.

In terms of being able to listen to the arguments about why a certain centre should or should not be developed, it should not be about whether or not it will impact on the commercial viability of the next; that is the market. There is a planning impost on the government to ensure that they sensibly plan for the development of new sites. But to be basing those decisions on whether or not a particular vendor is going to lose a certain proportion of their income should not be a consideration as far as I am concerned. If there are more vendors entering the market and providing better retailing outcomes for consumers then that is a good thing.

**THE CHAIR:** It seems to me that your position has some possible contradictions. I think you were very clear that Giralang's shops were viable and that it was, and will be, good for Giralang in the future to have shops. But the issue that has been put from the surrounding suburbs, to my knowledge, is that they think that if the shops increase in size in Giralang, which is, as I understand it, the current proposal, that would impact on the viability of their shopping centre.

**Mr Nolan:** Did you hear any complaints from them at the point in time that Giralang shops shut that the viability of their centres was actually going to increase overnight?

**THE CHAIR:** No. I am not trying to say that they have not done very well out of it; I am not trying to go there. What I am trying to explore is that we are talking about

circumstances which potentially will change significantly from having no local competition to having large local competition. You have been talking about issues with local shopping centres becoming unviable. This would be, I would have thought, one of the extraordinary things where, after effectively eight or nine years—you would know better than me—that the shops in Giralang have been closed, this would be close to a new shopping centre from the point of view of your neighbours. It would clearly impact on those shops. You were saying that you thought it should be very hard to demonstrate that a shopping centre was no longer viable, but this would be, to my mind, one of the things that would possibly get there.

**Mr Nolan:** I think that an increase in competition in any market is a normal scenario and it will occur particularly in an environment where the current players, if you like, are doing quite well. I do not think there is any question that the IGA at Kaleen and the Supabarn in Kaleen are doing very nicely thank you very much at this point in time. If they happen to receive a five per cent downturn in their profits by virtue of the fact that there is another competitor in the market, is it the ACT government's role to protect them in that context? Is that the value and the merit of what this committee should be about? I am not sure that it is. If that means that the people of Giralang and surrounds have better options and more immediate access to local amenity, is that not worth that level of competition in that scenario?

**MR HARGREAVES:** Do I hear you questioning, Mr Nolan, the notion that fortuitously the planning regimes may very well protect those people who have had a fortuitous increase in their profit and are looking at going back to the former levels? They are not going to go broke; they are just going to go back to the former levels possibly—a little bit below that—but then they can use some entrepreneurial skill to get that back. But it is not government's role to either protect them or encourage them, or do anything in fact to interfere in that marketplace.

**Mr Nolan:** I think that is right. I think that the less regulation in that context the better. If you were looking at real predatory behaviour, if you saw a development application for Woolworths to build a site right next door to IGA or to build it in the same centre as Supabarn, you might have some concerns and considerations about whether or not this was actually just a one-on-one war that was all about who will survive the longest. When you are talking about the replacement of an amenity that existed some time ago with a centre that is now going to be viable as opposed to one that might have questions about its viability if you built a shoebox, I do not think that there is any reason why the interests of the IGA proprietors at Kaleen hold any greater weight than the interests of the consumers in Giralang.

**MR HARGREAVES:** Please forgive me—I have only been to Giralang a couple of times—

**Mr Nolan:** You are forgiven.

**MR HARGREAVES:** Thank you. I have almost forgiven Ms Le Couteur for not knowing where Tuggeranong is. But as I understand it we would describe it as a local centre in the three-tiered hierarchy.

**Mr Nolan:** At its thriving best it was about eight shops.

**MR HARGREAVES:** Yes. That is a local.

**THE CHAIR:** It is definitely a local centre.

**MR HARGREAVES:** We have heard fears from some witnesses that allowing a local centre supermarket to go to 1,500 square metres as opposed to 600, 700 or 800 will end up going right through the city and therefore threatening the viability of those larger supermarkets in the group centres. Here we are talking about Jamo, we are talking Kippax—that sort of story. Do you think there is any likelihood of that? You are a resident of the community. What are the chances of those little group centres like Melba and places like that, every one of them, ever going to 1,500 square metres?

**Mr Nolan:** I do not think that there is the market to support that. I just do not think that there could be. You would need to look at it case by case in that context, but I seriously doubt that what continue to be thriving and surviving IGA operators in the likes of Ainslie, Melba and those types of centres are ever going to want to increase their floor space to a point where they are operating as a full-line retailer. Their market is defined. They are quite happy with that, and they have been surviving in that context for a significant period of time.

**MR HARGREAVES:** So allowing 1,500 metres at Giralang is not going to impact on the local centres one zot?

**Mr Nolan:** I believe not, no. I could not see any reason why it would. You may, for instance, see an IGA operator somewhere like Kaleen saying, “I would like to take over the place next door,” but—

**MR HARGREAVES:** I guess where my mind is going is that if in fact the planning regime were such that it allowed 1,500 metres to pop up in Giralang you could expect that the people wanting to put an IGA size concern in the newer suburbs of Molonglo would then say, “We would like to have a maximum of 1,500 metres, please.”

**Mr Nolan:** Again I am really opposed to the concept of an arbitrary floor space limit. I think it is a contrivance that will not assist anybody. If you are in a retail catchment area that does not have a significant drawing pool, the purpose of having an enormous supermarket is not there—the vendor who wants to put that in place is committing themselves to something fairly stupid—whereas if you are in an area where your catchment is fairly significant and you are going to be able to draw on a reasonable retail amenity and you want to make that a little bit bigger to make it more commercially viable than putting a shoebox there, I do not see that there is any problem with doing that.

**THE CHAIR:** So you do not think we need to protect the local, group and town centre hierarchy? That is not an issue.

**Mr Nolan:** I do not think that is the way it is playing out at the moment. I think that every one of those types of centres is actually trying to make itself bigger at the moment. They are all trying to increase their size.

**THE CHAIR:** Absolutely true. You would be quite happy if we do not have the three levels?

**Mr Nolan:** I think the market will play itself out in that context. I think that if they eventually start to increase in greater proportions some of them will not succeed and some of them will thrive, and I do not see that as problematic.

**THE CHAIR:** Even for areas that used to have local shops and will no longer, because that is where your—

**Mr Nolan:** I do not believe that your local shop environment will suffer in that context. We are talking more about your large-line supermarkets in what you would describe as being a town centre, a group centre.

**THE CHAIR:** A group centre or a town centre?

**Mr Nolan:** Yes. I think they are the ones that kind of shift in between the two levels. I do not think that there is really going to be any impact at that lowest level. And I doubt very much that there will be any impact at the highest level where you are talking about the biggest players.

**THE CHAIR:** Mr Seselja?

**MR SESELJA:** I think the witness has been the straightest talking witness we have had, so I do not know that there is much I can ask him actually.

**MR HARGREAVES:** I think it has been fantastic.

**THE CHAIR:** Okay. I have got another line of questioning if that is okay.

**MR HARGREAVES:** The first one is, “Where’s Giralang?”

**THE CHAIR:** No. I have been to Giralang. I do know where it is, and I have to agree with you about the situation for the primary school and the doctors surgery there as well. But what I was going to ask you about was one of your suggestions that local centres should all be bodies corporate with a number of separate strata titles.

**MR HARGREAVES:** That is an interesting thought.

**THE CHAIR:** It is an interesting thought. One of the previous witnesses very much argued against that. They were talking about the reason that they had been able to successfully revive the shopping centre—I think it was Jamison—was exactly because it was not like that. Certainly people have argued that one of the problems with the Sydney Building is multiple ownership.

I can see the positives that you are writing about this, but how do you think it would go in terms of you have built the centre, it is some time down the track, everyone has got to decide to put in and move with the times, change and upgrade—effectively, you could say, do what Giralang did not do seven or eight years ago?

**Mr Nolan:** Yes. It is an interesting argument. I am not sure that there is one side that you can paint completely. I think there are positives and benefits to one and detriments on the same side of the coin. When I say that, the Giralang scenario was quite clearly one that would have benefited from being in a body corporate type construct. Without doubt that would have given some more power to some of the smaller players to be able to have an input and a say in where that centre went, rather than having the outcome dictated to them.

There were some pretty heartbroken people who walked away from businesses in that area; they really had great social capital, they had great investment in the region, and they had it taken away from underneath them because the people who were running that centre wanted to do something else. I found that to be really poor, really disheartening and very community shattering as well.

Having said that, I understand the point that being able to get eight different players to think the same way sometimes can be quite problematic, so you would really need to weigh up the benefits and detriments of that. But it is an idea for the committee to consider.

**THE CHAIR:** Gentlemen?

**MR SESELJA:** Nothing from me.

**MR HARGREAVES:** No, thanks, Mr Nolan; that was superb.

**THE CHAIR:** Yes. Thank you very much, and thank you for the new idea of bodies corporate. We have got 22 submissions and it seems like we have read everything five times. This is actually a unique one. It is really good to have something from the community as distinct from purely commercial interests.

**Mr Nolan:** Probably my parting sentiments would be that I do have a level of concern about rigid overgovernance in terms of these scenarios rather than letting the market play to a certain extent. I will reiterate the point that I think that those sorts of imposts or that level of control can pervert the outcomes that you intended to derive; that in fact vested interests will utilise a rigid environment to their benefit, and the outcomes in terms of community benefit are not always what you would expect them to be.

**THE CHAIR:** Thank you, Mr Nolan, for appearing. We will send you a copy of the transcript as soon as there is a copy to send you.

**The committee adjourned at 3.42 pm.**