

City of Sydney Council Submission on the *Draft Productivity Commission Report: 'Economic Structure and Performance of the Australian Retail Industry'*

Sustainable Sydney 2030 is the City of Sydney's Vision for making the city a more economically sound, livable and vibrant city. In developing this vision, the importance of the retail sector to the City's economy was recognised.

At last count¹, approximately 36% or more than 7,100 businesses in the City of Sydney Local Government Area (LGA) were related to the retail sector. These businesses employed more than 52,000 workers, approximately 13.5% of the City's workforce.

We understand that the retail sector is more than a direct contributor to the City's economy and acknowledge the sector's role as an attractor for global businesses and their employees. Our research shows us that a sound retail base is critical to attract mutually supportive residential development in our LGA. As well, we know that thriving retail precincts in our city centre and villages will be popular with our residents and workers as well as with national and international visitors who are looking for an authentic experience in Sydney². It is in this context that the City of Sydney makes the following comments on the draft report on the Economic Structure and Performance of the Australian Retail Industry.

Comments on Chapter 7 - *Planning and zoning regulation*

1. Previous Studies

The relationship between planning regulations and the performance of the retail industry in NSW has been investigated in detail over the last few years. Unfortunately, public debate on the issue has been driven by the development sector and has been distorted by biased media coverage. It has been asserted that the NSW planning system is unnecessarily restrictive, which detrimentally impacts potential new entrants to the retail market. Development and property industry representative bodies have been calling for more flexible planning controls and support for new 'out-of-centre' locations for big-box retail developments.

It is the City's experience that there are usually good economic, social and environmental imperatives to adopt a centres planning approach, which is the practice of using land use controls to encourage the location of major retail in an identified centres hierarchy). Further, when based on robust research and developed in consultation with stakeholders, centres planning is fundamental to planning for successful public transport and infrastructure investment.

A few key reports present a more balanced view of the issues:

- ***Report of the ACCC inquiry into the competitiveness of retail prices for standard groceries, July 2008***

This early ACCC report finds that centres planning can make it difficult for new retail providers to enter a new centre, but lists a number of other reasons why new supermarkets, in particular, may have difficulty securing new sites.

¹ City of Sydney Floor Space and Employment Survey 2006

² Global Cities Retail Study Draft Report, prepared for City of Sydney August 2011

Contributing factors include restrictive leasing practices within centres and the potential for supermarket operators to use the statutory appeals processes against one another.

- ***New South Wales Legislative Council - Standing Committee on State Development: The New South Wales planning framework, December 2009***

This report provides a more sophisticated understanding of the benefits of centres planning and recounts the experiences of local councils, representative bodies and retailers. The report summarises the City of Sydney's submission to this inquiry, which explains some of the benefits of centres planning. The report is available here: [http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/fa717391372db3baca25768d0005cff6/\\$FILE/091210%20Final%20Report.pdf](http://www.parliament.nsw.gov.au/Prod/parliament/committee.nsf/0/fa717391372db3baca25768d0005cff6/$FILE/091210%20Final%20Report.pdf))

- ***Productivity Commission's Performance Benchmarking of Australian Business Regulation: Planning, Zoning and Development Assessments, April 2011***

This report emphasises removing planning barriers and creating more opportunities for retailers. However, it demonstrates a good understanding of the relevant planning controls and list some benefits associated with centres planning.

The City has provided submissions on the above reports, particularly in terms of the work the City has undertaken to prepare an appropriate centres hierarchy and the benefits of centres policy more generally.

The above reports have all recommended reform and some recommendations have since been announced in 2009 and 2010. New federal foreign investment laws, the ACCC's moves to ban restrictive leasing practices and amendments to the Trade Practices Act to deal with creeping acquisitions are all targeted at increasing competition in the groceries sector.

Recommendation:

- That the Commission review the Standing Committee report to read about why local governments impose planning restrictions on retail and the public benefits of centres planning.
- That the Commission research what recommendations of the earlier reports have been enacted, and which actions remain outstanding.
- Model and assess the impacts of any reforms on the retail sector. This assessment should inform a decision as to whether further reform is required.

2. The benefits of centres planning

While they are sometimes restrictive, zoning and planning policies are designed to enhance public amenity and achieve other planning outcomes. Providing adequate retail opportunities to maintain supermarket competition, for example, is just one consideration in a wide range of interests that need to be protected through planning.

Recommendation: It is recommended that the final Report identify the following additional benefits of a centres planning approach:

- As touched on in the Paper, locating retail in planned centres with good public transport will reduce trips by private vehicle. Supermarkets are being developed in inner-city areas of Sydney with no car parking spaces and are flourishing. Examples include: Woolworths on Macleay Street, Potts Point; Thomas Dux at Fiveways, Paddington; Coles, George Street, Sydney.
- If people must drive to a supermarket, when it is located in a centre with other services, like banks, childcare centres and cafes people can perform multiple activities in one car trip – also reducing trips.
- Providing an adequate amount of well-located, appropriately zoned land for retail development promotes competitiveness because it creates a good environment for small business, encourages new market entrants and can meet future demand for retail floorspace.
- A clear planning strategy provides certainty for developers and residents about where retail and business will be located. People can purchase houses or invest in businesses based on the strategies in place. This in turn should increase investment. An example of this is in the planned Green Square Town Centre. Because the developers and investors have a good understanding of the planned retail environment, they can invest in a significant new centre on the site.
- Centres planning allows for effective investment. State and Federal Government can invest in public transport, health, education and social infrastructure near centres where it will be best patronised. Councils can focus investment in public domain and other community facilities where it will provide maximum public benefit.
- This strategy creates new main streets and activity clusters in renewal areas that create a focus for a community and a sense of place. Major retail developments in centres generate pedestrian activity which creates a safe and friendly public domain. This strategy also ensures that major retail development can be located in centres, where negative impacts (such as traffic or noise) can be managed.
- Centres policy also allows for the protection of investments. For example, ensuring a major centre is developed at Green Square will protect investment in the currently underutilised Green Square Station.
- Lively, active centres that result from good centres planning promote positive health and social outcomes.

3. The City's approach to centres planning

Recommendation: That the final Report also include some positive examples of good centres planning, as a way of sharing lessons learnt with other councils and planning authorities.

The City's primary objective is to facilitate the evolution of the City of Sydney as a green, global and connected place, as expressed in our *Sustainable Sydney 2030* strategy. Our planning strategies aim to create high quality built environments,

reduced private vehicle movements, thriving and innovative local business and more sustainable communities. Good centres policy achieves all of these things.

The key area for retail planning is in the south of the City of Sydney LGA, where there is opportunity to create new urban structure in areas experiencing urban renewal. Our retail strategy for this area (as contained in the *Green Square and Southern Areas Retail Study 2008*) involves:

- Assessing the demand for retail floorspace at 2021 (the estimated timeframe for the completion of most of the area's urban renewal) and planning for sufficient retail floorspace to meet that demand. Our research creates a firm platform for policy.
- Based on estimated demand, the retail strategy identified a network of successful and vibrant mixed-use centres that complement the planned major centre at the Green Square Town Centre and the characters of the various neighbourhoods. All planned centres in Green Square are located on planned key public transport routes, and within the denser residential areas. The realisation of centres in these locations will reduce vehicle movements.
- Locating major retail developments (namely major supermarkets and department stores) in the nominated centres. Major retail uses act as catalysts for development, support other local businesses in centres and connect a maximum number of people to public transport facilities. Supermarkets in particular are the glue for new centres and new communities.
- Restricting retail development outside of the nominated centres. Within the trade area, only 'minor' retail developments (tenancies up to 1,000 sqm in size) are permitted outside of the nominated centres. De-centralised, smaller shops provide for 'top-up' shopping within walking distance of homes and allows for more diverse businesses.
- The 1,000 sqm cap is necessary because the NSW Government's Standard LEP Template only defines 'retail premises', 'neighbourhood shops' and 'shops'. It has been submitted to the NSW Department of Planning and Infrastructure in the past that separate land use definitions for 'supermarket' and department store should be introduced to reduce the need to 'cap' the size of retail premises in certain zones.

Importantly, the strategy does not seek to reduce the overall amount of retail in any one location, and allows the nominated centres to grow as demand increases.

4. Cost-benefit analysis of centres planning / restricting retail in certain locations

Retail planning affects transport, the environment, health, and investment in other sectors. The impacts of restrictive zoning regimes must be assessed more holistically in the Report. A more detailed cost-benefit analysis may be required. As an example, further support for centres planning can be found in a study undertaken by SGS for the City of Melbourne:

“Cost benefit analyses of Melbourne 2030 conducted by SGS, confirm that the net community benefit generated by a strong centres policy are indeed substantial. Over 25 years, the implementation of Melbourne 2030 would

deliver a present value (net) benefit of between \$25 billion and \$43 billion depending on what discount rate is used. Much of this net benefit is tied to successful intensification of employment and residential activity around major centres. A liberal retail location policy would run counter to this." (SGS Economics and Planning (2006) Retailing Futures and Activity Centres Planning -Discussion Paper for the Victorian Department of Sustainability and Environment)

Recommendation: That the Report recommend that this type of study be undertaken in the future to establish the costs and benefits of certain zoning regimes, to inform policy development.

5. Determining demand for retail area

The draft report discusses how many square metres of retail floor area may be required per person. This is considered far too crude an approach to determine retail demand, as established in the previous reports on retail performance listed earlier in this submission.

Demand for supermarket floorspace needs to be looked at separately to demand for fashion retail or other comparison shopping. In the City of Sydney for example, the southern industrial areas more than satisfy the benchmark 2 sqm retail floorspace/person because the area accommodates clusters of outlet retailing activity, but there is no supermarket to service the local community. Demand also needs to be assessed using a regional study area. Some centres or regions over-perform in catering for a single type of retail because they serve a more regional role.

Recommendation: That the Report recommend that local councils (together with neighbouring councils) undertake research in the early stages of developing a land use strategy, to determine actual retail demand and provide a robust platform for planning controls.

6. Assessing the 'economic impact' of new retail developments

This issue is addressed in some detail in the previous papers listed above.

A key issue in this debate is how to assess the economic impact of a new retail development on an existing business, or an existing centre/ main street. In NSW, and in most other States, 'economic impact' is a consideration under the relevant Act. There is commonly confusion about how to assess economic impact in a way that protects places and communities, but allows for new investment and innovation.

Economic impact in terms of competition between individual traders is not a planning consideration, as defined by the NSW Land and Environment Court in *Fabcot Pty Ltd v Hawkesbury City Council 1997*. It is a planning consideration however, where a proposed development has a negative economic impact on a centre as a whole and results in a net community loss that the new development cannot make good (*KFC v Ganditis 1997*).

The City supports the Court's interpretation of how to assess economic impact.

Recommendation: The final Report could potentially support this approach and provide guidelines for assessing economic impact for local governments.

Comments on Chapter 8 - Retail tenancy leases

As discussed, earlier reports on the retail sector have identified that restrictive retail practices by shopping centre owners and managers act as a barrier for new retail entrants. There have been changes to the laws in this regard, and it would be useful if the Productivity Commission could identify any reform and investigate the impacts of that reform in the final Report.