

# Case Note: John Nominees Pty Ltd and Presiding Member of Metro East JDAP

## Neighbourhood centre development and trade impact on existing centres

In *John Nominees Pty Ltd and Presiding Member of Metro-East Joint DAP* [2018] WASAT 94, the Tribunal considered a decision by the DAP to refuse an application to develop a new neighbourhood centre. The Tribunal noted in the judgement that “when assessing the trade impacts for the purposes outlined in SPP 4.2, it must look at the impact across all of the facilities and services in the centres and not just the impact on the supermarkets only”. However, the Retail Sustainability Assessment’s (RSAs) provided to the Tribunal by nearby supermarket owners as evidence of potential trade impact, predominantly focused on the trade impact to individual supermarkets as opposed to the greater neighbourhood centres. Accordingly, the Tribunal found that “the lack of evidence in respect of the other facilities and services that may or may not be at risk leaves the Tribunal unable to make any conclusive findings that the trade impacts will be such so as to result in deterioration in the level of service to the community that would not be made good by the proposed development itself.”

The Tribunal also noted the *Local Commercial and Activity Centres Strategy* (2016), which was adopted by the Local Government as a local planning policy in 2017. The Strategy observes an opportunity for the “potential development of additional neighbourhood centre facilities in the general location...” and that the neighbourhood is “not currently well served by full-line supermarket facilities or attractive, well designed neighbourhood centres.” The Strategy also recognises that without further investment, the existing centres are unlikely to provide the level of retail service required by the local community.

The Tribunal set aside the decision of the DAP and approved the proposed neighbourhood centre development. The judgement is available [here](#).