

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

THURSDAY 17 MARCH 2016

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NSW GOVERNMENT TO REMOVE UNNECESSARY LICENSING FOR LARGE COMMERCIAL OWNERS

"I can now put down my 'how to auction a house' handbook and get back to running the business".

That was the response this week of an experienced head of a dedicated shopping centre business when advised that the NSW Government will get rid of unnecessary real estate licensing and regulation for large commercial property owners. This corrects the 'historical accident' that has meant that legislation intended to protect ordinary home owners from the activities of their real estate agents – regulation which predates the rise of the commercial property industry – has also 'caught' major professional commercial property owners, such as AMP Capital, Stockland and Scentre Group. Among other regulatory absurdities this has meant shopping centre managers have been forced to gain a real estate agent's license, which teaches them how to run a real estate agency and how to auction a house, but has no professional relevance for managing or leasing a shopping centre. Now, after a lobbying battle in NSW lasting for more than 20 years and involving more than a dozen relevant ministers, we finally have a government interested in reducing the cost of doing business in the state. Congratulations to Mr Victor Dominello MP, NSW Minister for Innovation and Better Regulation, for acting on this recommendation of the Independent Pricing and Regulatory Tribunal (IPART) in its report on 'Reforming Licensing in NSW' ([Shop Talk 13/8/15](#)). The reforms will mean that owners of commercial property collectively worth more than \$40 million, or exceeding 20,000 square metres, (i.e. 'sophisticated' owners) will no longer be regulated by Parliament in their dealings with their property managers (agents), who are often a related entity of the commercial property owner. NSW is now the second state to get rid of this costly and nonsensical regulation. Similar reforms have operated in Queensland for nearly 18 months with none of the adverse consequences predicted by some ([Shop Talk 26/11/14](#)).

NSW GOVERNMENT RELAXES PLANNING RULES FOR HARDWARE AND GARDEN SUPPLIES

Once again, the NSW Government has won a gold medal for ad hoc retail land-use planning, following their announcement last week that "hardware and building supplies" and "garden centres" will be mandated permitted uses with consent in IN1 General Industrial, IN2 Light Industrial and B7 Business Park zones under the Standard Instrument LEP and Western Sydney Parklands SEPP ([Shop Talk 29/10/15](#)). Other jurisdictions have at least managed a coordinated approach to such issues, but this seems to escape their NSW colleagues. This is all the more confusing given the broader policy issues at play, such as the Federal Government's 'cities' agenda and competition policy reform. The Shopping Centre Council last year made a submission to the Government on these latest LEP changes and recommended that they be deferred until a comprehensive and collaborative approach is put in place. Unfortunately the long tradition of ad hoc retail planning in NSW looks set to continue.

GOVERNMENT ANNOUNCES 'FULL HARPER' CHANGES ON MISUSE OF MARKET POWER LAW

The Federal Treasurer, Scott Morrison MP, has [announced](#) the Federal Government will adopt the recommendation of the Competition Policy Review Panel (the Harper Panel) to broaden the 'misuse of market power' provisions (section 46) of the *Competition and Consumer Act*. This follows a Federal Government Options Paper late last year on section 46, with six options ranging from 'no change' through to 'full Harper' ([Shop Talk 4/2/16](#)). The Treasurer has promised an Exposure Draft on the new section 46 before legislation is introduced later this year.

EASTER WEEKEND PUBLIC HOLIDAY TRADING HOURS GUIDE

The Australian Retailers Association has released its 2016 Easter Public Holiday Circular dealing with trading hour restrictions. A copy of the Circular can be accessed [here](#).

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