

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

MONDAY 20 NOVEMBER 2017

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TREASURER'S MEETING: COMMITMENT ON \$300 MILLION SMALL BUSINESS RED TAPE FUND

At COAG's Council on Federal Financial Relations meeting in Sydney last month, amongst other issues, Federal Treasurer Scott Morrison MP has [noted](#) that "all States and Territories indicated their intent to participate in the Turnbull Government's Small Business Regulatory Reform Agenda to reduce unnecessary red tape, with NSW having already submitted a proposal under this agreement". As we understand, this relates to the National Partnership on Regulatory Reform, which formed part of the 2017-18 Federal Budget delivered in May, whereby \$300 million has been set aside for 'small business red tape reduction' ([Shop Talk 12/5/17](#)). We remain eager to see further information on this initiative, potential opportunities for our sector, and how potential initiatives could be progressed. Other issues discussed at the meeting included the Productivity Commission's Five Year Productivity Review, noting that "Commonwealth, State and Territory Governments are already working on reforms in the areas identified by the Productivity Review" ([Shop Talk 3/11/17](#)).

AUSTRALIAN ENERGY REGULATOR DETAILS TRANSITIONAL ARRANGEMENTS

In a welcome move, the Australian Energy Regulator (AER) has [announced](#) their compliance approach for transitional arrangements under new National Electricity Rule in relation to embedded networks. A transitional period from 1 December 2017 to 31 March 2018 will be allowed for operators to appoint an accredited (by AEMO) Embedded Network Manager (ENM), in instances where the operator can demonstrate they have been active in their attempt to appoint an ENM and have either been unsuccessful thus far, or are currently in the process of engaging an ENM. The AER has said they will focus on education, not purely enforcement and compliance issues, in relation to the requirements under the Rule. For more information, refer to the AER's [formal notification](#). The Shopping Centre Council has been engaged with the AER on this issue.

SA RETAIL AND COMMERCIAL LEASES BILL REMAINS IN UPPER HOUSE

Debate in the Upper House on the South Australian *Retail and Commercial Leases (Miscellaneous) Amendment Bill 2017* has not substantially progressed, after the Bill passed the Lower House on 28 September 2017 ([Shop Talk 29/9/17](#)). The forward timing for the Bill's passage is problematic. There remain only a few sitting days this year, across 28-30 November (the Bill is currently listed on the 28 November Notice Paper), with a reserve week available in early December. The South Australian State election is being held on 17 March 2018, and the Writ is scheduled to be issued on 17 February 2018. It has been mooted that the Opposition may also seek to move amendments to the Bill, which will require additional time for related debate. It would be a disappointing conclusion for the Act review, which commenced in December 2015 with the release of an Issues Paper for comment, if the Bill lapsed ahead of the election. A balanced Bill was tabled by the Government following the positive engagement with stakeholders by South Australian Small Business Commissioner, John Chapman. We will continue to monitor the Bill closely.

BUSINESS-TO-BUSINESS UNFAIR CONTRACT TERMS: ONE YEAR ON

One year has now passed since amendments to the *Competition and Consumer Act* to extend unfair contract term protections to 'small business contracts' came into effect ([Shop Talk 4/11/16](#)). Within the first 12 months since the changes took place, the Australian Competition and Consumer Commission (ACCC) led its first successful court proceeding against JJ Richards & Sons Pty Ltd, and has encouraged a number of major companies to amend their small business contracts to comply with the reform ([Shop Talk 20/10/17](#)). Australian Small Business and Family Enterprise Ombudsman (ASBFE), Ms Kate Carnell AO, recently expressed her support for the law, [stating](#) that "there is no doubt this protection was badly needed", noting that her office has, so far, assisted on over 20 issues involving unfair contract terms.

PREVIOUS ISSUES