

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

20 SEPTEMBER 2019

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SA RETAIL LEASES AMENDMENT BILL DEBATED IN PARLIAMENT

Following the tabling in July of the [Retail and Commercial Leases \(Miscellaneous\) Amendment Bill 2019](#), which seeks to amend the *Retail and Commercial Leases Act 1995* and *Landlord and Tenant Act 1936*, the Bill was debated in Parliament last week ([Shop Talk 5/7/19](#)). The Labor Opposition, led by the Hon Stephen Mullighan MP, Shadow Treasurer, spoke to the Bill, noting the similar Amendment Bill that had been tabled by the former Labor Government in 2017 and passed by the lower house, but failed to pass the Parliament before it was pro-rogued ahead of the March 2018 State election. The Opposition raised a handful of issues, largely seeking clarity on some emerging issues, noting that they will be considering certain issues when debate on the bill enters the committee stage, but concluding that 'pending the discussion and potential resolution of those issues, we look forward to seeing this bill progress'. The Shopping Centre Council will continue to monitor the progress of the Bill.

ACCC PUBLISHES SUBMISSIONS ON PROPOSED COLLECTIVE BARGAINING CLASS EXEMPTION

The Australian Competition and Consumer Commission (ACCC) has [published](#) submissions provided in response to its most recent consultation on the proposed collective bargaining class exemption. Broadly, the proposed exemption seeks to allow: (1) businesses with an annual turnover of less than \$10 million to collectively bargain with customers or suppliers; and (2) all franchisees and fuel retailers to collectively bargain with their franchisor/fuel wholesaler regardless of their size ([ShopTalk 7/6/19](#)). The Shopping Centre Council lodged a submission that highlighted several issues with the proposed exemption. This included a need to ensure all group members are eligible for the exemption and that a class exemption removes 'any legal doubt' for targets who are considering participating in the collective bargaining process. Other submissions have highlighted the need for the ACCC to provide greater clarity to businesses so that they have sufficient guidance to understand what information can/cannot be shared amongst a group to avoid a breach of any laws.

WA DRAFT STATE PLANNING POLICY 3.6- INFRASTRUCTURE CONTRIBUTIONS

The WA Department of Planning, Lands and Heritage (on behalf of the WA Planning Commission) recently exhibited its Draft [State Planning Policy 3.6: Infrastructure Contributions](#) and [State Planning Policy 3.6 Infrastructure Contributions: Infrastructure Contribution Guidelines](#). The Shopping Centre Council made a submission as part of this policy process. The Governments proposed approach identifies how councils can levy developers and landowners, during the subdivision and development process under different mechanisms. This includes 'Standard' (i.e. Off-the-shelf) Contributions as part of a regular subdivision or development, a more structured Development Contribution Plan where a cost-sharing arrangement is proposed as part of infrastructure delivery, or a more formal Developer Agreements at the request of a landowner or developer ([Shoptalk 26/7/19](#)). Levied funds are used to pay for either Development Infrastructure (e.g. open space, local schools and roads) or Community Infrastructure (e.g. libraries, sporting facilities). The Shopping Centre Council firstly highlighted the significant expansion of items for which contributions can be sought without adequately justifying the need for including these items, or why retail developments are factored into their costings. The draft policies add further Standard Contribution items including Wetlands, cycleways and "sustainable transport". We also noted an expanded list of Community Infrastructure items including local/indoor/specialist sports grounds/facilities, foreshore reserves, multi-purpose community buildings and childcare/afterschool centres. The justification for how retail developments generate demand for several items of Community Infrastructure is lacking in the draft planning policy. Secondly, the proposed drafts provide a loose methodology that effectively delegates determination of infrastructure costs and how they are apportioned between different landowners to local government. As a result of this gap, Councils could potentially adopt different methodologies and cost recovery policies for their infrastructure charges given that there is no detailed and centralised guidance. The Shopping Centre Council will continue to monitor this issue.

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