



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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[Archive](#)

VICTORIAN DECISION CASTS DOUBT OVER COMMERCIAL OFFICE LEASES

In the lead up to the passing of the Victorian [Retail Leases Act](#), which began operation on 1 May 2003, the Property Council, Victoria, argued strongly that premises used for the retail provision of services in commercial office buildings should not be covered by the Act. This was unsuccessful and instead a silly compromise by the then Labor Government excluded by ministerial determination (under section 5(1)(c) of the Act) only those premises above the third storey in commercial office buildings. Doubt has now been cast over this ministerial determination by a County Court decision last week ([Evans & Ors v Thurau Pty Ltd \[2011VCC1354\]](#)) which held this determination to be an invalid exercise of power because it was made on 29 April 2003, and published on 30 April, the day before the Act came into force. As a result questions have been raised as to whether such leases are now regulated by the *Retail Leases Act*, even though section 13 of the [Interpretation of Legislation Act 1984](#) would seem to suggest the ministerial determination is still valid. The Shopping Centre Council has requested the Victorian Government to issue a retrospective ministerial determination to put the matter beyond doubt.

ACT ESTABLISHES SELECT COMMITTEE ON SUPERMARKET COMPETITION POLICY

The ACT Legislative Assembly has established a Select Committee to examine the ACT Government's contentious supermarket competition policy. The terms of reference of the committee are [here](#). The Shopping Centre Council has been critical of the Government's policy ([Shop Talk 9/10/09](#) & [10/2/11](#)) because by actively discriminating against Coles and Woolworths it actually means that Canberrans are losing out twice: they are going to pay higher prices for their groceries and they will receive less revenue from government land sales. Submissions are due by 18 November 2011.

GEOFF BROWNE APPOINTED AS VICTORIAN SMALL BUSINESS COMMISSIONER

The Victorian Minister for Small Business, Louise Asher, has [announced](#) that Geoff Browne has been appointed the new Small Business Commissioner. A former Deputy Commissioner of Consumer Affairs, Victoria, Geoff Browne replaces Peter Lisle, who has acted as Small Business Commissioner for nearly 18 months. The Shopping Centre Council has worked closely with Peter Lisle and we wish him well in his new role at Small Business Victoria.

ANNUAL REPORT OF THE VICTORIAN SMALL BUSINESS COMMISSIONER

On the same topic, the 2010-11 Annual Report of the Victorian Small Business Commissioner is now available [here](#). The report notes that of the 1,427 disputes handled in 2010-11, 35.2% were settled prior to mediation. Of the 537 disputes that were referred to mediation, 422 (78.6%) were successfully resolved by mediation. The report does not reveal how many of these disputes were retail tenancy disputes but it does state that 68.9% of all applications received by the Office of the Small Business Commissioner last year were applications under the *Retail Leases Act 2003*. This is a very small proportion of retail leases on foot in Victoria.

FAIRFIELD GARDENS IS 2011 QUEENSLAND RETAIL PROPERTY OF THE YEAR

Congratulations to Fairfield Gardens (owned by the Yu Feng Group and managed by Retail First), which won the overall award at the PCA Queensland's 2011 Retail Property Awards in Brisbane last Friday. It is great to see a neighbourhood shopping centre, and one which had to be substantially renovated after the floods earlier this year, receive such recognition. Congratulations also to Amy Williams and the PCA Queensland team for a very successful event. The Shopping Centre Council was a sponsor of these awards. A full list of winners is [here](#).