



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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BILL TO PERMIT THE RECOVERY OF LAND TAX IN OUTGOINGS IN SOUTH AUSTRALIA

A [Bill](#) has been introduced in the SA Parliament to allow landlords to recover land tax from tenants. The sponsor, the Hon. John Darley MLC, an Independent and a former Valuer-General, noted "there is not a landlord in the state who is not passing on land tax indirectly to their tenants". The Bill was designed to ensure that "the costs associated with running a business are presented in an open and transparent manner." The Bill is consistent with a recommendation of last month's [interim report](#) of the Economic and Finance Committee of the South Australian Parliament which noted that "ultimately the cost [of land tax] is built into the rental agreement, albeit hidden, and often at a higher value to avoid any lag in recovering land tax increases". This is not the first such finding. The Government-commissioned Review of State Business Taxes in Western Australia in 2002 rejected a proposal to prohibit the passing on of land tax. The report found: "Such a prohibition would result in land owners incorporating land tax in the base commercial lease rates, rather than as part of outgoings to be directly paid by lessees. The net result would still be a passing on of all or part of the burden of land tax from land owners to tenants, but in a less transparent manner." This finding was echoed the following year in the Report of the Review of the WA *Commercial Tenancy (Retail Shops) Agreements Act*. Despite these findings the recent [Discussion Paper](#) for the Review of the NSW Retail Leases Act once again raises the issue of whether NSW should prohibit the recovery of land tax from retail tenants, despite the fact that this was debated and rejected in the last review of the Act. And what is the evidence for raising this issue once again? "Tenant representatives have submitted that land tax is an ownership expense rather than an operating expense and therefore should not be recoverable from the tenant as an outgoing." This is apparently what passes for evidence-based decision making in this review.

PRODUCTIVITY COMMISSION URGES SPEEDING UP OF NATIONAL LICENSING

The Productivity Commission has urged the Council of Australian Governments (COAG) to urgently address delays in the implementation of the national occupational licensing system. In its Draft Report on Geographic Labour Mobility, released last month, the Commission found that "jurisdiction-based licensing is an impediment to mobility and competition" and has recommended that COAG take "remedial action" to ensure that "national occupational licensing reforms commence in 2014." It is understood the future of the national occupational licensing system is on the agenda for the COAG meeting in Canberra tomorrow. Click [here](#) to view the Productivity Commission's Draft Report.

REPORT REVEALS FEW RETAIL LEASE DISPUTES FOR ARBITRATION IN NSW

The [latest Annual Report](#) of the NSW Administrative Decisions Tribunal reveals very few retail lease disputes are required to be arbitrated in NSW. Of the 184 applications disposed of by the ADT in 2012-13, 90 were withdrawn or settled without orders; 11 were settled with consent orders; 5 were dismissed after a hearing; 5 were dismissed because of a lack of jurisdiction; and in only 74 matters were (non-consensual) orders made. Of these 74, however, "around 40" involved the appointment of specialist retail valuers, which are not really retail tenancy disputes. This means only around 34 applications resulted in non-consensual orders being made by the ADT. This demonstrates, once again, how few retail tenancy disputes occur and only a small proportion of these can't be satisfactorily mediated. Given there are around 100,000 retail leases on foot in NSW, the number of arbitrated disputes is a tiny fraction (0.034%) of leases. On 1 January 2014 the NSW Civil and Administrative Tribunal will replace the ADT. The Retail Leases Division of the ADT will form part of the Consumer and Commercial Division of NCAT.