



# SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE  
COUNCIL OF AUSTRALIA

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## NEW SOUTH WALES RETAIL LEASES ACT REVIEW SUBMISSION LODGED

The Shopping Centre Council has lodged a submission on the (NSW) [2013 Review of the Retail Leases Act 1994 Discussion Paper \(Shop Talk 28/11/13\)](#). Our submission highlights the partisan tone of the Discussion Paper which gives primary concern to tenant issues over landlord issues. This approach is contrary to the legislative obligation of the Small Business Commissioner, who has charge of the review, to "deal with issues concerning the small business sector in a neutral and independent manner". The partisan tone is also reflected by misleading and incomplete references throughout the Paper to the [Productivity Commission Inquiry into the Market for Retail Tenancy Leases in Australia \(2008\) \(Shop Talk 29/8/08\)](#). The Discussion Paper is also disappointing in that, unlike the review of the (Queensland) *Retail Shop Leases Act*, little emphasis is given to removing unnecessary regulation. We have highlighted to the review that the simplest way of reducing red tape would be to reduce the coverage of the Act to only small to medium-sized businesses. Contrary to the original intention of retail tenancy legislation the Act gives protection to businesses which have the market-power to look after themselves, including ASX-listed retailers, very large private retailing groups and prominent international retailers. This would help ensure a stronger focus on small businesses. The Discussion Paper also contains a number of harmful proposals which would seriously impact retail property investment. These include a proposal for preferential right of renewal for tenants (see section 3.5 of the submission), which represent a major structural shift by discriminating against retail property and proposing that a tenant's leasehold rights should extinguish a landlord's freehold property rights. This proposal would also threaten optimal tenancy mix, harm investment viability, restrict competition and discriminate against small and medium-sized retailers.

## PROPERTY OCCUPATIONS BILL GIVEN GREEN LIGHT BY COMMITTEE

The [Property Occupations Bill](#), now before the Queensland Parliament, provides both a 'related entity' and 'large property owner' exemption for shopping centre staff from anachronistic real estate licensing requirements and regulation. The Bill was referred to the Legal Affairs and Community Safety Committee ([Shop Talk 21/11/13](#)). The Committee has now [recommended](#) the Bill be passed.

## CATALYST OBJECTS TO CLAIMS THAT IT IS A TOOL OF UNITED VOICE

Catalyst has [taken exception](#) to our comment that its report on sustainability in the commercial property industry was a "union stunt", part of United Voice's long-running campaign against shopping centre cleaning contractors ([Shop Talk 13/2/14](#)). Well, consider the evidence. On 19 November 2013, United Voice's President, Michael Crosby, told a journalist the union was "talking to a couple of green groups about investigating [Westfield's] sustainability" and "we are now looking at their whole ESG performance". Note the use of the pronoun "we". [Mr Crosby has an obsession with Westfield, even though the campaign against cleaning contractors is a shopping centre industry-wide campaign]. On 28 November Mr Crosby told another journalist that, as part of the cleaning industry campaign, he was "planning to 'reach out to' environmental groups" for support. We now understand the idea for Catalyst to do its report came from United Voice. Catalyst has now conceded that preparation of the report, which of course singles out Westfield for special mention, was done "in partnership with United Voice". If Catalyst wants itself, and its reports, to be taken seriously it must never again allow itself to be the tool of a union which is currently involved in an industrial campaign against the very companies it claims to be objectively investigating.