



SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE
COUNCIL OF AUSTRALIA

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REVIEW OF NSW PROPERTY STOCK AND BUSINESS AGENTS REGULATION 2014

The Shopping Centre Council has lodged a [submission](#) on the Review of the NSW *Property Stock and Business Agents Regulation 2014*. Our submission argues for two exemptions from the *Property Stock and Business Agents Act*: one for agents managing on behalf of a 'related entity' property owner; and one for agents managing on behalf of 'large commercial property owners'. The exemptions would remove regulatory protections for these 'consumers' of real estate agency services – professional property owners who neither need, nor want, the protection of Parliament in their professional dealings with real estate agents. These exemptions have recently been legislated in Queensland ([Shop Talk 8/5/14](#)) and are now being implemented by regulation in Victoria ([Shop Talk 30/1/14](#)). Both of these States have recognised the need to reduce unnecessary and costly business 'red tape'. These exemptions have also been recommended by independent inquiries in NSW and in national regulation impact statements. The exemptions would reduce the cost of doing business in NSW by around \$4 million a year and will assist the NSW Government's objective of reducing regulatory costs by 20% by 30 June 2015.

NOMINATIONS FOR THE SHOPPING CENTRE MARKETING AWARDS OPEN 1 JULY 2014

Nominations for the *Shopping Centre Council of Australia Marketing Awards* open on Tuesday 1 July and will close on Friday 8 August. Awards are given for the best campaigns, established between 1 July 2013 and 30 June 2014, in five categories: development/redevelopment; community; sales promotion; branding/repositioning; digital initiative; and multi-centre campaigns. Details are available on the [Awards website](#) or the '[Call For Entries](#)' brochure. The awards dinner will be held on Wednesday 22 October 2014 at the Ivy Ballroom in Sydney and bookings for the awards dinner can now be made [here](#).

LEGAL ARGUMENT OVER S. 251 VICTORIAN BUILDING ACT TO COME TO A HEAD

For the past few years there has been legal debate in Victoria (see [here](#) and [here](#)) about whether a landlord can enforce a commercial lease obligation requiring a tenant to maintain the leased premises' 'essential safety measures'. The argument has been mounted that section 251 of the *Building Act* takes precedence over section 39 of the *Retail Leases Act* and that the costs of such measures cannot be a recoverable outgoing from tenants. The Small Business Commissioner, Geoff Browne, using newly acquired powers ([Shop Talk 29/5/14](#)), is now [seeking an advisory opinion](#) on this matter from the Victorian Civil and Administrative Tribunal (VCAT). Relevant parties will have until 27 August to lodge submissions on the matter to VCAT.

SENATE INQUIRY ON NATIONAL APPROACH TO RETAIL LEASING ARRANGEMENTS

Here we go again! The Senate Economics References Committee, on a [motion](#) by Senator Nick Xenophon (Independent), will inquire into "the need for a national approach to retail leasing arrangements to create a fairer system . . ." The Productivity Commission has, twice, recommended a national code of practice for shopping centres, enforceable under the *Competition and Consumer Act*, to replace state/territory retail tenancy legislation but the states have displayed zero interest in this. Of course Senator Xenophon knows the states have no intention of giving up their powers to regulate retail tenancy – nor do state officials have any interest in harmonising retail tenancy regulation, as witnessed by the debacle over the so-called 'harmonised disclosure statement'. Nor does Senator Xenophon care. The Senate Committee will give him the chance to parade the usual list of prejudices about the industry as revealed in the details of his motion. All of these issues have been thrashed out endlessly in reviews of state retail tenancy legislation over the last couple of decades but that, apparently, counts for nothing to Senator Xenophon.