



# SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE  
COUNCIL OF AUSTRALIA

Thursday 19 March 2015

[Previous Editions](#)

## REPORT OF SENATE INQUIRY INTO NATIONAL APPROACH TO RETAIL LEASING

This week, the Chair of the Senate Economics References Committee tabled a [report](#) following the Committee's inquiry into the need for a national approach to retail leasing ([Shop Talk 26/06/14](#) & [Shop Talk 18/09/14](#)). This inquiry was established in June 2014 at the urging of South Australian Independent Senator, Nick Xenophon, with Terms of Reference that had a clear 'anti-landlord' bias. The Committee notes the benefits that a harmonised approach to retail leasing would bring, but acknowledges that this is a matter for the states and territories. The three recommendations in the report have ended up being quite reasonable. Firstly, the Committee endorses the role played by Small Business Commissioners across the country with regard to dispute resolution and encourages their establishment in all jurisdictions. Secondly, the Committee has re-opened the possibility of the preparation of a national Disclosure Statement, to be driven by a re-established Retail Tenancy Working Group. Finally, it has recommended that the Commonwealth take a stronger leadership position through COAG to encourage the states and territories to move toward a harmonised approach to retail leasing. The Government will now consider and respond to the recommendation. Although reasonable, the recommendations are unlikely to draw the Government's attention away from its other priorities. Despite initiating the inquiry, the views and recommendations of Senator Xenophon have formed part of a 'dissenting report' to the Committee's main report. Heavily weighted against the interests of landlords, Senator Xenophon would have rights of lease renewal enshrined on a national basis, the full disclosure of commercial lease terms, including incentives, and the imposition of limits on bank guarantees, among other recommendations. It is pleasing that sense has prevailed and that Senator Xenophon's harmful landlord proposals were not supported by the Committee.

## PERSONAL PROPERTY SECURITIES ACT REVIEW REPORT TABLED

The [report](#) of the review of the *Personal Property Securities Act* ([Shop Talk 14/08/14](#)) was this week tabled in Federal Parliament. The report contains close to 400 recommendations which address the Act and the Personal Property Securities Register. The Reviewer has rejected our recommendation that leases or bailments that relate to the lease of premises or land be exempt from the Act. If the Government accepts this recommendation, the status quo would prevail. The Reviewer has also recommended that the Government "explore with the states and territories whether a regime can be developed...that would allow fixtures to be brought within the Act". This comes despite the fact that fixtures were expressly excluded from the Act at its inception. We have made clear our opposition to this recommendation on the basis that it will result in even greater uncertainty and red tape for landlords. The Government will now consider and respond to these recommendations.

## SMALL BUSINESS OMBUDSMAN BILL NOW OUT FOR CONSULTATION

The Federal Government has released for public consultation an exposure draft of its promised [Australian Small Business and Family Enterprise Ombudsman Bill 2015](#). The Ombudsman, once the legislation is passed, will replace the existing position of [Australian Small Business Commissioner](#). Submissions close on 7 April 2015.

## SHOPPING CENTRE NEWS 'BIG GUNS' EDITION NOW AVAILABLE

The annual 'Big Guns' edition of [SCN \(Shopping Centre News\)](#) is now available, with a comparative listing of shopping centres exceeding 50,000 m<sup>2</sup> GLA on a range of criteria, including centre MAT, centre sales productivity and specialty sales productivity. Subscriptions can be arranged by calling (02) 9555 7494.