

SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

THURSDAY 25 JANUARY 2018

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GREATER SYDNEY COMMISSION REGION AND DISTRICT PLANS: SUBMISSIONS NOW PUBLIC

The Greater Sydney Commission (GSC) has [published](#) the submissions they received in response to both the draft *Greater Sydney Region Plan* and the five revised draft *District Plans* ([Shop Talk 27/10/17](#)). Much of what the GSC seeks to facilitate through these Plans (i.e. the creation of great places which are well connected, and where investment and business activity is maximised) strongly aligns with the current and intended future activities of our sector. Further, as Shopping Centre Council members own or manage over 90 shopping centres within the GSC's five districts, with these centres encompassing in excess of 2.9 million square metres of retail floorspace, our sector is a key stakeholder in the delivery of the GSC's vision for Sydney. The Shopping Centre Council's submission to the GSC emphasised three key themes: 1) offering support to the GSC for its 'three cites' vision, and related objectives and strategies, 2) profiling the ongoing investment made by shopping centre owners and managers to drive innovation and ensure that centres maintain relevance to customers and respond to the evolution of retail, and 3) noting the considerable risk presented to the GSC's vision as a result of the commentary and proposals of the Retail Expert Advisory Committee (REAC), some of which are inconsistent with, and may undermine, the Sydney Region Plan and District Plans ([Shop Talk 10/11/17](#)). We have specifically recommended that any future consideration of retail policy in NSW, including by the Department of Planning and Environment during the implementation of the REAC recommendations, be anchored to, and consistent with, the strategic and spatial objectives detailed by the GSC. 2018 is now set to be dominated by retail planning issues in NSW, where the parade of baseless and lazy claims about competition in the planning system, restricted access to land and statutory definitions are likely to be rolled out and given oxygen - yet again. This is despite other reviews, specifically the recent Harper Competition Policy Review, more-or-less putting these issues to bed in recent years ([Shop Talk 26/11/15](#)).

ACCC RELEASES LATEST 'SMALL BUSINESS IN FOCUS' REPORT

The Australia Competition and Consumer Commission (ACCC) this week released the latest edition of its [Small Business in Focus](#) series, which covers activities across the July-December 2017 period. The report highlights a 30% increase in small business contacts, with almost 5,000 small businesses contacting the ACCC during this period, compared to 3,700 in the six months prior. ACCC Deputy Chair, Dr Michael Schaper, [said](#) "alleged misleading conduct, false representations and consumer guarantees remained the top issues reported to the ACCC by business last year". The ACCC has also recently updated its [Small Business and the Competition and Consumer Act](#) guide, which assists small business understand their rights and responsibilities.

HIGH COURT REFUSES SPECIAL LEAVE TO APPEAL ON COLD STORAGE DECISION

On 15 December 2017, the High Court of Australia refused special leave to appeal the decision of the Victorian Court of Appeal in [IMCC Group \(Australia\) Pty Ltd v CB Cold Storage Pty Ltd \[2017\] VSCA 178](#) ([Shop Talk 24/3/17, 7/7/17](#)). The matter hinged on the interpretation of the scope of the retail provision of services in the context of the definition of 'retail premises' under the Victorian *Retail Leases Act 2003*. In July 2017, the Court of Appeal rejected the view that a distinction can be drawn between commercial (or business) and non-commercial consumers of services, and affirmed the application of the 'ultimate consumer' test when determining whether a premise is a retail premise under the Act. Barrister, Sam Hopper, provides a useful summary [here](#).

WE HAVE MOVED: A MESSAGE FROM THE SHOPPING CENTRE COUNCIL

The Shopping Centre Council has moved! We are now located at Level 31, Tower Two, International Towers, 200 Barangaroo Avenue, Barangaroo, NSW, 2000. Please update your records accordingly, noting that this is also our postal address. Staff contact details are available [here](#). For general enquiries, please use 02 9299 3512.

PREVIOUS ISSUES