27 August 2024

MEDIA RELEASE

GOVERNMENT'S PROPOSED MERGER REFORMS 'POORLY TARGETED AND ADDING TO REGULATORY BURDEN'

As a highly affected industry, the Shopping Centre Council of Australia (SCCA) has expressed alarm with the Government's proposed merger reforms, labelling them as *"poorly targeted"* where they go beyond their original intent and have the potential to stymie future investment in an unwarranted manner.

This follows the recent closure of formal consultation on the *Treasury Laws Amendment Bill 2024: Acquisitions Exposure Draft.*

As proposed, the merger reforms would see mandatory notification to the Australian Competition and Consumer Commission (ACCC) for all mergers and acquisitions valued at $35 million and above, including shopping centre transactions.

Capturing all mergers and acquisitions goes beyond the original intent to target market concentration and will unnecessarily capture other markets.

Detailed market analysis conducted by the SCCA, and provided to Treasury, highlights that the proposed reforms would require one shopping centre transaction a week (based on a 10-year average), and seven bidders on average, potentially needing to be assessed by the ACCC ahead of any transaction being progressed or finalised.

There is a lack of clarity as to how the ACCC notification process would operate or the factors that will considered, and how they'll be assessed.

The SCCA has made several recommendations to the Government to seek to ensure the reforms are properly targeted and that clarity is provided before any Bill is tabled in the Parliament.

Anthony Mellowes, Chief Executive Officer of Region Group and SCCA Chair said: "The Government's proposed merger reforms has gone well beyond the original objectives of targeting market concentration, and key competition tests have been changed.

"We're really in the dark about the timing, the process and criteria as to how the ACCC will assess parties – which could capture one shopping centre transaction per week and seven bidding parties per transaction using current averages.

"Our industry is not opposed to sensible change, but the unnecessary regulatory burden and market uncertainty could be quite harmful.

"I really hope, and I say this respectfully, that Assistant Minister Andrew Leigh and Treasurer Jim Chalmers engage further with us and sort out sensible thresholds and carve-outs before the Bill goes into the Parliament," Mr Mellowes said.

Angus Nardi, Chief Executive of the SCCA said: "The catch-all nature of the proposed reforms is poorly targeted, going well beyond fair expectations that they would target areas of market concentration.

"The Government has rightly flagged the need to minimise the regulatory burden for acquisitions that don't have anti-competitive impacts, however we don't think the proposed regime delivers on this," Mr Nardi said.

CONTACT: Luke Sikora, Head of Stakeholder Engagement, SCCA, 0423 437 166