



12 April 2017

Research Director
Legal Affairs and Community Safety Committee
Parliament House
George Street
BRISBANE QUEENSLAND 4000

By email: lacsc@parliament.qld.gov.au

Dear Sir/Madam,

Court and Civil Legislation Amendment Bill 2017

Thank you for the opportunity to comment on the *Court and Civil Legislation Amendment Bill 2017*. Our comments are limited to those amendments proposed with regard to the *Retail Shop Leases Act 1994*.

The Shopping Centre Council of Australia (SCCA) represents Australia's major owners, managers and developers of shopping centres.

The SCCA was a key stakeholder in the recent review of the Retail Shop Leases Act 1994, which was facilitated by the Department of Attorney General and Justice. This review culminated in the passage of the Retail Shop Leases Amendment Bill 2016 through the Parliament in May 2016. The Amendment Act commenced on 25 November 2016.

Prior to the commencement of the Amendment Act, we became aware of a drafting omission which, in effect, removed a lessor safeguard with regard to lessee disclosure obligations. We made our concerns known to the Attorney General at the time (see correspondence attached).

In this regard, we support the corrective action which is proposed at clause 220 (and clause 2 (1)) of the Court and Civil Legislation Amendment Bill 2017. As is noted in the Explanatory Memorandum, and as we concluded in our earlier correspondence, we are aware that this has been an inadvertent omission of an existing lessor safeguard, rather than a policy shift.

We also support the Government's intent, at clause 222, to make permanent a current transitional regulation which makes clear that the Act continues to apply to leases covering a tenancy greater than 1,000m² entered into prior to the commencement of the Amendment Act in November 2016.

We had the benefit of engagement with staff of the Department of Justice and Attorney General on the detail of both of these issues. We understand that these proposed amendments were also canvassed with the other stakeholders which were engaged in the review of the Retail Shop Leases Act 1994, including a number of major retailer associations. This reflects an extension of the collaborative and consensus driven approach which typified the review of the Act.

As necessary, I would be available to attend the public hearing of the Committee on 18 April to speak to this letter. I can be reached on 0417 042 516 or at kpryce@scca.org.au.

We continue to appreciate the constructive engagement and courtesy extended to us by the Government on these issues.

The SCCA's members are AMP Capital Investors, Blackstone Group, Brookfield Office Properties, Challenger, Charter Hall Retail REIT, DEXUS Property Group, Eureka Funds Management, GPT Group, Ipoh Management Services, ISPT, Jen Retail Properties, JLL, Lancini Group, Lend Lease, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, SCA Property Group, Scentre Group, Stockland and Vicinity Centres.

Yours sincerely,



Kristin Pryce
Deputy Director



9 November 2016

The Hon Yvette D'Ath MP
Attorney-General and Minister for Justice
GPO Box 149
BRISBANE QUEENSLAND 4001

By email: [REDACTED]

Dear Attorney,

Lessors disclosure obligations

I write to seek your urgent intervention to resolve an apparent drafting omission which occurred during the passage of the *Retail Shop Leases Amendment Bill 2016* through the Parliament.

During the passage of the Bill a series of provisions were omitted, specifically 22F(5) through to 22F(9) (inclusive) of the Bill. This omission has had the effect of removing a lessor protection with regard to lessee disclosure obligations (generally speaking, a protection comparable to that offered under 22(5) of the current Act).

In light of your comment to the Parliament on 10 May 2016 that the status quo would prevail pending further consultation, we are confident that this has been an inadvertent omission of an existing lessor protection, rather than a policy shift.

We respectfully request that appropriate amending legislation to resolve this omission be progressed as a matter of urgency.

It is critical that there is no gap in the continuity of this legislative protection for lessors which have otherwise acted honestly and reasonably with regard to their disclosure obligations.

Failure to ensure continuity will be disruptive to lessor leasing processes and ongoing lease negotiations, and also create considerable uncertainty and introduce considerable risk for lessors during any period where no legislative protections are in place.

Ideally, this would mean that a pathway is identified which will see the passage of the relevant amendments through the Parliament to facilitate commencement concurrent with the commencement of the *Retail Shop Leases Amendment Act 2016* on 25 November. Practically, and being mindful of the Parliament's limited sitting schedule in coming weeks, we request an opportunity to discuss the options available to the Government to progress the necessary amendments at the earliest opportunity.

We continue to appreciate the constructive engagement and courtesy extended to us by the Government, an approach which has typified the review of the *Retail Shop Leases Act*.

I can be contacted at [REDACTED] to discuss this letter.

Yours sincerely,

[REDACTED]
Angus Nardi
Executive Director