



Retail Shop Leases
Amendment Bill 2014
Submission 002

19 December 2014

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

Dear Mr Hastie

Retail Shop Leases Amendment Bill 2014

Thank you for the opportunity to provide comment on the Retail Shop Leases Amendment Bill 2014, which gives effect to outcomes from the statutory review of the *Retail Shop Leases Act 1994* (the Act).

Enclosed is a letter dated 26 July 2013 and addressed to the Director-General of the Department of Justice and Attorney General, responding to the earlier Options paper that proposed amendments to the Act.

I note that the Bill proposes to exclude some procedural requirements where the State, Commonwealth or local government is lessee of premises situated in a retail shopping centre (sections 22A, 22D and 46).

This is consistent with the enclosed LGAQ submission to the Director-General; that is, to exclude leases where local governments are tenants from particular requirements under the Act, but that the rights and protections contained within the Act should continue to apply to local governments.

While local government tenancies are not typical retail outlets, the basic protections under the Act are not inappropriate as local governments are not operating in a competitive commercial context, and so there is no detriment to other shopping centre tenants if the Act also applies to local government, State and Commonwealth agencies.

If you have any further questions in relation to this matter, please do not hesitate to contact me at Greg_Hoffman@lgaq.asn.au or on (07) 3000 2245.

Kind regards

A handwritten signature in blue ink, appearing to read 'Greg Hoffman', is written over the typed name.

Greg Hoffman PSM
GENERAL MANAGER – ADVOCACY



26 July 2013

Mr John Sosso
Director General
Department of Justice and Attorney General
GPO Box 149
BRISBANE QLD 4001

Dear Mr Sosso

Statutory Review of the Retail Shop Leases Act 1994

Thank you for your correspondence to Cr Margaret de Wit, President, Local Government Association of Queensland (LGAQ), regarding proposed options for amendments to the Retail Shop Leases Act 1994, your reference 2215811. Cr de Wit has asked me to respond on her behalf.

As the Options paper notes, this Act provides important safeguards for retail tenants, particularly in relation to large institutional shopping centre landlords, through mandatory minimum standards for retail shop leases and a low cost dispute resolution process for retail tenancy disputes.

Retail tenancy acts are very complex, and there is a great deal of variation in other jurisdictions. South Australia currently exempts Crown and local government leases from their respective Act; New South Wales is undergoing a similar review to that of Queensland. Other States and Territories currently provide for local government under their particular Retail Tenancy Act.

I note that items 2.6 and 2.7 of the attachment to the Options paper indicate a proposal to exclude from the operation of the Act leases where the State or local government is a tenant of retail premises located in a retail shopping centre. Whilst the LGAQ understands the intent behind this proposal to reduce regulatory burdens on both landlords and State/local governments, and to streamline administrative processes where possible for both government and industry, LGAQ would caution against a blanket provision to exclude local governments from the Act.

All tenants, whether private or public sector bodies, are also entitled to certainty in their tenancy arrangements, should they enter into lease agreements. It is also ideal from both the landlord and tenant's perspective that there is a peaceful and long term tenancy. If changes are to be made to any tenancy arrangements, there should be appropriate protections in place to ensure the tenants are able to respond and negotiate adequately.

Local governments are tenants of many small tenancies in shopping centres, providing community services such as libraries and customer service centres. Some local governments, such as Brisbane City Council, can potentially be classed as "sophisticated tenants" with appropriate resources and bargaining power. However, many Queensland local governments, particularly those in regional or rural areas, do not have sufficient resources available to be able to respond appropriately and negotiate complex or demanding changes to lease agreements.

It is acknowledged that local government tenancies are not typical retail outlets; however, the basic protections under the Act, as indicated in the Options paper, are not inappropriate as local



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OF QUEENSLAND

governments are not operating in a competitive commercial context, and so there is no detriment to other shopping centre tenants if the Act also applies to local governments. The LGAQ believes that a similar sentiment applies to the State Government.

As such, the LGAQ supports Option B, to exclude leases where local governments are tenants from particular requirements under the Act (for example, the requirement for a tenant to give disclosure to the landlord, including financial and legal advice reports). Those requirements of the Act which are unnecessary could be removed, but the rights and protections contained within the Act should continue to apply to local governments.

If you have any queries or wish to discuss this further, please do not hesitate to contact me at greg_hoffman@lgaq.asn.au or on (07) 3000 2245.

Kind regards

A handwritten signature in blue ink, appearing to read 'Greg Hoffman', is written over a light blue grid background.

Greg Hoffman PSM
GENERAL MANAGER - ADVOCACY