



Speech by

Fiona Simpson

MEMBER FOR MAROOCHYDORE

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RETAIL SHOP LEASES AMENDMENT BILL

Miss SIMPSON (Maroochydore—NPA) (12.02 pm): The retail industry in Queensland is a dynamic and important part of our economy, thus the importance that legislation not create an unreasonable or increased burden but actually help to facilitate people doing good business. The bill we are considering today is the result of the latest five-year review of the principal act, the Retail Shop Leases Act, which governs minimum standards, and this review is a process required under law. This act, as members know, is concerned with assisting retail businesses through the provision of mandatory minimum standards for retail shop leases as well as a low-cost dispute resolution process for retail tenancy disputes. It exists in recognition that business consists of both large and small players, whether they are retailers or property owners. It seeks to provide some checks and balances upon excess use of power by large players. It guides the relationship between landlords and tenants.

The marketplace has changed considerably since the act was introduced 20 years ago, thus the need for periodic reviews. The resulting recommendations from the review are reflected in this bill, which will apply to new leases after the commencement date of the amended act. The new provisions with regard to dispute resolution will also apply to dispute applications lodged after the commencement date. According to the explanatory notes, this bill intends to improve its operational efficiency in establishing mandatory minimum lease standards for retail shop leases and enhance the retail tenancy dispute resolution process—that is, to improve the capacity of the dispute resolution processes in accordance with the object of the act. The opposition will be supporting these amendments as, on the whole, they are uncontroversial. We also recognise that there has been a discussion paper widely circulated and feedback from key stakeholders, including stakeholders representing small retailers.

In summary, the bill changes the meaning of retail shopping centres to that of a cluster of premises and covers numerous configurations, meaning that not all rental space is necessarily retail, but this act under various definitions covers a mixture of configurations; the meaning of turnover will include 'carried on in a leased shop' and charges to commission sales to reflect current commercial practices; lessors' disclosure obligations to prospective lessees; and prospective lessees' disclosure obligations to lessors. As well, the timing and loss of rent reviews insert a new basis for which rent can be calculated incorporating base rent and turnover rent. Also, the lessee may require an early determination of a current market rent. Amendments also set out conditions of lessees' and lessors' submissions to a specialist retail valuer to assist in making a determination of the current market rent. The bill also details guidelines for decisions by the Retail Shop Leases Tribunal with regard to compensation given to lessees. There also must be written notice of lessors' intention to demolish a building and the date the lease ends. With regard to reference to disputes, the bill increases the time from four months to one year for lodgement of a notice of dispute at the end of the lease. Other provisions are a limited right of representation allowing either disputing party to be represented at a tribunal hearing after applying to the tribunal. Also, the tribunal must attempt to conciliate. Another change extends the time for the reviews to seven years instead of the current five years.

I thank the minister for assistance with regard to the briefing provided by registrar Dianne Murphy and note that the expanded definition of 'lessee' is also quite significant in that it is to assist small business

tenants whose leases have expired. Tenants whose leases have expired could remain on a monthly tenancy in the premises on the same terms and conditions as provided for in the previous lease, and this will apply to sublessees and franchisees as well who will be able to access the compensation provisions of the act. I also note that another improvement to the act for lessees is the ability to request an early determination of the current market rent. This will enable the lessee to request that the market rent determination take place before exercising their option for a further term of the lease. Access to this kind of information helps businesses, particularly small businesses, make better informed decisions with regard to their future lease options.

Another significant change provided for in the bill relates to the onus to notify with regard to extensions or renewals of the lease. Under these amendments, the onus for notification will now move from the lessee to the lessor. Furthermore, a new section will apply if a lease does not provide for an option to renew or extend the lease. In this case, a lessor will have to give a written notice to the lessee as to whether they intend offering a new lease. There have also been further amendments tabled since the bill entered the House last year, and once again I acknowledge the briefing I received together with the member for Lockyer, the shadow parliamentary secretary for this portfolio.

I will not go through all of the amendments—I am sure that the minister will be outlining these later—but it is acknowledged that there is a further amendment to the definitions, particularly with regard to a major lessee, so that a bank will be included within these provisions. Even though they are not a retailer, they are major tenants within shopping centres. Another amendment that has been tabled will allow a rent review to be based on the average rent paid over one or more years when rent is determined as base rent and a percentage of turnover. A further amendment will ensure that businesses are relocated in certain circumstances to reasonably comparable alternative premises. This is a provision which will make our act more compatible with other Australian retail tenancy jurisdictions. No act is perfect, and no doubt there will always be room for improvement with regard to this act and other laws governing businesses, particularly where there are competing interests. But the feedback that we have received from stakeholders is that generally they are satisfied with the review process and are supportive of the provisions before the House.

Obviously, there are competing interests owing to the nature of the stakeholder groups involved. Although some compromises were made while working towards the final product, they are genuinely supportive of the provisions that are before the House. The key industry groups involved in the industry working group were the National Retail Association, the Queensland Retail Traders and Shopkeepers Association, the Property Council of Australia, and the Shopping Centre Council of Australia.

The opposition supports the amendments that are before the House and certainly urges the minister to consider what can be done in terms of offering an education campaign to businesses, particularly small businesses that do not have a lot of staff on hand to always read and interpret the latest legislation that hits the deck. I note, as the registrar said, that the targeting of key professional groups such as accountants and solicitors helps upskill those professionals so they are in a better position to advise their clients. Although I believe that is an important strategy, I would certainly welcome any educational support to ensure that businesses, particularly small businesses, are aware of the changes that are being made so that not only are their rights upheld but also they know what their rights are. We support the bill before the House.