
Productivity Commission Interim Report (June 2014)

Relative Costs of Doing Business in Australia: Retail Trade

Submission by the
Shopping Centre Council of Australia

11 July 2014

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1.0 Executive Summary

Thank you for the opportunity to provide a submission on the Productivity Commission's Interim Report on its *Study into the Relative Costs of Doing Business in Australia: Retail Trade Industry*. We are pleased that evidence and arguments from our submission on the *Issues Paper* have been referenced in the *Interim Report*.

We have structured this submission around the Commission's *Information Requests*.

In preparing this submission, we have also reviewed the Commission's submission on the *Competition Policy Review* which was released on 27 June, after the release of the Interim Report, which provides clear and welcome reform arguments in relation to trading hours and planning and zoning (specifically referencing at page 31 the Commission's *previous recommendations and findings* in these areas). We welcome the Commission's reference to "the desire by retailers and some commercial property owners for governments to progress implementing the recommendations of the Commission's 2011 inquiry report on the *Economic Structure and Performance of the Australian Retail Industry*".

RETAIL TENANCY REGULATORY REFORM

Unfortunately, in its submission to the Review, the Commission overlooked one of its important previous recommendations.

We believe the Commission should have reaffirmed its recommendation from the *Inquiry into the Market for Retail Tenancy Leases in Australia* in 2008 ("the 2008 Retail Tenancy Inquiry") on a voluntary national retail leasing code of conduct, enforceable by the ACCC, to replace retail tenancy legislation for shopping centre leases. We addressed this issue in our submission on the *Issues Paper*, as well in our own submission on the Competition Policy Review.

The Commission's statement in the *Issues Paper* that retail tenancy issues are a matter for the Competition Policy Review is confusing. Given the Commission's focus on international comparisons, it should be aware that Australia is unique in having such a highly regulated and prescriptive retail leasing market. The Commission makes some brief but important comments on the issue in the Interim Report; specifically noting in the section regarding *Occupancy Cost Drivers* (section 4.2 – at page 69) that "...the need to ensure that...retail tenancy laws are as efficient as possible is arguably even more important". For this reason, we urge the Commission to address this issue in its final report to the Federal Government.

KEY RECOMMENDATIONS: \$6 MILLION+ IN ANNUAL COST SAVINGS

We recommend the Commission notes in its final report:

- Shopping centres make a positive contribution to the retail economy and have been a great incubator for retailing, including the introduction of international retailers.
- Based on the available comparative data, just like Australian shopping centres can have "relatively high" occupancy costs (along with labour costs); Australian shopping centres can have "relatively high" sales productivity when compared with international jurisdictions (such as the US).
- Various cost burdens are heavily influenced by government regulations including trading hours, retail tenancy legislation, taxes and utility charges.
- The Commission's previous findings in relation to trading hours, planning and zoning, and a national retail leasing code should be a core reform platform.
- The Commission should make a new recommendation (refer to *Information Request 4.4*), which has a "prospect for achieving meaningful reform", for large shopping centre owners to be exempt from real estate licensing requirements, which will save the industry \$6 million per annum.

We would welcome the opportunity to discuss this submission with the Commission.

2.0 Information Requests

This section focuses on the Commission's various *Information Requests*. To avoid confusion, we have applied the same numbering from the Commission's report.

INFORMATION REQUEST 2.1

What are the impediments to a faster adoption of e-commerce by Australian retailers?

—

This question is principally a matter for retailers and retailer associations.

However, we do not believe that shopping centres are an impediment to the faster adoption of e-commerce.

Bricks and mortar stores can play an important role in e-commerce whereby an item or service is ordered online and then 'fulfilled' (e.g. delivered or picked up) from the store. In this regard, bricks and mortar stores can be part of the cost-structure of e-commerce.

If a bricks and mortar store is used as part of an e-commerce transaction (e.g. ordering, display, delivery or collection), then the owner and manager of that store is obviously entitled to negotiate terms such as the extent to which a sale forms part of the store's turnover. This could also then extend to the provision of turnover information. If a retailer does not want to use the convenience of a shopping centre store, they can still use other channels such as home delivery, or collection at other premises such as warehouse facilities. Even though it is an emerging space, e-commerce also has the potential to skew occupancy cost ratios for bricks and mortar stores whereby a sale may not be fully recorded within a store, yet the same store carries part of the cost burden (e.g. labour, rent, electricity, storage and handling of goods, dealing with returned items) of fulfilling that sale.

The Commission should also note that shopping centres have investigated and adopted e-commerce solutions to better facilitate the retail economy. Examples of our members' support for e-commerce include the following:

- online portals to search, compare and purchase their retailers' goods.
- free WiFi within their shopping centres to facilitate e-commerce
- mobile device tracking to help understand and analyse foot traffic within shopping centres (which can help optimise internal layouts, tenancy mix and also shopping centre marketing to assist retailers).
- teaming up with Google to map the internal layouts of shopping centres to assist shoppers in navigating a centre.
- trialling lockers to enable parcels ordered online to be more easily collected.
- parking guidance systems to more easily enable shoppers to navigate car parks and find a space.
- websites, apps and social media that provide centre and store information and relevant promotions.
- research and analysis to assist retailers in adapting to and incorporating e-commerce into the business models.
- establishing dedicated business units and staff to develop new approaches to retailing.

INFORMATION REQUEST 3.1

The Commission is seeking further information on the costs of doing business (including costs of labour, capital, rent, energy, transport) across different categories of retailers operating in Australia.

- To what extent have these costs changed in recent years?
- What is the impact of business size on cost structures?
- To what extent is e-commerce affecting cost structures? Which types of retailers are most affected?

We note that in the context of Australian cost pressures, the Commission has provided analysis and commentary (at page 8) that “retailers’ net margins have been relatively stable over the past two decades” and that they are “innovating and adopting a range of strategies to reduce their costs of doing business through the use of technologies such as self-assisted check-outs, a shift from casual to permanent staff, better supply chain management, the use of private label merchandise, energy efficiency measures and a move to online operations”. The Commission also notes that retailers are also striving for “non-price points of difference”.

We addressed the issue of rent in our previous submission. Rents are essentially a product of market forces, involving the demand for, and the supply of, retail space for lease. In this regard, our previous submission also addressed the extent to which public policy can impact the supply of retail space under planning and zoning regulation (see *Information Request 4.1* below).

In relation to the Commission’s summary of retailers’ occupancy cost ratios (at page 52), this is potentially incomplete. As an example, for neighbourhood centres, the range is outlined as being 9% to 15%. However, analysis of the annual results (2013) for one of our members, Charter Hall Retail REIT, which predominantly owns neighbourhood shopping centres, suggests its overall occupancy costs for specialty tenants is 8.9%. This is lower than the range presented by the Commission. Further, Charter Hall’s analysis across various retail categories highlights occupancy costs below the portfolio ratio of 8.9% (as outlined in the following excerpt), including an occupancy cost of 7.3% for pharmacies, 7.4% for homeware and 3.8% for liquor. These figures should be incorporated into the Commission’s final report.

Specialty tenants	
Summary by Category	Occupancy Cost ¹
Services	11.3%
Food catering	11.3%
Pharmacy	7.3%
General retail	8.7%
Food retail	8.8%
Leisure	8.4%
Bank and financial services	n/a
Apparel	13.3%
Homeware	7.4%
Liquor	3.8%
Jewellery	9.2%
Total	8.9%

Source: Charter Hall Retail REIT, Full Year Results Presentation 30 June 2013

In relation to some of the other commentary on occupancy costs, the Commission needs to acknowledge some of the key differences when drawing comparisons between retailers, particularly in relation to statements such as “supermarkets pay proportionally little rent compared to smaller specialty stores” (page 49). Such statements are misleading and don’t paint a complete picture.

Such retailers generally occupy much larger amounts of retail floor space. As an example, a full line supermarket (e.g. Woolworths or Coles) will be around 3,000m², and a smaller supermarket (e.g. ALDI) will be around 1,500m²; whereas a specialty store will occupy around 100m² to 200m².

Just as office tenants which occupy large amounts of space pay comparatively less rent on a per square metre basis, the same can apply to retail tenants.

Further, due to the large floor space, associated overall rental income and the ability to secure further tenants, such retailers are often the ‘anchor tenant’ for a new shopping centre development. This will mean they are the first to commit to the project and take a greater investment risk. This will often be reflected in less rent on a per square basis. Even in the case of specialty retail tenants which are comparable in terms of retail floor space, generally those that commit in the later stages of a development project (e.g. after construction has commenced) will often end up paying more per square metre because they have far greater security compared to earlier retailers who have taken on greater risk. They will also potentially face more competition for less available retail space.

In addition, as some of our members report, major tenants contribute more overall income than other tenants. As an example, in one of our member’s 2012-13 annual results, the top 2 tenants by income (annual base rent) across their portfolio included Woolworths (29.3%) and Wesfarmers (25.1%). Overall, 42% of overall income comes from those groups’ supermarkets (e.g. Woolworths, Coles) and 12% from discount department stores (e.g. Big W, K-Mart). For another one of our members, Woolworths is cited as being the largest tenant by overall income (10% of the whole portfolio) followed by Coles (9%).

Such larger tenants will also generally have longer leases (e.g. 20 years) when compared with specialty stores (e.g. 5-7 years). Other factors that are relevant include the generation of a relatively higher number of foot traffic to a shopping centre (which benefits smaller tenants), their large marketing campaigns (independent of the shopping centre’s marketing) which also attract customers, along with the rental security (e.g. the credit rating of the business) from being larger, more proven retail operators.

In relation to costs, we provided information in our previous submission, which is cited in the *Interim Report*. This included analysis of changes in costs from 2009-2013. We have summarised these again in the table below, but with statutory charges (e.g. council rates, water rates, land tax) added.

Cost Item (\$/m ²)	2009	2013	% Change
Statutory charges	\$21.07	\$24.30	15%
Cleaning	\$20.09	\$23.89	19%
Electricity	\$8.35	\$11.34	36%
Insurance	\$3.83	\$5.12	34%
Air-conditioning	\$2.84	\$3.43	21%
Repairs and maintenance	\$6.02	\$5.22	-13%
Security	\$7.36	\$7.52	2%

INFORMATION REQUEST 3.2

The Commission is seeking further information on relative cost structures between Australian retailers and those operating in comparable markets overseas.

- *How do the costs of doing business differ between retailers in Australia and those operating overseas?*
- *To the extent that there are significant differences in cost structures, what are the key drivers of these differences?*
- *To what extent are any cost differentials driven by the different mix of in-store and online retailing?*
- *To what extent are there differences in sales per employee between Australian and overseas retailers? What are the main drivers of any differences?*

—

We provided information in our previous submission on the relative differences (in relation to occupancy costs and sales productivity and approaches to land-use planning) between jurisdictions. This included differences such as the favourable sales productivity in Australia compared with the United States. We have nothing further to add at this stage.

INFORMATION REQUEST 4.1

The Commission is seeking further information on the impacts of planning and zoning laws on retailers' occupancy costs.

To what extent are occupancy costs also influenced by the behaviour of retail property owners?

—

In our previous submission, we outlined a number of challenges with Australia's planning systems and also stated that: "Australia's planning systems are no 'walk in the park' for our members". We also addressed the extent to which public policy can impact the supply of retail space under planning and zoning regulation, along with the impact of retail floor space caps, development contributions, structure planning, design requirements, development conditions and planning permit fees.

Since lodging our previous submission, however, there has been a positive development.

The Victorian Planning Minister, Matthew Guy, announced in late May the removal of retail floor space caps which, in the Minister's words, formed the "final part of major planning reforms to Commercial zones" (these are the zoning reforms which commenced in 2013). The Minister also commented that "A cap on commercial floorspace is ultimately a cap on jobs". We strongly welcomed the announcement, which not only lifts caps on a number of our members' assets, but on assets that are in growth locations identified under the Plan Melbourne long-term planning and infrastructure strategy, such as those in identified major centres and with major public transport facilities. An excerpt from the Minister's media release, as well as the coverage in the Australian Financial Review (29 May 2014) is below:

Victoria lifts space cap on suburban malls

Exclusive

Nick Lenaghan

The Victorian government has removed floorspace limits across a swag of suburban shopping centres, giving a big boost to the development pipelines of retail landlords.

Major property players, including Westfield, GPT Group, ISPT and CFS Retail Property, Lend Lease, will see the upside. The floorspace caps have been removed from 22 sites across Melbourne, including at landmark shopping malls such as Westfield Doncaster, GPT's Highpoint and CFS Retail's Forest Hill Chase.

The decision to axe the caps follows a review of remaining limits left in place after wide-reaching reforms to the commercial zoning system last year by Planning Minister Matthew Guy.

"A cap on commercial floorspace is ultimately a cap on jobs," Mr Guy said.

"We want more jobs to be located in the suburban areas of Melbourne, closer to more people.

"This concludes the biggest reforms to commercial and retail planning anywhere in Australia.

"Victoria is without a doubt the most competitive planning system of any state, ensuring we are an attractive location for new investment. These reforms bring more jobs to our state."

Last year's reforms consolidated five business zones into just two zones. Among those changes homemaker centres were free to pursue more retail

and supermarket development. Under Mr Guy's latest reforms, limitations on new office space at key sites in the fast-growing Monash employment cluster in Melbourne's south-east will also be lifted.

Future expansion at the Z2 shopping centre and employment sites will still be subject to planning rules on car parks, landscaping and height.

Brett Williams, GPT's head of retail investment, welcomed Mr Guy's decision: "GPT has always been supportive of appropriate development that delivers the best urban planning outcomes. The removal of floor space caps allows for development to be led by market demand and community needs rather than by rigid statutory restrictions."

Angus Nardi, deputy director of the Shopping Centre Council of Australia, described retail caps as "a clumsy and outdated policy mechanism".

"Unfortunately we still see retail caps popping up in current planning activities, such as Logan City's [in south-east Queensland] recent draft planning scheme," he said.

Busy precincts

Major Victorian shopping centres	
Shopping centre	Owner
Dandenong Plaza	GPT
Campfield Plaza	ISPT
Westfield Doncaster	Westfield
Highpoint	GPT
Caroline Springs centre	Lend Lease
Barby Square, Brunswick	ISPT
Forest Hill Chase	CFS
Williams Landing centre	Cedar/Woods
Monash/Clayton/Mulgrave	Various

SOURCE: VICTORIAN GOVERNMENT



Media release

The Hon Matthew Guy MLC
Minister for Planning
Minister for Multicultural Affairs & Citizenship

22 May 2014

Job limits removed at suburban centres

- Final stage of Reformed Commercial Zones implemented
- Floorspace limits removed at major suburban centres, promoting major investment
- Victoria remains the best planning system in Australia for commercial investment

Limits placed on job creation at suburban shopping centres have been removed by Planning Minister Matthew Guy.

The Commission's previous recommendations in relation to planning and zoning should be pursued as a platform for further reform for other state and territory governments when undertaking strategic planning and planning system reviews. We have also stressed the need to ensure competitive neutrality when pursuing such reforms. In this regard, we made the following recommendations in our submission to the Competition Policy review (which is available on the Competition Review Panel's website) (see pages 3 and 4 of our submission):

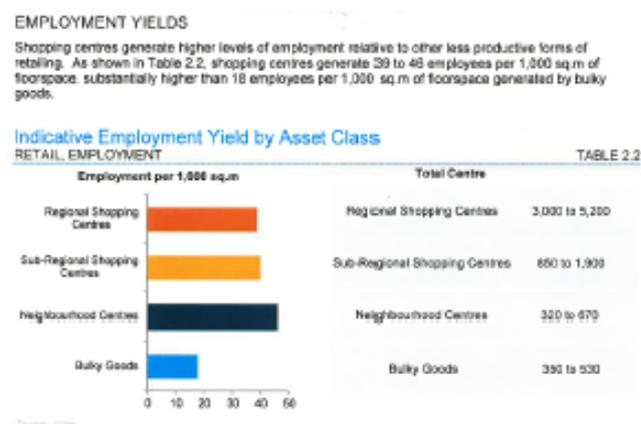
4. The Review Panel should recognise that shopping centre developers have a major interest in Australia's planning systems, including restrictions to investment and competition, given their significant development pipeline.
5. The Review Panel should recognise the Productivity Commission's previous findings and recommendations in relation to the competition in Australia's planning systems and endorse these as the basis for reforms to be progressed at the relevant State and Territory levels.
6. The Review Panel should recognise that competition issues can be 'traded off' with other important public policy issues under Australia's planning systems, where the benefits are considered to outweigh the costs, such as productivity, public investment efficiency and employment concentration.
7. The Review Panel should recognise the various public goods provided by Australia's planning systems including transport efficiency and productivity, environmental and heritage protection, resource protection, employment growth and minimising land-use conflict.
8. The Review Panel should recommend that competitive neutrality should guide reforms to improve retail competition through Australia's planning systems, to ensure that no retail format gets a competitive advantage over another.
9. The Review Panel should reinforce that competition or loss of trade is not a valid planning consideration when appealing new development proposals.
10. The Review Panel should recommend that an objective of all planning systems should be 'as-of-right' development which does not require a formal development application.

We believe the Commission needs to note that the pursuit of planning and zoning reforms inevitably needs to be considered amongst other factors that influence and impact planning outcomes. As a group representing major retail developers, we are not naïve enough to believe that our members will always get their own way. There are other public policy issues that are reflected in planning provisions which can also serve to improve issues such as productivity and economic efficiency. We also made the following major points in our Competition Policy Review submission, in relation the various reasons why Australia’s state, territory and local governments undertake land-use planning (see excerpt below):

There are various reasons why Australia’s state, territory and local governments undertake land-use planning. This is reflected by the fact that land-use planning exercises are generally subject to broad consultation including across various levels of government, industry and the community. It is important the Review Panel is aware that planning is not a single issue framework whereby ‘competition’ is, or should be, the sole or leading factor. Indeed productivity improvements and public investment efficiency are often typically ‘traded-off’ against competition issues because the benefits are considered to outweigh the costs. This can include enabling the “highest-valued use” of land through densification and mixed-uses in a CBD or town centre and improving the productivity of public transport investment by focussing development around or near train-stations. This can also include other economic policy objectives, such as the concentration and protection of industrial land near major transport hubs and port facilities.

In addition to the points raised above, governments can also promote activity centres or clusters as a focus of ‘employment’. In this regard, we note that shopping centres have higher retail employment ratios than other forms of retailing such as bulky goods outlets. The following table prepared by Urbis illustrates the differences between asset classes:

Table 2: Urbis Indicative Retail Employment Yields



The Review Panel should note that every State and Territory government (and in the case of Queensland, Brisbane City Council) frames their metropolitan planning strategies around the principles noted above.

In relation to the Commission’s question about the extent that occupancy costs are “influenced by the behaviour of retail property owners”, we are unclear as to what this means.

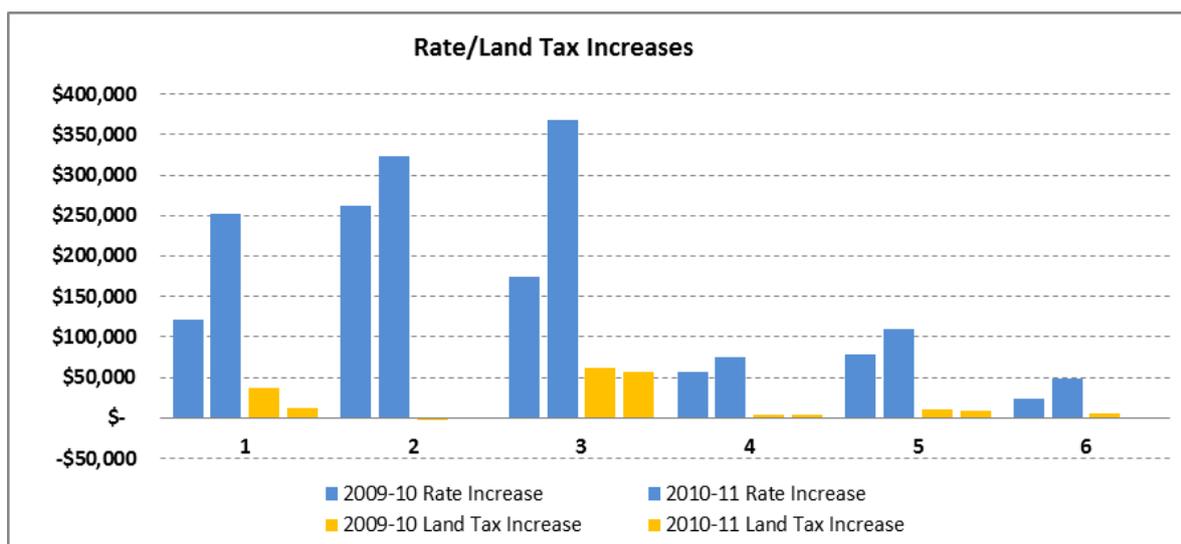
At an industry level, we allocate major resources in seeking to minimise a range of statutory and non-statutory ‘outgoings’ such as land valuation issued by Valuer-Generals, land tax, council rates, emergency service charges, water charges and electricity regulation. This includes the current campaign by the union representing shopping centre cleaners, United Voice, seeking a wage and entitlement increase through a new enterprise bargaining agreement.

At the individual company and asset level, our members have strong commercial incentives to limit outgoings and growth in outgoings. A critical issue is that growth in outgoings can limit rental increases which generally need to be reported to institutional investors as a critical financial measure. If rental growth is limited, this can contribute

towards a negative impact on operating incomes as well as a centre’s market valuation. This has obvious flow on effects in relation to the cost and availability of financing, asset management and redevelopment opportunities. Further, landlords do not fully recover outgoings from their tenants. Accordingly, it is in the landlord’s interest to minimise outgoings where possible.

As noted above, the Commission should note that a lot of outgoings are a direct impact of government decisions. Also, in many instances, shopping centre owners and managers are price-takers, not price-makers. Statutory charges and insurances, for example, are determined by other bodies. It is for this reason that we updated our information on costs (in the Table at page 6) which highlights that statutory charges have increased by 15% from 2009-2013.

As we pointed out in our previous submission, statutory charges include the issue of local council rates which, in some cases, exceeds the burden of land tax. We provided evidence in our previous submission about the impact and volatility of rate gouging for six of our members’ properties (in NSW). The table (reproduced below) outlines that even where land valuation has decreased (which is reflected in lower land tax), council rates increased in the same period, which generally reflects a specific decision of that council to increase the rate which applies to the shopping centres and its retailers. The uncertainty and impact of council rates are, in our mind, one of the biggest property taxation challenges for shopping centres.



The Commission should also note that outgoings issues are highly regulated under retail tenancy legislation, which largely ensures protections for retail tenants (and limitations for landlords). In this regard, outgoings are also “influenced” by governments. This includes prescriptive requirements and, in certain cases, limitations on the disclosure and recovery of outgoings. As an example, retailers know at the beginning of the financial year how much they will be paying each month in outgoings and if the estimate proves to be excessive they receive a refund at the end of the year. Provisions such as section 30 of the *NSW Retail Leases Act* provides protections concerning the apportionment of outgoings. The NSW legislation also regulates capital costs (section 23), depreciation (section 24), interest and charges incurred by the landlord on borrowings (section 24A), and rent and other costs associated with unrelated land cannot be recovered from tenants (section 24B).

INFORMATION REQUEST 4.2

How can state and local governments most efficiently accommodate the interests of both retailers and residents in mixed developments in relation to noise and other issues (congestion and safety for example)?

—

It is our experience that state and local governments are pushing for more mixed-use developments particularly in activity centres and areas surrounding public transport nodes. Most major metropolitan planning strategies promote this outcome. This issue, however, highlights an unlevel playing field in the provision on retail floor space whereby some retail developers are required to incorporate residential dwellings into their developments, whereas others (including in the same local government area) are not. Aside from the additional development costs and investment risks incurred, this can add significant operational complexities such as residents complaining about noise levels. Often, the impact of this “planning vision” espoused by governments is pushed onto the shopping centre owner to deal with adjacent and surrounding residents who make complaints about delivery truck movements.

We note that conflict between different land uses is not unique to retail. We also acknowledge this can be a difficult issue whereby governments are attempting to manage and balance various public policy issues (e.g. residential densification to prevent ‘urban sprawl’ and the associated additional costs to deliver, maintain and operate public infrastructure).

We appreciate that the Commission has referenced our previous submission in this section of the *Interim Report* where we provided an example of proposed restrictions in Brisbane City Council’s draft City Plan for shopping centre delivery times. The example we cited related to the trade-off between Brisbane City Council’s desire for an ‘18-hour economy’, but at the same time, wanting more people to live within the same area and therefore seeking to impose restrictions on delivery times to the hours of 6am-7pm. Arguably, the hours of 7pm-6am are amongst most efficient times to be conducting deliveries given it is outside the traditional peak road usage periods. From a competition and ‘level playing field’ perspective, those retail developers that are able to locate in ‘out-of-centre’ locations will potentially not have the same restriction imposed. This is another reason why there needs to be competitive neutrality in the pursuit of planning and zoning reforms.

In terms of accommodating this issue, we firstly believe that state and local government need to ensure that there is a level playing field (e.g. a requirement to consider the incorporation of residential dwellings or the same delivery time restrictions for all retail development). Further, we strongly believe that state and local governments should not dictate what the residential ‘mix’ should be and how the mix should be incorporated into the shopping centre design. As an example, one of our members has been asked to incorporate residential uses on the prime road frontage of their development, which is also the prime location for car parking access, retail uses and even ‘road-side’ uses such as service stations and drive-through restaurants. It should be up to the retail developer, owner and manager (and their respective retailers) to determine how such outcomes should be achieved to achieve the best design and operational outcome (e.g. through the use of smaller, quieter, delivery vehicles and noise barriers)

INFORMATION REQUEST 4.3

To what extent are retail sector costs adversely affected by changes to the pay rates of heavy vehicle transport drivers, and by other transport and freight cost issues?

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We have no comment on this issue.

INFORMATION REQUEST 4.4

In relation to all of the policy and regulatory drivers of retail sector costs under consideration in this study, the Commission is seeking further input and advice from stakeholders to help prioritise those areas where the prospects for achieving meaningful reforms are greatest, and where the potential cost savings and productivity improvements are also expected to be large compared with the costs of reform.

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We strongly believe the main basis for reform should be the Commission's previous findings and recommendations. These include:

- The deregulation of trading hours;
- Planning and zoning;
- Introduction of a voluntary national retail leasing code of conduct.

In terms of the very valid issue of the 'prospect for achieving meaningful reform', we believe the Commission should make a fresh, new recommendation to exempt large commercial property owners from state and territory-based real estate licensing requirements. The Commission has summarised our previous comments at page 80 of the Interim Report, where we estimate the cost savings to the shopping centre industry amount to \$6 million per annum.

The reason we believe this is a 'prospect for meaningful reform' is because the Queensland Government is currently consulting on its draft regulation to exempt 'related entities' and 'sophisticated property owners' from the burden of current regulation. Further, the Victorian Government has recently reiterated its commitment to reform in this area. The NSW Government is also currently consulting on changes to the NSW system. With good progress across these jurisdictions, this could indeed become a meaningful reform, which only requires minimal regulatory changes (i.e. no major cost impost for Governments) and will also free up Government resources from the need to apply, monitor and enforce regulation on companies that do not want or need such protection. We would be happy to discuss this issue further with the Commission.

INFORMATION REQUEST 5.1

How have governments progressed against the 2011 Productivity Commission recommendations?

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We provided commentary on this issue in our previous submission and in our comments above.

INFORMATION REQUEST 5.2

What has been the impact of recent reforms to retail-specific and generic regulation to date? Where the pace of reform has lagged, what are the barriers to reform and how could these be overcome?

- *To what extent could these barriers be attributed to the reform process?*
- *Where these barriers are considered sufficient to jeopardise the prospect of reform, what other approaches could provide net benefits to the community?*

As noted in our previous submission and above, the Victorian Government has progressed with positive planning reforms, including the recent removal of floor space caps. However it might be some time until new retail development projects are delivered 'on the ground' given the long lag time for new development. It is worth noting that the Victorian Government implemented another positive reform in recent years with liberalised trading hour restrictions on Easter Sunday in 2011. Easter Sunday trading occurred on Sunday 24 April 2011. The excerpt below from the election commitment announcement provided a view on the previous 'barrier' to this reform.

Louise Asher MP

Deputy Leader of the Opposition • Deputy Leader of the Liberal Party
Shadow Minister for Small Business • Shadow Minister for Tourism &
Major Events • Shadow Minister for Urban Water
Shadow Minister for Women's Affairs



Phone: 9596 9680 • Fax: 9596 0956
Email: louise.asher@parliament.vic.gov.au

Victorian Liberal Nationals Coalition Media Release

Monday 15 November 2010

COALITION GOVERNMENT WILL REMOVE LABOR'S EASTER SUNDAY TRADING BAN

Ms Asher said the Easter Sunday trading ban was promised by Labor in the 2002 election campaign and introduced by the government in 2003, but its implementation has been riddled with anomalies.

The Easter Sunday trading ban was a case of Labor giving in to its union mates, the Shop Distributive and Allied Employees Association, who donated to Labor's election campaign in 2002.

The most recent example of the positive impact of 'retail-specific' reforms is Western Australia. This includes the combination of the removal of previous retail floor space caps (which had been in place since 1991) in September 2010, with the introduction of the new Activity Centres Policy (which, incidentally, promotes residential development to be incorporated into new retail development), and the introduction of Sunday trading in Perth on 26 August 2012.

The reforms in Western Australia can be assessed on a number of measures including the positive coverage of Perth's residents who now find it more convenient to do shopping when they choose to, rather than being dictated to as to when they can shop. A good example is an article published on perthnow.com.au titled *Shoppers quick to embrace Sunday trading*, on 26 August 2012, which noted that "shopping malls across Perth were packed with men, women, children and families this morning on a day Premier Colin Barnett is calling "historic"". The same article also referenced a group of young women at Karrinyup Shopping Centre (around 10km north-west of the Perth CBD), with one of them commenting: "It's great because you don't have to go to the city now if you want to do shopping on a Sunday...It's a lot more convenient now".

Our members have experienced positive feedback in relation to Sunday trading in Perth. In a survey we conducted of some of our members on the 1-year anniversary of Sunday trading, in August 2013, one reported sales growth of 6% across their centres (which, they believe, around 80% could be attributed to Sunday trading and 20% to strong WA trading conditions (e.g. population and income growth). It is also worth noting that specialty stores don't have to open if they don't want to. Under the same survey, our members advised that the participation from specialty tenants is around 75-90%. Overall, every member identified that customer feedback in relation to Sunday trading had been "very positive". All members identified that they would like to have the ability for major tenants to open earlier (e.g. 9am) than the current 11am restriction. This is based on strong customer feedback, which would also help see great benefits to food and beverage retailers such as cafes.

The Western Australian reforms of Sunday trading and retail floor space cap removal has prompted a range of new major retail development. As one example, the recent (30 April 2014) structure plan approval of AMP Capital Investors' \$750 million Garden City Booragoon shopping centre development was facilitated under the relatively new Activity Centres Policy which was the instrument that removed the previous floor space caps. At the time the new Policy commenced, the West Australian newspaper ran an article on 2 September 2010 titled *End of shopping centre cap frees reins to expand*. The article included comments from the Managing Director of AMP Capital Shopping Centres, Bryan Hynes, which provides an excellent summary of the impact of the removal of the floor space caps (see excerpt below):

AMP Capital has started a recruiting drive in Perth for the \$650 million expansion of its three WA shopping centres to capitalise on the State Government's removal of an archaic cap limiting their size.

Perth was the only capital city with a cap on the retail floor space of shopping centres and the 80,000sqm limit had stalled AMP's long-term development plans for Garden City and Karrinyup.

Now Perth has become a national priority for the group.

AMP Capital Shopping Centres managing director Bryan Hynes said yesterday he had begun recruiting experts in Perth to work on master plans for the 85,000sqm expansion of its \$1.5 billion WA retail portfolio.

"The changes in the planning regime make it more attractive for institutional investors to invest in the Perth economy," Mr Hynes said.

"The restrictive cap has artificially stopped the development of key centres . . . it has meant we haven't been able to supply enough retail space to cater to the market demands and demographic growth in Perth."

Further, the Shopping Centre Council of Australia's Chairman, Steven Sewell, CEO and Managing Director of Federation Centres, is another industry leader who has made positive comments about the influence of Sunday trading in Perth on the market. This includes reference to the group having discussions with ALDI about its expansion into Western Australia. (see *Federation chases Aldi as anchor tenant*: The Australian, 29 October 2013). Federation Centres is another group with major expansion plans in Western Australia through their development pipeline. It was also reported in The West Australian on 20 November, 2013, in an article titled *Growth drives shopping centre boom* that property consultancy Y Research stated that "...the introduction of Sunday trading and removing caps that prevented shopping centres from expanding beyond 80,000m² had fuelled the development wave".

INFORMATION REQUEST 5.3

What impact has the lack of consistency in the pace of reform between jurisdictions had on the costs of doing business in the retail sector?

Nationally harmonised regulation can bring substantial national benefits, but they can also impose disproportionate costs on smaller businesses, particularly those operating in one state.

- *What are the advantages and disadvantages for businesses operating across state borders of opt-in harmonised arrangements – with the existing state regulations being the default?*
- *Would a two-tiered opt-in system impose undue regulatory burdens on small businesses and/or government administration?*

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As a group representing companies that operate across jurisdictions, we support the principal of national harmonisation; however we have experiences in various policy forums that this can be hard to achieve. Even where states and territories have generally agreed on national harmonisation, they will often then argue for their own individual requirements which can diminish harmonisation. For this reason, we believe there needs to be potential incentives for states and territories to pursue 'nationally recognised reforms'.

We believe that a two-tiered opt-in system could work effectively, on the assumption this would enable (for example) national groups such as AMP Capital, Colonial First State Retail Property Trust, Federation Centres, the GPT Group, Lend Lease, Mirvac, QIC, Scentre Group and Stockland, to utilise a national retail tenancy code of conduct for all of their leases across Australia. This idea has merit and we would gladly be involved in further developing this concept. This would potentially have major advantages for national retail tenants that also operate across various jurisdictions. We also believe that a similar approach for trading hours would have strong merit across issues such as Sunday and public holiday trading.

We accept, however, that for some issues, pure harmonisation can be difficult to achieve. This is the case in the area of planning and zoning which reflects the fact that cities and regions are different in terms of their geography, transport systems and local government arrangements. The area of 'retail' is no different to other areas of planning regulation in terms of having different definitions, zones or development assessment requirements. We would support (for instance) a national code to enable retail development to be undertaken 'as-of-right', and would gladly be involved in the development of this kind of idea.

INFORMATION REQUEST 5.4

What examples are there of reforms that are considered 'leading practice' that should be adopted more broadly?

What are the anticipated benefits and costs of specific reforms for individual businesses, the retail industry and the community?

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Consistent with comments in our previous submission and above, we believe the Commission's previous findings and recommendations provide a good platform for leading practice reform.

3.0 Shopping Centre Council of Australia

The Shopping Centre Council of Australia represents Australia's major shopping centre owners, managers and developers. Our owners own and manage more than 11 million square metres of retail space. Our members are AMP Capital Investors, Brookfield Office Properties, Charter Hall Retail REIT, CFS Retail Property Trust Group, DEXUS Property Group, Eureka Funds Management, Federation Centres, GPT Group, Ipoh Management Services, ISPT, Jen Retail Properties, JLL, Lend Lease, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, the Scentre Group (formerly the Westfield Group and Westfield Retail Trust) and Stockland.

Contact

The Shopping Centre Council would be happy to discuss any aspect of this submission. Please do not hesitate to contact:

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