



# SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

SHOPPING CENTRE  
COUNCIL OF AUSTRALIA

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## PC DRAFT REPORT ON BUSINESS SET-UP, TRANSFER AND CLOSURE

The Productivity Commission has released its [Draft Report](#) on its inquiry into Business Set-up, Transfer and Closure. We lodged a submission in February in response to an earlier Issues Paper ([ShopTalk 12/3/15](#)), which focused on the role shopping centres play as hubs of innovation and platforms for business entries. It also explained that leasehold arrangements reduce barriers to entry for businesses and that retail lease legislation comes with small but important regulatory protections for lessors (eg. security bonds) which assist to safeguard their interests upon a business transfer or exit. While the Draft Report principally deals with issues such as access to finance and business structures, the Commission briefly canvasses the Federal Government's current effort to extend unfair contract term protections to business to business contracts. Disappointingly, the Commission notes its general support for this measure, although with no supporting analysis. The Draft Report also mentions first right of renewal for tenants and shop fit-out obligations. The Commission acknowledges our view that renewal provisions "could unfairly diminish the rights of the landlord" and also act as a barrier to entry for new businesses. On fit-out obligations, the Commission notes that, as these are subject to negotiation, the case for government intervention is diminished. Pleasingly, no specific recommendations are offered on these issues. We have brought the Draft Report's release, and the absence of recommendations regarding retail tenancy issues, to the attention of Federal Treasury which is currently considering the Government's response to the report of the Senate Committee's inquiry into the need for a national approach to retail leasing ([ShopTalk 19/3/15](#)). This provides another source of evidence to Treasury that no further regulation of these matters is required. The Shopping Centre Council appeared at a public hearing of the Commission on the Draft Report earlier this week, and submissions on the Draft Report are due to the Commission on 3 July.

## VICTORIAN ENERGY EFFICIENCY AND PRODUCTIVITY STATEMENT RELEASED

Last week, the Victorian Minister for Energy and Resources, Lily D'Ambrosio, released [Victoria's energy efficiency and productivity statement](#). This document gives a framework for the preparation of an energy efficiency and productivity strategy, to be released before the end of the year. The document canvasses a range of ideas and activities for further investigation by Government, including "considering a voluntary program or new requirements for energy disclosure at point of sale or lease". This suggests something akin to the Commercial Building Disclosure (CBD) Scheme which currently exists federally. This applies to the lease and sale of commercial office space (and something on which we have always expressed caution with regard to the lease and/or sale of shopping centres given the unique differences of this sector). The statement also references "innovative financing models to encourage investment in energy efficiency", an idea we support as long as opportunities for shopping centres are appropriately considered. We have written to the Minister to ask that we be consulted as part of the preparation of the strategy and to draw early attention to our concerns with regard to potential future disclosure requirements.

## VALUE CAPTURE PROPOSAL RAISED BY QUEENSLAND'S DEPUTY PREMIER

Queensland's Deputy Premier and Minister for Planning, Jackie Trad, this week mused in the media about how to "capture" the "uplift developers get" from Government investment in infrastructure. The premise of 'value capture' is nothing new but something which needs to be approached extremely cautiously to make sure that Government can't double (or triple) dip at a landowner's expense. The Government has since ruled out "the introduction of any new development levies to help pay for public transport infrastructure". This issue will be followed up in the context of the Government's current planning reform consultations.