

# SHOP TALK

ISSUES AND NEWS AFFECTING THE AUSTRALIAN SHOPPING CENTRE INDUSTRY

THURSDAY 10 DECEMBER 2015

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## NSW GOVERNMENT ANNOUNCES EMERGENCY SERVICES LEVY SHIFT TO PROPERTY

The NSW Treasurer, Gladys Berejiklian, today [announced](#) that the existing Emergency Services Levy on insurance policies is to be replaced by a property-based levy. This reform was canvassed by then Treasurer (now Premier), Mike Baird, in 2012 but, until today's announcement, the Government had gone quiet on this reform proposal ([Shop Talk 11/10/12](#)). The new levy is proposed to be based on unimproved land values and, although no levy rates are detailed in today's announcement, it is noted that different property-levy rates will be applied to different categories of land. The Government is now considering what would be "appropriate land classifications". The Shopping Centre Council has partnered with the Australia Retailers Association to express concern about the change and will work to ensure that that our sector won't be unfairly hit by the new tax. Although we see the sense in moving away from an insurance based levy (which let the under and uninsured off the hook), we want to ensure that the design and implementation of the change does not place a disproportionate burden on shopping centres, their retailers or customers. Our concerns are exacerbated by the fact that the transition from an insurance based levy to a property based levy in Victoria proved to be a debacle and resulted in levy increases of 400% for some shopping centre owners. The Government intends to progress legislation in 2016 to see this new regime implemented, and the new levy will be in place from 1 July 2017. Today's announcement came as Australia's Treasurers met in Sydney to discuss the broader tax and competition policy reform agenda. In a [media release](#) issued at the conclusion of the meeting, the Federal Treasurer, Scott Morrison, stressed that the meeting continued the "discovery process" and that the options discussed were not reform proposals. Interestingly, the Treasurer's comments drew a distinction between state taxes and the national tax system which may signal how the Government proposes to progress the reform agenda, and which level of Government may ultimately be responsible for implementing change.

## PRODUCTIVITY COMMISSION RELEASES LATEST COMMENTARY ON RETAIL LEASING ISSUES

The Productivity Commission has released a [final report](#) following its inquiry into *Business Set-up, Transfer and Closure* ([Shop Talk 2/7/15](#)). The final report – released in the shadow of the *National Innovation and Science Agenda* – revisits issues regarding first rights of refusal upon lease expiry and shop fit-out requirements. Although there is no specific recommendation, the Commission notes that it is "...not in favour of unduly restricting the commercial arrangements between landlords and their tenants where lease renewal options (or the lack thereof) are clear to both parties from the start". In reaching this conclusion, the Commission directly notes the representations of the Shopping Centre Council that a first right of refusal could unfairly diminish the rights of landlords to manage their assets. With regard to shop fit-outs, the Commissions also chose not to make a specific recommendation but noted that "...such (fit-out) requirements will be specified in a lease agreement and can form part of initial contract negotiations, diminishing the case for Government intervention". These will be useful references as retail lease reviews continue across the country. Peculiarly, the Commission has made a recommendation regarding the new Unfair Contract Terms law. Despite what appears to be a cursory analysis of the issues presented by this new law, the Commission expresses its "support" of the extension and recommends that the law be reviewed within five years. In a revealing comment about the potential (but apparently disregarded) issues with the law, the Commission suggests this review should examine whether "...the provisions are being misused by businesses to avoid contractual obligations".

## TICKETS AVAILABLE FOR 2016 NSW RETAIL OUTLOOK EVENT

The PCA's 2016 Retail Outlook will be held on Wednesday 17<sup>th</sup> February at the Westin Hotel in Sydney. For more information please visit the PCA's website or register [here](#).

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