

24 November 2015

Research Director
Education, Tourism and Small Business Committee
Parliament House
George Street
Brisbane, Qld 4000

Dear Ms Cawcutt

Retail Shop Leases Amendment Bill 2015

Thank you for the opportunity to provide comment on the *Retail Shop Leases Amendment Bill 2015* (the Bill).

As you would be aware, the Property Council has been involved in stakeholder consultation on proposed amendments to the *Retail Shop Leases Act* since 2010, when then-Attorney-General, Hon Cameron Dick MP, began the review process.

We have since provided feedback on the discussion paper (2011), options paper (2013) and participated in the stakeholder reference group established in 2013 by the former Attorney-General, Jarrod Bleijie MP, to provide expert advice to Government on suggested amendments to the Act. We have subsequently (2014 & 2015) been involved in discussions with the Department of Justice and Attorney-General regarding further refinements to the drafting of proposed amendments.

The amendments included in the Bill currently before the Committee have been subject to significant consultation, and in many instances, enjoy the unanimous support of all stakeholders represented on the reference group.

We take this opportunity to congratulate the current and former Governments on their commitment to undertaking a comprehensive review, incorporating genuine consultation with stakeholders.

There are a number of amendments the Property Council is particularly pleased to see included in the Bill, as they will reduce red tape whilst retaining the consumer protections of the legislation. These include:

- Revised definition of a retail shop lease in Clause 5 (new 5A(2)), which aims to exclude all retail tenancies with a floor area greater than 1000m², as well as ATMs, vending machines and advertising displays. This will have the single biggest impact on red tape reduction of all the proposed amendments.

- Clarification regarding when a lessor disclosure statement is/is not considered to be defective in new 21F (Clause 15).
- Clause 39 introduces the requirement for lessees to provide lessors with written notice of loss or damage as soon as practical after the loss or damage is suffered (amendment of s43 (2)).
- Introduction of new 43AB in Clause 40, which provides limitations on lessor liability where a lessee's business disruption is the result of a lessor's reasonable response to an emergency situation.
- Clause 60 will allow a lessor to recover the costs of lease preparation where a lessee chooses not to proceed with a lease in (new 150).

There are, however, a number of other opportunities to further reduce red tape and streamline the legislation. In particular, we note:

- Section 21E introduces the requirement for landlords to give disclosure to sitting tenants on renewal/extension of a lease. When discussed by the reference group it was acknowledged that this requirement would *increase* red tape for landlords, particularly as a sitting tenant has working knowledge of the centre and access to relevant information. The Property Council does not support the introduction of this requirement.
- Large retail businesses should be excluded from the legislation, as they do not need its consumer protection provisions. While retail shop leases with a floor area of greater than 1,000m² are proposed to be removed, publicly listed corporations and their subsidiaries are still covered under the legislation. The Property Council would like to see the exclusions extended to include other large retail businesses.
- The proposed amendments would allow major lessees the opportunity to opt out of void rent review provisions. This opportunity should be extended to all lessees.
- 38B in Clause 33 retains the requirement for landlords to provide an audited annual statement of outgoings. This can be onerous for small landlords who may only own one tenancy and whose outgoings are limited to rates, water and insurance, for example. An option for tenants to waive this requirement would assist in reducing red tape.

Thank you once again for the opportunity to provide feedback on the *Retail Shop Leases Amendment Bill 2015*. If you have any questions regarding the Property Council or this submission, please do not hesitate to contact me on 07 3225 3000, or cmountford@propertycouncil.com.au.

Regards,

A handwritten signature in black ink, consisting of a large, sweeping initial 'C' followed by a long, horizontal, slightly wavy line that tapers off to the right.

Chris Mountford
Queensland Executive Director