

Competition Policy Review

**Submission on the final Competition Policy Review
Report – March 2014**

Submission by the

Shopping Centre Council of Australia

26 May 2014

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Executive Summary

Thank you for the opportunity to provide this submission in response to the *Competition Policy Review Final Report*. The Shopping Centre Council of Australia (SCCA) congratulates the Government and the Review Panel on the thorough and inclusive approach which has been taken to informing the review of Australia's competition policy, laws and institutions.

Generally speaking, we are very pleased with the Final Report and have no pressing concerns with the recommendations or their process of development.

Indeed, we are pleased that a number of the key recommendations made in our submission to the Draft Report appear to have been taken on board by the Review Panel when constructing their final recommendations to Government. In particular, we are pleased that the Review Panel has, among other improvements, abandoned the unhelpful "incumbent" versus "new entrant" distinction drawn in the Draft Report with regard to planning and zoning.

This submission re-states our support for a number of the key recommendations made in the Final Report.

It also provides additional information on a range of recommendations made in the Final Report, including an overview of some recent pronouncements made by various State Governments and related policy development processes which are underway across the jurisdictions. This information is provided to assist the Government frame its response to the Final Report, in part by highlighting the enduring implementation challenge that comes with, for example, trading hours liberalisation.

We also take the opportunity to re-canvass issues we raised in our submission in response to the Draft Report which do not appear to have been considered by the Review Panel in preparing the Final Report.

We make 14 recommendations in this submission covering the following issues:

Planning and zoning

Retail trading hours

Pharmacy

Cartel conduct prohibition

ACCC Governance

Acquisition of supermarket leases

Occupational licensing

Planning and development of airport land

A failure to reference an issue in this submission which was subject to a recommendation in either our submission to the Issues Paper or Draft Report should be taken as a statement of our satisfaction with how the issue is framed in the Final Report.

The SCCA looks forward to ongoing engagement with the Government to see the important and necessary reforms recommended by the Review Panel adopted and implemented with the cooperation of the relevant tier/s of Government, and the private sector.

We make the following recommendations to the Government for its consideration in the preparation of its response to the *Competition Policy Review Final Report*:

- 1. That the Federal Government acknowledges that, despite many reviews and inquiries, an overly simplistic view of retail planning and policy exists and that too much attention has historically been given to the pleas of so-called "new entrants" rather than delivering a level playing field for all participants.**
- 2. We generally support the Panel's recommendation regarding planning and zoning (Recommendation 9), in particular the proposed application of a "public interest test" (as per Recommendation 8).**

- 3. We generally support the suggested role of the ACCP and note the coordinating role that will need to be played by COAG to initiate and drive the reform agenda across the States and Territories.**
- 4. That any reform program needs to consider appropriate and fair transitional arrangements to ensure the existing and planned retail investment, particularly investment which is consistent with current Government policy, is not undermined.**
- 5. We support the Panel's recommendation on retail trading hours and the suggestion that, if any restrictions are to be retained, "these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day".**
- 6. Investigate the related impact of restrictions on trading hours, including 'core trading hour' controls in retail lease legislation and the application of 'hour of operation' development consent conditions.**
- 7. We acknowledge that the proposed two year review of the pharmacy sector will now be undertaken and will, among other issues, address the anti-competitive elements of the current regulation of pharmacies, including locations rules.**
- 8. We strongly support the proposed "broad exemption" for joint ventures and anticipate working with Government on related future changes to the *Competition and Consumer Act*.**
- 9. We strongly support the proposed repeal of s. 10(1B) of the *Competition and Consumer Act*.**
- 10. In recognition of the growing importance of licensed premises as part of shopping centres tenancy mix, invite the shopping centre industry to be part of the proposed future review of liquor licensing regulation.**
- 11. We recommend that Federal Treasury insert itself into the consultation process with regard to the proposed further liberalisation of planning rules for non-aviation related development on airport land to ensure that the outcome of this consultation process doesn't offend the 'competition policy considerations' outlined in the Final Report.**
- 12. We recommend that the planning framework in the *Airports Act* be subject to the "public interest test" detailed in Recommendation 8 – Regulatory Review.**
- 13. We repeat our previous recommendation that s.50 of the *Competition and Consumer Act* be amended to ensure that a renewal of a lease to a supermarket operator, and the exercise of an option in a lease to a supermarket operator, is not considered an acquisition of an asset.**
- 14. Government should respond to the inferred recommendation regarding the review of occupational licensing requirements in its response to the Final Report and in the preparation of a reform implementation plan.**

We would be happy to elaborate on any aspect of this submission. The SCCA's contact details are provided at page 13.

1.0 Support for key recommendations

The following outlines the SCCA's general support for a number of recommendations in the Final Report, and provides the Government with details of some recent pronouncements made by various State Governments and an overview of some recently initiated related policy development processes which will assist the Government frame its response to the Final Report.

1.1 Recommendation 9 - Planning and zoning (and Recommendation 8 - Regulation Review)

Planning and zoning is the most frequently reviewed on issue with regard to retail investment, with the Productivity Commission and the Australian Competition and Consumer Commission (ACCC) both making reform recommendations in recent years.

It is our strong advice to the Federal Government that it acknowledges that, despite the many reviews and inquiries, an overly simplistic view of retail planning and policy exists in the context of these reviews. Too much attention has also historically been given to the pleas of so-called "new entrants" rather than to addressing the un-level and inconsistent restrictions which apply to retail development throughout planning systems across the country. These include:

- The application of inconsistent infrastructure requirement/charge requirements between retail investment in an activity centre and an 'out of centre' location (eg. in Queensland, there is a 'standard' maximum infrastructure charge for shopping centre development of \$180/m² of Gross Floor Area, however a 'warehouse' – such as a bulky goods outlet – has a lower charge of \$140/m²);
- The application of floor space and tenancy area controls in activity centre zones (eg. across South Australia; considerable delays in the removal of caps in Victoria and Western Australia);
- Requirements on development proponents in activity centres to deliver public infrastructure (eg. bus interchanges and pedestrian linkages) on private land, particularly when their location has been strategically identified due to presence of public infrastructure; the same requirements are not imposed on 'out of centre' locations.

In view of this frustrating history, we are generally satisfied with the Harper Panel's final Recommendation 9 - Planning and zoning, and support the specific and deliberate link it draws with Recommendation 8 - Regulation Review, and the proposed introduction of a "public interest test".

We note that the planning and zoning recommendation has been significantly amended and improved from that in the Draft Report. This improvement includes greater clarity that the recommendation is applicable to all retail types, format and participants. Principally, this has been achieved through the removal of the unhelpful "new entrant" versus "incumbent" distinction drawn in the recommendation in Draft Report. The

It remains our strong view that the Federal Government should adopt 'competitive neutrality' as the driving force behind the reform of planning and zoning systems across the country. This is to ensure that no retail format or entrant receives a competitive advantage over another. The recommendation in the Final Report, particularly when compared to that in the Draft Report, gives us confidence that the Review Panel has understood that planning and zoning systems should deliver a level playing field for all participants, rather than a free-kick for so-called 'new entrants' or 'new formats'.

We note that the recommendation in the Final Report no longer specifically recommends the introduction of "competition principles" into state and territory planning and zoning regulations. However, we would have no problem with the current "competition policy considerations" being adopted or applied in a more formal way, whether that be through a regulatory process or other formal process, across jurisdictions to ensure consistency in their application. Indeed, many of the "considerations" which are outlined re-state existing practice (eg. "Competition between individual businesses is not in itself a relevant planning consideration").

In our view, the greatest strength in the Final Report's recommendation is the proposed application of a "public interest test", as spelled out in Recommendation 8 – Regulation Review, to current "restrictions on competition in planning and zoning rules". This approach would ensure that appropriate recognition and weight in decision making is given to the other 'public goods' that are delivered through the planning system, such as infrastructure and transport efficiency, reduction in land use conflicts, and consideration of environmental and heritage preservation (to name just a few, and are spelled out in more detail in the SCCA's submission to the Issues Paper).

We note, however, that the recommendation seems to be written in the negative and suggests that local, State and Territory Governments, and existing investors, would need to defend prevailing land use planning policy and regulations. We infer this from the statement "the rules should not restrict competition unless it can be demonstrated that the benefits of the restrictions to the community as a whole outweigh the costs".

We stress that competition is only one of a number of relevant policy issues taken into consideration, and traded off to greater or lesser degrees, by planning authorities and urge the Government to apply this recommendation in a way which leverages existing productivity enhancing Government investment in infrastructure and private sector investment which was delivered in line with prevailing regulation planning and zoning regulation. We discussed this in detail in our submission to the Issues Paper.

In other words, the rule book should not be thrown out the window and only proponents seeking to have the 'rules changed' should be required to demonstrate that the benefits of their proposal to the community outweigh the costs.

This approach is akin to recommendations that the SCCA has recently made to the NSW Government in our effort to have that jurisdiction develop a Retail Investment Policy. NSW suffers from a policy vacuum with regard to centres planning and growth, and retail investment, which has led to inconsistent and unfair decision making across the State with regard to retail investment, including the approval of ad hoc 'out-of-centre' development.

The report, based on a comprehensive 'stage 1' research report, prepared for the SCCA by respected planning and economic consultants, Hill PDA, to drive this reform agenda is at **attachment 1**.

Hill PDA consulted with a range of retail companies, including those beyond the SCCA's membership, including ALDI and Woolworths, in the preparation of this report to ensure broad stakeholder buy-in and deliver coordinated and targeted recommendations. They also spoke with the NSW Department Planning and Environment and the NSW Treasury. Consideration was also given to a range of critical policy issues, including competition.

We made three key recommendations to the NSW Government in this report: **(1)** commit to a new Retail Investment Policy, **(2)** establish a working group to develop a new approach, and **(3)** develop and consistently apply a Net Community Benefit Test (NCBT) for retail development proposals. A consistent NCBT will help unlock development opportunities in areas targeted for growth in prevailing Government land use strategies (ie. A *Plan for Growing Sydney*) and also better assess 'out-of-centre' proposals.

We would be happy to discuss the preparation of and recommendations in this report with the Federal Government, including officials in the Treasury.

We also draw the Government's attention to the fact that the South Australian Government is currently reviewing its centres and retail policy framework.

We have advised the South Australian Government that its current proposed approach to reform does not go far enough to address the needs of the whole of South Australia's retail economy, including shopping centres, as the review's scope is too heavily focussed on the needs of so-called "new retailers".

(Although we are willing to work with the South Australian Government, we do note one of the key drivers of their review process, specifically that "new retailers" have expressed concern about their "ability to enter the market" (based on a misunderstanding or misinterpretation of previous Productivity Commission recommendations) may contravene the first "competition policy consideration" outlined in Recommendation 9 (ie. "Arrangements that explicitly or implicitly favour particular operators are anti-competitive").)

We are also generally supportive of the role suggested for the proposed Australian Council for Competition Policy (ACCP) in Recommendation 9, specifically to report on the progress of the jurisdictions in the application of the public interest test. We also suggest that the Council of Australian Governments (COAG) will need to play a role in driving and coordinating the reform agenda across jurisdictions.

We strongly recommend that the ACCP and the jurisdictions, via COAG, be specifically charged with considering appropriate and fair transitional arrangements to ensure the existing and planned retail investment, particularly investment which is consistent with current Government policy, is not undermined as a result of any review and reform of planning and zoning systems.

By way of example, in our recent submission to the SA Government regarding its proposed reform to its activity centres and retail policy, we made the following comment:

"By way of example, a large anchor tenant looking to come to, or grow within, Adelaide, will not simply double its investment and establish one shop in an activity centre and one shop in an out-of-centre location. At the end of the day, in most situations there will still only be one shop, and we think it is the role of Government's strategic policy framework to make sure that it ends up in the right location.

As it is the large tenants which underpin the feasibility of projects (by virtue of their floor space requirements, their ability to generate foot traffic and their relatively long lease terms), if they choose to locate in an out-of-centre location, the viability of a planned investment in an activity centre may fall over due to the absence of an appropriate anchor tenant. With this would come a lost opportunity to revitalise and redevelop a strategically located activity centre that is the right location for retail investment in South Australia."

This demonstrates a reality of retail investment which needs to be understood by the Federal Government in driving the review of planning and zoning requirements across the country and spells out why clear transition and implementation plans will be needed.

Recommendations

- 1. That the Federal Government acknowledges that, despite many reviews and inquiries, an overly simplistic view of retail planning and policy exists and that too much attention has historically been given to the pleas of so-called "new entrants" rather than delivering a level playing field for all participants.**

2. **We generally support the Panel's recommendation regarding planning and zoning (Recommendation 9), in particular the proposed application of a "public interest test" (as per Recommendation 8).**
3. **We generally support the suggested role of the ACCP and note the coordinating role that will need to be played by COAG to initiate and drive the reform agenda across the States and Territories.**
4. **That any reform program needs to consider appropriate and fair transitional arrangements to ensure the existing and planned retail investment, particularly investment which is consistent with current Government policy, is not undermined.**

1.2 Recommendation 12 – Retail trading hours

We strongly support the Panel's recommendation on retail trading hours and the suggestion, if any restrictions are to be retained, "these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day". We also have little doubt that the Federal Government would like to see this reform implemented, noting the recent suggestion (not requirement) made to Western Australia in the context of GST compensation that economic reform in that State should include the liberalisation of trading hours.

The Federal Government needs to utilise its powers of persuasion over the States, including through COAG, to ensure this recommendation is implemented. We note the challenge this presents, particularly considering already apparent resistance from laggard states.

The Queensland Government publically ruled out such reform the day after the final report was released, with the Queensland Treasurer reported in *The Courier Mail* on 1 April (**attachment 2**) as saying the Queensland Government had "no plans to review or change the way trading hours are determined in Queensland".

Since then, Master Grocers Australia has come out in strong opposition to an application by the National Retail Association (NRA), in partnership with the SCCA, to the Queensland Industrial Relations Commission (QIRC) to see the modernisation and harmonisation of trading hours across southeast Queensland. A representative of the MGA was quoted in *Quest Newspapers* on 13 May (**attachment 3**) as saying "...now is not a good time to change any aspect of the trading hours just in southeast Queensland".

The WA Premier, Colin Barnett, would only go as far as to say on 16 April (**attachment 4**) that "if we are to have an extra hour or two on a Sunday morning that might be a good thing...". There was also no action or commitment from the WA Government with regard to the reform of their trading hours regime in the context of the recent debate regarding GST compensation.

The South Australian Deputy Premier, John Rau signalled in the *Adelaide Advertiser* on 1 April (**attachment 5**) that the SA Government was interested in "hearing from people and groups...before considering what, if any, changes are appropriate". We are seeking to follow up this opportunity.

Needless to say, the Secretary of the SDA South Australia (the 'Shop Assistants Union') has rejected the recommendation outright. Despite claiming that "there is no empirical evidence to demonstrate that deregulated trading hours on public holidays will result in an increase in sales or boost job creation in SA", the SDA Secretary claims, without an evidence base, that trading hours reform "will only leave workers worse off".

We have recently provided the WA Government with a suite of data in relation to the 2014 'extended' Christmas trading hours period. This evidence is based on actual customer foot traffic and retailer participation (ie. how many retailers opened) (**attachment 6**). This evidence confirms our strong view that extended trading hours in WA have been embraced by shoppers and that Sunday is becoming a 'normal' and preferred trading day for consumers. We strongly suspect this would be the case across the country.

We are also encouraged by the recent election commitment of the NSW Government to see the liberalisation of trading on Boxing Day across NSW. We strongly supported this announcement (**attachment 7**) and provided details about the number of retailers and the amount of floor space which could be released from archaic trading hour restrictions if this reform was achieved. We will continue to work with the NSW Government as they progress toward introducing legislation to see this change implemented.

Although not canvassed in the Review Panel's report, we would also support moves to introduce greater flexibility for a landlord to amend, and extend, 'core trading hours', the regulation of which is embodied within retail lease legislation. This would ensure that in peak trading times where extended trade is desirable, such as the period prior to Christmas, shopping centres would be able to open for longer with all retailers being open for the benefit of customers.

We would also suggest that the Government should investigate rolling-back the ability for development consent authorities (eg. local councils) to impose 'hours of operation' restrictions as a development consent condition. We note that the NSW Government has an environmental planning policy which waives such conditions within business zones for the fortnight prior to Christmas to allow business to trade 24 hours a day (if they wish). However, this policy does not waive 'core trading hour' restrictions applicable to shopping centres so this policy has no instant benefit to shopping centre owners.

- 5. We support the Panel's recommendation on retail trading hours and the suggestion that, if any restrictions are to be retained, "these should be strictly limited to Christmas Day, Good Friday and the morning of ANZAC Day".**
- 6. Investigate the related impact of restrictions on trading hours, including 'core trading hour' controls in retail lease legislation and the application of 'hour of operation' development consent conditions.**

1.3 Recommendation 14 - Pharmacy

We still accept, as the Review Panel does, that there are many anti-competitive aspects about the current regulation of community pharmacies.

In our submission to the Draft Report we suggested that the regulation of pharmacies needs to be addressed in a holistic manner and noted the opportunity presented by the renegotiation of the Community Pharmacy Agreement.

We note that "in principle" agreement has since been reached between the Federal Government and the Pharmacy Guild on the 6th Community Pharmacy Agreement. We also note that the media statement released by the Minister for Health outlines that, over the next two years, an independent and public review of the pharmacy sector will be undertaken, including the consideration of regulation, including location rules. The media statement indicates that the outcome of this review would only be considered in the context of future agreements, not staged through the life of the 6th agreement, as proposed in the Final Report.

We understand this to mean the recommendation in the Harper Panel's Final Report regarding pharmacy will be absorbed into this new review process.

- 7. We acknowledge that the proposed two year review of the pharmacy sector will now be undertaken and will, among other issues, address the anti-competitive elements of the current regulation of pharmacies, including locations rules.**

1.4 Recommendation 27 – Cartel conduct prohibition

We are pleased that the Panel has retained its recommendation proposing a “broad exemption” from the cartel provisions for joint ventures and similar forms of business collaboration (whether relating to the supply or the acquisition of goods and services).

We urge the Federal Government to accept this recommendation and work with key stakeholders to ensure that the legislative drafting to facilitate the proposed “broad exemption” is workable and accommodates common joint venture structures and decision making processes.

In light of the prevalence of joint venture agreements in the context of shopping centre ownership we look forward to being part of the Government’s deliberations on how this recommendation would be implemented.

- 8. We strongly support the proposed “broad exemption” for joint ventures and anticipate working with Government on related future changes to the *Competition and Consumer Act*.**

1.5 Recommendation 51 – ACCC governance

We strongly support the recommendation in the Final Report to repeal the requirement under the *Competition and Consumer Act* for, in effect, there to be one Commissioner with knowledge, or experience in, small business (s. 10(1B)) (ie. a Small Business Commissioner). We have never understood the reason for this requirement since it was introduced to the Act in 2008.

As noted in our initial submission to the Issues Paper, this section of the Act was introduced prior to the appointment of an Australian Small Business Commissioner to represent small business interests and concerns to the Australian Government; to assist in educating small businesses; and to seek the resolution of disputes involving small business. This position still exists (although currently subject to deliberations about the role evolving to become a Small Business and Family Enterprise Ombudsman), as do Small Business Commissioners in NSW, SA, Vic and WA.

- 9. We strongly support the proposed repeal of s. 10(1B) of the *Competition and Consumer Act*.**

1.6 Liquor retailing

As outlined in our submission in response to the Draft Report the ‘food and beverage’ offer within shopping centres, including premises requiring a liquor license, is becoming increasingly important and prevalent. This trend has seen the SCCA engage with the licensing authority in NSW, the Independent Liquor and Gaming Authority (ILGA), to better understand the licensing process for the benefit of our members who are working with tenants/prospective tenants requiring a liquor license. We expect that this engagement will also pick up in other jurisdictions.

As the liquor license sits with the tenant, not the landlord, it is important for our members to have a thorough understanding of the process to ensure they can work efficiently with their retailers to make sure that the liquor license is operational as soon as practical. This is particularly important with regard to centre redevelopment projects which have ‘hard’ delivery/opening dates.

We agree with the 'Panel's view' that liquor "regulation should be included in a new round of regulation reviews...to ensure they are meeting their stated objectives". Considering the growing importance of licensed premises as part of shopping centres tenancy mix, the SCCA signals its interest in being involved in this proposed future review.

Recommendation

10. In recognition of the growing importance of licensed premises as part of shopping centres tenancy mix, invite the shopping centre industry to be part of the proposed future review of liquor licensing regulation.

2.0 Other areas for investigation

The following details a number of issues which we have raised in our submissions to the Issues Paper and Draft Report which have not been addressed by the Review Panel in the Final Report.

2.1 Planning and development of airport land

We raised this issue in our submission in response to the Review Panel's Draft Report.

An unlevel playing field exists between non-aviation development (eg. large scale retail developments) on and off airport land. While our member's developments are subject to the prevailing state and territory and local planning controls, policies and decision making processes, including the application of relevant infrastructure charging regimes, equivalent developments on airport land are not.

This has been a longstanding issue for our members and we have been raising concerns about the unlevel playing field inherent in the *Airports Act 1996*, and related Master Plans and Major Development Plans, for over a decade.

In our view, the 'free kick' offered to proponents of large scale retail development on airport land offends the first 'competition policy consideration' outlined in Recommendation 9 of the Final Report, ie. "arrangements that explicitly or implicitly favour particular operators are anti-competitive".

Concurrent to the Competition Policy Review is a Department of Infrastructure and Regional Development-run consultation process regarding further liberalisation of planning rules for non-aviation related development on airport land. This includes consideration of increasing the threshold for the required preparation of Major Development Plans and increasing the lifecycle of airport Master Plans.

We have provided one submission to the Department in September 2014 detailing our concerns regarding the changes and follow up submissions from stakeholders regarding the proposals are due by the end of May 2015.

This consultation process, and the proposals contained in various related discussion papers, has given no consideration to the Competition Policy Review.

11. We recommend that Federal Treasury insert itself into the consultation process with regard to the proposed further liberalisation of planning rules for non-aviation related development on airport land to ensure that the outcome of this consultation process doesn't offend the 'competition policy considerations' outlined in the Final Report.

12. We recommend that the planning framework in the *Airports Act* be subject to the "public interest test" detailed in Recommendation 8 – Regulatory Review.

2.2 Acquisition of supermarket leases

We raised this issue in our submissions in response to both the Issues Paper and the Draft Report.

This relates to the ACCC's policy decision in 2008 (following the ACCC Grocery Inquiry) to regard renewal of a lease, including renewal by way of an option, as being caught by s.50 of the *Competition and Consumer Act*. In other words this relates to the ACCC's now current policy of, among other things, investigating the renewal of an existing lease to a supermarket operator, and the exercise of an option in an existing lease to a supermarket operator, to establish whether these might involve a substantial lessening of competition in the grocery industry.

Among a range of administrative and operational issues, including an enduring threat to the viability of shopping centre development and redevelopments in the event that ACCC intervention rules out a preferred supermarket operator, there is now also an onus on supermarket operators and shopping centre owners to ensure that such acquisitions are notified to the ACCC at least six weeks before the proposed acquisition takes place. This delaying administrative hurdle is so that the commission can investigate whether or not this would result in a 'substantial lessening of competition' in the local area.

This was, and remains, a major change, or extension, of policy by the ACCC. Previously, such transactions had not generally been regarded as attracting the potential application of s.50 (and there remains legal doubt whether section 50 'stretches' as far as the ACCC currently applies it).

Regardless of the legality of its application this is an unnecessary and disruptive position for the ACCC to take. The Treasury should investigate this issue and make subsequent recommendations to the Government for legislative amendment to s.50 which should be considered in the context of the Government's response to the Final Report, and related reform implementation plan.

13. We repeat our previous recommendation that s.50 of the *Competition and Consumer Act* be amended to ensure that a renewal of a lease to a supermarket operator, and the exercise of an option in a lease to a supermarket operator, is not considered an acquisition of an asset.

2.3 Occupational licensing

We raised this issue in our submissions in response to both the Issues Paper and the Draft Report, and acknowledge that the Review Panel has offered thoughts on occupational licensing and has suggested this could form "part of a national regulation review agenda".

We agree with the Review Panel, but still recommend to Government that it should introduce a specific recommendation on removing or liberalising unnecessary occupational licensing standards and requirements in order to reduce regulatory burdens and reducing barriers to entry to industries in the context of the Government's response to the Final Report and related reform implementation plan. This path would enable Governments to harmonise laws and regulations to a standard of 'best practise', reducing costs for business (large and small) across Australia.

14. Government should respond to the inferred recommendation regarding the review of occupational licensing requirements in its response to the Final Report and in the preparation of a reform implementation plan.

3.0 Contact details

The Shopping Centre Council of Australia represents Australia's major shopping centre owners and managers.

Our members are AMP Capital Investors, Blackstone Group, Brookfield Office Properties, Charter Hall Retail REIT, DEXUS Property Group, Eureka Funds Management, Federation Centres, GPT Group, Ipoh Management Services, ISPT, Jen Retail Properties, Lancini Group, JLL, Lend Lease Retail, McConaghy Group, McConaghy Properties, Mirvac, Novion Property Group, Perron Group, Precision Group, QIC, Savills, Scentre Group and Stockland.

Contact

The Shopping Centre Council would be happy to discuss any aspect of this submission.

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Attachments

Attachment 1 – *NSW Retail Investment Policy*, Hill PDA report

Attachment 2 – Article – *The Courier Mail*, 1 April 2015

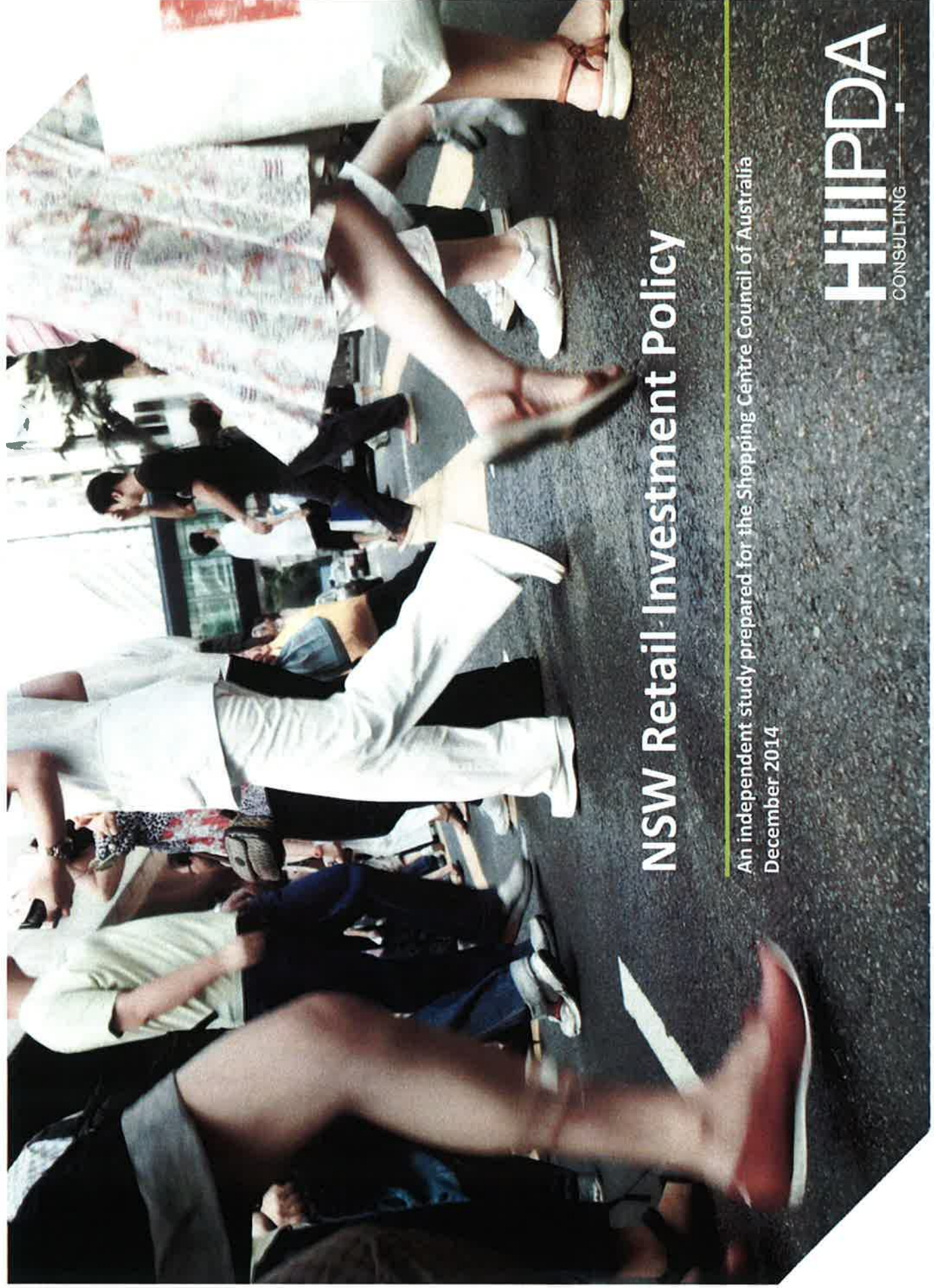
Attachment 3 – Article – Quest Newspapers, 13 May 2015

Attachment 4 – Article – ABC Online, 16 April 2015

Attachment 5 – Article – Adelaide Advertiser, 1 April 2015

Attachment 6- SCCA analysis of WA Christmas extended trading period

Attachment 6 – SCCA Media release – NSW Boxing Day liberalisation, March 2015



NSW Retail Investment Policy

An independent study prepared for the Shopping Centre Council of Australia
December 2014

HILLPDA
CONSULTING

REPORT PURPOSE

- This independent Report has been prepared for the NSW Government.
- It recommends that Government develop a Retail Investment Policy for NSW that is built on a 'centres first' approach and is developed in collaboration with industry.
- This Report has been informed by a broad evidence based Retail Investment Study that included an unprecedented level of engagement with key industry stakeholders. The collected evidence was used to identify key issues affecting the retail industry as well as options to address them. This Report reflects the outcomes of this research and recommends the development of a Retail Investment Policy that supports all retail formats, from small format retail to shopping centres, in the right location.
- A new Retail Investment Policy would establish a basis for Government to achieve its broader objectives of making efficient use of existing infrastructure, supporting economic and population growth through regional strategies, greater competition and economic productivity. The Department of Planning and Environment and NSW Treasury were consulted during the course of the Study.
- This Report embodies the Government's long held commitment to centres and transport. It recommends planning in a more equitable and transparent way to build industry and community trust in the planning system.
- This Report identifies three decisions Government could make now (without any need for legislative change) to address the challenges faced by the retail industry:
 1. **Commit to a NSW Retail Investment Policy** to give industry confidence and certainty on the basis of a 'centres first' approach.
 2. **Establish a Retail Investment Working Group (RIWG)** of industry experts to advise Government on the preparation, implementation and monitoring of the policy; and
 3. **The preparation of a standard method and approach to the Net Community Benefit Test (NCBT)** by the RIWG for consistency and certainty .

In order to fully understand and explore the challenges facing stakeholders in the NSW Retail industry in a proactive, positive and co-ordinated way, HiLLPDA took an unprecedented approach to engagement by interviewing a diverse range of industry stakeholders.

These stakeholders included ALDI, AMP Capital, BB Retail Capital, Coles, Dexus Property Group, Federation Centres, The GPT Group, Lend Lease, Metcash, Novion Property Group, QIC, Scentre Group, Stockland, Woolworths, Department of Planning and Environment and NSW Treasury.

Whilst this Report seeks to present the key issues and recommendations identified during the engagement process, it does not represent an endorsed view of any particular organisation.

SHOPPING CENTRE
COUNCIL OF AUSTRALIA



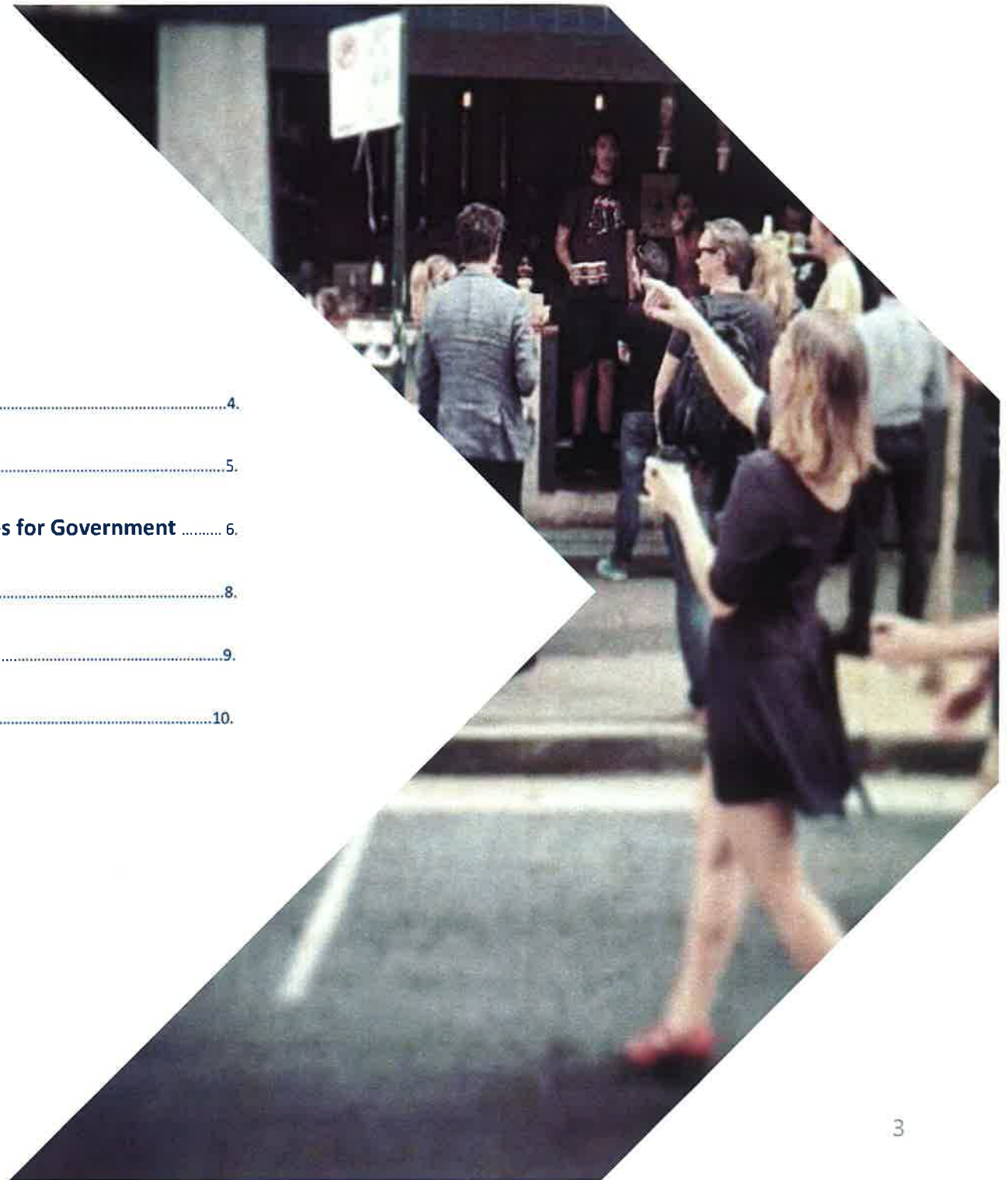
SCENTRE GROUP

SCENTRE GROUP is a Westfield company



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THE ISSUE

- NSW should be the 'go to' location for retail investment in Australia. This is not, however, the industry's experience, with investment in NSW being undermined by the absence of a 'level playing field'.
- The current inconsistent retail planning framework leads to frustration and creates risk and investment uncertainty. This doesn't support growth or optimal retail competition.
- The retail industry is one of the most significant generators of employment and investment in NSW, contributing:
 - 4.4% of NSW's \$455bn Gross State Product (GSP) in 2011-12¹;
 - Approximately 325,000 jobs (10.3% of all NSW jobs)² across a range of skills and education levels with an estimated 90% being located within centres; and
 - Support for housing and the environmental and social sustainability of our cities and towns;
- Despite this, NSW lacks a clear retail investment policy.
- Even though it is forecast that Sydney will need over 5 million more square metres⁴ of retail floorspace by 2031, and despite the notable interest from overseas retailers, Government is not seen to be facilitating investment or innovation. Furthermore, the effective co-ordination of transport infrastructure with retail in centres does not appear to be front of mind.
- Whilst the State Government's subregional and Regional Strategies have a strong centre hierarchy approach, planning proposals for out-of-centre retail continue to be approved. Conversely, in-centre retail developments can face considerable delays and barriers.
- As a consequence, the decision making process in NSW is perceived as ad hoc and unfair for all retail formats (from small format retail to shopping centres) In turn, these challenges and perceptions are resulting in missed opportunities for investment, competition and productivity.

¹ Source: ABS National Accounts (State Accounts) Cat 5220.0, Table 2 (2013)

² Source: ABS Census 2011

³ Source: Hill PDA estimate based on worker per sqm ratios for different floorspace types and their usual location.

⁴ As calculated by HillPDA 2014 on the basis of Government population forecasts, real growth in retail spend and retail density turnover equating to between 2.2 and 2.6sqm of shopfront floorspace by 2013.

Activity centres in Government policy

NSW has a longstanding approach to centres based planning. Locating retail uses within centres with good public transport relates to the *"most efficient use of use of transport and other infrastructure, proximity to labour markets, and to improve the amenity and liveability of those centres"* (NSW Government 2009).

The co-location of uses within existing or new centres also provides agglomeration benefits, consumer choice and accessibility along with competition and economic productivity.

No stakeholder engaged by this Study advocated a change from a centres based approach in NSW. Rather there was strong support for improved strategic planning and assessment tools to enable the expansion and creation of new centres for all retail types and formats.

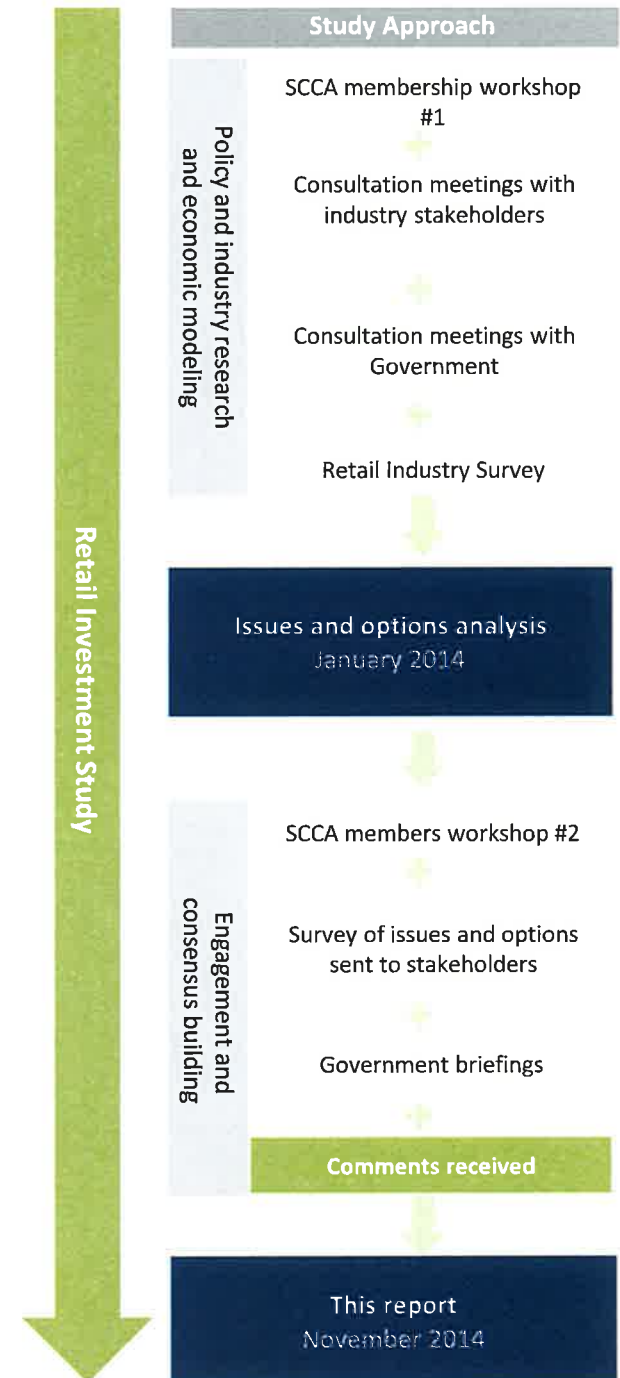
Importantly, when centres are referred to in this Report, it does not denote any specific retail model or type, rather a broad term that incorporates large and small, enclosed and open, private and mixed ownership formats.

Finding suitable retail sites is a challenge for everyone, not just new market entrants.

Industry Stakeholder 2014

STUDY APPROACH

- In order to fully understand and unpack the challenges facing all stakeholders in the NSW retail industry in a proactive, positive and co-ordinated way, an unprecedented approach to stakeholder engagement was undertaken to inform this Report.
- As an initial step, the existing approach to policy implementation was reviewed to identify potential areas of improvement. A key basis of this analysis focused on meetings and workshops with industry representatives. This was supported by a review of international best practice as well as case study developments in NSW to understand how the existing policy environment was influencing development outcomes.
- 17 key issues were identified to be affecting the NSW retail industry. The issues ranged from the need for a clear retail investment policy to the lack of industry engagement and the need for a more equitable approach to developer contributions. Consideration was then given to how these issues could be addressed.
- In response to the issues and options identified, Stakeholders completed a survey and attended workshops to identify areas of consensus. This Report, at page 7, outlines the outcomes of this engagement.
- In addition, this Report provides recommendations for key directions to be applied in a NSW Retail Investment Policy. It also sets out the early steps Government could take toward achieving this outcome.



WHERE STAKEHOLDERS AGREED – Opportunities for Government

The comprehensive stakeholder engagement which underpins this Report identified three critical issues for the industry:

- The lack of a ‘level playing field’ which was undermining the Government’s long held position on centres and infrastructure investment in centres;
- The lack of Government coordinated engagement with industry to inform policy; and
- Inconsistent and inequitable decision making with respect to retail investment.

In light of these issues, the Stakeholder engagement programme drew out 9 key areas that industry agreed should be used by Government to form a sound basis for change.

1. NSW needs a Retail Investment Policy

There was unanimous support for the creation, adoption and implementation of a NSW Retail Investment Policy that creates a ‘level playing field’ and facilitates competition and certainty.

2. NSW needs to focus on strategic planning to prevent ad hoc decision making

Strategic planning must be undertaken to accommodate all retail types and models (i.e. all retail formats, from small format retail to shopping centres) to facilitate a more equitable and competitive approach to investment and better allow the market to respond to demand.

3. Retail policy to filter through the NSW planning system

The principles and directions of the Retail Investment Policy need to filter through the relevant metropolitan, subregional and local environmental plans and practices for consistency and certainty across all levels of Government.

4. Build an evidence base to support decisions

Evidence is required to better understand existing and projected demand for retail floorspace by region to accommodate adequate supply. In the interests of competition and productivity, the quantification of demand should not however be used to cap levels of retail floorspace in appropriate locations i.e. centres.

Stakeholders engaged for the Study agreed that the existing policy environment favoured no one – NSW needs an adopted and implemented Retail Investment Policy to support competition.

Stakeholders agreed that a greater focus was required at the strategic stages of planning to avoid ad hoc decision making and policies that increased investment risk in NSW.

Stakeholders supported the establishment of a Retail Industry Working Group as a source of information and feedback to Government.

These areas of agreement illustrate that the retail industry wants change and is willing and motivated to engage with Government to support its delivery.

■ WHERE STAKEHOLDERS AGREED – Opportunities for Government

5. Ongoing industry engagement with Government

The retail industry is dynamic and has a strong influence on the evolution of centre typology, character and function. A Retail Investment Working Group (RIWG) should be established by Government to give direct input to, and feedback on, the preparation and implementation of retail and centre related policy and practice.

6. Better decision making tools and guidance

Transparent, consistent and timely decision making relies on the appropriate application of existing tools, such as the Net Community Benefit Test. To improve the successful application of these tools and their assessment of the economic, social and environmental implications of new developments they should be developed further with input from the RIWG to better support urban productivity and growth.

7. Collaboration and accountability

Additional support and education for Local and State Government planners with respect to retail matters and the use of decision support tools would provide a sound basis for strategic planning and decision making. Greater collaboration at the strategic planning stage would also support the sustainable growth of centres and, where appropriate, the formation of new ones to meet latent, existing and / or forecast demand.

8. Equal contributions to infrastructure

Stakeholders agreed the scale and inconsistency of approach to section 94 contributions was a key issue for the industry that created uncertainty for investment. Development contributions should also be considered as part of any NCBT.

9. Urban design requirements

The implementation of detailed urban design requirements can be a major challenge for retail development and is often considered a barrier to design innovation. Accordingly stakeholders supported the formation of better working relationships with councils to develop suitable design controls for retail.

Stakeholders agreed that a more equitable approach towards development contributions was required to support an effective centres first retail policy

THREE THINGS GOVERNMENT CAN DO NOW

To address the challenges and barriers the retail industry faces today, it is critical that a Retail Investment Policy does not replicate the problems of the past. It is important to ensure that any a new policy is implemented and carried through the planning system down to the local level.

The following diagram outlines three things Government could do now without the need for legislative change.

Each has been presented as a sequential step to inform the next outcome.



Commit to a new Retail Investment Policy

The Government's commitment to a Retail Investment Policy would send a positive signal and create greater investment certainty and a framework for competition. The Policy should be based on evidence that identifies where the demand for retail floorspace and centres is growing and how it could be better accommodated within existing or new centres taking a 'centres first' approach. It should recognise the role of the market and feed into the broader strategic planning framework.

A commitment to, and the implementation of, a NSW Retail Investment Policy would also address challenges with respect to the lack of suitable land zoned to support investment, whilst supporting a more sustainable approach to planning NSW's centres and their supporting infrastructure.

Establish the Retail Investment Working Group (RIWG)

The RIWG would comprise of 8 to 10 representatives of the retail industry (including retailers, property owners, industry organisations and planning experts) and provide practical industry input and experience to Government to design an effective Retail Investment Policy. The RIWG would also provide advice to / work with Government to support the development and analysis of planning strategies, industry trends and short term projects.

The establishment of the RIWG would help to address challenges concerning the lack of industry engagement and investment certainty. Existing examples of similar groups established by the DP&E include the Affordable Housing, Employment Lands Taskforce and Culture Change working Group. To be effective the RIWG requires a champion or sponsor within Government.

Review and consistently implement the Net Community Benefit Test (NCBT)

Whilst NCBTs are an existing tool, they are inconsistently and often inaccurately applied in practice, adversely affecting the equity of decision making in a retail context. The development of a consistent and industry accepted approach to NCBTs should be a primary goal of the RIWG.

A consistent methodology and application of the NCBT (that is appropriately weighted for locations) would address the immediate challenge faced by the industry concerning certainty of investment and transparency in decision making. It would also provide a fair and equitable approach to decision making that considers all of the potential costs and benefits of a retail development to the community.

Please refer to Appendix 1 for further details concerning the principles and benefits of the NCBT. 8

BENEFITS OF THE PROPOSED APPROACH

The three things Government could do now would have the following benefits:

The Issue	The Decision	The Benefits
<p><i>The lack of a 'level playing field' which was undermining the Government's long held position on centres and infrastructure investment in centres</i></p>	<p>Commit to a Retail Investment Policy</p>	Places the focus on planning for growth at the strategic planning stage creating equitable opportunities, consistency and 'a level playing field' for investment for all types of retail (i.e. large and small format)
		Reduces the need for spot rezonings and the 'gaming' of the planning system for the fortunate few
		Forms a basis for the collation and utilisation of evidence
		Increases opportunities for retail competition, productivity and the efficient use of infrastructure
		Creates consistency with broader Government policy directions
		Increases opportunities for growth and jobs closer to home
<p><i>The lack of Government coordinated engagement with industry to inform policy</i></p>	<p>Establish the RIWG</p>	Provides an effective interface between Government and a dynamic and evolving industry to inform policy development
		Creates an opportunity for further consensus building and agreed outcomes
<p><i>Inconsistent and inequitable decision making with respect to retail investment</i></p>	<p>RIWG to help develop and implement the NCBT</p>	Creates a clear decision making framework that can be implemented in the short term
		Equally balances social, economic and environmental considerations
		Removes confusion as to how to plan for different types of retail formats by putting the focus back on planning upfront for all retail formats and assessing the economic, social and environmental implications of retail investment

KEY DIRECTIONS FOR A NSW RETAIL INVESTMENT POLICY

Based on the evidence and stakeholder feedback, gained, the following 10 key directions are recommended to guide the development of a new Retail Investment Policy. The RIWG should advise Government on the specifics of these directions and how they translate into policy and practice.

1. **Primacy** - retail is primarily located in established or planned centres recognised by strategic policy in support of economic, social and environmental sustainability objectives.
2. **Current evidence** - policy directions to be based on evidence, which is regularly updated to ensure adequate capacity to meet demand and support competition.
3. **Accountability** - minimum retail floorspace targets should be used to ensure supply meets the needs of local communities and supports productivity, and not as a floorspace cap.
4. **Equity** - retail planning should be undertaken and policy applied equally for all retail formats, from small format retail to shopping centres so that strategic planning facilitates appropriate locations for retail formats.
5. **Barriers** - barriers to investment, such as floorspace caps, to be removed in established centres to support competition and productivity.
6. **Engagement** - the preparation of policies and strategies to be informed by the RIWG to ensure relevance and resilience.
7. **Guidance** – prepare clear guidance and examples of how decision making tools such as the NCBT should be applied at both the strategic planning and development stages to support timely and consistent decision making processes.
8. **Competition** – new ‘out-of-centre’ or edge of centre retail approvals should facilitate opportunities for more than one retailer and form the focus of a new centre to be masterplanned. Developments in these locations should pay equal development contributions to retail developments located within centres and should benefit from a reasonable level of public transport.
9. **Sustainability** – plan for transport upgrades and improvements to support sustainable and equitable access to retail within all types of centres.
10. **Future proofing** – plan centres and assess developments whilst considering future growth and expansion opportunities including the potential transition of retail from lower to higher intensity uses.



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APPENDIX 1 - About the Net Community Benefit Test Approach

What is NCBT and its potential benefits?

The NCBT is an existing means of assessing the economic, social and environmental implications of a proposed new retail development, or centre, and supporting decisions. The test allows for innovation in the retail industry as well as flexibility to respond to market forces. The approach considers the external costs and benefits of a proposed development to the community. It differs from other decision making tools (such as Cost Benefit Analysis) as it does not consider financial matters such as the cost of land or return to the developer. The draft Centres Policy of 2009 advocated the use of the NCBT recognising that *“a net community benefit arises where the sum of all the benefits of a development or rezoning outweigh the sum of all costs”*.

What should NCBT Consider?

- The level of available (or potentially available) floorspace in existing centres and edge of centre locations including their retail suitability and financial viability for development and why the proposed development could be located on these sites;
- The net community benefit of the proposal against a base case (i.e. the do nothing scenario) as well as other relevant scenarios (i.e. locating the retail development in alternative locations);
- The external costs and benefits of the proposed development should be quantified having regard to:
 - the net increase (and type) of jobs generated as a result of the proposal;
 - the costs or benefits associated with infrastructure demand and provision as a result of the proposal;
 - Any likely travel cost implications; and
 - Any other likely external costs and benefits of the proposal (i.e. the externalities);
- Whether the amended LEP is likely to create a precedent or create or change the expectations of the landowner or other landholders;
- Whether existing public infrastructure (roads, rail, utilities) are capable of servicing the proposed site;
- Cumulative impacts of development / proposed development;
- The extent of pedestrian, cycle and public transport access now or in the future;
- The impact on amenity in the location and in the wider community; and
- Whether the public domain would improve as a result of the proposal.

The NCBT should not consider transfer effects (i.e. factors that are simply relocated from one area to another), nor private costs (i.e. cost of development or return to the developer).

■ APPENDIX 1 - About the Net Community Benefit Test Approach

Areas requiring further development and clarification

To support the better use of the NCBT, it is recommended the following matters be developed and defined further by the RIWG in collaboration with the Government.

- What factors should be considered by the NCBT and what methods should be used to quantify them?
- When should a NCBT be used as opposed to a CBA? Should they both be required for larger developments?
- Should NCBT consider economic impacts to other centres in the locality?
- How does NCBT factor in the 'sequential test' approach, floorspace demand assessment, environmental sustainability and infrastructure costs?

To ensure the effective implementation of the NCBT, it is also recommended that:

1. A detailed guideline is prepared which sets out the suitability of different methods to preparing and assessing a NCBT accompanying a planning / development proposal; and
2. A training programme be developed to advise practitioners, including those in local government, on how and when to use the NCBT, along with appropriate methodology and weightings given to its application.

Fed report calls for open slather but Curtis Pitt not open to shop trading changes

- JESSICA MARSZALEK
- THE COURIER-MAIL
- APRIL 01, 2015 12:00AM

<http://www.couriermail.com.au/news/queensland/fed-report-calls-for-open-slather-but-curtis-pitt-not-open-to-shop-trading-changes/story-fnn8dlfs-1227286895348>

QUEENSLAND businesses should be allowed to open whenever they like, according to a landmark report to the Federal Government.

But the Palaszczuk Government has said a blunt “no” to the advice.

The Harper review into competition law yesterday highlighted the state’s significant restrictions on opening hours that only serve to disadvantage bricks and mortar retailers while shoppers spent up online whenever they wanted.

It found Christmas Day, Good Friday and Anzac morning should be the only days regulated but other restrictions should remain for liquor stores and gambling services.

“Deregulation of retail trading hours is overdue, and ... remaining restrictions should be removed as soon as possible,” the report said.

States should also look at allowing alcohol to be sold in supermarkets as current bans “impede competition”, it said.

It is the first time the Palaszczuk Government has been asked to deal with the issue of opening hours.

Queensland Industrial Relations Minister Curtis Pitt said the Government would work through all 56 recommendations and respond to the Commonwealth, but he told *The Courier-Mail* the Government had “no plans to review or change the way trading hours are determined in Queensland”.

Prianca Maharaj, 21, said she preferred in-store shopping to try on clothes but it was hard to do outside work hours.

“I usually shop online at the moment because I don’t have time to get out at other times when stores are open,” the university student said.

The report also calls for a review of the taxi industry facing unregulated rideshare services such as Uber.

But rather than a crackdown, businesses that contract out private rides through apps should be encouraged, it said.

Mr Pitt said discussions were already underway between taxi companies and Uber on regulatory change.

The review also opens the way for prescription medicines to be sold in supermarkets. Laws shielding businesses from overseas competition should also be dropped for books and second-hand cars, potentially cutting prices by 35 per cent.

Federal Small Business Minister Bruce Billson said the Government had "quite an appetite" for reform.

Small business association calls on Brisbane City Council to stand up against National Retail Association application for big retailers to extend trading hours

May 13, 2015 3:16pm

Jessica Haynes/Quest Newspapers

<http://www.couriermail.com.au/questnews/city/small-business-association-calls-on-brisbane-city-council-to-stand-up-against-national-retail-association-application-for-big-retailers-to-extend-trading-hours/story-fni9r0jy-1227353568540>

A BID to standardise trading hours throughout southeast Queensland would be a big hit to small business in Brisbane.

That's the claim by the Master Grocers Australia, which represents independent supermarket operators including FoodWorks and IGA.

The group has called on Brisbane City Council to stand up against a National Retail Association application to extend trading hours.

Representative Helen Spain, who addressed council at its meeting on Tuesday May 12, said the proposal to overhaul trading hours throughout the southeast to 7am-9pm, Monday to Saturday, would have a big impact on small business.

"In 1990 Queensland parliament thought that it was a good idea to allow a window in which the exempt shops, the small businesses of Queensland, and Brisbane City Council region, would have an opportunity to trade without competing against the larger shops," she said.

"So my message here today ... is now is not a good time to change any aspect of the trading hours just in southeast Queensland area.

"It's not about harmonising hours, it's about increasing the standard trading hours for every suburban shopping centre in Brisbane.

"It's about increasing the standard trading hours by ten hours a week."

She said local shopping strips in suburbs including Indooroopilly and Ashgrove would be heavily impacted by any change.

Finance, Economic Development and Administration committee chair Cr Julian Simmonds thanked her for the feedback, but would not commit any full support to the Master Grocers Australia campaign.

"We certainly appreciate the feedback on the application we know is currently before the Queensland Industrial Relations Commission to extend the trading hours throughout southeast Queensland area," Mr Simmonds said.

“As a new world city we have constant pressure particularly within the ... CBD ... but also in that inner-ring suburbs, a pressure from visitors and residents with high expectations about their access to goods and services and this helps Brisbane compete for tourism and investment with other major cities in Australia and Asia.

“I also acknowledge the concerns you have raised here today.”

Last year the National Retail Association made its application to the commission to unify the southeast Queensland region under one set of trading hours.

The proposal covers the districts of Brisbane, Logan, Ipswich, the Gold Coast and Sunshine Coast.

The NRA renewed its calls following Anzac Day, where business-owners raised issues about confusion about the hours they were allowed to trade.

Extended WA trading hours on Sunday a 'good thing', Premier Colin Barnett says

By Jessica Strutt

Posted 17 Apr 2015, 3:30pm

<http://www.abc.net.au/news/2015-04-17/extended-trading-hours-on-sunday-a-good-thing-premier-says/6401194>

West Australian Premier Colin Barnett has conceded that an extra hour or two for shopping on a Sunday morning would be a "good thing" for consumers.

Currently most general retail shops are banned from opening before 11:00am on Sundays in the state.

Some WA Liberal backbenchers have been lobbying for a change that would allow all shops to open earlier on Sundays but Mr Barnett has repeatedly ruled that out.

As the stoush over GST revenue continues, the Federal Government is putting pressure on the WA Government to radically reform its economy, including deregulating retail trading hours and privatising assets including power poles and wires.

Asked today about the Federal Government's push for reform, Mr Barnett appeared to soften his opposition to shops being allowed to open earlier on Sundays.

"We have weeknight trading, this Government introduced it. We have Sunday trading; this Government introduced it [too]," he said.

"If we are to have an extra hour or two on a Sunday morning that might be a good thing ... people would probably enjoy it.

"It's not going to have a discernible impact on the WA economy but it's a good thing for shoppers."

As recently as mid-February Mr Barnett ruled out extending the general trading hours for all shops on Sunday from 11:00am to 9:00am.

He said at the time confusing rules on hardware stores' Sunday trading hours would be addressed by the WA Government this year.

In WA, most Bunnings stores open at 7.00am on Sundays but the products they can sell and at what times are consequently restricted.

Its major competitor Masters opens its stores later on Sundays – at 11:00am – which enables it to stock and sell a broader range of products, including whitegoods.

The Government has flagged plans to bring in legislation this year to iron out the hardware trade anomalies but cannot say when it would be introduced.

Liberals lose state director

LAUREN NOVAK

LIBERAL Party state director Geoff Greene has resigned, effective immediately.

It follows unexpected losses by the party at last year's state election and subsequent by-election in the seat of Fisher.

Mr Greene also oversaw the party's campaigns for the 2013 federal election, won by the Coalition, and a state by-election in Davenport, where the Liberals retained the seat.

Despite attracting some criticism for the losses, Mr Greene drew praise from Liberal Party state president Robert Lawson.

In a statement released yesterday, Mr Lawson said Mr Greene had increased the party's representation at both state and federal levels.

"Geoffrey Greene ran an excellent federal election campaign and, while we were unable to win the state election, led the party to its best result in 21 years," he said.

State Liberal leader Steven Marshall said Mr Greene's contribution "leaves us in a far stronger position than when he arrived".

Hotel to turn the tables

VALERINA CHANGARATHIL

WALKERVILLE boutique hotel The Watson is part of an Aussie "social experiment" to name and shame bad guests while rewarding the good ones.

Victorian family-owned Art Series Hotel Group will begin "reverse reviews" on obliging guests staying at its hotels in Adelaide, Melbourne and Bendigo from April 17 to May 31.

The company said the attempt to "turn the tables" on guests is driven by a dual objective - to see if "the fear of having one's dirty laundry aired in public" makes the hotel better for all, and to reward its perfect guests.

Guests who opt in will have their behaviour assessed and ranked by staff at the hotel.

Good and bad reviews will be published online with complimentary stays, upgrades, food and drink for guests scoring four or five stars.

The idea came from results of a Galaxy survey showing 30 per cent Australians had confessed to bad behaviour in hotels, including walking in front of windows naked and theft.



IN COURT: Trevor Jones during his time at Kellermeister Wines and, below left, Kellermeister Wines proprietor Mark Pearce; below right, Jones outside court yesterday.

Winery owner, ex-worker in a case of sour grapes

KEN MCGREGOR
COURT REPORTER

A MAN accused of deliberately draining \$300,000 worth of chardonnay from Kellermeister Wines is a former employee who is now a rival winemaker.

Trevor David Jones, 57, appeared in the Elizabeth Magistrates Court yesterday where he is yet to plead to charges of serious criminal trespass and property damage over the incident at Kellermeister at Lyndoch last month.



Jones, who's also known

as "Boots", was winemaker and production manager for Kellermeister until 2010 when he and his father started their own winery, "Epernay", which trades as Trevor Jones Fine Wines, about 4km from Kellermeister.

Police have alleged Jones, who has been in the wine industry for 35 years, entered Kellermeister during the early hours of the morning on Sunday, February 22, and deliberately opened the taps on four tanks - causing 25,000 litres of chardonnay to be spilt.

At the time, Kellermeister Wines proprietor Mark Pearce said he was relieved none of his flagship red had been touched.

Mr Pearce said the drained wine was a 2010-11 chardonnay vintage, which was kept in an area of the winery used to store wine before it was bottled.

In a press release about his split from Kellermeister in

2011, Jones said he was "embarking on an exciting new venture".

"For nearly two decades I have been juggling the old family business at Kellermeister as well as my own brand."

Jones has also worked as a consultant winemaker for other wineries in the region.

According to its website, Kellermeister chardonnay retails for between \$18 and \$25 a bottle.

Jones, who made no comment as he left court yesterday, will next appear in court in June.



Review urges change

Door is ajar for longer trading

JACKSON GOTHE-SNAPE

SHOP owners should be allowed to choose when they want to open so they can better satisfy their customers, a review of Australian competition policy has found.

The South Australian Government has not rejected the suggestion out of hand, giving hope to retailers desperate to reach customers outside traditional trading hours.

Deputy Premier John Rau has left the door open to future reform. While he believes the present arrangements in SA are satisfactory, he told *The Advertiser* he would be interested in "hearing from people and groups who might be affected by the implementation of the recommendations before considering what, if any, changes are appropriate".

The Competition Policy Review Report stated that deregulating trading hours should be a priority for those states where the tightest restrictions on retail trading hours apply.

The review, led by Professor Ian Harper, makes 56 recommendations, including immediate reform in the areas of retail trading hours, parallel importation such as second-hand cars, and pharmacy ownership and location rules.

It also recommends action by, and collaboration between, state and federal government.

Federal Small Business Minister Bruce Billson said more collaboration was needed, but "the appetite is there" for change.

Rick Cairney, from Business SA, said retailers might not want to open at 9am on a Sunday, but they needed more freedom in matching their hours to their customer base.

"Bricks-and-mortar retail is competing with online, and they're open 24/7," he said. "I've had people say that if

you buy from bricks and mortar you get it immediately, but if the shop's not open, you're not going to buy anything."

Last week, the Shop Distributive Association and Business SA came to an agreement that reduces weekend payment rates for retail staff in exchange for future income increases. Reducing weekend wages theoretically allows shop owners to keep their doors open for longer.

But the Government still regulates when shops can and cannot be open.

Currently, typical CBD shops can open until 9pm on weekdays, until 5pm on Saturdays and between 11am and 5pm on Sundays.

More onerous restrictions apply in the Greater Adelaide area and in 35 regional shopping districts. For example, shops in Adelaide's suburbs are prevented from opening on public holidays apart from Easter Saturday.

SDA Secretary Peter Malinauskas rejected the recommendation to deregulate trading hours on public holidays because it would disadvantage retail workers.

A 2007 review of SA retail trading hours by Alan Moss recommended that current shopping hours be retained.

Business SA is encouraging retailers who want penalty rates reformed to display posters in their shops over Easter explaining why they are closed.



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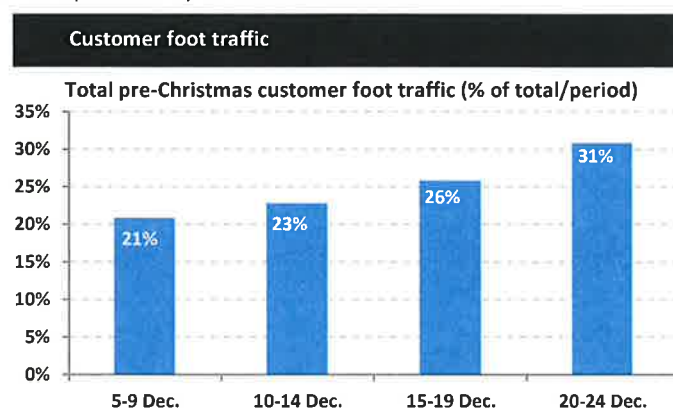
PERTH 2014 EXTENDED CHRISTMAS TRADING HOURS – SNAPSHOT

We have assessed the 'extended' trading hours period in December 2014/January 2015 as announced by the Minister for Commerce, Michael Mischin, on 2 November 2014, in his media statement: "Christmas bonanza for early-bird shoppers". Based on (1) customer foot traffic and (2) retailer participation data, the SCCA considers that the extended trading hours period was a success. It enabled retailers to trade more flexibly to serve their customers. It provided business, employment and consumer opportunities. SCCA members that operate across Perth include AMP Capital, Charter Hall, Federation Centres, Lend Lease, Novion Property Group, Perron Group, SCA Property Group, the Scentre Group and Stockland.

5 KEY RESULTS AND OBSERVATIONS: A SNAPSHOT FROM SCCA MEMBERS

1 Customer foot traffic increased over time

- For one SCCA member company, the proportion of customer foot traffic across the 20 pre-Christmas days, which incorporated extended trading hours, increased from 44% in the first 10 days (5-14 December) to 57% in the last 10 days (15-24 December) (see below). This suggests that Perth's shoppers undertook their Christmas shopping later in the month. This trend was experienced by a number of SCCA members.



2 ...so did retailer participation...from 15% to 41%

- For another SCCA member company, the average retailer participation increased over time during the 'early morning' extended trading hour period, increasing from 15% in the first 10 days (5-14 December) to 41% in the last 10 days (15-24 December). This trend was experienced by other SCCA members. These figures highlight two important issues: (1) more than just 'big' retailers traded during the extended trading hours period, and (2) small retailers are not (and cannot be) 'forced' to trade by shopping centre owners and managers (otherwise the participation rate would be 100%).

3 1,839+ store openings

- In one SCCA member shopping centre alone, 1,869 store openings were enabled during the extended trading hours period in the lead up to Christmas. When multiplied across Perth's various shopping centres, these store openings provided additional business, employment and consumer opportunities. It was observed that common 'early morning' store openings were food retailers, which was similar to trade later in the day including where co-located with (for instance) entertainment precincts.

4 Top 5: Sundays (and Boxing Day) the strongest

- The top 5 days for retailer participation for one SCCA member company were the 4 Sundays (7th/14th/21st/28th) across December as well as Boxing Day. This suggests that Sunday trading is a popular trading day, with the potential for further systematic trading hours reform, and that Boxing Day is a popular shopping day as it is across the country in other major cities.

5 Perth's shoppers and retailers operate differently

- A key outcome is that SCCA member feedback indicates that Perth's retailers opened at different times across different days. For one SCCA member centre, Friday 19 December 2015 had the strongest retailer participation with 95% take-up. For another centre, the strongest retailer participation occurred on Saturday 20 December. This suggests, quite sensibly, that where regulation enables flexibility, retailers respond differently and open at different times depending on their location.

Media Release

2 March 2015

SHOPPING CENTRES WELCOME BOXING DAY COMMITMENT

The Baird Government's election commitment to reform outdated Boxing Day shop trading restrictions will provide a major benefit to business flexibility, consumers and the economy, according to the Executive Director of the Shopping Centre Council of Australia (SCCA), Angus Nardi.

"Treasurer Constance's announcement today is fantastic news for consumers, jobs and the economy", said Mr Nardi.

"The current Boxing Day restrictions on major retailers means that shopping centres can't justify opening their doors on a day that is known for being a great day for shopping".

"The current restrictions are out-dated and not in line with consumer preferences. Consumer choice, not government regulation, should decide when shops can open".

"Our member companies who open across other major cities on Boxing Day, such as Melbourne and Perth, tell us that consumers vote with their feet and keep coming through the doors".

"While the Government's commitment applies state-wide, easing the restrictions across Sydney's major centres alone would see the end of the artificial barriers which enable people to access all shops in Bondi Junction, but not in Blacktown, Parramatta, Chatswood or Rouse Hill."

Mr Nardi also noted that other centres and communities identified in the Government's *A Plan for Growing Sydney* (released in December 2014) would benefit from the proposed changes, including Bankstown, Burwood, Campbelltown/Macarthur, Castle Hill, Hurstville, Macquarie Park and Liverpool.

"The Government has identified these centres as the priority hubs for retail development, investment and job creation in order deliver sustainable growth and maximise productivity. This announcement is entirely consistent with this objective", said Mr Nardi.

"Across Sydney's major centres alone, we estimate there's around 1.1 million square metres of retail floor space - equivalent to over 150 football fields - that isn't being utilised on Boxing Day".

"Easing the restrictions across these locations could enable the opening of over 110 major retailers and 3,800 specialty retailers, including over 300 food outlets and cafes, across a number of shopping centres".

"This would also enable residents and consumers to shop closer to home, enjoy the benefit of Boxing Day sales, and also provide local employment and business growth opportunities."

"Importantly, retailers cannot be forced to trade if they don't want to".

*SCCA members have shopping centres that would be able to trade if current Boxing Day restrictions were lifted. Our members are: AMP Capital Investors, Blackstone Group, Brookfield Office Properties, Charter Hall Retail REIT, DEXUS Property Group, Eureka Funds Management, Federation Centres, GPT Group, Ipoh Management Services, ISPT, Jen Retail Properties, JLL, Lancini Group, Lend Lease, McConaghy Group, McConaghy Properties, Mirvac, Novion Property Group, Perron Group, Precision Group, QIC, Savills, SCA Property Group, Scentre Group (owner and manager of Westfield shopping centres in Australia and New Zealand) and Stockland.

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