



Our ref: AA1000529
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Dear Interested Party

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www.acc.gov.au

Shopping Centre Council of Australia Limited application for re-authorisation of the Casual Mall Licensing Code of Practice AA1000529 – interested party consultation

The Australian Competition and Consumer Commission (the **ACCC**) has received an application for re-authorisation from the Shopping Centre Council of Australia Limited (**SCCA**). The ACCC invites you to comment on the application. Included in this letter is a short summary of the application and the authorisation process, including how to make a submission to the ACCC.

Application for re-authorisation

On 11 September 2020, the SCCA applied for revocation of authorisations A91591 & A91592 and substitution of replacement authorisation AA1000529 with regard to the Casual Mall Licensing Code of Practice (the **Code**), a voluntary code that regulates casual mall licensing in shopping centres.

Casual mall licensing refers to agreements under which a person grants another person a right to occupy part of the common area of a retail shopping centre for a short-term period for the purpose of the sale of goods or the supply of services to the public ('pop-up' retailing).

The ACCC has previously authorised similar versions of the Code in 2007, 2013 and 2017. The SCCA submits that the version of the Code in its current application for re-authorisation does not include material changes, noting some operational improvements to the Code Administration Committee (**CAC**) that administers the Code.

The SCCA is seeking re-authorisation for 10 years until 31 December 2030.

A copy of the SCCA's application for authorisation, and updated Code with changes tracked, are available on the [ACCC Public Register](#).

Application for interim authorisation

The SCCA has requested interim authorisation to allow the Code to remain in force while the ACCC considers its substantive application for re-authorisation, as authorisations A91591 & A91592 expire on 31 December 2020.

The ACCC endeavours to deal with requests for interim authorisation quickly. In making an assessment as to whether it is appropriate to grant interim authorisation, the ACCC is not required to undertake a full assessment of the benefit and detriment likely to arise from authorisation of the Code.

The ACCC decides whether to grant interim authorisation on a case by case basis. Should an applicant request interim authorisation, the ACCC will usually consider a range of factors, including harm to the applicant and other parties if interim is or is not granted, possible

benefit and detriment to the public, the urgency of the matter, and whether the market would be able to return to substantially its pre-interim state if the ACCC should later deny authorisation.

Request for submissions

The ACCC invites you to make a submission to assist with its assessment of the SCCA's application for re-authorisation, including views on changes made to the Code.

In particular, we seek your views on the following issues:

1. The effectiveness of the Code and the CAC's operation since 2017.
2. The effect of operational changes, including increased retailer representation on the CAC and the appointment of an independent Chair.
3. The likely public benefits and public detriments of the Code.
4. Whether 10 years is an appropriate period for re-authorisation.
5. Your experiences with the dispute resolution process provided by the Code.
6. Any other aspect of the Code.

If you intend to provide a submission in relation to SCCA's application for re-authorisation and/or interim authorisation, please do so by close of business 14 October 2020. You should email submissions to adjudication@accc.gov.au with the subject '*Shopping Centre Council of Australia – AA1000529 – Submission*'.

Alternatively, if you would like to provide comments orally, please contact Alex Reed on 02 6243 1364 to organise a suitable time.

The ACCC will place any submissions, including a record of oral submissions, on the [ACCC Public Register](#) subject to any request for exclusion (see the [ACCC guidelines](#) for more information).

Timetable

The ACCC will progress its assessment of the application in a timely manner. An indicative timetable is set out below for your information. The ACCC will post an up to date version (including any changes) on the public register.

Indicative date	Stage in assessment process
11 September 2020	Lodgement of application and supporting submission.
23 September 2020	Public consultation process begins.
14 October 2020	Closing date for submissions on interim authorisation and substantive application.
October 2020	Applicant responds to issues raised in the public consultation process.
November/December 2020	ACCC draft determination and decision regarding interim authorisation.
February/March 2021	Final determination.

Should you not wish to make a submission at this time, but would like the ACCC to update you at the draft and final determination stages, please advise and provide a nominated contact email address for future correspondence.

You may forward this letter to any other party who may wish to make a submission to the ACCC regarding the application. The ACCC will place this letter on the [ACCC public register](#).

If you wish to discuss any aspect of this matter, please do not hesitate to contact Alex Reed on 02 6243 1364 or adjudication@acc.gov.au.

Yours sincerely

A handwritten signature in blue ink, appearing to read 'D. Staltari'.

Danielle Staltari
Director
Adjudication

List of parties contacted by the ACCC

Abacus Property Group
Access Canberra
AMP Capital
Australian Chamber of Commerce and Industry
Australian Small Business and Family Enterprise Ombudsman
Australian Government Department of Industry, Science, Energy and Resources
Australian Retailers Association
Aventus Property
AXA Investment Managers
Blackstone
Brookfield
Business Tasmania
CBRE
Challenger
Charter Hall
Choice
Colliers International
Colonial First State
Consumers' Federation of Australia
Council of Small Business Organisations of Australia
Dexus
Franchise Council of Australia
GPT Group
ISPT
Jen Retail Properties
Jones Lang LaSalle
Lancini Property & Development
Leda Holdings
Lend Lease
McConaghy Group
McConaghy Properties
Mirvac
National Association of Retail Grocers of Australia
National Independent Retailers Association
National Online Retailers Association
National Retail Association
Northern Territory Government Consumer Affairs
NSW Small Business Commissioner
Perron Group
Pharmacy Guild of Australia
Precision Group
Primewest Management
Property Council of Australia
QIC
Queensland Office of Fair Trading
Queensland Small Business Commissioner
Restaurant and Catering Industry Association of Australia
Retail Council
Retail First
RetPro Group
Savills
SCA Property Group
Scentre Group

Small Business Association of Australia
South Australian Government Attorney-General's Department
South Australian Small Business Commissioner
Stockland
Tasmanian Government Consumer, Business and Occupational Services
Vicinity Centres
Victorian Government Consumer Affairs
Victorian Small Business Commissioner
WA Retailers Association Inc
Western Australian Government Department of Commerce
WA Small Business Development Corporation