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**From:** Martin Hasselbacher [REDACTED]  
**Sent:** Monday, 22 February 2021 6:07 PM  
**To:** Reed, Alex <[alex.reed@acc.gov.au](mailto:alex.reed@acc.gov.au)>  
**Cc:** Staltari, Danielle <[Danielle.Staltari@acc.gov.au](mailto:Danielle.Staltari@acc.gov.au)>; Black, Susie <[Susie.Black@acc.gov.au](mailto:Susie.Black@acc.gov.au)>; Bell, Simon <[simon.bell@acc.gov.au](mailto:simon.bell@acc.gov.au)>; Jim Mouzalidis <[REDACTED]>  
**Subject:** RE: SCCA Code - ACCC questions for WA SBDC [SEC=OFFICIAL] [ACCC-ACCCANDAER.FID2692061]

Dear Alex,

As promised, please see the following for the SBDC's views on the follow-up questions raised by the ACCC. Apologies once again for the delays in getting this back to you.

1. *Provide additional information regarding the kinds of change that the shopping centre landscape faces, including:*

a. *the likelihood of these changes occurring, and*

The SBDC's view is that the shopping centre landscape is highly likely to change based on:

- emerging technological developments such as online shopping, click-&-collect, frictionless retail, and direct-to-consumer;
- expected changes in how shopping centre managers will continue to tailor their product to adjust to a changing economic environment, competition, the impact of COVID-19, consumer behaviour and societal needs. For example, significant shifts in who is shopping, and how often, is changing how retailers and brands market, merchandise and promote; and
- shopping centre landlords better serving the community through more experiential and flexible spaces including more free and public spaces. Shopping centres are and will not be just for retailing.

b. *the potential significance of these changes.*

The potential significance of these changes is the real possibility that well within the 10 year authorisation period the fabric of shopping centres and the operations of shopping centre tenants and landlords will continue to change.

2. *Explain how these changes could affect the Code's operation, including:*

a. *any specific effects on likely benefits arising from the Code, and*

The Code's operation will be affected because it could become out of step with the prevailing market conditions. The Code could fail to meet landlord and tenant requirements going forward. For example, shopping centre tenants (including casual mall tenants) and their landlords could require different bricks and mortar configurations or other requirements as to space to meet consumer expectations that the Code does not address (such as click-&-collect).

b. *any specific effects on likely detriments arising from the Code.*

Consequently the Code as currently drafted could fail to address these changes and create an environment for disputes.

### **Conclusion**

For the reasons outlined above the SBDC considers five years to be a more appropriate period of authorisation. Further five year reviews are in line with statutory reviews of WA commercial tenancy legislation.

If you would like to discuss this further, please contact Mr Jim Mouzalidis, Adviser, Business Advisory Services – Commercial Tenancy, on [REDACTED]

Regards,  
Martin

**Martin Hasselbacher** | Director Policy and Advocacy

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