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Our ref: [SS:MC]

Email: policy@qls.com.au

Dr James Popple
Chief Executive Officer
Law Council of Australia
Level 1, MODE3
24 Lonsdale Street
BRADDON ACT 2612

By email: [REDACTED]

Dear Dr Popple

Harmonising retail tenancies across Australia

Thank you for the opportunity to provide feedback on the Treasury's Consultation Paper, *Harmonisation of retail tenancies and related commercial leasing*. The Queensland Law Society (QLS) appreciates being consulted on this important issue.

This response has been compiled by the QLS Property Law Committee and Franchising Law Committee, whose members have substantial expertise in this area.

As the Consultation Paper mentioned, retail leases in Queensland are governed by the *Retail Shop Leases Act 1994* (Qld) (RSLA). The Queensland government is currently conducting a review of the RSLA, to which QLS provided the attached submission. That submission details many of our members' current concerns with the RSLA and notes consistent themes across core areas that are also likely to be relevant to development of a model retail leasing law and minimum baseline. In particular:

- Definitions and application of the law – our members noted difficulties with interpreting definitions and a lack of guidance or examples in the legislation, for example when determining what a 'retail shop lease' or 'retail business' is and whether the legislation applies to particular businesses. This appears to be exacerbated when considering contemporary business and leasing models, such as mixed-use premises, short-term pop-ups, and click and collect hubs, which were not contemplated by the legislature.
- Disclosure requirements – strict timing and sequencing rules combined with multiple forms create difficulties for both lessors and lessees, increase transaction costs and can lead to harsh outcomes for minor procedural breaches. Further, the different disclosure requirements across jurisdictions increases the administrative and compliance burden on parties who operate in multiple jurisdictions.

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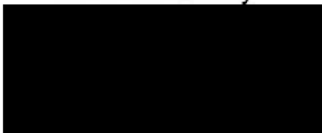
- Minimum lease standards – while many minimum lease standards help prevent disputes, others lack sufficient clarity, detail and guidance in the legislation, which makes it difficult for parties to understand what is required and has led to varied drafting of lease clauses and frequent disputes between parties.
- Dispute resolution – a lack of clarity in the legislation regularly leads to disputes between the parties. However, retail tenancy dispute provisions can be cumbersome and unclear, and do not consistently deliver timely, proportionate and cost-effective outcomes. Therefore, there may be opportunities to clarify and streamline dispute resolution pathways.
- Overlapping franchising requirements – compliance with QLS overlapping disclosure obligations under the Franchising Code of Conduct under the *Competition and Consumer (Industry Codes—Franchising) Regulations 2024* (Cth) duplicates paperwork, stalls business openings, and increases overall transaction costs without providing any meaningful additional protection.

In our view, there is an opportunity to pursue greater national consistency across retail leasing regimes in these core areas, while taking into account duplicated or inconsistent obligations under the Franchising Code of Conduct. National consistency will reduce compliance costs for lessors and lessees operating nationally while maintaining substantive protections and jurisdiction specific flexibility.

Harmonising these areas across jurisdictions aligns with Option B raised in the Consultation Paper, i.e. a model law and national minimum baseline. Given the current divergence of laws and standards across Australian jurisdictions, working toward partial harmonisation or minimum standards appears to be more achievable than pursuing a single national law.

If you have any queries regarding the contents of this letter, please do not hesitate to contact our Legal Policy team via policy@qls.com.au or by phone on [REDACTED] [REDACTED]

Yours faithfully



Peter Jolly
President