

# SHOPPING CENTRE

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## COUNCIL OF AUSTRALIA

16 February 2011

The Secretary  
Joint Standing Committee on Electoral Matters  
PO Box 6021  
Parliament House  
Canberra ACT 2600  
By email: [jscem@aph.gov.au](mailto:jscem@aph.gov.au)

Dear Sir / Madam

### **Inquiry into the 2010 Federal Election**

Thank you for the opportunity to make a submission on the Joint Standing Committee on Electoral Matters' *Inquiry into the 2010 Federal Election*, referred to the Committee on 23 November, 2010 by the Special Minister of State, the Hon. Gary Gray AO MP.

Since the Committee is required "to inquire into, and report on all aspects of the conduct of the 2010 Federal Election and matters related thereto", the purpose of this submission is to address the issue of access to shopping centres for political campaigning. This was raised as an electoral issue in the Committee's *Final Report into the 2007 Federal Election* (the Committee's conclusions are at sections 7.119-7.121; at pages 208-209), based on a submission from Mr Gary Gray MP (writing on his experience as the then ALP Candidate for Brand in the 2007 election). Mr Gray's submission outlined his perspective on "the difficulties candidates experience in relation to accessing privately-owned public open space for the purposes of campaigning during the election". There was also media coverage on this issue in January 2010, based on a misrepresentation of the shopping centre industry's position, which drew public comments from various politicians, including the then Prime Minister, the Hon Kevin Rudd MP, and the current Prime Minister, the Hon Julia Gillard MP.

We do not believe there is a legitimate public policy concern over access to shopping centres and, therefore, we do not believe policy measures, particularly regulations, are warranted. We would strongly reject any suggestion there should be unfettered or regulated access to shopping centres for political campaigning. As we argued in our submission to the previous Inquiry, dated 14 July 2008 (**attached**), a shopping centre owner's private property rights should not be regarded as less legitimate than those of other property owners simply because they generate crowds that politicians and aspiring politicians find attractive. The principal obligation for owners and managers is to provide a safe, comfortable and convenient shopping environment - free from undue interference and harassment - for their retailers (who lease space in a centre), their customers and their centre staff. Decisions about access to shopping centres, during an election campaign or at any other time, must be a matter for the judgment of the shopping centre owners and managers at the corporate and centre management level.

Leaders in Shopping Centre Advocacy

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ABN 41 116 804 310  
Shopping Centre Council of Australia Limited  
Level 1 11 Barrack Street Sydney NSW 2000  
Telephone: 02 9033 1902 ~ Facsimile: 02 9033 1976 ~ [www.scca.org.au](http://www.scca.org.au)

We also challenged Mr Gray's suggestion that shopping centres are "privately-owned public open space" (our emphasis), as if to suggest some previous or fundamental 'public open space' has been alienated by the building of the shopping centre. Shopping centres are not public open spaces in the traditional sense (i.e. land tenure or land-use zoning), such as a council park or mall. They are not public land or public space. They are privately-owned space which the public can access, subject to certain conditions of entry. Some of these entry conditions relate to government requirements, such as non-smoking, the use of CCTV, and Building Code of Australia access standards.

The notion of having conditions of entry or a controlled access environment is not a new one; nor is it unique to shopping centres. Indeed, Parliament House in Canberra has its own "Conditions of Entry" (**attached**), one of which provides: "do not disrupt the order or decorum of Parliament House". Further, members of the public wanting to observe the House of Representatives or Senate from the 'public gallery' are subjected to entry conditions, including 'forcible removable' as one option if certain conditions are breached.

### **Is there a public policy issue?**

We do not believe there is a legitimate public policy issue that needs to be addressed, and we would be alarmed if there was a public policy proposition that MPs and political candidates should have unfettered access, or even regulated access, to any shopping centre at any time.

We closely monitored this issue during the 2010 Federal Election campaign, and there were numerous occasions where access to shopping centres was provided to MPs and candidates from various political parties. In fact, some of the more colourful aspects of the campaign occurred during such visits, including the Leader of the Opposition, Mr Tony Abbott MP, being confronted by a gentleman in red speedos at Knox Shopping Centre in Melbourne, and the Treasurer, Mr Wayne Swan MP, dropping \$40 and having it returned by a shopper at Westfield Marion in Adelaide. One of Ms Gillard's first public outings as Prime Minister in June 2010 (before the election campaign) was a visit to a Queanbeyan shopping centre.

### **What is the industry position?**

Despite claims, and some inaccurate national media coverage in early 2010, there is no industry-wide ban (nor are we seeking one) on political campaigning in shopping centres. There is also no standard practice across shopping centre owners. As we stated in our submission to the previous Inquiry, access to shopping centres, for political campaigning or otherwise, is up to individual shopping centre owners, and each shopping centre will often consider access depending on the local circumstances. Some centre owners and centres do permit access, but in accordance with certain access requirements. Others consider requests on a case-by-case basis, depending on the circumstances of the centre. This difference is clearly illustrated in a *Sydney Morning Herald / The Age* article on 21 July, 2010, (**attached**) headlined: "It's smiles all round as malls put business before politician's pleasure". In this article, a Centro spokesperson stated that "we ask that they contact us before-hand if they're planning to visit, and then we assess each request on a case-by-case basis"; a GPT spokesperson highlighted that it welcomes candidates "as long as they did not try to set up stalls inside a centre"; and a Westfield spokesperson said centres were open for candidates "as long as they don't hamper shoppers and retailers doing business". Stockland, also one of our members, has its policy on access to shopping centres published on its website, which is **attached**.

### **Why would a shopping centre limit or ban access?**

Where bans and limitations have been imposed, this is generally because of disruption previously caused by this activity, and often because of the impossibility of being even-handed in the treatment of politicians and political candidates.

It is not the case, as Mr Gray suggested in his 2008 submission, that shopping centre owners "pick and choose" which candidates are granted access. Shopping centres owners and managers are not involved (or interested) in the business of "picking and choosing" political candidates if this implies that they are trying to endorse a or disadvantage a particular candidate. Instead they are trying to ensure minimum disruption to the shopping centre environment, often in a context of a large field of candidates.

In the 2010 election, for example, the seats of Bennelong and Greenway (NSW) had 11 candidates each; Robertson (NSW) had 10; Longman (Queensland) 9; O'Connor (WA) 9; Wannon (Victoria) 9; and Boothby (SA) 8. Ensuring even-handedness in such cases can be a difficult. Sometimes in such circumstances, rather than having the business of the shopping centre disrupted so frequently, managers take the reasonable decision not to permit any campaigning in the centre.

It must also be stressed that candidates are often not alone. They are often accompanied by party and/or campaign staff and, in some cases, an entourage of media, including television cameras and newspaper photographers.

Candidates do not only campaign for votes inside the strict boundaries of their own electorates. It was reported that during the 2010 election campaign, for example, that Mr Rudd MP campaigned at Westfield Carindale, which is in the electorate of Bonner, outside his own electorate of Griffith. He reportedly visited the centre, and was obviously granted access, because this is a popular destination for his constituents.

### **What about other campaigning places?**

Any fair consideration of this issue must also acknowledge that the range of campaigning techniques or tools is now much more extensive than the traditional 'meet and greet' and 'door knocking'. It was extensively reported during the 2010 campaign that many candidates extensively used the 'social media' (Twitter, Facebook etc.), as much as the 'old media', and this trend is likely to continue. The use of direct mail is now extensive. There is also an extensive range of locations where the traditional 'meet and greet' can take place - train stations, bus stops, public malls, street corners, town halls, sporting events etc.

### **Recommendation**

The Committee in its 2007 Report did not recommend regulation of access to shopping centres during election campaigns (or at other times.) The experience of the 2010 Federal election, in which there were no adverse issues or incidents over such access, demonstrates the wisdom of that decision.

## **The Shopping Centre Council of Australia**

The Shopping Centre Council of Australia represents major owners and managers of shopping centres. Our members are: AMP Capital Investors, Brookfield Multiplex, Centro Properties Group, Charter Hall Retail REIT, Colonial First State Property, Dexus, Eureka Funds Management, GPT Group, ISPT, Jen Retail Properties, Jones Lang LaSalle, Lend Lease Retail, McConaghy Group, McConaghy Properties, Mirvac, Perron Group, Precision Group, QIC, Savills, Stockland and the Westfield Group.

We would be pleased to assist the Committee further, if required.

Yours sincerely,

Milton Cockburn  
**Executive Director**