

STRATEGIC LEASING KIT FOR RETAIL SHOPPING STRIPS

Strategic Leasing can be simple. Sound planning along with knowledge and a good network of contacts can create and develop dynamic community assets. Smart well-planned leasing activity can work with market forces to shape Strip Shopping Centres. This kit was designed to provide Landlords and Real Estate Agents with the key factors in strategic leasing that will allow Strip Shopping Centres to build on property values and continue to be vibrant community assets.

Purpose and Contents

This kit will support key players in the shopping centre in working together.

What will you find in this Kit?

- ✓ Strategies for successful leasing
- ✓ 6 easy to follow checklists
 1. Checklist of each stakeholder's roles and responsibilities
 2. Checklist of what to look for in a retailer and how to find them
 3. Checklist of legal rights and obligations
 4. Checklist of Council information, approvals and regulations
 5. Checklist for building design, management and maintenance
 6. Checklist for insurance and valuations

Who will benefit from this Kit?

- Landlord
- Retailer
- Real Estate Agents
- Council
- Retail Shopping Strip
- Chamber of Commerce/Traders' Association

RECIPE FOR LEASING SUCCESS

Understand the marketplace

Understanding your customer base through market research of the surrounding area to establish:

- A description of the various customer types, and their needs
- The offer from competing shopping centres (within a 2-5 kilometre radius)
- Projections of future customer needs based on any continuing changes to the demographics

Achieve the best business mix

- The retail usage matches the needs of the surrounding catchment area
- The retailer not only fits into the theme of the centre but also adds a 'point of difference' to enhance the centre
- Retailers are actively sought to fill identified gaps in the area to provide a well balanced retail mix
- Regular 'health' checks are made of existing retail operations to prevent/pre-empt potential vacancies. This could include looking at:
 - Retailer viability
 - Retailer fit with business mix of area
 - Location in the centre
 - Lease expiry dates
 - Credit checking
 - Balance with adjoining retailers in the area
 - Fit with customer needs
 - The value added to the centre through the retailer's point of difference
- Leasing activity takes into account growth within the community eg:
 - Change of resident population and/or lifestyles
 - Significant change of surrounding retailers over time

THREE IMPORTANT STEPS

To help you achieve the best 'business mix'

a) A Tenancy Mix Plan

A Tenancy Mix Plan should be developed and published in an annual report or discussed at the Annual General Meeting. This plan should include:

- A description of market forces to explain the shape of the centre as it stands
- An analysis of the customer base of the area and expected future trends
- Assessment of strengths, weaknesses, opportunities and threats of the Strip Shopping Centre
- A proposal for the ideal tenancy mix scenario
- Gap analysis of what the centre lacks
- A list of vacancies and types of retailers sought for them
- Plans for any future developments in the area, including redevelopment of other nearby centres
- Strategies to fill needs within the resident population and an action plan of how these can/will be put into action

b) Leasing Sub Committee within a Traders Association / Chamber of Commerce

A sub committee should be established within the Association to:

- Prepare a leasing strategy for the strip shopping centre based on the Tenancy Mix Plan
- Be responsible for ongoing business mix planning and attracting investment to the strip centre
- Establish a communications program (see below)
- Liaise on the issue of leasing with outside organisations and groups i.e. Council, Utilities, the community

This sub committee ideally would comprise representatives from Landlords, Real Estate Agents and Retailers and be convened by the Associations Chair/President.

c) Communication Plan

The traders leasing sub-committee should develop a communication plan that:

- Supports the Tenancy Mix Plan
- Complements the strip centres marketing strategy (including advertisements and promotions)
- Distributes relevant leasing information to Landlords, Real Estate Agents, Retailers and other key groups
- Sets up a directory of leasing activity, including the following schedules:
 - New/proposed businesses for the area
 - Identified gaps in the business mix
 - Nominated precincts within the centre
 - Existing and upcoming vacancies
 - Opening dates of newly leased premises
 - A database of available premises (which could be used to follow leasing trends over time)
- Promotes and distributes this Directory through media releases to Real Estate Agents and other interested parties and via the shopping centre's website if appropriate.

USEFUL ORGANISATIONS

Name	Address	Telephone	Website address
StreetLife Program Department State and Regional Development	Level 27 Nauru House 80 Collins Street Melbourne Vic 3000	(03) 9655 6132	www.business.vic.gov.au/streetlife
Small Business Victoria		132215	www.business.channel.vic.gov.au
Community Business Centres Victoria (CBCV)	5/120 Burgundy Street Heidelberg Vic 3084		www.cbcv.com.au
Department of Innovation Industry and Regional Development	11/55 Collins Street Melbourne Vic 3000	(03) 9651 9355	www.diird.vic.gov.au
Property Council of Australia	136 Exhibition Street Melbourne Vic 3000	(03) 9650 8300	www.propertoz.com.au
Insurance Council of Australia	7/31 Queens Street Melbourne Vic 3000	(03) 9614 1077	www.ica.com.au
REIV (Real Estate Institute of Vic)	335 Camberwell Rd Camberwell Vic 3124	(03) 9205 6666	www.reiv.com.au
Australian Retailers Association	2/104 Franklin St Melbourne Vic 3000	(03) 9326 5022	www.ara.com.au
Australian Property Institute	10 Beach Street Port Melbourne Vic 3207	(03) 9646 1977	www.vicpropertyinstitute.com.au www.propertyinstitute.com.au

RESOURCES/REFERENCE MATERIAL

Retail Leases Act 2003
Retail Tenancies regulations 1987
Body Corporate Regulation (1989)
Sub Division Act 1988
REIV standard lease document

LEASING – ROLES AND RESPONSIBILITIES

Real Estate Agents

Your role is to:

- Be pro-active in obtaining the best retailer for the premises
- Act as the contact point for all leasing enquiries
- Advise landlords on most appropriate choice of retailer, taking into account the business mix plan
- Credit check prospective retailers
- Carry out all lease negotiations in accordance with the landlords instructions
- Have a sound knowledge/information regarding adjoining leasing activity and centre dynamics
- Achieve an appropriate business mix in the Strip Shopping Centres

Your responsibility is to:

- Serve the best interests of the landlord
- Give prompt responses to requests for information
- Duty of care when representing the landlord
- Be accountable with regard to follow up of inquiries and forwarding information
- Follow checklist of how to find the right retailer and what to look for in a retailer

The Landlord

Your role is to:

- Protect capital values
- Follow business mix criteria
- Give appropriate clear instructions to estate agents for retailer selection
- Provide a well maintained and managed property
- Provide appropriate security of tenure

Your responsibility is to:

- Ensure the sound physical condition of your building
- Provide an accurate disclosure statement
- Provide a minimum 5-year lease term as stipulated by legislation
- Understand you may be liable for compensation under some circumstances
- Have your property assessed and valued by registered valuer
- Have adequate insurance cover in place

The Retailer

Your role is to:

- Meet the selection criteria as set by the Landlord
- Offer a usage that fits with business mix of area
- Run a profitable business
- Be a long-term tenant (provide security of income)
- Enhance the value of the property and the business through:
 - Good visual merchandising
 - Smart shopfronts that tie in with centre theme/s
 - Well-designed and aesthetically pleasing internal fit-outs
- Add value to the entire shopping centre

Your responsibility is to:

- Have a well planned business
- Be committed to your business in its location

- Understand the customer and your competitors well
- Not exceed the optimal occupancy costs when entering a lease (i.e., gross rent as % of turnover)
- Bring to the attention of the owner any maintenance problems
- Pay the rent and outgoings on time and in accordance with the lease
- Make good the property before vacating the lease in accordance with lease conditions
- Be active in traders groups and business associations

The Council

Council's responsibility is to:

- Provide planning, building, health and local laws permits and approvals
- Be committed to ensuring all council services are carried out in a timely and appropriate manner
- Educate businesses on and enforce local laws
- Provide continuous communication and consultation with the business community

Council is responsible for:

- Master planning and strategic planning for/of the centre
- Maintenance and beautification of the public environment
- Parking and access issues, including vehicles, pedestrians and other road users

SHARING COMMON GROUND

Real Estate Agents, Landlords, Retailers and the Council (all as key stakeholders) – share many common interests. Identifying and fostering this common ground can benefit your strip shopping centre and help it develop into a strong community asset, enhancing property values.

Interests of all Stakeholders are to:	Common interests of Landlord/Retailer are to:
• Meet the needs of the population	• Have fair lease terms and conditions
• Make attractive to customers via business mix	• Set and comply with fair building regulations
• Have business development incentives	• Ensure the sound physical condition of buildings
• Create an inviting streetscape	• Have flexibility of planning schemes
• Be in an appropriate position/location	• Understand market demographics
• Centralise decision-making	• Protect capital values
• Simplify processes and have single contact points	
• Be/have reliable tenants with sound business plans	

CHECKLIST #2

WHAT TO LOOK FOR IN A RETAILER

Use this checklist to help you find the best retailer for your property

Does the Retailer have: (tick as you go)

- A business plan. Does this Plan incorporate:
 - Primary business objectives and concept summary
 - Awareness of population statistics (demographics)
 - A business profile including: product/service, market analysis, marketing strategy and financial data (including ROI and other information)
 - The rationale for the location choice
 - How the retail operation adds value to the shopping centre
 - Show evidence of well thought out business growth and development planning (8 Ways to Win)
- A good credit rating

Will the Retailer:

- Add value to the business mix of the centre?
- Offer a point of difference to the business mix?
- Demonstrate a long-term view to their business in your shopping centre?
- Show a commitment to profitability?

Other questions to ask the Retailer:

- Is this business the best fit within the business mix of the centre?
- Is the projected location in the centre in keeping with the precinct plan for the centre?
- Does it have all the necessary Council approvals and permits?
- Is its permitted use clearly defined in the lease?
- Will there be a return on property investment?

How to find the best retailer

- Examine the centre's business mix strategy
- Check current directory of leasing activity
- Update the leasing directory
- Profile the appropriate retail types for your centre
- Examine Business Mix of adjoining centres
- List the types of retailers that are missing in your centre
- Examine all incumbent retailers
- Assess all enquiries from potential retailers
- Approach retailers based on assessment of the above points

LEGAL RIGHTS AND OBLIGATIONS

LEASE DOCUMENT

A lease is a legal contract for tenure of a specified property for a set period of time. It is always advisable to seek legal/business advice before entering into any leasing arrangement or signing any lease document.

The Real Estate Institute of Victoria has a standard lease document available (for Real Estate Agents/members only). It is recommended you obtain advice from your legal/business advisor regarding:

- Rental terms (rent, size of premises, lease term, outgoings etc)
- Permitted uses
- Repairs and maintenance liabilities
- Landlord fixtures and fittings inventory
- Termination of lease – conditions
- Alternations and additions clauses
- Reinstatement and delivery up of premises

LEGISLATION

In Victoria, the *Retail Leases Act 2003* is the main governing legislation for retail leasing in Victoria.

When current leases under the *Retail Tenancies Act 1986* or the *Retail Tenancies Reform Act 1998* are renewed, they will also become subject to the new Act. The Retail Leases Act 2003 does not apply to all premises or businesses; it applies to “retail premises” but excludes some premises and businesses.

Meaning of “retail premises”

Retail leases legislation applies to a retail premises lease used for the sale or hire of goods by retailer or the retail provision of services where the occupancy cost is less than \$1million per year. The occupancy cost of retail premises is the combined cost of rent and outgoings.

Exclusion from coverage of the Act

Retail leases legislation will not apply to tenants that are in the business of wholesaling, manufacturing or storage.

The *Retail Leases Act 2003* will not apply to:

- Retail tenants whose occupancy cost threshold exceeds \$1M per annum
- Tenants that are listed corporations or subsidiaries of listed corporations
- Leases for a term of less than one year unless consecutively renewed
- Premises or businesses as determined by the Minister

It is advisable to discuss the following matters with your legal/business advisor before entering into a landlord/tenant relationship:

- Disclosure statements - disclosure on renewals, disclosure to assignees and disclosure to franchisees
- Tenants business plan
- Rent reviews
- Right to minimum 5 years tenancy
- Options to renew/vacate
- Sharing of operating expenses
- Consent to assignment or sub-lease
- Compensation by Landlord

COUNCIL – INFORMATION, APPROVALS AND REGULATIONS

Before you enter into any property or business related lease or agreement, you should contact the local Council for information on:

- Building and development approvals
- Planning permits and schemes
- Local laws
- Health regulations
- Other general Council issues

Council can assist you with contacts for local business and traders associations, professional associations and support networks. Council also provides a range of training, education and research seminars that may assist you.

COUNCIL DEPARTMENTS AND THEIR RESPONSIBILITIES

Planning Department (Statutory and Strategic Planning)

Responsible for planning approvals according to the local Planning Scheme including:

- Landuse control and development
- Zoning information
- Planning scheme advice
- Heritage controls
- Strategic planning – Structure Planning
- Planning permit enforcement and complaints follow-up

Building Department

Responsible for building works approval according to the Victorian Building Regulations including:

- Building permit applications
- Building inspections
- Advice on building related matters
- Advice on changes to building regulations
- Enforcement of safety regulations

Environmental Health Services Department

Includes:

- Business registration (food and personal care/body art industries)
- Enforcement of State and Federal Government food handling legislation
- Environmental health promotion and education programs
- Infectious disease control and monitoring
- Complaints investigation and prosecution

Local Laws Department

Includes:

- Formulation and enforcement of local laws
- Trading on footpaths – permits and policy
- Public liability requirements
- General matters relating to the protection of Council and privately owned land

CHECKLIST #5

BUILDING DESIGN, MANAGEMENT AND MAINTENANCE

In Retail, appearances count. Customers are attracted to businesses that are visually pleasing. When fitting new premises, you should think about the visual impact of the shop in relation to the overall design. How your building 'fits in' externally will be determined by such factors as painting, signage, awning and shopfront design. How the building operates internally will be determined by the design of the fitout.

Key elements to your success are:

Design and visual appeal of our shop in context with the streetscape

- Ongoing maintenance (internal)
- Sound property Maintenance

MAINTENANCE - *Two types*

1. **Pro-active maintenance** involves the regular upkeep of the entire property to protect the land, building and equipment. You should refer to your lease agreement to see the responsibilities of landlords/tenants in this form of maintenance.
2. **Reactive maintenance** involves responding to damage, wear and tear, breakages and theft as they happen. You should refer to your lease agreement to see the responsibilities and rights of landlords/tenants.

What to do?

- Check regulatory requirements for all building works and alterations
- Make a checklist of potential structural problems
- Be aware of costs associated with bringing the building back to agreed condition ('make good' clauses in lease) when vacating premises
- Check the lease for landlord/tenant obligations regarding maintenance issues
- Check alterations and additions carried out by tenant with owner's consent

PROPERTY MANAGEMENT

This includes (but not limited to):

- On site parking, access and deliveries
- Security
- Fixtures and fittings schedule (who owns what)
- Issues regarding adjoining properties i.e.:
 - Shared liability (boundaries/entrances etc.)
 - Security
 - Tenants on upper (above ground) or lower levels (basement)
 - Fire Protection

BODIES CORPORATE (*if applicable*)

If your property is part of a Body Corporate you should also check for:

- Legends and buildings forming either common or private property. A legend of subdivision will provide this information. Responsibility varies if the land, roof, footings etc is contained either as common or private property
- Landlord/tenant responsibility for alterations and maintenance (within the premises)
- All external signage (for lease, advertising etc) must be approved by the Body Corporate
- Body corporate property insurance if Body Corporate is inactive
- Capital works levies depending on lease arrangements
- Whether property comes with 'accessory units' (parking, storage)
- Body corporate and statutory approval requirements in the event of any proposed buildings, works and alterations

NB: Body Corporate Regulations 1989 and Sub-division Act 1988, govern the common property of any land on a subdivision plan

CHECKLIST #6

INSURANCE AND VALUATIONS

To protect your investment as Landlord or Tenant, be aware that you need to be adequately insured for:

- Landlord insurance (if leased)
- Building insurance (If owner occupied)
- Contents insurance (if occupied)
- Building works insurance
- Public liability insurance
- Excess levels and glass 'top-ups '
- Body corporate property insurance must be undertaken by Bodies Corporate (whether active or otherwise)

NB: Insurance is required by the landlord if the property is leased and contents insurance required if the property is owner occupied.

VALUATIONS

An independent valuer can be called on to establish a fair and reasonable rent. Refer to your local Council for revaluations affecting rates.

Valuations can be used for:

- Up-to-date market data for rentals
- Rental disputes
- Yields and land values
- Rent reviews
- Compensation (eg. for easements)
- Litigation/negotiation for dispossessed landlords
- Assessment for statutory authorities