



Matter Number:

TH 120201 5

## Form 20 – Affidavit

*Industrial Relations Act 2016, section 989  
Industrial Relations (Tribunals) Rules 2011, rules 52, 53 and 55*

INDUSTRIAL REGISTRAR

02 SEP 2020

QUEENSLAND

### Information

- Please read this form carefully. Please complete all relevant sections. Information that is missing or non-compliant with the relevant section of an Act or the Rules may result in the rejection of your form.
- Practice Note 1 of 2018 - ELECTRONIC FILING AND HARD COPIES OF DOCUMENTS. Documents which are longer than 30 pages in length must be supplied to the Industrial Registry in hard copy before it will be accepted for filing.

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<b>Applicant:</b>	National Retail Association, Union of Employers
v	
<b>Respondent:</b>	Not applicable

PLEASE NOTE: If there are more than two parties to this application, please complete a Form 1 – Parties list and file it with this form.

PLEASE NOTE: If this affidavit contains exhibits you will need to complete a Form 21 - Certificate of exhibit to affidavit for each exhibit.

This affidavit is filed for the  applicant  respondent (or as the case may be)

<b>Affidavit of (name of person making affidavit)</b>	
<b>I (Name):</b>	David Stout
<b>of (Address):</b>	Level 3, 67 St Pauls Terrace Spring Hill
<b>Position:</b>	Director Policy
<input type="radio"/> make oath and say <input checked="" type="radio"/> or solemnly and sincerely affirm and declare as follows –	

Signed: \_\_\_\_\_  
(deponent/s to sign)

Taken by: \_\_\_\_\_  
(person taking the affidavit to sign)

1. I am .....

2. Exhibit A to this affidavit is .....

1. I am David Stout, Director Policy for the National Retail Association, Union of Employers. The NRA is one of Australia's largest and most diverse retail associations.

2. The Toowoomba Carnival of Flowers was first founded in 1949. Since its inception, the Carnival has attracted hundreds of thousands of visitors to the region every year and is an integral part of Toowoomba's cultural and economic identity. This year, more than 170,000 seeds, bulbs and seedlings have been planted across Toowoomba's major parks and public spaces. The 2020 program features over 30 events and activations with 48 local tour departures with COVID-19 safe plans in place.

3. In a joint statement, Queensland Premier Annastacia Palaszczuk and Minister for Innovation and Tourism Industry Development Kate Jones stated the Toowoomba Carnival of Flowers is Australia's longest-running floral event and is a major tourism drawcard, injecting millions of dollars into the region's economy every year. Minister Jones said more than 255,000 people attended the Carnival in 2018.

4. The Toowoomba Carnival of Flowers has received the Gold Award for Major Festival and Event at the Queensland Tourism Awards in 2015, 2016, 2017 and 2018 and the Australian Tourism Awards in 2016, 2017 and 2018. In addition, the Toowoomba Carnival of Flowers was awarded Hall of Fame at the 2017 Queensland Tourism Awards and 2018 Australian Tourism Awards.

5. The NRA asks the Commission to grant an order under sub-section (1)(c) of the Act for the business district of Toowoomba and parts of North Toowoomba, East Toowoomba, Newtown and Wilsonton for the period of 18 September and 27 September 2020 inclusive. This covers the period of the Toowoomba Carnival of Flowers event

6. The NRA believes such an order would allow major retailers to cater better to the needs of visitors to the city, as well as residents who attend Carnival events that run later into the evening than normal closing times for non-exempt stores.

7. The NRA submit that the Toowoomba Carnival of Flowers – one of the most iconic events on the Queensland calendar – clearly meets the criteria under the Act as "a unique or infrequent event of local, State or national significance". We further submit that the Commission, should it be mindful to grant this application, could comfortably rely on the available evidence in support of the cultural significance of the event, and its significance to the economy.

8. A description of the location is Exhibit B to this affidavit.

Signed:  
(deponent/s to sign)

Taken by:  
(person taking the affidavit to sign)

Further, I  make oath and say  solemnly and sincerely affirm and declare

All the facts and circumstances deposed to in this my affidavit are within my own knowledge and belief, except for the facts and circumstances deposed to from information only, and my means of knowledge and sources of information appear on the face of this my affidavit.

Signature	
Signature:	
Name:	DAVID STOUT
Date:	21/8/20

Taken by	
Sworn/Affirmed by the deponent at:	Spring Hill
on:	21/8/2020
Signature:	
Print name:	Alexander Millman
Justice of the peace/commissioner for declarations/lawyer/other-qualified person	

Certificate:

Pursuant to section 55 of the *Industrial Relations (Tribunals) Rules 2011*

- I certify that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit.
- I certify that the affidavit was read in the presence of the deponent who seemed to understand it, and signified that that person made the affidavit, but was physically incapable of signing it.



Matter Number:

TM 1202015

## Form 21 – Certificate of exhibit to affidavit

Industrial Relations Act 2016, section 989  
Industrial Relations (Tribunals Rules) 2011, rule 53

<b>Applicant/Appellant:</b>	National Retail Association, Union of Employers
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v

<b>Respondent:</b>	NA
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This is the	
<b>Name of document:</b>	Statement of Facts
<b>Marked:</b>	Exhibit A
mentioned in the affidavit of <i>David Sport</i>	

<b>Sworn/Affirmed by the deponent at:</b>	<i>Spryng Hill</i>
<b>on:</b>	<i>21 / 8 / 2020</i>
<b>Signature:</b>	
<b>Print name:</b>	<i>Alexander McManus</i>
<small>Justice of the peace / commissioner for declarations / lawyer / other qualified person.</small>	

Toowoomba Carnival of flowers – a major Queensland sporting and economic event

The National Retail Association is Australia's largest and most diverse retail organisation. The Association represents thousands of retailers nationwide, ranging from individual retail outlets and franchise locations to large supermarkets and department stores. The NRA and its members believe the Toowoomba Carnival of Flowers fits the description of a special event under the Trading (Allowable Hours) Act 1990 ("The Act").

The Toowoomba Carnival of Flowers is an annual 10-day festival with garden displays, parades, live music and parkland entertainment. The Carnival was first founded in 1949 as a way for the city to use its "Garden City" reputation to promote increased economic activity following the hardships of WWII. Since its inception, the Toowoomba Carnival of Flowers has attracted thousands of visitors to the region every year and is an integral part of Toowoomba's cultural and economic identity"

(<http://statements.qld.gov.au/Statement/2019/9/21/toowoomba-carnival-of-flowers-celebrates-70-years>). This year, more than 170,000 seeds, bulbs and seedlings have been planted across Toowoomba's major parks and public spaces. The 2020 program features over 30 events and activations with 48 local tour departures with COVID-19 safe plans in place. Events include static installations of floral floats, the Itty-Bitty Grand Central Floral Virtual Parade, The Night Garden light display, Ferris Wheel, the #trEATS region-wide food trail, Talking Pubs Tour, Foodie Dinner Tour, and four Walking Tours and other community events. Other events including The Heritage Bank Festival of Food & Wine, Sideshow Alley and Qantas Gala Dinner have been cancelled this year due to COVID-19.

The 2020 Toowoomba Carnival of Flowers will run from September 18 to 27.

The order being sought by the applicant

The Trading (Allowable Hours) Act 1990 (as revised in 2017) provides for non-exempt shops operating in a stated area for an event to be considered exempt for the period of that event, if the QIRC declares the event to be a special event.

In deciding whether to declare an event to be a special event, the Commission must consider the cultural, religious or sporting significance of the event, and the significance of the event to the economy and the tourism industry. Further, the Commission may consider a submission made by a local government for an area in which the declaration is likely to have an impact.

A declaration must state the details of the event, the subject of the declaration, the period for which the declaration applies, and the area to which the declaration applies.

**Accordingly, the NRA asks the Commission to grant an order under sub-section (1)(c) of the Act for the business district of Toowoomba and parts of North Toowoomba, East Toowoomba, Newtown and Wilsonton for the period of 18 September and 27 September 2020 inclusive. This covers the period of the Toowoomba Carnival of Flowers event (See Exhibit B for a map of the area).**

As with any major festival, retail operators in and around the venue areas have a significant increase in activity both directly related and ancillary to events that make up the festival. Though in previous years the Toowoomba Carnival of Flowers event included The Heritage Bank Festival of Food & Wine and Sideshow Alley, these events are now rested this year due to COVID-19. As there is no central hub, no food, drink or entertainment stalls will be available. As such, food and retail precincts surrounding venues will naturally have a higher demand to cater for patrons who would have previously visited these food stalls. This will be further raised with the #trEATS program encouraging residents and visitors to visit participating cafes, restaurants and pubs across the region offering specials for \$20 as part of the Carnival.

The Carnival website encourages visitors to use the Shuttle Bus service to reduce emissions and limit traffic demands. The Shuttle Bus service will run between Picnic Point, Queens Park, Laurel Bank Park and Toowoomba CBD with access to connecting transport hubs at each stop. For this reason, the area of this application has been constructed to include the area immediately surrounding the parks and Grand Central as well as major retail centres and the CBD for visitors to take advantage of retail trade opportunities at the start or end of the days' official events.

Because of the #trEATS program encouraging residents and visitors to visit venues across the region and shuttle bus services activating suburbs outside of Toowoomba CBD, the area of this application has been proposed to include the major suburban transit hubs, carparks and the CBD for patrons to take advantage of retail trade opportunities before and after events. The NRA believes such an order would allow major retailers to cater better to the needs of visitors to the event, as well as residents. We also contend that such an order is in keeping with the letter and the intent of the Act, and in line with similar applications previously granted by the Commission.

#### The cultural, religious or sporting significance of the event

The Toowoomba Carnival of Flowers is Australia's longest-running floral event and a major tourism drawcard. Queensland Premier Anastacia Palaszczuk has said that "this is Australia's greatest celebrations of horticulture, food, wine, music and local produce."

Toowoomba Regional Council's Mayor CR Paul Antonio deemed the Toowoomba Carnival of Flowers synonymous with the Toowoomba region and is the best celebration of spring in Queensland, providing the region with a strong identity, one we can all be immensely proud of. "Toowoomba is primed and ready to showcase it's natural beauty. Nothing can stop the power of the flower and we are inviting people from all over to come and play in the petals this Spring." Mayor Antonio explained that everyday the Council was fielding emails and calls from people across Australia asking if the Carnival was on saying "I'd like to thank all our supporters and stakeholders for their understanding as we worked through the health concerns and attendance restrictions of this new world"

(<https://www.tcof.com.au/toowoomba-carnival-of-flowers-set-to-bloom-brightly/>)

Earlier this year, the latest upgrade to Toowoomba's Queen Park and Botanic Gardens has opened as part of the Toowoomba Regional Council's \$12 million Queens Park Master Plan

Implementation Project. The Project aims to enhance public facilities while ensuring the unique heritage values of the park are maintained. Mayor Antonio said “The stage five redevelopment will improve visitors’ experiences when they use the 25 hectares of parkland, which is renowned across Australia as the home to the Toowoomba Carnival of Flowers and the Festival of Food and Wine. The updates show what we can achieve when we work together to create better amenities for the people of Toowoomba and visitors to the city.” Minister for Local Government Stirling Hinchliffe congratulated the Mayor Antonio and the Toowoomba Regional Council saying “these new facilities confirm Queens Park as the go to place to meet in the City.” (<https://statements.qld.gov.au/statements/89185>)

Tourism Industry Development Minister Kate Jones said more than 255,000 people attended the Carnival last year. “This event has grown from strength to strength in recent years and was last year entered into the Australian Tourism Awards Hall of Fame – a testament to the Carnival’s success” (<https://statements.qld.gov.au/statements/88445>)

The community support for the event and ongoing revitalisation of the Queens Park precinct shows the importance of the event to the community as well as a commitment to improving the Carnival and attracting more tourists who stay longer in Toowoomba and support the local economy. The NRA submits that these supporting statements and endorsements from government also clearly demonstrate its cultural significance.

#### *The significance of the event to the economy and the tourism industry*

In a joint statement, Queensland Premier Anastacia Palaszczuk and Minister for Innovation and Tourism Industry Development Kate Jones stated the Toowoomba Carnival of Flowers is Australia’s longest-running floral event and is a major tourism drawcard, injecting millions of dollars into the region’s economy every year (<https://statements.qld.gov.au/statements/88445>).

Last year, to celebrate it’s 70<sup>th</sup> anniversary, the Queensland Government gave additional funding for the Carnival to feature a memorabilia display, including fancy floats, carnival queens and spectacular gardens. All up, the Palaszczuk Government provided nearly half a million dollars in funding over three years for this event. (<https://statements.qld.gov.au/statements/88445>)

The Carnival website encourages visitors to stay for a few nights to discover the delights of Toowoomba Carnival of Flowers and visit regional attractions. The website lists 110 accommodation venues including hotels, apartments, bed & breakfasts and caravan parks within Toowoomba City and 88 locations in Toowoomba surrounds. For dining, the website deems Toowoomba as a “foodie’s paradise” within a “tasty part of Queensland” as the hub of the ‘paddock to plate’ rich Darling Downs and neighbours the bountiful Lockyer Valley, the “salad bowl of Queensland”. The website directs readers to Dine Darling Downs for a comprehensive list of local restaurants, cafes, pubs, markets and other gourmet locations to visit. The event website also lists 27 tour operators from the Toowoomba, Greater Brisbane area, Ipswich, Warwick, Sunshine Coast, Gold Coast and the South Burnett, Wide Bay and Moreton Bay Regions. A further 10 interstate tour operators are listed in New South Wales, South Australia and Western Australia.

The majority of events programmed for 2020 are free. The gardens include

- Queens Park
- Boyce Gardens
- Laurel Bank Park
- Gumbi Gumbi Gardens
- Spring Bluff Railway Station Gardens
- Picnic Point Parklands
- Japanese Garden Ju Raku En
- Peacehaven Botanic Park

The program also lists craft shows, floral displays, active parkland entertainment, light shows, markets and visits to local museums. A series of Walking Tours will also be conducted, reasonably priced between \$5 and \$40, including:

- Laneways + Street Art Walking Tours
- Toowoomba During WWII Walk & Talk
- Toowoomba Trail – 150 Years of Rail
- Toowoomba Trails – Royal Bulls Head Inn Tour
- Toowoomba Trails – The Dark Side Tour
- Toowoomba’s Architecture – Styles & Stories
- Twilight Tours of Laurel Bank Park

More bespoke Foodie Tours are being held priced between \$99 and \$139 including the Talking Pubs Tour and Foodie Dinner Tour taking participants on a progressive dinner around Toowoomba. Overall, there are many free and paid events and entertainment suited to all budgets.

Minister Jones said southern Queensland welcomed a record 2.2 million domestic overnight visitors in the year ended March 2019 – up by 8.9 per cent year by year. Domestic visitor expenditure also grew by 28.5 per cent to a record \$828.6 million.

“We invest in major events that support local jobs and grow the economy in regional Queensland. The Toowoomba Carnival of Flowers achieves just that. The tourism industry is a vital piece of the puzzle when it comes to delivering jobs growth in Toowoomba. This Carnival is an icon and an important fixture for the local economy. We know that by 2020, this region will be recognised as Queensland’s premier country getaway destination – known for its distinct seasons and regional flavours” (<https://statements.qld.gov.au/statements/88445>)

Minister Jones also stated the Queensland Government is proud to support the Toowoomba Carnival of Flowers through Tourism and Event’s Queensland’s major events program which helps drive visitation, increase expenditure, support jobs and foster community pride. “It is a major highlight on the state’s It’s Live! In Queensland events calendar, worth over \$800 million to Queensland’s economy in 2019 ([https://ssvu.com/cof2013/docs/toowoomba\\_carnival\\_of\\_flowers\\_-\\_off](https://ssvu.com/cof2013/docs/toowoomba_carnival_of_flowers_-_off)).



The Toowoomba Carnival of Flowers has received the Gold Award for Major Festival and Event at the Queensland Tourism Awards in 2015, 2016, 2017 and 2018 and the Australian Tourism Awards in 2016, 2017 and 2018. In addition, the Toowoomba Carnival of Flowers was awarded Hall of Fame at the 2017 Queensland Tourism Awards and 2018 Australian Tourism Awards (<https://www.tcof.com.au/toowoomba-carnival-of-flowers-set-to-bloom-brightly/>).

Mayor Antonio said he expected the park displays, which were the most popular attraction at last year's Carnival of Flowers to again be a major attraction. "In 2019 the number one attraction for visitors was the public park floral displays, with Laurel Bank Park recording over 79,000 attendees and Queens Park Botanic Gardens over 106,000 visitors over the 10 days" (<https://www.tcof.com.au/toowoomba-carnival-of-flowers-set-to-bloom-brightly/>).

The Toowoomba Carnival of Flowers website lists no less than 9 local business sponsors as well as two supported events. News Corp Australia has supported The Chronicle Garden Competition for more than 70 years. This year, the event will be called The Chronicle Garden for Good after being reimagined to meet the challenges of COVID-19 by introducing a virtual hub and encouraging garden-lovers to donate to nominated charities for those who are doing it tough. In 2018, the Chronicle raised \$50,000 for four local community groups. Heritage Bank is also entering its' 23<sup>rd</sup> year of sponsoring the Carnival with the Heritage Bank's Priscilla float a staple of the floral parade every year and extending its sponsorship to encompass the entire Heritage Bank Festival of Food and Wine last year ([https://issuu.com/tcof2013/docs/toowoomba\\_carnival\\_of\\_flowern\\_of](https://issuu.com/tcof2013/docs/toowoomba_carnival_of_flowern_of)). Locally based and Queensland-owned Ergon Energy Retail has also been a supporter of the event for 21 years sponsoring the Ergon Energy Night Garden of immersive light installations.

The NRA submits that, on the basis of these endorsements from the Premier, the Mayor, the Tourism Industry Development Minister, and the Member for Townsville, the Commission can confidently determine that Toowoomba Carnival of Flowers is a highly significant event for the Toowoomba economy and tourism industry.

### Conclusion

The NRA submit that the Toowoomba Carnival of Flowers – one of the most iconic events on the Queensland calendar – clearly meets the criteria under the Act as "a unique or infrequent event of local, State or national significance". We further submit that the Commission, should it be mindful to grant this application, could comfortably rely on the available evidence in support of the cultural significance of the event, and its significance to the economy.

**May it please the Commission.**



Matter Number:

TM 12020 15

## Form 21 – Certificate of exhibit to affidavit

Industrial Relations Act 2016, section 989  
Industrial Relations (Tribunals Rules) 2011, rule 53

<b>Applicant/Appellant:</b>	National Retail Association, Union of Employers
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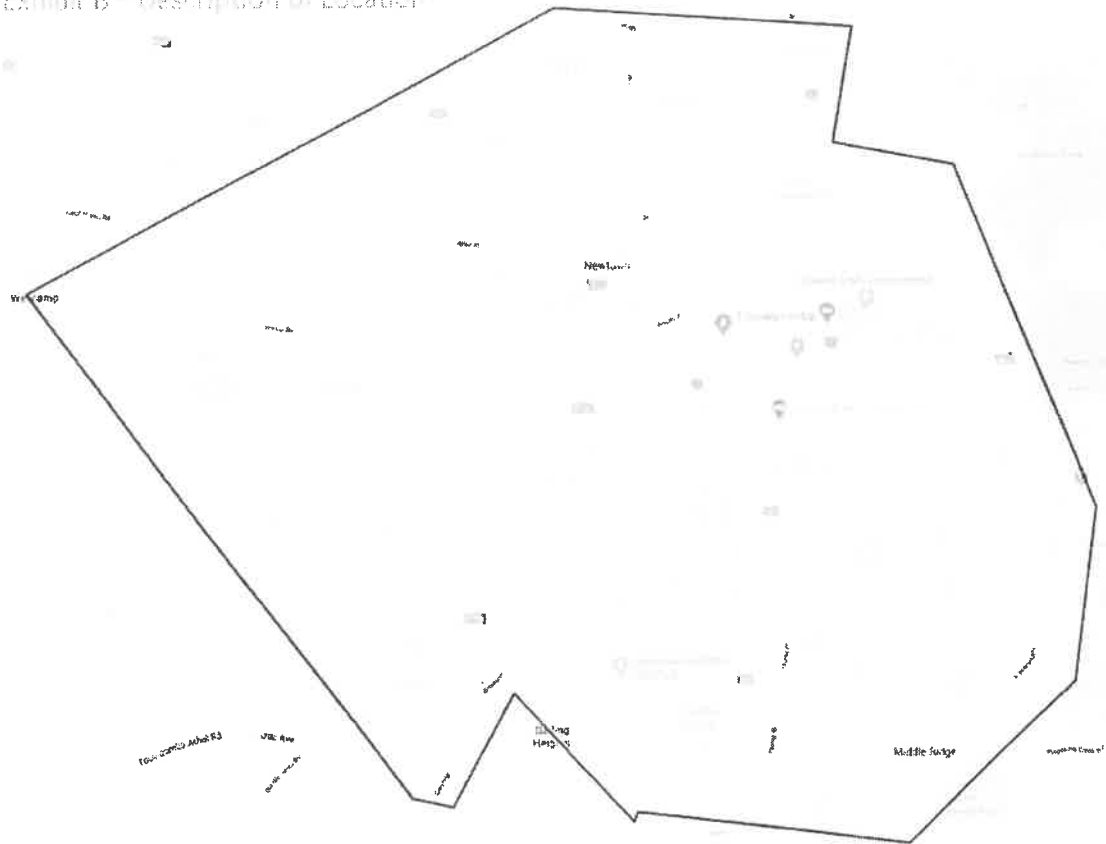
v

<b>Respondent:</b>	NA
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This is the	
<b>Name of document:</b>	Description of Location
<b>Marked:</b>	Exhibit B
mentioned in the affidavit of <i>David Stout</i>	

<b>Sworn/Affirmed by the deponent at:</b>	<i>Spring Hill</i>
<b>on:</b>	<i>21 / 8 / 2020</i>
<b>Signature:</b>	
<b>Print name:</b>	<i>Alexander Millman</i>
Justice of the peace/commissioner for declarations/lawyer/other qualified person	

## Exhibit B - Description of Location



Starting at New England Hwy at Griffiths St, turning onto North St and heading south on Mary St

Turning onto Margaret St travelling through to Rowbotham St and east onto Nelson St

Travelling down Baker St through to Brisbane Street, Rudd St and north east on Anzac Ave turning onto Euston Rd

Turn north west onto Drayton Wellcamp Rd heading back towards Wilstonton Heights, finishing at Hogg St and the starting point on Griffiths St