

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *Re: National Retail Association Limited, Union of Employers [2022] QIRC 297*

PARTIES: **National Retail Association Limited, Union of Employers**
(Applicant)

CASE NO: TH/2022/8

PROCEEDING: Application

DELIVERED ON: 5 August 2022

HEARING DATE: 2 August 2022

MEMBER: McLennan IC

HEARD AT: Brisbane

ORDERS:

1. Pursuant to s 5(1)(c) of the *Trading (Allowable Hours) Act 1990*, I declare that the **Kingaroy BaconFest** is, for the purposes of s 5(1)(c)(ii) of the *Trading (Allowable Hours) Act 1990*, a special event.
2. The declaration shall apply for a period commencing on Friday 19 August and concluding on Sunday 21 August 2022.
3. The declaration applies to an area in **Kingaroy**, as follows:
 - starting at intersection of Haly St and William St, travelling through to Jarrah St;
 - turning south onto Jarrah St and then onto Alford St E and through to Alford St;
 - turning south onto D'Aguilar Hwy and then west onto Avoca St;

- **turning north onto William St through to starting point at Haly St.**

CATCHWORDS: INDUSTRIAL LAW – TRADING HOURS – APPLICATION FOR DECLARATION OF SPECIAL EVENT – application to classify all non-exempt shops as exempt shops in a geographic area covering the Kingaroy CBD for a specified period during a special event, namely, the Kingaroy BaconFest

LEGISLATION: *Trading (Allowable Hours) Act 1990* (Qld) s 5, s 36B

CASES: *National Retail Association Limited, Union of Employers* [2019] QIRC 026

National Retail Association Limited, Union of Employers (the 2021 Burdekin Show case) [2021] QIRC 220

APPEARANCES: Mr M Cole for the applicant.

Ms L Armstrong for the Shop, Distributive and Allied Employees Association (Queensland Branch), Union of Employees.

Mr D Marr for the Australian Workers' Union of Employees, Queensland.

Reasons for Decision

- [1] By application filed on 30 June 2022, the National Retail Association Limited, Union of Employers (the NRA) applied for a declaration, pursuant to s 5(2) of the *Trading (Allowable Hours) Act 1990* (the Act), that the Kingaroy BaconFest, to be held between Friday, 19 August and Sunday, 21 August 2022 inclusive, is a special event within the meaning of s 5(1)(c)(ii) of the Act. Accompanying the NRA's application was an affidavit of Mr David Stout, affirmed on 30 June 2022.
- [2] The effect of such a declaration, if made, would be that a non-exempt shop operating in a geographic area covering the Kingaroy town centre (or CBD), as specified in the Applicant's application, would be an exempt shop for the period for which the declaration applies. Part 4 of the Act restricts the trading hours of non-exempt shops.
- [3] The area specified in the Applicant's application is a geographic area covering the Kingaroy CBD, as set out in Exhibit B of the Affidavit of Mr Stout filed 30 June 2022:

Starting at intersection of Haly St and William St, travelling through to Jarrah St
 Turning south onto Jarrah St and then onto Alford St E and through to Alford St
 Turning south onto D'Aguilar Hwy and then west onto Avoca St
 Turning north onto William St through to starting point at Haly St¹

- [4] On 11 July 2022, a Directions Order was issued which required that the Applicant's application and the Directions Order be served on the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees (the SDA), the Australian Workers' Union of Employees, Queensland (the AWU), the Local Government Association of Queensland Limited, the Executive Director, Industrial Relations, Office of Industrial Relations, Department of Education and the Chief Industrial Inspector, Office of Industrial Relations, Department of Education.
- [5] The Directions Order provided that those who may be affected by the application may make a formal application seeking leave to be heard and, if leave was granted, such a party was to file an outline of submissions and serve those submissions on the Applicant by 21 July 2022.
- [6] The Application and Directions Order were published on the Commission's website.
- [7] On 11 July 2022, the AWU made an application seeking leave to be heard. The AWU's application for leave to be heard was approved on 13 July 2022. The AWU filed an outline of submissions on 1 August 2022.
- [8] On 15 July 2022, the SDA made an application seeking leave to be heard. The SDA's application for leave to be heard was approved on 19 July 2022. The SDA filed an outline of submissions on 20 July 2022.
- [9] On 14 July 2022, the South Burnett Regional Council filed correspondence in this matter. Council did not seek leave to be heard.
- [10] On 1 August 2022, the NRA requested the Industrial Registry provide the unions' filed outline of submissions, as they had not been served. That was promptly actioned.
- [11] The question for my determination is whether I should make the declaration as sought.

Relevant Legislation

- [12] Relatively recently, the Legislature made amendments to the *Trading (Allowable Hours) Act 1990 (Qld)*.² While discretion is provided to the Commission to depart from those hours, I bear in mind that those hours are the recent and precise expression of the legislation. Any departure from these terms must be on a compelling basis – to do so is not a trivial matter.
- [13] The Applicant contends that the Kingaroy BaconFest meets the description of a special event, within the meaning of s 5 of the Act.

¹ Affidavit of Mr D. Stout, 30 June 2022, Exhibit B – Description of location.

² 'The Act' was revised in 2017.

[14] Section 5 of the Act relevantly provides (emphasis added):

5 Exempt shops

- (1) An *exempt shop* is -
- (a) a shop of a description mentioned in schedule 1AA used predominantly for selling goods by retail, or for supplying services, a reasonable person would expect to be sold or supplied in that shop;
 - (b) an independent retail shop; or
 - (c) *a shop operating in a stated area for an event –*
 - (i) *that is a unique or infrequent event of local, State or national significance; and*
Examples—
 - the 2018 Commonwealth Games
 - the Weipa Fishing Classic event
 - (ii) *declared by the industrial commission to be a special event for this paragraph*
- (2) A declaration for subsection (1)(c) –
- (a) May be made by the industrial commission on an application by an organisation, chief executive, local government or any other person; and
 - (b) must state the following–
 - (i) the details of the event the subject of the declaration;
 - (ii) the period for which the declaration applies;
 - (iii) the area to which the declaration applies; and
 - (c) must be published on the QIRC website.
- (3) *In deciding whether to declare an event to be a special event for subsection (1)(c), the industrial commission–*
- (a) *must consider–*
 - (i) *the cultural, religious or sporting significance of the event; and*
 - (ii) *the significance of the event to the economy and the tourism industry; and*
 - (b) *may consider a submission made by a local government for an area in which the declaration is likely to have an impact.*

Should the Kingaroy BaconFest be declared a 'special event'?

NRA's written submissions

[15] The NRA submitted that the Kingaroy BaconFest is a "unique or infrequent event of local, State or national significance",³ within the meaning of s 5(1)(c)(i) of the Act.

³ Affidavit of Mr D. Stout, 30 June 2022, Exhibit A – Statement of facts, [20].

[16] In his affidavit accompanying the NRA's application, Mr David Stout, NRA Director of Policy, deposed that:

- the Kingaroy BaconFest is "an annual food festival about all things bacon". It is a "highly significant food festival for the South Burnett region" and showcases local produce;
- the inaugural Kingaroy BaconFest was held in 2018;
- Kingaroy has a population of 10,000;
- in 2019, the Kingaroy BaconFest attracted over 16,000 people. Event coordinators are "expecting record-breaking numbers in 2022". The NRA submitted 18,000 attendees are likely this year, due to "media coverage and eased COVID-19 travel and social distancing restrictions";
- attendees come from "across the region, Brisbane, Toowoomba, Sunshine Coast and interstate" and as such is significant for tourism;
- given previous attendance numbers, media coverage and "expectations for record-breaking numbers in 2022", visitor needs will be surplus to existing infrastructure. Retailers will need "additional hours to cater for the increase in activity both directly related and ancillary to events that make up the BaconFest";
- pig farming is one of the region's largest industries. "The Kingaroy region also borders two of the state's largest pig producing regions, the Darling Downs, where 56 per cent of the state's total pig herd are grown, and Wide Bay, 30 per cent";
- Ms Kristy Board said "BaconFest is a great way to put the spotlight on our hardworking famers, to showcase top quality South Burnett produce and to help raise money for local charity";
- "One of the town's biggest employers", "the largest pork processing plants in the southern hemisphere" are located in Kingaroy;
- "The 2022 program features a significant number of competitions, Pig Industry Forum, an official round of the Australasian Barbeque Alliance Championship Series, cooking demonstrations, eating competitions, live music, and entertainment";
- the Kingaroy BaconFest is run by a 12-person committee and team of volunteers, supported by SunPork Fresh Foods, local businesses, community groups and community members;
- the event attracted funding by the Foundation for Rural and Regional Renewal, in partnership with the federal government. It is also supported by the state government through Tourism and Events Queensland (TEQ) and featured on the

It's Live! calendar and Good to Go events. The NRA submitted that demonstrates the event's significance to regional and state tourism;

- the Kingaroy BaconFest is promoted state-wide and nationally. "Previous years media coverage highlights include TEQ, Concrete Playground, Courier Mail, ABC Radio and Channel Seven's Sunrise. Across social media, the BaconFest has 8,000 followers. In 2019, the page reached 480,070 and generated 690,300 total impressions";
- "In 2019, the Kingaroy BaconFest contributed more than \$660,000 to the local economy, engaged with over 30 community groups and raised over \$20,000 for local charity groups to support pig farmers affected by the drought. The 2022 event lists 89 sponsors, drawn from both the private and public sector. The event website also promotes 24 local accommodation options and encourages visitors to tour the region." The event presents employment, funding and business promotion opportunities. The NRA submitted that demonstrates the event's significance to the local economy and tourism;
- the Kingaroy BaconFest event program runs from 6 – 11 pm on Friday 19 August, 5 am – 10 pm on Saturday 20 August, and 7 am – 4 pm on Sunday 21 August;
- the NRA's application covers the period Friday 19 August to Sunday 21 August (inclusive), the entire three days of the Kingaroy BaconFest;
- "The NRA has assurances that non-exempt retailers will only trade in line with customer expectations and this application will not come at the expense of regulation or employees";
- non-exempt retailers within the geographic area support the NRA's application;
- extended trading hours would allow retailers to better cater to the needs of visitors to the region, as well as residents;
- this application is "in keeping with the letter and intent of the Act, and is in line with similar applications previously granted by the Commission, including the Chinchilla Melon Festival (TH/2019/1)";
- the NRA recognised the tremendous efforts of retail workers who serve the community in the midst of the COVID pandemic;
- the necessary staff contribution for stores to trade additional hours was acknowledged;
- "Though the QIRC may not be afforded the discretionary powers to preserve the rights protected by s 36B of the Act, the NRA submits that any additional work during extended hours will continue to be on a voluntary basis. We also note Commissioner Dwyer's statement in TH/2020/4 [32] that there are a number of protections available under other statutes or instruments to employees who may find themselves subject to duress or coercion with respect to being directed to work

during extended hours, as is their right, to ensure that work is of a voluntary nature"; and

- "Following the TH/2020/3 Townsville 400 granted application, retailers welcomed the extended trading hours and were overwhelmed with requests from staff to work additional hours, exceeding the number of shifts available." The NRA submitted this as evidence that extended trading hours are desired by retailers and workers alike.

NRA's oral submissions

[17] The NRA made the following oral submissions at the Hearing:

- the NRA's commitment to the ongoing voluntary nature of the work was emphasised;
- the BaconFest event was held in 2018 and 2019, though not in 2020 and 2021;
- this is the first application of this type made for this particular event;
- within the proposed geographic area, the four primary retailers are Woolworths, Big W, Best and Less, and Aldi. Woolworths expressed its intention to trade 9 am – 6 pm on Sunday (in line with South-East Queensland), if the NRA's application is approved;
- members had asked the NRA to make the application. The NRA has not simply made the application for extended trading hours as a matter of course; and
- with respect to the current accommodation vacancies in the area, as noted by the SDA, the BaconFest event is still about three weeks away. People tend not to make plans too far in advance in these times. Further, it is not clear how many vacancies there are in each of the 31 accommodations reported. The NRA submitted that is not a fair indicator of either the expected number of attendees or the tourism benefit of the event.

AWU's written submissions

[18] The AWU made the following submissions with respect to the Application:⁴

- the Commission should "take into consideration all matters referred to in section 5 of (the Act) and further if there is in fact a necessity for a non-exempt shop to be redefined as an exempt store for the purpose of such application";⁵

⁴ AWU's Submissions, 1 August 2022.

⁵ Ibid 2 [4].

- "...the Commission does not have powers at the Application stage to make orders to ensure that all employees in the affected shops receive a protection from working extended trading hours by reason of Section 36B of the act";
- the union seeks undertakings from the NRA that:
 - ...any work undertaken by employees in the extended hours proposed are:
 - a. Voluntarily agreed to by each individual employee and thereby no employee is compelled to work hours beyond their ordinary hours; and
 - b. Employees who voluntarily do agree to work additional hours are paid in accordance with the applicable industrial entitlements.⁶
- if those undertakings are given by the NRA, the union "has no reason to oppose the application".⁷

AWU's oral submissions

[19] The AWU spoke to key aspects of its written submissions at the Hearing.

SDA's written submissions

[20] The SDA made the following submissions with respect to the Application:⁸

Application consequences

- where s 5 applications are used to suggest the significance of any event without demonstrating real necessity for extended trading hours by major retailers, such an application undermines the existing regime. This may benefit some major retailers but puts significant pressure on the availability required of retail workers, removes the competitive advantages relied upon by many small business owners and operators and can detract from the services available at the event itself;
- "The existing protections around voluntary work available under statutes or other instruments are not always adequate in preventing the reality of other relational pressures in store. Whilst it is ideal to hypothesize additional hours will be available to those employees who request to work, employers usually direct employees to work a particular roster for the relevant period on the basis of operational needs or requirements. We are informed regularly by our members they experience relationship breakdown and other consequences if those rosters are declined, regardless of the reason for declining"; and
- it is imperative that such applications are vigorously assessed and approved only when the evidence strongly dictates it is appropriate in the circumstances.

⁶ Ibid, [6].

⁷ Ibid [7].

⁸ SDA's submissions, 20 July 2022.

"Significance"

- the SDA submitted that the term 'significance' as it appears in s 5 of the Act "...was not intended to be used as an unmeasured benchmark available to the NRA to point to any cultural, religious, sporting or economic aspect of an event to satisfy an application for extended trading. A reasonable understanding of the legislation would be it does not apply where an event possesses a basic level of significance but applies where an event is of such significance it creates real and proven retail opportunities in the extended hours";
- Industrial Commissioner McLennan explained her reasons for declining the NRA's application in TH/2022/1, [47]. The SDA submits that here too, the "NRA did not supply compelling information such as how extended trading hours would allow retailers to better cater to the needs of the region and expected hours of opening of the local Woolworths";
- "The NRA has failed to demonstrate an adequate connection between the event and the surrounding retailers relevant to establish economic significance. [Reference is made] generally to support for the application from non-exempt retailers within the [geographic area subject of the application]. This general assertion is made in the absence of a direct comment from those retailers and without referring to which retailers specifically have expressed their support. The supporting affidavit also gives an assurance on behalf of the again unnamed retailers that if the application is granted, they will cater to customer's expectations. The NRA fails to explain what those customers' expectations are or how the operation of non-exempt retailers in the extended hours will achieve this"; and
- "When determining whether the event meets an adequate understanding of 'significance' we request the Commission use its discretion to consider factors such as attendance numbers, size of the event, media coverage, and contribution to Queensland's national and international reputation." The recent *Inquiry into the operation of the Trading (Allowable Hours) Act 1990* report recommended these specific considerations for inclusion in s 5(3)(a).

Requested period and area

- If the Commission determines to grant the application, the period requested and the geographic area contained therein is not disputed.

Voluntary work

- The SDA foundationally sought to protect the voluntary nature of any work to be performed within the extended hours and asked that it be expressed in the order, in the event that the application was granted.

SDA's oral submissions

[21] The SDA made the following oral submissions at the Hearing:

- the SDA represents retail workers in Kingaroy;

- the SDA has canvassed the views of Kingaroy delegates and members to understand their perspectives on these types of applications generally, at previous member meetings;
- there are currently 31 motels showing accommodation availability in the area. It is possible that the expected attendance numbers cited will not be realised; and
- several other retailers will be operating to service customer needs, such as the local IGA, Spar Express, seven service stations and a fruit market.

Council's written submissions

[22] South Burnett Regional Council filed correspondence in support of the NRA's application, stating that:

- BaconFest is a "unique or infrequent event of local, State or national significance"; and
- "Local retailers and small businesses in our Region who may choose to extend their opening hours, upon the extension being granted, will certainly see an economic benefit with the expected number of visitors the BaconFest Committee is expecting to attend and explore the South Burnett."

Should the Commission grant the declaration sought?

[23] As is evident from s 5(1), the Act provides for non-exempt shops, operating in a stated area for an event, to be 'exempt shops' for the relevant period if *two* limbs are satisfied:

- the event is a unique or infrequent event of local, State or national significance;
- and*
- the Commission declares the event to be a 'special event'.

[24] In deciding whether to declare the 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.

[25] Further, the Commission *may* consider a submission made by a local Council for an area in which the declaration is likely to have an impact. In this case, correspondence from Council was filed in support of the NRA's application.

- [26] Section 5(1)(c)(ii) lists two examples of "a unique or infrequent event of local, State or national significance"; that is, the 2018 Commonwealth Games and the Weipa Fishing Classic event.
- [27] The SDA has submitted that it is imperative the Commission vigorously assess these applications and only make an order when the evidence strongly dictates it is appropriate in the circumstances. I agree that is the correct course.
- [28] The SDA has argued that "The term 'significance' was not intended to be used as an unmeasured benchmark available to the NRA to point to any cultural, religious, sporting or economic aspect of an event to satisfy an application for extended trading. A reasonable understanding of the legislation would be it...applies where an event is of such significance it creates the real possibility of retail opportunities in the extended hours."⁹ As His Honour, Deputy President Merrell, observed in respect of the Burdekin Show application, that submission:

...does not take into account the ordinary meaning of that word. The ordinary contextual meaning of 'significance' in s 5(3)(a) of the Act is: 'important; consequence.'

I also cannot accept the submission that a real understanding of the legislation is that it applies when an event is of such significance it creates the real possibility of retail opportunities in the extended hours. Certainly, s 5(3)(a)(ii) of the Act provides that the Commission must consider the significance of the event to the economy and to the tourism industry. However, that provision does not go so far as submitted by the SDA. If the purpose of the legislation was that, in deciding whether to declare an event to be a special event, the Commission was required to consider whether the event creates the real possibility of retail opportunities in the extended hours, then the legislation would provide for that.¹⁰

Similarly, whilst the SDA has pointed to the recent *Inquiry into the operation of the Trading (Allowable Hours) Act 1990* report Recommendation 1 - that the considerations in s 5(3)(a) be expanded to include such factors as "attendance numbers, size of the event, media coverage, and contribution to Queensland's national and international reputation" – exercise of the Commission's discretion in those terms would be an overreach at this time.

Kingaroy BaconFest is a 'special event' within the meaning of s 5(1)(c)(ii) of the Act

- [29] Having regard to the parties' submissions, I am of the view that the Kingaroy BaconFest is a 'special event' within the meaning of s 5(1)(c)(ii) of the Act.
- [30] My reasons follow.
- [31] The Act mandates consideration of a number of factors in determining such applications:
- Is the event a unique or infrequent event of local, State or national significance?*¹¹
- [32] I accept the submissions of the NRA and Council that the Kingaroy BaconFest is a unique event of local significance.

⁹ Ibid 1 - 2 [3].

¹⁰ *National Retail Association Limited, Union of Employers (the 2021 Burdekin Show case)* [2021] QIRC 220, [18] – [19].

¹¹ *Trading (Allowable Hours) Act 1990* (Qld) s 5(1)(c)(i).

- [33] The NRA quoted Ms Kristy Board of the local Organising Committee, in support of its application:

BaconFest is a great way to put the spotlight on our hardworking famers, to showcase top quality South Burnett produce and to help raise money for local charity.

- [34] Such a regional event, showcasing local industry and produce, falls within those terms for the suite of reasons outlined by the NRA and Council in my view.

- [35] The uniqueness of a food festival celebrating "all things bacon" appears to me to be self-evident - and rather glorious.

- [36] As the event has been held in 2018, 2019 - and now again in 2022 – it may also be described as infrequent at this fledgling point of development. While the NRA has not previously made an application for Kingaroy BaconFest, no weight is placed on that as this event is only in its third year of operation.

- [37] I have had regard to the decision of Industrial Commissioner Knight with respect to the Chinchilla Melon Festival (TH/2019/1) and find her conclusion to be apposite here:

I am satisfied that Melonfest is a unique event of at least local, if not State, significance. In respect of whether the event is a "special event", I am persuaded by the submissions of the applicant that Melonfest is of cultural significance, and that the event is significant to the Chinchilla economy and tourism industry.¹²

- [38] I find that the Kingaroy BaconFest complies with the criteria at s 5(1)(c)(i) of the Act.

*Does the event have cultural, religious or sporting significance?*¹³

- [39] I accept that the scheduled 2022 program proudly reflects one of the Kingaroy region's key industries and source of employment in the local community.

- [40] An extensive line up of activities and entertainment is featured across the three days of the festival, including: a significant number of competitions, Pig Industry Forum, an official round of the Australasian Barbeque Alliance Championship Series, cooking demonstrations, eating competitions, live music, and entertainment.

- [41] I have considered s 5(3)(a)(i) of the Act and concur that the Kingaroy BaconFest is an event of cultural significance.

¹² *National Retail Association Limited, Union of Employers* [2019] QIRC 026, [26]

¹³ *Trading (Allowable Hours) Act 1990 (Qld)* s 5(3)(a)(i).

*Is the event significant to the economy and the tourism industry?*¹⁴

[42] I am satisfied that the Kingaroy BaconFest is significant to the economy and tourism industry.

[43] In summary, the NRA's submissions relevant to this particular criteria are that:

Tourism

- the event is a major tourist drawcard to the region. Attendees come from across the region, Brisbane, Toowoomba, Sunshine Coast and interstate;
- while Kingaroy has a population of 10,000, projected attendance at this year's event is 18,000 people;
- visitor needs will be surplus to existing infrastructure. Retailers will need "additional hours to cater for the increase in activity";
- within the proposed geographic area, the four primary retailers are Woolworths, Big W, Best and Less, and Aldi. Woolworths expressed its intention to trade 9 am – 6 pm on Sunday (in line with South-East Queensland), if the NRA's application is approved;
- the event is supported by the state government through Tourism and Events Queensland (TEQ) and featured on the It's Live! calendar and Good to Go events;
- the Kingaroy BaconFest is well-promoted both state-wide and nationally, through both mainstream and social media channels; and
- the event website promotes 24 local accommodation options and encourages visitors to tour the region. With respect to the current accommodation vacancies in the area, the NRA observed that BaconFest is still about three weeks away and people tended not to make plans too far in advance in these COVID times.

Economy

- pig farming is one of the region's largest industries, with pork production one of Kingaroy's biggest employers;
- the largest pork processing plants in the southern hemisphere are located in Kingaroy;
- the Kingaroy BaconFest is supported by SunPork Fresh Foods and local businesses;
- the event attracted funding by the Foundation for Rural and Regional Renewal, in partnership with the federal government;

¹⁴ Ibid s 5(3)(a)(ii).

- in 2019, the Kingaroy BaconFest contributed more than \$660,000 to the local economy, engaged with over 30 community groups and raised over \$20,000 for local charity groups to support pig farmers affected by the drought;
- the 2022 event lists 89 sponsors, drawn from both the private and public sector; and
- the event presents employment, funding and business promotion opportunities.

[44] The SDA referred to my earlier Decision (TH/2022/1) in which the NRA's application for the Roma Show was dismissed. In that separate matter, I considered the NRA had not supplied sufficient detail in support of its various broad assertions – and so identified how such future applications may be more compelling.

[45] While it is true that the entirety of those suggested inclusions are not all featured in this particular application, the NRA's submissions do now evince much clearer attention to the precise criteria relevant to the Commission's consideration of elements under s 5(3)(a)(ii) of the Act. Obvious and sincere efforts have been made to quantify many aspects of the Kingaroy BaconFest's significance to the economy and tourism industry, such that I have been persuaded by the relative strength of the NRA's submission in this case.

[46] For those reasons, the NRA has on this occasion made a sufficiently compelling argument to disturb the allowable trading hours prescribed by the Legislature.

Undertakings

[47] The NRA provided enforceable undertakings to the Commission that:

- work undertaken by employees in the extended hours proposed are voluntarily agreed to by each individual employee;
- no employee is compelled to work hours beyond their ordinary hours;
- employees who voluntarily do agree to work additional hours are paid in accordance with the applicable industrial instruments;
- non-exempt retailers will only trade in line with customer expectations; and
- the application will not come at the expense of regulation or employees.

Conclusion

[48] In coming to this Decision, I have carefully considered the parties' submissions and all the material before me.

[49] I entirely agree with the SDA's comments that it is imperative the Commission vigorously assess such applications for extended trading hours and that such a decision should not be taken lightly.

[50] I have found that the Kingaroy BaconFest is a unique event of local significance.

[51] I have found that the Kingaroy BaconFest is culturally significant.

[52] For the reasons above, the NRA has made a sufficiently compelling argument as to the significance of the Kingaroy BaconFest to the economy and the tourism industry in this particular case.

[53] Having regard to the submissions and balancing those relevant factors, I find that the Kingaroy BaconFest is a 'special event' *within the meaning of* s 5(1)(c)(ii) of the Act.

[54] For the reasons set out above, I will make the declaration sought.

[55] Orders:

1. **Pursuant to s 5(1)(c) of the *Trading (Allowable Hours) Act 1990*, I declare that the Kingaroy BaconFest is, for the purposes of s 5(1)(c)(ii) of the *Trading (Allowable Hours) Act 1990*, a special event.**
2. **The declaration shall apply for a period commencing on Friday 19 August and concluding on Sunday 21 August 2022.**
3. **The declaration applies to an area in Kingaroy, as follows:**
 - **starting at intersection of Haly St and William St, travelling through to Jarrah St;**
 - **turning south onto Jarrah St and then onto Alford St E and through to Alford St;**
 - **turning south onto D'Aguiar Hwy and then west onto Avoca St;**
 - **turning north onto William St through to starting point at Haly St.**