

## Form 20 – Affidavit

Industrial Relations Act 2016, section 989

Industrial Relations (Tribunals) Rules 2011, rules 52, 53 and 55

INDUSTRIAL REGISTRAR

18 JAN 2023

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.
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For further information please contact the Industrial Registry on 1300 592 987 or via email at [girc.registry@girc.qld.gov.au](mailto:girc.registry@girc.qld.gov.au)

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

<b>Respondent:</b>	
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**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 Tce Spring Hill QLD 4000
<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 the Director of Policy for the National Retail Association, Union of Employers. The NRA is one of Australia's largest and most diverse retail associations.

2. The Chinchilla MelonFest is heralded as the biggest melon festival in the world. It is a biennial 4-day festival that celebrates the produce's significance to the local community, and Queensland more broadly, and creates significant tourism, employment and economic benefits for Chinchilla and the surrounding region.

3. The 2023 Chinchilla MelonFest will run from Wednesday 16 February to Sunday 19 February 2023.

4. Accordingly, the NRA asks the Commission to grant an order under pt 5 div 3 of the Trading (Allowable Hours) Act 1990 for an area of Chinchilla for 16 February and 19 February 2023 inclusive. This covers the period of the Chinchilla MelonFest (See Exhibit B for a map of the area).

5. It is estimated that the 2019 Chinchilla MelonFest brought between \$3.5 million and \$7 million into the districts economy.

6. Based on previous attendance, accommodation availability and media coverage, the NRA predicts attendance numbers for the 2023 Chinchilla MelonFest will reach over 20,000. The event has seen record-breaking attendance each year with 12,000 in 2013, 15,000 in 2015, over 15,000 in 2017 and 20,000 in 2019.

7. As of January 2022, there are no hotel rooms available within Chinchilla during the event, the closest available being in Dalby, over 80km away. Past media coverage indicates that visitors book months, or even two years ahead. Minimal sites are still available via nearby commercial campsites. The NRA submits that this is clear evidence that the event is highly anticipated by visitors outside of the local Chinchilla community.

7. Chinchilla has a population of 7,068. Attendance of over 20,000 will mean the town feasibly doubles over four-days. The NRA submits that visitor needs will be surplus to existing infrastructure. Retail operators around the venue areas need additional hours to cater for the increase in activity both directly related and ancillary to events that make up the MelonFest.

8. The Chinchilla MelonFest positively contributes to the reputation of Queensland both nationally and internationally as an authentic representation and celebration of the Queensland agricultural community. The Chinchilla MelonFest is one of many community events celebrating Queensland produce, including the Kingaroy BaconFest, Cleveland RedFest, Blackbutt Avocado Festival and Stanthorpe Apple & Grape Harvest Festival.

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:	12/1/23

Taken by	
Sworn/Affirmed by the deponent at:	Brisbane
on:	12/1/23
Signature:	
Print name:	Bradley Ellacott
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:

/ /

## 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

v

<b>Respondent:</b>	NA

This is the	
<b>Name of document:</b>	Statement of facts
<b>Marked:</b>	Exhibit A
mentioned in the affidavit of	

<b>Sworn/Affirmed by the deponent at:</b>	Brisbane
<b>on:</b>	14/1/23
<b>Signature:</b>	
<b>Print name:</b>	Bradley Ellicott
Justice of the peace/commissioner for declarations/lawyer/other qualified person	

## Exhibit A - Chinchilla Show – Statement of Facts

### Application summary

1. The National Retail Association (NRA) 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 2023 Chinchilla MelonFest fits the description of a special event under pt 5 div 3 of the Trading (Allowable Hours) Act 1990 ("The Act").
2. The Chinchilla MelonFest biennial 4-day festival celebrating the fruit's significance to the region's economy and agricultural heritage. The inaugural Chinchilla Melon Fest was held in 1994 to boost community morale as it struggled under a long-term drought. 2023 will mark its fifteenth iteration. The event has grown to become the biggest Melon Festival in the world and a highly significant event for the Western Downs community that draws high regional, interstate and international attendance.
3. Chinchilla is promoted as the 'Melon Capital' of Australia, producing approximately 25 per cent of melons grown domestically. The Chinchilla MelonFest celebrates the produces' significance to the local community, and Queensland more broadly, and creates significant tourism, employment and economic benefits for Chinchilla and the surrounding region.
4. The 2023 Chinchilla MelonFest will run from Wednesday 16 February to Sunday 19 February 2023.
5. The Trading (Allowable Hours) Act 1990 (as revised in 2022) 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.
6. 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. The Commission must also consider whether there is a need for a non-exempt shop to trade for hours greater than the core trading hours for the period of the event.
7. Further, the Commission must have regard to the size of the place where the event will be held, whether the event will be held at multiple places, predicted attendance numbers, expected media coverage, any contribution the event may make to Queensland's national or international reputation. The Commission must also have regard to a submission made by a local government for an area in which the declaration is likely to have an impact or an industrial organisation in relation to the likely impact of the special event declaration on employees.
8. 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 pt 5 div 3 of the Act for an area of Chinchilla for 16 February and 19 February 2023 inclusive. This covers the period of the Chinchilla MelonFest (See Exhibit B for a map of the area).

9. As with any local event, retail operators in and around the venue areas will have an increase in activity both directly related and ancillary to events that make up the festival. The Chinchilla MelonFest will activate the entire town with events taking place across the CBD and surrounds (Exhibit B). For this reason, the area of this application has been constructed to include the town of Chinchilla for visitors to take advantage of retail trade opportunities at all businesses. The NRA believes this order would allow retailers to better cater for the needs of visitors to the event, as well as residents.
10. We 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, including the 2019 Chinchilla MelonFest (TH/2019/1) and 2022 Kingaroy BaconFest (TH/2022/8).

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

11. The Chinchilla MelonFest is heralded as the biggest melon festival in the world.
12. The Chinchilla MelonFest is supported by a 70-strong committee and around 400 community volunteers. The 2023 program features market stalls, melon weigh-ins, street parade, farm tours, live entertainment and a series of unique and diverse cultural and sporting melon-themed events. These include:
  - Melon Cricket Bash
  - Melon Golf
  - Melon Skiing
  - Melon Rodeo
  - Melon Bowl Day
  - Melon Bungy
  - Melon Pip Spitting
  - Melon Chariot Race
  - Melon Iron Man
  - Melon Eating Competition

(<https://melonfestival.com.au/activities/#>)

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

13. Economic consultant Reuben Lawrence estimated that the 2019 Chinchilla MelonFest brought an estimated \$3.5 million of economic benefit. (<https://www.brisbanetimes.com.au/national/queensland/how-smashing-watermelons-became-more-profitable-than-selling-them-for-chinchilla-20170220-guh7n5.html>). Founding committee member Darryl O'Leary estimated the 2019 event brought close to \$7 million into the districts' economy.
14. Due to the popularity and uniqueness of the event, Chinchilla MelonFest has high media coverage. The event has been promoted across newspapers, radio and blogs, from the Courier Mail, ABC News and Brisbane Times, through to the Chinchilla News and Queensland Country Life and multiple travel blogs.
15. As of January 2022, there are no hotel rooms available within Chinchilla during the event, the closest available being in Dalby, over 80km away. Past media coverage indicates that visitors book months, or even two years ahead. Minimal sites are still available via nearby commercial campsites and showgrounds. The NRA submits that this is clear evidence that the event is highly anticipated by visitors outside of the local Chinchilla community.
16. Admission to the event is free, maximising the ability of both locals and visitors to participate. A significant number of the events are also free.
17. Based on previous attendance, accommodation availability and media coverage, the NRA predicts attendance numbers for the 2023 Chinchilla MelonFest will reach over 20,000. The event has seen record-breaking attendance each year with 12,000 in 2013, 15,000 in 2015, over 15,000 in 2017 and 20,000 in 2019.

### Demonstrated need for the application

18. The NRA submits that there is a clearly demonstrated need and support for extended trade, as evidenced by customer data following the Thursday 14 February to Sunday 17 February 2019 Chinchilla MelonFest special event declaration (TH/2019/1). A Chinchilla non-exempt retailer reported the following:
  - Thursday 14 February 2019 (8am-9pm): 2,136 customers
  - Friday 15 February 2019 (8am-9pm): 2,260 customers
  - Saturday 16 February 2019 (8am-9pm): 1,824 customers
  - Sunday 17 February 2019 (10am-4pm): 596 customers
19. Chinchilla has a population of 7,068. Record breaking attendance of over 20,000 will mean the town will feasibly at least double over four-days. The NRA submits that visitors have shown a demonstrated need to utilise all available existing infrastructure.
20. Retail operators around the venue areas need additional hours to cater for the increase in activity both directly related and ancillary to events that make up the Chinchilla MelonFest.

### Other factors

21. The Chinchilla MelonFest positively contributes to the reputation of Queensland both nationally and internationally as an authentic representation and celebration of the Queensland agricultural community. The Chinchilla MelonFest is one of many community events celebrating Queensland produce, including the Kingaroy BaconFest, Cleveland RedFest, Blackbutt Avocado Festival and Stanthorpe Apple & Grape Harvest Festival.
22. In past years, multiple MelonFest event competitors have broken records, contributing to the significance of the event to Queensland's national and international reputation. In 2007, a local man made the Guinness World Record books after smashing 40 watermelons on his head in 58 seconds. In 2019, a local man grew a 100-kilogram watermelon, the heaviest watermelon ever grown in the southern hemisphere.

### Conclusion

23. The NRA submits that the Chinchilla MelonFest is one of the most iconic events in Queensland and 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.
24. The NRA recognises the ongoing tremendous efforts of our essential retail team members who have continued to serve our community in the midst of the global COVID-19 pandemic and natural disasters. We also recognise the necessary staff contribution for stores to trade additional hours. We submit that this application provides greater choice for residents and visitors and allows flexibility for stores to better cater for the needs of residents and visitors to Chinchilla.
25. The NRA understand that s 36BA applies in relation to an employee of particular shops in the area to which the declaration applies. As previously stated prior to the amendment of the Act, any work during extended hours will continue to be on a voluntary basis.
26. The NRA emphasises that the granting of this application will not come at the expense of regulation and employees. This application allows flexibility for stores to trade and better cater for the needs of residents and visitors to Chinchilla. Our experience says that it is not likely that retail stores will use the full range of hours available to them and that they usually only open one to two hours on either side of their regular trading hours.

**May it please the Commission.**



Matter Number:  / /
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## 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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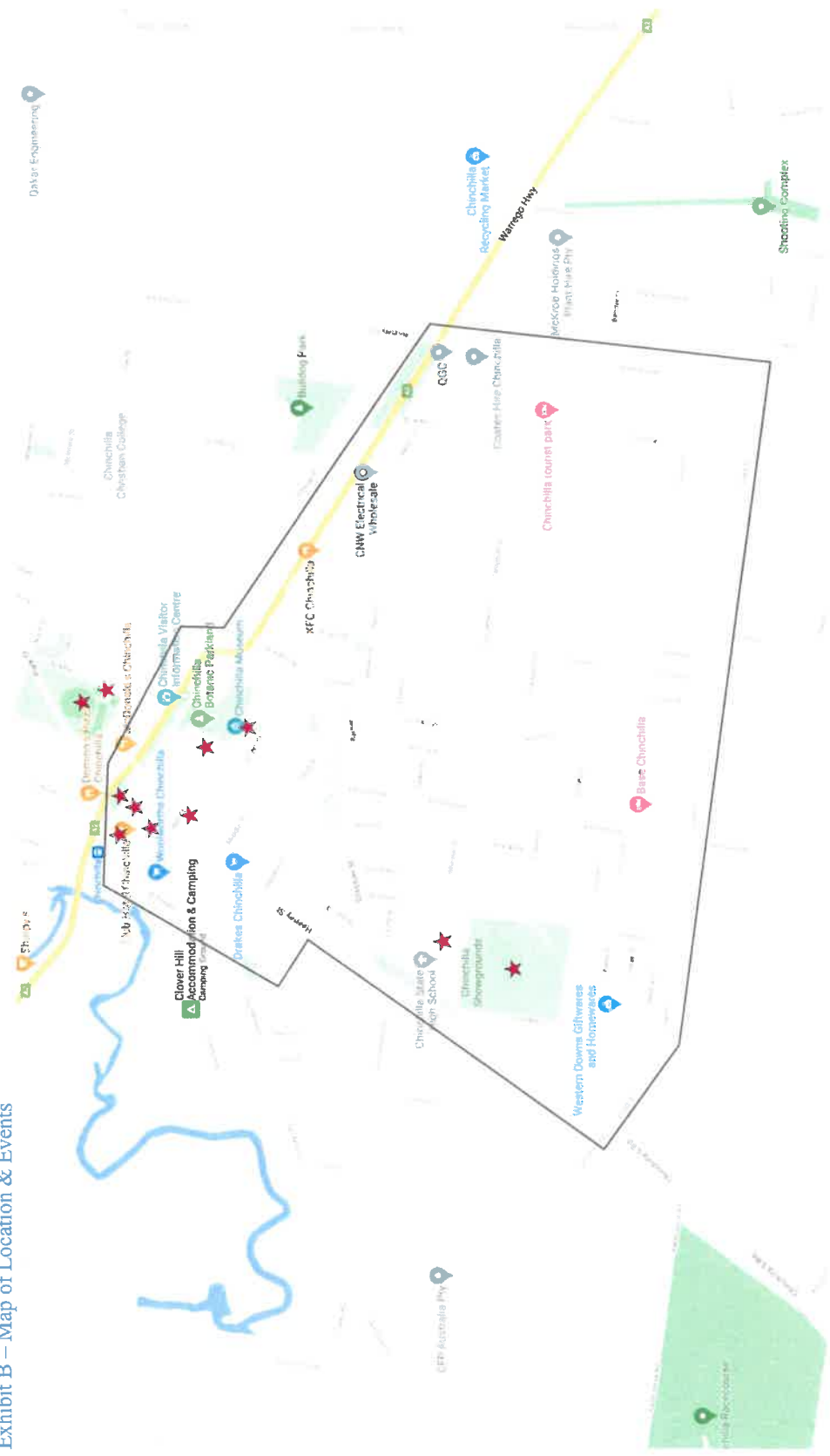
<b>Respondent:</b>	NA

This is the	
<b>Name of document:</b>	Description of location
<b>Marked:</b>	Exhibit B
mentioned in the affidavit of	

<b>Sworn/Affirmed by the deponent at:</b>	Brisbane
<b>on:</b>	16/11/23
<b>Signature:</b>	
<b>Print name:</b>	Bradley Ellacott
Justice of the peace/commissioner for declarations/ <input checked="" type="radio"/> lawyer/other qualified person	



Exhibit B – Map of Location & Events



Starting at Chinchilla S Rd at the Chinchilla Showgrounds moving south and turning onto Lloyd St then turning north onto Carmichael St  
Travelling north and turning north-west on Warrego Hwy and then turning onto Wondai St then West onto Railway St  
Turning onto Helena St and then onto Hypatia St and back to starting point on Chinchilla S Rd at Chinchilla Showgrounds