

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

Trading (Allowable Hours) Act 1990 - s. 21 - trading hours orders on non-exempt shops

National Retail Association Limited, Union of Employers AND Queensland Retail Traders and Shopkeepers Association (Industrial Organisation of Employers) and Another (TH/2009/3)

TRADING HOURS - NON-EXEMPT SHOPS TRADING BY RETAIL - STATE

DEPUTY PRESIDENT SWAN
COMMISSIONER FISHER
COMMISSIONER THOMPSON

17 December 2009

DECISION

CITY OF ROCKHAMPTON AREA

- [1] The National Retail Association Limited, Union of Employers (NRA) has made an application to amend the *Trading Hours Order - Non-Exempt Shops Trading by Retail - State* (the Order) in the city of Rockhampton.
- [2] The amendment sought is as follows:

"1. By inserting a new clause (17) in clause 3.2 as follows:

(17) The City of Rockhampton Area	<u>Opening Time</u>	<u>Closing Time</u>
Monday to Friday	8.00 a.m.	9.00 p.m.
Saturday	8.00 a.m.	5.00 p.m.
Sunday	9.00 a.m.	6.00 p.m.
Public Holidays (except 25 December, Good Friday, 25 April, and Labour Day)	8.30 a.m.	5.30 p.m.

2. By inserting a new clause (24) in Schedule 1 as follows:

(24) *The City of Rockhampton Area* - the area within the following boundaries:

Commencing at the intersection of the Bruce Highway and Meldrum Road; then in a straight line in a south-westerly direction to the intersection of the Capricorn Highway and Malchi Nine Mile Road; then in a straight line in a south-easterly direction to the intersection of Gavial Gracemere Road and the Bruce Highway; then in a straight line in a north-easterly direction to the intersection of the Rockhampton Emu Park Road and Black Creek Road; then in a straight line in a northerly direction to the intersection of the Rockhampton Yeppoon Road and Caporn Road; then in a straight line in a north-westerly direction to the point of commencement."

The Legislation

- [3] Section 21 of the *Trading (Allowable Hours) Act 1990* (the Trading Act) states:

"21 Trading hours orders on non-exempt shops

- (1) A full bench of the industrial commission may decide trading hours for non-exempt shops.
- (1A) However, the full bench is not to decide trading hours that are less than the following hours on a stated day, other than a public holiday -

- (a) 8a.m. and 9p.m. for Monday to Friday;
 - (b) 8a.m. and 5p.m. for Saturday.
- (2) The full bench may make any order it considers necessary or convenient to give effect to a decision made under subsection (1), including, for example, an order specifying -
- (a) the earliest time when non-exempt shops may open on any day and the latest time when non-exempt shops must close on any day; or
 - (b) hours for trading wholesale different from the hours fixed for trading retail; or
 - (c) different trading hours by reference to -
 - (i) classes of non-exempt shops; or
 - (ii) localities, or parts of localities, where non-exempt shops are situated.
- (3) In subsection (1A) -
- public holiday*** means -
- (a) a public holiday under the *Holidays Act 1983*; or
 - (b) a day that would have been a public holiday had there not been a substitution under the *Holidays Act 1983*, section 2(2) or (3) or 3."

[4] Section 26 states:

"26 Matters relevant to s 21 order

In relation to making an order under section 21 the industrial commission must have regard to -

- (a) the locality, or part thereof, in which the non-exempt shop or class of non-exempt shop is situated;
- (b) the needs of the tourist industry or other industry in such locality or part;
- (c) the needs of an expanding tourist industry;
- (d) the needs of an expanding population;
- (e) the public interest, consumers' interest, and business interest (whether small, medium or large);
- (f) the alleviation of traffic congestion;
- (g) the likely impact of the order on employment;
- (h) the view of any local government in whose area the order is likely to have an impact;
- (i) such other matters as the industrial commission considers relevant."

Applicants and Respondents

[5] The application has been made by the NRA. The application is supported by the Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees (SDA) and opposed by the Queensland Retail Traders and Shopkeepers Association (Industrial Organisation of Employers) (QRTSA).

Inspections

[6] At the request of the parties, inspections were undertaken by the Full Bench at the following locations. [Note: Most inspections were undertaken by driving past the location, however, the Full Bench conducted some walk-through inspections. These will be identified hereunder.]

FoodWorks, 33 Gladstone Road (Drive past)
FoodWorks, 118 George Street (Drive past)

NightOwl Convenience Store, 109-111 George Street (Drive past)
 FoodWorks Wandal, 3 Wandal Road (Drive past)
 Park Avenue FoodWorks, 36 Main Street (Drive past)
 FoodWorks - 305 Richardson Road (Drive past)
 Wayne's World of Meats, Richardson Road (Drive past)
 Oasis Convenience Store, 402 Richardson Road (Drive past)
 FoodWorks, Glenmore Shopping Centre, Farm Street (Drive past)
 Red Hill Homemaker Centre, Cnr Richardson and Yamba Roads (Drive past)
 Frenchville Shopping Centre, 402 Dean Street (Drive past)
 Rockonia Road Convenience Store, 343 Rockonia Road (Drive past)
 Lakes Creek Salad Bowl, 283 Lakes Creek Road (Drive past)
 Fry's Convenience Store, 163 Lakes Creek Road (Drive past)
 Peter Boodle Quality Meats, 188 Berserker Street (Drive past)
 Northside Plaza, 222 Musgrave Street (Drive past)
 Stockland Rockhampton (Walk through)
 City Central Plaza (Walk through)

Background to Application

- [7] The applicant provided the following background to its application in its Statement of Facts and Circumstances [Points 1 to 28].
- [8] Rockhampton is the nominal capital and principal service and employment centre for central Queensland. Rockhampton is the centre which supplies services to the central Queensland region as well as to the Bowen Basin coal mining communities.
- [9] The population of Rockhampton City is approximately 61,000 persons. Since 1976, the population of the Rockhampton region has increased from 71,000 to 103,000.
- [10] Rockhampton provides key public sector services as well as providing services for primary and secondary industries, mining, commerce, retail, and community and cultural services.
- [11] Rockhampton also provides a key tourism gateway to the Capricorn Coast and the Keppel Islands.
- [12] Nearly one-third of the region's total workforce is located in Rockhampton, while more than 36% of the area's professional workforce is employed there as well.
- [13] Commercial functions remain vital to the economy of Rockhampton. Rockhampton acts as the significant wholesale and retail shopping centre for the region.
- [14] The Knox Inquiry (1996) in Queensland trading hours stated:
- "It is also evident that extended hours are in line with mainstream consumer preferences. The consumer survey undertaken for the Inquiry found that the majority of people surveyed had a positive attitude toward extended trading hours and were utilising the extended trading hours.". [NRA Submissions, point 45]
- [15] Market research undertaken on trading hours generally has found that approximately 60% to 70% of the population supported the introduction of 7 day trading.
- [16] Approximately 80% of Queenslanders now have access to 7 day trading.
- [17] In terms of tourist regions, the Fitzroy region caters for 3,502,000 domestic visitor nights per annum (year ended September 2006) and international visitor nights per annum (year ended September 2006) of 688,290.
- [18] Tourism is a labour-intensive industry which creates many job opportunities, encouraging young people to stay within the local community.
- [19] Retail shopping is viewed as a priority amongst all categories of tourists.
- [20] New interstate residents to the Rockhampton region have experienced 7 day trading.
- [21] The "Central Queensland Destination Management Plan - Capricorn Edition 2007-2010" identifies goals and measures for the 2007-2010 period. The economic goal is stated to increase the economic contribution of tourism to Central Queensland. The measures identified are:

- Growth in the number of domestic visitors who have a preference for travel to the destination.
- Increased share of Queensland's domestic and international drive visitors.
- Increased length of stay.
- Increased visitor spend.
- Jobs growth in the tourism sector.
- Increased gross regional product from tourism.

[22] The Central Queensland Destination Management Plan also identified the following target markets for tourism visitation to central Queensland:

- Couples and families 35 years and over from Brisbane and South-East Queensland.
- Young parents from regional Queensland (excluding South-East Queensland).
- Couples and families 35 years and over from northern New South Wales.
- Special interest and developing markets include long-haul self-drive, visiting friends and relatives, fishing, fly/drive, geo-tourism, golf tourism, adventure/nature-based, education, marine, sporting, business and events.

[23] From 2002 onwards, trading hours decisions from the Queensland Industrial Relations Commission (the Commission) have recognised the need for 7 day trading in non-tourist areas of the State. Nationally, 7 day trading has been introduced in Tasmania, South Australia, Victoria, the Australian Capital Territory, the Northern Territory and New South Wales. Western Australia does not have 7 day trading.

[24] Rockhampton is known as the "Beef Capital of Australia" as 62.9% of its total gross agricultural production comes from livestock or livestock products.

[25] Rockhampton serves as a gateway to coastal (Great Barrier Reef) and inland tourist destinations. At September 2003, the revenue received from tourist and other travellers' accommodation reached \$21 million.

[26] The mining industry also plays a major part in Queensland's economy. The Rockhampton region's coal production accounted for approximately 43.5% of Queensland's output in value and 45.7% in quantity. The region also produced more than 63.3% of Queensland's crude petroleum - coal methane gas, 84.6% of its limestone, 99.6% of its cement clay and shale and all of its salt, magnesite, zeolite, agate, chrysoprase and crude petroleum.

[27] Educationally, Rockhampton provides a full range of educational services to the region. These include, amongst other facilities, boarding schools, the College of Technical and Further Education, and the Central Queensland University.

[28] Rockhampton is also the principal provider of health and welfare services in the Central Queensland region.

[29] Rockhampton has several significant arts facilities: e.g. the Rockhampton Performing Arts Complex, the Pilbeam Theatre, the Walter Reid Cultural Centre, the Rockhampton City Art Gallery, and the Rockhampton Music Bowl.

[30] The Rockhampton airport is the major airport for the Central Queensland region. As well, Rockhampton is a major road centre, servicing western areas via the Capricorn Highway, the Burnett region via the Burnett Highway, North Queensland via the Bruce Highway, the Capricorn Coast and Mt Morgan.

[31] Deep-water port facilities are available at Port Alma.

Applicant's Affidavit Evidence

[32] Note: In response to questions posed by SDA, all retailing businesses which would be affected by the granting of this application stated that work on a Sunday for employees would be on a voluntary basis.

Mr David Stout, State Compliance Manager, Coles

[33] Mr Stout advised that Coles has 2 stores (situated in City Centre Plaza and Stockland Rockhampton) which would be affected by the application and, if granted, those stores would trade all allowable hours.

[34] The following tables highlight:

- (a) the percentage of weekly sales currently attributable to each day from Monday through to Saturday trade:

Store	Percentage of Weekly Sales						
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
City Central Plaza	15.96%	14.47%	15.58%	18.92%	18.37%	16.70%	0.00%
Stockland	15.76%	11.96%	15.76%	17.93%	17.93%	20.65%	0.00%

[Exhibit 8, point 9]

(b) each day's trade within a period when 7 day trade was permissible, i.e. the week of 15 December 2008.

Store	Percentage of Weekly Sales						
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
City Central Plaza	13.41%	13.41%	14.20%	16.88%	17.35%	14.83%	9.94%
Stockland	10.66%	11.76%	13.24%	19.49%	16.91%	17.65%	10.29%

[Exhibit 8, point 10]

[35] Mr Stout anticipated that there would be an extra 120 to 160 hours of additional employment per store were the application to be granted.

[36] Employees under the age of 17 make up 20% and 15% of total employment at Stockland Rockhampton and City Centre Plaza respectively.

Mr Gerard Winzenberg, Queensland District Manager, Target Australia Pty Ltd

[37] Of Target's 283 stores across Australia, the vast majority of those stores trade on Sundays.

[38] The normal distribution of trade, on average, across the 7 days of the week in these stores is as follows:

Percentage of Weekly Sales						
Mon	Tue	Wed	Thur	Fri	Sat	Sun
10%	10.6%	12.6%	20.7%	18.3%	18.6%	9.2%
Average Hours of Trading						
8.5	8.5	8.5	10	8.5	7.5	6

[Exhibit 14, point 6]

[39] The current distribution of trade for the Target store in Rockhampton is as follows:

Store	Percentage of Weekly Sales						
	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Rockhampton	12%	12%	13%	22%	19%	22%	0%

[Exhibit 15, point 10]

[40] Similar comments were made by Target with regard to employment opportunities for youth arising out of the granting of the application.

Mr Barry Waters, Regional Manager, Big W Discount Stores

[41] By expanding its retail hours, if the application was granted, Mr Waters said a range of services would become available to Rockhampton shoppers. These included, national branded products, Wish Card vouchers, lay-by, parcel pickup and home delivery, trained cosmetic consultants, one hour photo processing, digital photo processing, Everyday Rewards program and Qantas Frequent Flyers program.

[42] Big W currently has 20 stores located in non-tourist areas which trade on a Sunday, i.e. Underwood, Carindale, Stafford, Strathpine, Booval, Springfield, Capalaba, Browns Plains, Mt Ommaney, Mt Gravatt, Logan, Beenleigh, Taigum, Morayfield, Nambour, MacArthur, Calamvale, North Lakes, Townsville and Chermiside.

[43] It is relevant to note the relative trading performance of these stores on Sundays which is detailed hereunder:

Store	Monday	Tuesday	Wed	Thurs	Friday	Sat	Sun
	%	%	%	%	%	%	%
Logan	11	11	12	17	14	22	13
Beenleigh	9	12	15	19	17	18	11
Carindale	12	10	9	19	14	23	13
Stafford	11	11	9	18	14	24	13
Strathpine	9	11	11	17	14	26	12
Taigum	10	9	10	18	15	23	14

Store	Monday %	Tuesday %	Wed %	Thurs %	Friday %	Sat %	Sun %
Underwood	8	10	11	16	13	27	14
Booval	10	11	13	18	15	22	11
Capalaba	10	11	12	18	14	22	13
Browns Plains	10	11	11	19	14	23	13
Mt Ommaney	9	11	12	15	13	27	13
Mt Gravatt	10	10	10	18	14	25	13
Springfield	9	9	10	20	11	22	20
Chermside	10	11	12	21	12	20	15
Morayfield	9	11	12	22	14	19	12
Hervey Bay	11	11	12	13	20	15	18

[Exhibit 13, point 10]

- [44] Extensive material was supplied by Mr Waters to highlight the trading hours afforded to Big W on a Sunday across Australia.
- [45] Mr Waters' general observation of activity within these stores on a Sunday was that there was a higher incidence of family shopping occurring on that day.
- [46] The granting of the application would see 190 additional hours of work being generated within the Rockhampton store each week.

Mr Paul Mollard, Regional Manager, Queensland, Best & Less Pty Ltd

- [47] Best & Less has 176 discount stores throughout Australia. There is one store located within the geographical boundaries of the application, i.e. at Stockland Rockhampton.
- [48] While Sunday trading hours were of shorter duration than other days of the week, it was Mr Mollard's evidence that "the sales activity per hour is commensurate with what our stores experience on traditional days.". [Exhibit 29, point 11]
- [49] Similar evidence to that of Mr Waters was given with regard to the "family day" nature of shopping on a Sunday.

Mr Wade James, Director, Rush Surf Clothing

Mr Shane Hicks, General Manager, Robins Kitchen

Mr Brad Harker, National Manager, EB Games

- [50] The abovementioned witnesses gave similar evidence. Summarised, the evidence was as follows:
- All were supportive of the application, believing that increased trading hours would benefit not only the Rockhampton community but also would result in increased trade for their particular stores.
 - Many of these witnesses cited the success of Sunday trade in their other stores located throughout Queensland and Australia.

Mr Brett Leonard, Centre Manager, Stockland Rockhampton

- [51] Mr Leonard stated that Stockland Rockhampton is the largest shopping centre in the Central Queensland region, with 160 speciality stores and services. Its gross lettable area is 53,000 square metres.
- [52] Stockland Rockhampton is currently completing a \$93 million redevelopment, with Stage 1 opening on 13 August 2009. Stage 2 is expected to be completed in 2010 adding a further 15 retailers to the centre.
- [53] Stockland operates 37 retail centres nationally, including 11 in Queensland.
- [54] By not trading on a Sunday in Rockhampton, Stockland loses its sales to Yeppoon (which has recently been granted Sunday trading hours by the Commission) and to local retailers not in the enclosed centres such as the Red Hill Homemaker Centre, hotels, clubs, poker machines, restaurants and the like.

Mr Jamie Sneyd, Retail Portfolio Manager - Queensland, Mirvac Asset Management

- [55] Mirvac Asset Management (Mircvac) owns and manages the City Centre Plaza in Rockhampton. This centre is located on the fringe of Rockhampton CBD and is the second largest centre in Rockhampton. The centre has 2 major stores and 36 speciality stores.

- [56] Mr Sneyd stated that Sunday trading was common throughout its regional centres in New South Wales, Victoria, and South-East Queensland.
- [57] Mr Sneyd believed that Sunday trading in those centres had always been successful. Mr Sneyd stated that "Sunday is often a preferred shopping day for consumers who prefer a more relaxed shopping experience, compared to the congestion of Saturdays. It is also more convenient for many consumers who work through the week and have limited opportunities to shop for leisure. It is also a popular day for families with school aged children to shop.". [Exhibit 11, point 6]

Professor John Mangan, Associate Dean Research, Faculty of Business, Economics and Law, University of Queensland

- [58] Professor Mangan's evidence was encapsulated within a paper entitled "The Economic and Social Impacts of Changes to Retail Shopping Hours". [Attachment B, Exhibit 2]

- [59] That paper addressed the following issues in its "Executive Summary":

- "To examine and analyse the extensive research that has been undertaken into the socio-economic impacts of the deregulation of retail shopping hours, both in Australia and overseas. It does this against the backdrop of pending decisions to extend trading hours in regional and provincial cities within Queensland.". [Attachment B, Exhibit 2, p. 4]
- "A large number of national and international studies have examined the micro-economic and macro-economic impacts of shopping hours deregulation especially where this involves Sunday trading. This paper is unaware of any study that reports a decline in aggregate retail sales or total numbers of retail employees as a result of the deregulation of shopping hours.". [Attachment B, Exhibit 2, p. 5]
- Professor Mangan was unaware of any study which would show a decline in aggregate retail sales or total numbers of retail employees as a result of the deregulation of shopping hours.
- Longer shopping hours (especially when consumers had more leisure time such as weekends) allowed more time to compare prices, search for bargains and make more efficient shopping decisions.
- Longer shopping hours usually led to more positive employment impacts.
- Consumer attitudes towards shopping have changed to incorporate concepts of entertainment and leisure as part of the shopping experience.
- Independent grocers, post 2000, have seen a growth in profit levels while the market position of the major chains has not grown.
- Many of these independent grocers have taken advantage of location, flexibility and convenience to engage in extensive non-price competition with the major chains.
- There had been noted consumer preference for multi-purpose shopping and some single purpose outlets, e.g. butchers and bakeries, have seen their total sales decline. Professor Mangan says that these trends will continue with or without increases in shopping hours.

Mr Scott Wallace, Regional Retail Support Manager in Queensland, Woolworths Limited

- [60] Woolworths has 3 stores affected by this application. These stores are located in Allenstown Shopping Centre, Northside Plaza and Stockland Rockhampton.
- [61] Woolworths is the second largest employer in Australia with more than 107,000 employees, and 24,685 of those workers are employed in Queensland.
- [62] Mr Wallace states that consumer support for Sunday trading by major supermarkets is "clearly demonstrated by our historical data which shows the proportion of weekly trade that our stores transact on Sundays.". [Exhibit 15, point 9] The following table identifies the typical distribution of trade across the Brisbane stores:

Day	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Percentage of Weekly Sales on Average	13.39%	11.57%	13.68%	16.74%	15.46%	16.44%	12.71%
Hours of Trading	8:00am 9:00pm	8:00am 9:00pm	8:00am 9:00pm	8:00am 9:00pm	8:00am 9:00pm	8:00am 5:00pm	9:00am 6:00pm

[Exhibit 15, point 10]

- [63] Mr Wallace submitted that:

- Sunday trade relieves congestion at registers on Saturdays by effecting some redistribution of demand from Saturdays to Sundays.

- In departments such as meat, bakery and delicatessen, inefficiencies result from the shut-down at 5.00 p.m. Saturday to the start-up at 8.00 a.m. Monday. It is more efficient to trade over the 7 days.
- Seven day trading results in more efficient use of energy as refrigeration and air-conditioning systems continue to run when the store is closed.
- Seven day trading helps smooth out peaks in scheduled deliveries and the store replenishment process.

[64] Woolworths employs 541 people in its Rockhampton stores. Mr Wallace estimates that the average increase in employment hours from the introduction of 7 day trade is 11.2% or 273 additional hours per week. If this average were to apply to each of the 3 stores affected by this application, an additional 819 employment hours per week would be generated, equating to over 42,000 hours per year.

[65] Much of the extra work provided in Rockhampton, if the application was accepted, would be undertaken by young workers.

[66] Advantages, identified by Mr Wallace, of 7 day trading showed:

- That customers appreciate the savings they make by being able to purchase food at supermarket prices on Sundays.
- Young people who traditionally play sport on Saturdays now have the opportunity to earn an income on Sundays.
- Tourists or visitors whose schedule does not recognise any difference between the days of the week, have benefited from shops opening on Sundays.
- Sunday trade has contributed to a reduction in trading peaks on Saturdays which used to place pressure and stress not only on the store and staff, but also on customers. [Exhibit 15, point 22]

Mr Charles Hammersla, National Compliance Manager-Facilities, Kmart Australia Ltd

[67] Kmart Australia Ltd (Kmart) operates one store within the confines of this application which is located in Stockland Rockhampton. Eighty-six percent of all Kmart stores operating nationally enjoy 7 day trade.

[68] Across its stores nationally, the following table identifies the percentage of weekly sales on average:

	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Percentage of Weekly Sales on Average	9%	9%	12%	23%	13%	20%	14%

[Exhibit 7, point 5]

[69] Rockhampton customers travel significant distances to ensure that they can shop at a Kmart store because there is no comparable retailer in their local shopping area.

[70] Mr Hammersla identified the factors which showed that Kmart Rockhampton was not optimising its operations under a 6 day trading environment. These factors included:

- Kmart's principal competitors (except Big W) currently trade on Sundays and it understands that Sunday is either the first or second best trading day of the week for many of its product categories.
- The tenants of homemaker centres in Rockhampton trade on Sundays and many stock similar items to those stocked by Kmart.
- From statistics gained from Kmart stores which can trade on a Sunday, the highest performing departments on Sundays include bed linen, bedding accessories, personal care, accessories, fishing and camping and DVDs. [Exhibit 7, point 7]

[71] The comparable retailers which can trade on Sundays in Rockhampton include:

- The Good Guys
- Harvey Norman
- BCF
- Sleep City
- Mayne Furniture
- Curtain Wonderland
- Beacon Lighting
- Sportscene
- Howards Storage World
- Rocky Pet World
- Rug Rage

- Sleepys
- Coastal Leisure Furniture
- Everyday Living
- Bunnings
- Supa-Amart Furniture
- Forty Winks
- Snooze
- BBQ Galore
- Supercheap Auto
- AutoBarn
- Amart All Sports
- Crazy Clarks [Exhibit 7, point 8]

[72] Kmart stores which operate in the greater Brisbane area show the percentage of weekly sales on average as follows:

Day	Mon	Tue	Wed	Thur	Fri	Sat	Sun
Percentage of Weekly Sales on Average	10.8	10.7	11.7	23.2	15.2	18.2	10.2
Hours of Trading	9.5	9.5	9.5	12.5	9.5	8.5	8.0

[Exhibit 7, point 10]

Ms Georgina Marshall, Store Manager, Va Voom & Co, Stockland Rockhampton

Mr Brendan Reck, Owner, Terry White Chemist, Stockland Rockhampton

Mr Garth Comerford, Owner, Loot Homewares, Stockland Rockhampton

[73] These witnesses for the NRA gave similar evidence which can be summarised as follows:

- They all supported the application which had been made by NRA.
- All are independent shop owners located inside an enclosed shopping centre.
- They are all restricted to trading in accordance with the shopping centre hours.
- Sunday trading would be beneficial for customers.
- Mr Reck stated that he had made a significant investment in a doctor's surgery in the Stage 1 extension of Stockland Rockhampton. The surgery will operate over 7 days of the week and if his business was not able to trade on a Sunday, he would lose valuable business from prescriptions and purchases arising from patients of the surgery.
- Mr Comerford believed that a number of other retailers in the Red Hill Homemaker Centre (who can trade on a Sunday) offer similar products to those that he sells.

Mr Evan Yabsley, Senior Research Fellow, Market Evidence Research Group, Faculty of Business, Central Queensland University, Rockhampton Campus

[74] Mr Yabsley advised that the Market Evidence Research Group had been commissioned by the NRA to carry out shopping mall intercept surveys at 3 major shopping centres in Rockhampton to ascertain the opinions of shoppers on Sunday trading and current shopping habits. These intercepts were carried out at the Stockland Rockhampton, City Centre Plaza and the Red Hill Homemaker Centre. [Exhibit 12, point 2]

[75] The research produced was encapsulated within a document entitled "Sunday Trading at Stockland and City Centre Plaza Shopping Centres, Rockhampton: Survey of Rockhampton Shoppers, Report of Findings, August 2009". [Attachment B, Exhibit 12]

[76] The Executive Summary of that research was as follows:

- The research group interviewed over 500 individuals at various times over 25-30 July at 3 shopping centres in Rockhampton as to "whether and why shopping at Stockland Plaza and City Centre Plaza would be convenient".
- The findings showed a clear demand for Sunday trading in these centres. This response was gained from a broad range of people from different households.
- The dominant reason for 59% of those who found it convenient to shop on Sunday, was the time pressure brought about by work commitments.
- The second and third most prominent reasons for a desire to shop on a Sunday was that there was more time to shop and it presented a better time to shop with family and friends. [Attachment B, Exhibit 12, p. 5]

[77] A more detailed account of the research showed the following:

- The field work period included Thursday evenings between 4.00 p.m. and 7.00 p.m., on Saturdays between 11.00 a.m. and 3.00 p.m. and on Sundays between 10.30 a.m. and 2.30 p.m. Respondents were approached by the field team at random and without prior selection procedure. A total of 33 hours was spent in the field.
- Of the 515 interviews conducted, 180 surveys were collected from the City Centre Plaza, 150 from Stockland Rockhampton and 185 from the Red Hill Homemaker Centre.
- The questionnaire contained questions on current shopping habits, whether (and why) it would be convenient if shopping centres were open on Sunday as well as basic demographic questions.
- The obtained data was entered into a spreadsheet. Questions with "other" options were coded if percentages were above 10% of the total. Data was then imported in SPSS PASW statistical program, version 17.

[78] The results of the research were as follows:

- Of those interviewed, 66.8% lived in Rockhampton, 23% lived west of Rockhampton (i.e. Biloela, Blackwater, Emerald) and 18% lived in Yeppoon.
- Of the third who did not live in Rockhampton, 37.9% lived in a 2 adult household and 25% were families with school children and both parents working.
- Of those interviewed, 67.4% worked on a full-time basis.
- Of those interviewed, 82% stated that they had shopped at Bunnings, BCF, Harvey Norman, Good Guys etc. on a Sunday. Eighteen percent stated that they had not shopped at those centres on a Sunday.
- Those interviewed who had shopped at retailers open on a Sunday were asked how frequently this would occur. Of those interviewed, 50.4% shopped on a Sunday about once per week, 26.5% said they would shop on a Sunday once per month and 23.2% said they would shop on a Sunday every couple of months or less often.
- Of shoppers interviewed at the Red Hill Homemaker Centre, 88% said that they found Sunday shopping to be more convenient than other days.
- Seventy-one percent of those interviewed said they would find Sunday shopping at Stockland Rockhampton or City Centre Plaza convenient. Of those surveyed, 58.7% said that the reason for wanting to shop on a Sunday related to "work commitments". Other groups stated that there was more time to shop on a Sunday (43%) and 20.7% said it presented a better time to shop with family and friends.

[79] The "Findings" of the survey showed that 70% of respondents would find it more convenient to shop on a Sunday at centres such as Stockland Rockhampton and City Centre Plaza.

[80] Why shopping was more "convenient" was condensed into 4 major reasons. Those reasons were "work commitments", "more time", "better time to shop with family and friends" and "live outside of Rockhampton". [Attachment B, Exhibit 12, p. 16]

Mr Milton Cockburn, Executive Director, Shopping Centre Council of Australia

[81] The Shopping Centre Council of Australia (SCCA) represents the interests of a number of shopping centre owners and managers.

[82] SCCA members own the following shopping centres in the area covered by the application:

- | | |
|--------------------------------|---------------------------------------|
| • Stockland | Stockland Rockhampton Shopping Centre |
| • Mirvac Asset Management | City Centre Plaza Shopping Centre |
| • Macquarie Country Wide Trust | Allenstown Plaza Shopping Centre |

[83] SCCA requested that the Commission take into account the following matters when making its finding:

- That the great majority of Australian consumers enjoy Sunday trading.
- The degree of deregulation of shopping hours experienced by consumers in regional Victoria and Tasmania together with the Northern Territory and the Australian Capital Territory.
- Balancing work and family commitments is now a major challenge for families. Australian Bureau of Statistics (ABS) statistics show the proportion of families with both parents working has increased to nearly 60%.
- Retail sales which are not made on Sundays in Rockhampton will not simply be postponed until the shops reopen on Monday. Many of these sales will be lost to the region as visitors and travellers will find other locations to purchase goods on a Sunday.

- Other avenues through which consumers can spend money on a Sunday include hotels, restaurants, movies, other entertainment and leisure activities. Household expenditure may be diverted to any of these other activities rather than into retail outlets.
- "The lost consumer expenditure also has harmful effects on industries other than retailing. Suppliers of services to shopping centres and shops - such as cleaners, security services and other facilities management suppliers - are also adversely affected by the closure of shopping centres on Sundays."
- The prohibition on Sunday trading for large shops and shopping centres is an inhibition to employment growth.
- "Permitting shopping centres to open on Sunday would also improve the reputation and image of Rockhampton as a tourist destination."
- The preference of the majority of consumers in Rockhampton is for Sunday trading. Customers must be able to shop as and when they prefer.
- In other areas of the country, where Sunday trading has been introduced, customers find it the second or third most popular trading day. [Exhibit 3, point 4]

Mr Gary Kerr, Chief Executive, Rockhampton Regional Development Limited

[84] Rockhampton Regional Development Limited (RRD) is a not-for-profit Australian public company, limited by guarantee and is funded by several major stakeholders:

- Department of Employment, Economic Development and Innovation as part of the Queensland Regional Development Initiative;
- Rockhampton Regional Council;
- corporate and media sponsors; and
- fee based membership.

[85] RRD has surveyed its membership to determine a position in respect of this application. The survey responses reveal that:

- 78% of responses indicated that from a business perspective, 7 day trading would be good for the Rockhampton economy; and
- 81% of respondents indicated that from a business perspective they would support the granting by the Commission of 7 day trading status for Rockhampton.

[86] The retail sector makes an important contribution to the local economy as the largest employing sector (about 12% of the workforce based on 2006 census data).

[87] Mr Kerr said:

"In late 2008, RRD commissioned the Central Queensland University to undertake a survey regarding consumer support for seven day trading in Rockhampton. The overall result was 45% in favour and 55% opposed. However, support amongst key demographics was significantly higher than the overall result, including 18-34 year olds where 69.2% supported seven day trading, employed persons where 49.1% supported seven day trading and respondents with children under 18 years old at home, where support was at 49.8%. Further, 50% of respondents who said they travel outside of Rockhampton to shop indicated they would be less likely to do so if Rockhampton shops were open on Sundays and 34% of respondents indicated they would spend more money on shopping in Rockhampton if seven day trading was available." [Exhibit 5, point 8]

[88] Mr Kerr proceeded to detail to the Commission the reasons why RRD supported the NRA application:

- Rockhampton was one of Queensland's most influential regional centres and is the hub for the delivery of a wide range of services to residents of Central Queensland.
- There have been recent announcements of proposed developments within the region which include nickel mining, magnesium metal smelting and liquid natural gas processing facilities. These indicate that the region is set for a further period of growth.
- "The breadth of this economic base, the excellent physical and social infrastructure which the region enjoys, and its lower cost structures (not to mention the advantages of its sub-tropical climate and near-coastal location) give Rockhampton and its hinterland an unlimited potential for both economic growth and the enjoyment of high quality lifestyles." [Exhibit 5, point 11]
- Rockhampton is the Beef Capital of Australia and the saleyards at Gracemere conduct some of Australia's largest sales of stud and commercial cattle.
- Rockhampton plays a significant role in providing services to the mining industry. The majority of the mining activity comes from coal mines at the Bowen and the Surat Basin. The open-cut and underground

operations have estimated deposits in excess of 10,000 million tonnes. Magnesite, limestone and salt are also processed near Rockhampton. There is a nickel mine proposed for Marlborough (north of Rockhampton) which will cost approximately \$500m and other new coal mines are scheduled to begin production within the next year.

- There are significant supplies of fruit and vegetables produced on the Capricorn Coast.
- A range of metals fabrication and similar firms also operate in Rockhampton, while explosives production is carried out near Port Alma.
- Commercial functions are also vital to the Rockhampton economy. Nearly one-third of the region's total workforce is located in Rockhampton, while more than 36% of the area's professional workforce is employed in Rockhampton.
- Rockhampton is a major transport node for the region and serves as a gateway to coastal, Great Barrier Reef, and inland tourist destinations. Tourism injects some \$794m into the Fitzroy region (2007).
- Rockhampton provides a full range of educational services to the central Queensland community. Rockhampton also has the Central Queensland Institute of TAFE as well as the Central Queensland University which offers undergraduate and postgraduate courses on campus and distance modes across disciplines such as business and law, arts, health and sciences, education and creative arts, engineering and physical systems, and informatics and communication.
- Rockhampton is the principal provider of health and welfare services in the central Queensland region. The Queensland Department of Health maintains a wide range of community health services based in Rockhampton. Rockhampton is also a key centre for the Queensland Ambulance Service.
- Various arts facilities are to be found in Rockhampton. The Rockhampton Performing Arts Complex, run by the Rockhampton Regional Council, operates 2 major entertainment venues in the Pilbeam Theatre and the Rockhampton Music Bowl. As well, Rockhampton has the Rockhampton City Art Gallery which is recognised as one of the leading provincial galleries in Australia together with the Walter Reid Cultural Centre.
- Major railway facilities are found in Rockhampton. As well, the Shoalwater Bay training facility plays host to many Australian, New Zealand, American and Singaporean defence military exercises.
- Deep water facilities are available both at Port Alma and Gladstone.
- Central Queensland also provides major generating facilities which include the Stanwell, Gladstone and Callide power stations.

Respondent's Affidavit Evidence

Mr Sydney Murray, Proprietor, George Street Foodworks, Rockhampton

[89] Mr Murray was opposed to the NRA application.

[90] Mr Murray operates his business over 7 days per week from 5.00 a.m. to 10.00 p.m., every day of the year.

[91] Mr Murray believes that if the application was granted "it will have a dramatic effect on all aspects of my business and those that rely on my business for both employment (directly and indirectly) and clientele. It will have devastating impact on the viability of my business leading to ongoing lowering of turnover, reduction of profit, longer hours and less choice for the consumer." [Exhibit 19, point 4]

[92] Mr Murray saw no need for larger retailers to open for trade on a Sunday as there were currently some 50 independently owned supermarkets in the Rockhampton region. These businesses opened each day of the year from 5.00 a.m. to 10.00 p.m. This adequately caters for consumers' needs.

[93] Mr Murray's business employed 15 staff. If the application was granted, the store's turnover would decrease by almost 50% and this would have a devastating impact upon the immediate financial security of 7 employees and their families.

[94] Mr Murray expressed concern about the social impact of 7 day trading. He was aware of many residents who would be affected in different ways. School-aged teenagers who have a part-time job would arguably be required to work on a Sunday thereby cancelling the usual type of things which occurred on a Sunday, e.g. going to Church, visiting relatives, team sport and doing their homework.

Mr Colin Davis, Owner and Manager, Foodworks, Gladstone Road, Allenstown

[95] Mr Davis operates a 7 day, 14 hour per week mid-size store which is larger than a conventional convenience store but smaller than a full-sized major supermarket.

[96] This store supplies meat, fruit and vegetables and groceries.

- [97] If the application was granted, Mr Davis believed that it would significantly reduce his weekly turnover as Sunday is his highest volume day. His business would have to be restructured and it could result in a reduction of staff by as much as 20%.
- [98] Sunday trade in this store increases by 140% on the other days of the week and accounts for 28.6% of turnover. If this was lost, the real monetary loss would be of significant magnitude.
- [99] Mr Davis believed that if the application was successful, this would allow for the consolidation of the major chain stores thereby reducing competition in the Rockhampton area.
- [100] Mr Davis also expressed concern about the disruption to the social fabric of Rockhampton society if the application was to be granted. He also expressed the view that a shopping centre open on a Sunday could see children using the centre as a recreational area and this would create a major distraction from other normal family life activities.

Mr James Wood, Owner/Operator, Woody's Supermarket, Yeppoon and Woody's at Wandal Supermarket

- [101] Mr Wood opposed the application made by the NRA.
- [102] Mr Wood referred to the 7 day trade which had been introduced to the Yeppoon tourist area in 2008. He believed that the extension of trade in Yeppoon had adversely affected his and other small businesses. He stated:
- "There is only so much money available for shopping in this region, by permitting more stores to trade on Sunday you are increasing the number of businesses competing for the same customer base - and we believe the extended trading hours within this application will lead to higher operation costs, lower profit and longer hours to many small businesses throughout the community of Rockhampton and the Capricorn Coast including both our stores, with little benefit to community." [Exhibit 21, point 3]
- [103] Mr Wood refuted the claim that there was a need for additional Sunday shopping. In Rockhampton there were several large Foodworks stores scattered throughout the city and these independent stores adequately covered the need for Sunday shopping in the region.
- [104] Mr Wood and his wife had invested heavily in updating their supermarkets, in the belief that Sunday trading would not occur in regional Australia. If the application was to be granted, it was estimated that up to 20% of the Sunday trade would be lost. This estimation was based upon what had occurred when extended trading was granted on the Capricorn Coast in 2008 and the opening of Yeppoon Central in March 2008.
- [105] Citing statistics from his supermarket at Yeppoon, Mr Wood highlighted the following:

<u>"Woody's Supermarket Yeppoon</u>		
Average Monthly trade March 2007	...	+28% growth from previous year
Average Monthly trade March 2008	...	-18% growth from previous year
Average Monthly trade March 2009	...	-4.5% growth from previous year."

[Exhibit 21, point 5]

- [106] After the opening of the Yeppoon Central complex in 2008, Mr Wood lost many well-trained long-term senior staff who were promised extensive hours working at either Big W or Woolworths. Mr Wood now knows that some of these staff have had their hours of work decreased and sees that Yeppoon is now saturated with shopping facilities and there are not enough customers to go around.
- [107] Since the Yeppoon tourist area was granted 7 day trading, many Rockhampton residents had travelled to Yeppoon to combine shopping and a visit to the beach on a Sunday. Any altered shopping arrangements in Rockhampton may stop this small but relevant influx of Rockhampton residents to Yeppoon on a Sunday thereby further depressing the situation for small traders in that area.

Mr Ian Gow, Director/Secretary, Buggywin Pty Ltd; Owner, Richardson Road Foodmarket, Richardson Road, North Rockhampton

- [108] This business is family owned and the owners are opposed to the NRA application.
- [109] This store opens 7 days per week and trades from 6.30 a.m. to 10.00 p.m. The store sells a large range of dry grocery products, confectionary, dairy and chilled goods, frozen, variety merchandise, fruit and vegetables, tobacco products and service delicatessen products including hot chickens. Seven full-time staff and 20 casuals are employed at the store.

- [110] Mr Gow also believed that Rockhampton was well served by its existing retail outlets. Mr Gow previously owned a store in Emerald, which he claims was a very successful store until the introduction of 7 day trading.
- [111] If the application was granted in Rockhampton, Mr Gow estimated that he would lose approximately 12.5% of his current weekly sales. He would also have to dismiss some of his employees.

[112] Mr Gow stated:

"As part of a group such as Foodworks we are building up strength with their purchasing power with suppliers and at our store most of the savings we derive from their deals are passed on to our customers through specials, which is why we are such a busy store. Granting the opposition another 'free kick' only makes it harder for us to provide the competition that the public want.". [Exhibit 22, point 7]

- [113] Mr Gow expressed concern about what he understood was occurring under Federal industrial relations legislation with Award modernisation and the possible impact this would also have upon his business.
- [114] Mr Gow did not believe that consumers were demanding more shopping hours nor did he believe that pressure was being exerted by tourists to the area.

Mr Brett O'Sullivan, Owner, Glenmore Foodworks, Park Avenue Foodworks, Lakes Creek Salad Bowl and Oasis Convenience Store

- [115] Mr O'Sullivan opposed the application. He also believed that Rockhampton consumers were more than adequately catered for by existing retail outlets throughout the city.
- [116] Mr O'Sullivan stated that sales in his stores on a Sunday were generally 50% to 70% up on a week day sales. Consequently, the introduction of Sunday trading to Rockhampton is expected to decrease the growth on a Saturday and Sunday to 12% to 15% on a week day.
- [117] Tourism did not play a part in the Rockhampton economy, according to Mr O'Sullivan.
- [118] He held the belief that more people utilise the smaller independents for 2 main reasons - firstly, consumers have less time and are looking for the ease and speed of dropping into the local independent store as opposed to the major stores and, secondly, the local friendly service which was provided by the small trader was not available in the major outlets. He cited the extra services provided to customers by small independent stores - e.g., staff helping customers take their groceries to their cars, or staff taking the time to find particular grocery items for customers. He did not believe that these services were to be found with the major outlets.

Mr Peter Boodle, Owner/Manager, Peter Boodle's Quality Meats

- [119] Mr Boodle operates his business over 7 days of the week and for 12 hours per day. He employs 9 people on Sunday.
- [120] Mr Boodle is able to estimate his loss on a Sunday if the application was granted by comparing sales over the Christmas period when the major stores have 7 day trading. During that period, his sales decreased by approximately 20%. He believes he would have to decrease his staffing level from 9 to 5 employees if the application was granted.
- [121] Mr Boodle did not believe that Rockhampton was a tourist area.

Ms Rossana Winters, Owner, Frenchville Foodstore

- [122] Ms Winters is the owner of the Frenchville Foodstore.
- [123] In her opposition to the application, Ms Winters believed that the introduction of 7 day trading in Rockhampton would cut her own trade by 50% to 60% making it unviable for her to continue her business.
- [124] The flow-on effect from an alteration to the trading hours would mean the possible loss of all of her 25 to 30 staff currently employed.
- [125] Ms Waters reiterated the view of others opposed to the application when she claimed that Sunday trading would severely impact upon families and family life generally.

Ms Glenda Mather, Local Government Representative (Councillor Division 1), Rockhampton Regional Council, Rockhampton

- [126] Ms Mather has held her position as a Councillor for 18 years.
- [127] Ms Mather emphasised that she was giving her own personal evidence and not representing the views or opinions of Rockhampton Regional Council (RCC).
- [128] Primarily, Ms Mather was concerned that QRTSA had not been given the opportunity to make a personal presentation to the full RCC. She believed that the QRTSA had been denied natural justice. Ms Mather was concerned because on 19 May 2009 at RCC's Finance and Government Committee, Mr Moore, representing the NRA, had made a presentation to the full RCC, seeking its support for 7 day trading.
- [129] An Officer's Report to RCC included a survey which was conducted by the Central Queensland University which showed "that most people in the city were happy with Sunday as a day of retail rest. Of the 827 surveyed, 42% were in favour of Sunday trading, with 49% against.". [Exhibit 18, point 5]
- [130] Notwithstanding the survey report, it was the Officer's recommendation to support the application for 7 day trading in Rockhampton - a motion that was carried 6-5. Ms Mather opposed the proposition.
- [131] Ms Mather said that before the vote had been called, she had moved a motion to let the matter lie on the table until a representative of small business had the opportunity to address the issue with RCC. RCC did not support Ms Mather's motion and consequently, QRTSA did not address RCC.
- [132] Ms Mather says that correspondence was sent to Mr Gary Black (NRA) from RCC's Strategic Manager Economic Development, Mr Rick Palmer advising of RCC's resolution and support for the application.
- [133] Ms Mather claims that the mover of the original motion, Councillor Ludwig "received a backlash from his community for supporting Sunday trading. He promptly submitted a Notice of Motion, indicating that he would attempt to reverse Council's previous decision which approved the NRA submission.". [Exhibit 18, point 5]
- [134] A further meeting of RCC was held on 14 July 2009. Councillor Ludwig moved the intended motion (i.e. that the small traders be permitted to put their case to RCC) and this motion was lost 6-5.
- [135] Consequently, the RCC passed another motion withdrawing its support for the NRA's application. That motion was as follows:

"That in view of the community's divided position on 7 day trading, Rockhampton Regional Council withdraws its previous endorsement for 7 day trading and leaves the determination of the issue to the Queensland Industrial Relations Commission.". [Exhibit 18, point 5]

- [136] Ms Mather's personal stand against 7 day trading included a consideration of the following matters:
- The global economic downturn. Jobs have been lost as "people tighten their belts".
 - Reducing household expenditure causes a further slowing of the economy. What follows from this is reduced hours for employees and more job losses.
 - Small business remains "the backbone of our economy, and our country" and additional competition from large companies poses a serious threat to the viability of small family businesses. [Exhibit 18, point 6(a), 6(b) and 6(c)]

Mr Kenneth Henrick, Chief Executive Officer, National Association of Retail Grocers of Australia

- [137] National Association of Retail Grocers of Australia (NARGA) represents approximately 4,500 independently owned and operated small businesses in the grocery retailing sector in all states and territories.
- [138] The primary points raised by Mr Henrick were as follows:
- Deregulation of trading hours in Australia has led to a shift of market share of the 2 major supermarket chains, Woolworths and Coles. Woolworths and Coles had a joint market share of about 34% in 1974. They now have a joint market share of close to 80% due in part to deregulation of trading hours.
 - From research conducted in New South Wales, it showed that Coles and Woolworths stayed open longer in the larger shopping centres, but in others closed at 5.00 p.m. as did other businesses. In Mr Henrick's view, the independent grocery operators did not have the financial resources to open for longer hours than at present.
 - From an employment perspective, Woolworths and Coles employed approximately 43% of full-time equivalents in the Australian retail grocery sector and the independent grocery retailers, with 20% of the market, employ 57% of the full-time equivalent employees.

- Mr Henrick referred to American research which showed that local and small business invest a far greater percentage of their profits into the local community, than do the supermarket chains.
- The market dominance of both Coles and Woolworths in Australia has led to the introduction in their stores of private label products which often replace Australian grown, processed and manufactured products.
- Both Coles and Woolworths offer illusory "benefits" to their customers - e.g. petrol discount shopper docket which are "clearly cross-subsidised by their other businesses, meaning that higher prices in markets where competitive pressures are low cross-subsidise the shopper docket discounts.". [Exhibit 30, point 11]
- Woolworths has recently entered into a partnership with Qantas to offer frequent flyer points for purchases of \$30 or more in supermarkets and other Woolworths businesses using a Woolworths card. The cost of doing this is borne by the consumer paying through higher retail prices. Coles has entered into similar programs.
- Reports from *The Australian Financial Review* dated 8 August 2009 said that price inflation in Australia was running at 4.7%, which exceeds the overall inflation rate of 1.5%. Mr Henrick says that "this is a further indication that consumers are not well served by the market dominance of Woolworths and Coles, which, because of their combined market share at close to 80% of the total market, are the price setters for the grocery supply chain in Australia.". [Exhibit 30, point 17]
- Mr Henrick tendered a report from PricewaterhouseCoopers "National Association of Retail Grocers of Australia - The economic contribution of small to medium-sized grocery retailers to the Australian economy, with a particular focus on Western Australia", June 2007.
- While there is material within that report which relates to an Australian-wide perspective, much of the information relates to the Western Australian economy. The Australian perspective was given in direct evidence by Mr Henrick.
- A further report tendered to the Commission "Economic Impact Analysis: A Case Study, Local Merchants vs. Chain Retailers, Complete Report, Prepared for Liveability by Civic Economics", December 2002 concerns "Introduction - Civic Economics is pleased to present Liveable City with this Economic Impact Analysis assessing the economic impact of local merchants relative to a chain merchant carrying comparable lines of goods. Sixth and Lamar, specifically BookPeople, Waterloo Records, and Borders Books & Music, provide a case study.". [Attachment A, Exhibit 30]
- Other reports tendered include:
 - "The Andersonville Study of Retail Economics", October 2004, Chicago, Illinois. [Attachment B, Exhibit 30]
 - "Assessment of the Direct, Indirect, and Induced Economic Effects of Chain Stores on the Regional Economy of Cape Cod", prepared for Smart Planning & Growth Coalition, prepared by FXM Associates, Mattapoisett, Massachusetts. [Attachment C, Exhibit 30]
 - "The Economic Impact of Locally Owned Businesses vs. Chains - A Case Study in Midcoast Maine", Institute for Self-Reliance, September 2003. [Attachment D, Exhibit 30]
 - An article from *The Financial Review* (dated August 8-9, 2009) entitled "The Great Shopping Mystery". [Attachment E, Exhibit 30]

[139] Evidence was given around the applicability of these articles by Mr Henrick through questions posed in cross-examination.

Mr John Cummings, President, Western Australian Independent Grocers Association Inc. (WAIGA) and Chairman of the National Association of Retail Grocers of Australia (NARGA)

[140] Mr Cummings stated that Western Australia has similar trading hours regime to that of Rockhampton. In Western Australia, small to medium-sized retailers can trade extended hours by way of gaining a permit.

[141] Various reports were mentioned by Mr Cummings (e.g. "the Moss Report" and research conducted in New South Wales and Victoria. These reports were not provided to the Full Bench).

[142] Notwithstanding the lack of supporting material (which may or may not have been of relevance to this case), Mr Cummings went on to state that:

- Some major retailers in Australia chose to close their doors at 5.30 p.m. even though they are entitled to trade longer hours. They do this because there are simply no customers at that time. However, stores such as Coles and Woolworths and liquor stores stay open.
- Tourists in Western Australia are catered for in the main by owner operated small business which operate in the area of souvenirs, clothing, surf shops, coffee shops and food outlets.
- Major outlets such as Bunnings have been granted extra trading hours while small hardware stores have had to try to compete with Bunnings' lower prices. Many of these stores have since closed because of an inability to compete reasonably with the larger stores.

Consideration of Evidence and Findings

[143] The specific legislative framework within which this application is determined has been previously cited.

[144] Within that legislative framework, we have considered the evidence as follows:

"(a) the locality, or part thereof, in which the non-exempt shop or class of non-exempt shop is situated"

[145] The specific location which is detailed in this application was visited by the Full Bench. The Full Bench and the parties also visited areas outside of the boundaries of the application. These inspections were conducted prior to the commencement of the hearing in Rockhampton.

[146] Within that location, the Full Bench was advised that Stockland Rockhampton has 160 stores and City Centre Plaza has 37 stores. Allenstown Plaza and Northside Plaza (Woolworths anchored centres) have approximately 20-25 stores. Farm Street Marketplace (Supa IGA anchor) has approximately 15 stores and the Red Hill Homemaker Centre has 20 stores, trading 7 days.

[147] There are also a number of small and medium-sized retail outlets within the boundaries of this application.

[148] Mr Kerr (Chief Executive of RRD) provided detailed evidence regarding the Rockhampton region. In Exhibit 5, he stated that Rockhampton is the service hub of Central Queensland, including the resources sector of the Central Highlands, Bowen, Galilee and Surat Basins. Mr Kerr also referred to recent announcements of proposed developments which include nickel mining, magnesium metal smelting and liquid natural gas processing facilities. Mr Kerr anticipated a substantial growth period for the region.

[149] The Rockhampton region currently has a population of approximately 111,000.

[150] Mr Leonard [Exhibit 6] stated that a \$93 million refurbishment had been undertaken at Stockland Rockhampton which operated both as a shopping outlet and also as a centre for leisure activity.

[151] Mr Sneyd (Retail Portfolio Manager - Queensland, Mirvac) said that the Target store within the City Centre Plaza was the only Target store within a 350 km radius. [Exhibit 11]

[152] Witness evidence was given regarding the proximity of Yeppoon and its ability to offer 7 day trading. Many residents of Rockhampton travelled to Yeppoon to avail themselves of this shopping. [Exhibit 21]

[153] Mr Waters (Regional Manager, Big W) gave evidence that over 50 retailers currently trade on Sundays in Rockhampton and many of those were in direct competition with Big W over similar categories of goods. [Exhibit 13] Similar evidence was given by Mr Hammersla. [Exhibit 7]

[154] QRTSA submitted that residents of Rockhampton had a wide range of choice to satisfy their retail needs on a Sunday. There was an ability to buy groceries, hardware goods, products from the Homemaker Centre amongst other things without the need to shop at either a Woolworths or Coles within a shopping centre.

Consideration and/or finding re: (a)

[155] In our view, the Rockhampton area under consideration in this application is not bereft of a range of shopping outlets. There is a mix of small independent stores (convenience stores) and larger independent stores which are far removed from the typical small trader operation. There are also a number of non-exempt stores.

[156] There are also those outlets (e.g. homemaker stores), able to trade over 7 days, which do sell items very similar to those sold within some of the non-exempt stores.

[157] What is evident from a consideration of the range of shopping outlets within this general location is should customers move from one exempt shopping outlet to another, they may arguably find many of the goods they might require to purchase on a Sunday. As well, there is a significant degree of convenience in shoppers being able to easily access an independent retail outlet on a Sunday for a range of goods which might be quickly purchased.

[158] Conversely, were customers able to attend one shopping centre, then arguably again, those collective shopping needs might be accommodated with greater ease and, in many cases, under a more competitive price regime.

[159] The fact that there are a number of shopping outlets, of all sizes, within the area under consideration does not of itself mean that this application should be rejected. It is a factor which will be considered in conjunction with the range of other factors outlined in s. 26 of the Act.

"(b) the needs of the tourist industry or other industry in such locality or part"

- [160] A number of QRTSA witnesses [e.g. Messrs O'Sullivan, Gow and Boodle] were of the view that Rockhampton is not a tourist destination.
- [161] Mr Kerr gave evidence that Rockhampton serves as a gateway to the coastal attractions of the Whitsundays and Great Barrier Reef, as well as a number of inland tourist destinations.
- [162] Mr Kerr's evidence was that tourism provided approximately \$794 million to the Fitzroy region in 2007 and that Rockhampton is the hub of the region. Further evidence was given that Rockhampton is the major transport node for the region with its airport, rail and road infrastructure.
- [163] Mr Murray (Proprietor, George Street Foodworks) gave evidence that many tourists came through Rockhampton with caravans and shopped at his store. [Transcript 4-13]
- [164] Considering the needs of "other industry", witnesses speculated that communities from mining and agricultural areas outside of Rockhampton, would probably utilise extended trading services in Rockhampton should the application be granted.
- [165] Under this section, NRA submitted that the needs of the "retail industry" should also be considered within the context of "other industry". NRA stated that shopping centre owners and retailers had made significant investments in the Rockhampton retail infrastructure and should be permitted to realise a maximum return on that investment by being able to trade 7 days per week. [Submissions of NRA, point 38]
- [166] Further evidence was received from Mr Stout [Exhibit 8] and Mr Wallace [Exhibit 15] where each attested to the significant operational efficiencies that were achieved from trading over 7 days rather than over 6 days.
- [167] Evidence from the QRTSA was that some smaller traders had put significant resources into their businesses in the belief that the trading hours orders which prevailed at the time would remain constant.

Consideration and/or finding re: (b)

- [168] There was no strong evidence suggesting that Rockhampton could be labelled as a "tourist" destination. We accept that it is a city through which tourists pass in order to reach a tourist destination. However, the estimated "tourist dollar" of \$794m (in 2007) represents a more than significant contribution to the region.
- [169] In terms of the monetary investments all parties say they have put into their businesses, all that can be said is that trading hours are determined by the Commission after consideration is given to the evidence and submissions produced at the hearing and the requirements of the Trading Act. Over time, demographics of cities and regions change, as do consumer preferences and other matters which the Commission is required to consider under the Trading Act. Given the frequency of and publicity given to trading hours applications in Queensland, it would seem most likely that those involved in the industry are aware of the potential for trading hours, at times, to be amended.

"(c) the needs of an expanding tourist industry"

- [170] There was no evidence elicited from any party on this criteria.

"(d) the needs of an expanding population"

- [171] The population of Rockhampton now stands at 111,000. It was predicted by Mr Kerr that the population is expected to grow significantly in the region. This growth would be largely attributable to the growth in the resources sector within the region.

Consideration and/or finding re: (d)

- [172] Other than the evidence from Mr Kerr, there is no statistical material before the Commission to gauge the prospective growth in population within Rockhampton. However, there is ample material before the Commission which points to the growth of industry within close proximity to Rockhampton and, from that, we are prepared to expect that there will be growth in the Rockhampton population, but the extent of such growth is uncertain.

"(e) the public interest, consumers' interest, and business interest (whether small, medium or large)"

[173] The "public interest" can be described generally as something in which the public as a whole has a stake.

Consideration and/or finding re: (e) - "public interest"

[174] Primarily, the "public interest" test in these circumstances is incorporated within the specific requirements which the Commission must consider within s. 26 of the Trading Act. A mandatory consideration by the Commission of factors (a) to (i), broad as these sections are, ensures that an appropriate "public interest" consideration has been met. Evidence to this effect is found in the various affidavits and further evidence received during the hearing.

[175] "Consumers' interests" are usually put to the Commission through various surveys which are conducted by the parties. There is often an abundance of commentary made by a range of witnesses either claiming support for or opposition to the application on behalf of consumers, however, the veracity of this information is unable to be tested by anyone as the "consumers" to whom reference has been made do not usually give evidence to the Commission. This consideration may be different in cases where the witness is an "expert witness" or one whom the Commission, in the particular circumstances of a case, accepts is in a position to make such comment.

[176] There are consumer surveys before the Commission which have been commissioned by various bodies. These bodies are RRD and NRA through the Market Evidence Research Group.

[177] The first survey (i.e. conducted by RRD) in 2008 found that 45% of those consumers surveyed favoured the application and 55% were opposed to it. Within that survey it was found that in key demographics there were differing results. An example of this was found in the age group of 18-34 where 69.2% supported the application. One thousand two hundred and thirty eight (1,238) persons responded to the survey. The validity of the methodology adopted and conduct of the survey has not been questioned during this hearing.

[178] The second survey, conducted by RRD, was taken amongst its own members and it found that 81% support for 7 day trading in Rockhampton.

[179] The third survey (conducted by Market Evidence Research Group, Faculty of Business at the Rockhampton campus of the Central Queensland University) in 2009 and commissioned by NRA, was conducted at the Stockland Rockhampton, City Centre Plaza and the Red Hill Homemaker Centre. Five hundred and fifteen (515) individuals were interviewed over a Thursday evening, Saturdays between 11.00 a.m. and 3.00 p.m. and Sundays between 10.20 a.m. and 2.30 p.m.

[180] From the range of questions posed to the consumers, it was found that 70% would find it more convenient if shopping centres traded on Sundays. The surveys received from consumers at the Red Hill Homemaker Centre showed that 77% believed that it would be more convenient to shop at a shopping centre on a Sunday.

[181] The reasons given for such opinions included:

- work commitments;
- more time;
- better time to shop with family and friends; and
- live outside of Rockhampton.

Consideration and/or finding re: (e) - "consumers' interest"

[182] It is our observation that the outcome of consumer surveys around the question of trading hours often supports applications for extended trading. Occasionally, however, there are exceptions to the rule.

[183] In this case, a majority of members of RRD believe that 7 day trading would enhance the economy of Rockhampton.

[184] With the other 2 consumer surveys, there are different results, with one survey conducted in 2008 and a later survey in 2009. The 2009 survey, being the most recent survey, showed support for 7 day trading. When examining the break-down of the results of the surveys, it is clear that discernible consumer groupings either support or oppose the application.

[185] In all, our view of the survey results, on balance, show a preference on the part of consumers for 7 day trade in Rockhampton.

Consideration and/or finding re: (e) - "Business interest (whether small, medium or large)"

[186] Within this category there are three clearly discernible groupings of business. The larger businesses were represented by the applicant and the medium grouping of businesses, *viz.* those such as some of the larger Foodworks and IGA shops and the smaller traders, were primarily represented by the QRTSA. However, with some smaller traders, trading within the shopping centres or adjacent to them, there was support for the application and these traders were represented by the NRA.

"Small business interests"

[187] There were a number of small traders ("exempt stores"), represented by the QRTSA, who gave evidence. Primarily, the evidence fell into the following categories:

- There would be an immediate impact upon the profitability of small businesses. An estimated loss of up to 50% of profits was predicted if the application was successful.
- One of the most profitable trading days for small business was on a Sunday.
- There would be an immediate decline in employment in these stores of approximately 20%.
- There were sufficient trading outlets open on a Sunday in Rockhampton, sufficient to service all consumer requirements.
- Seven day trade by the non-exempt stores would have an impact upon family life.
- Employees having to work on a Sunday in the non-exempt stores would be precluded, on a Sunday, from enjoying family life, sporting involvement and restful pursuits.
- There would be a "ripple effect" into community life generally.
- Shopping centres could become a haven for teenagers providing the opportunity to display anti-social behaviour.
- The community had not been clamouring for Sunday trade.
- There was concern that the impact of the Award modernisation process under the Federal industrial relations legislation may have a further adverse monetary effect upon small traders.
- Rockhampton was not a recognised tourist destination and no demands made on behalf of tourists had been mentioned.

[188] As previously stated, within this consideration, the Commission has also received evidence from small exempt traders who were called by NRA and who support the application (e.g. Terry White Chemist; Loot Homewares and Va Voom & Co). These are traders who have businesses within the shopping centres in question. These small traders claim to be disadvantaged by not being able to trade on a Sunday, unlike their competitors who can trade as it suits them.

"Medium sized business interests"

[189] There were a number of medium sized businesses which fell under the category of "exempt" stores for the purposes of the legislation, e.g. Foodworks on Gladstone Road, Allenstown.

[190] The variety of goods supplied by these stores were much more extensive than those of some smaller traders. The goods supplied included meat, fruit and vegetables and a larger range of groceries than what could be found within the typical convenience store. These stores were described as being larger than a conventional convenience store, but smaller than a major supermarket.

[191] Notwithstanding size, the impact of a successful application would be similar to that being expressed by the smaller traders.

"Large business interests"

[192] The larger business interests were multi-faceted.

[193] A survey was conducted by RRD amongst its own membership which showed that 78% of those surveyed believed that from a business perspective, 7 day trading would be good for the Rockhampton economy and 81% of those surveyed stated that, in any event, from a business perspective they would support the application to grant 7 day trading in Rockhampton.

[194] Evidence on behalf of the "non-exempt" stores highlighted a number of points:

- By opening "non-exempt" stores on a Sunday in Rockhampton, consumers would be able to avail themselves of a wide range of goods not normally available on a Sunday. This range of goods included "National Brand Products; Wish Card Vouchers; Layby; Parcel Pick-up and Home Delivery; Trained

Cosmetic Consultants; One Hour Photo Processing; Digital Photo Processing; Everyday Rewards Programs and Qantas Frequent Flyers Program".

- Opening "non-exempt" stores creates more employment opportunities for existing or new staff.
- Sunday is the preferred shopping day for consumers with families. It offers an opportunity for "time-poor" consumers who are busy working all week, attending sporting activities on a Saturday and who find shopping on a Sunday with their family a leisurely experience.
- "Non-exempt" store witnesses stated that many independent "exempt" stores, post-2000, have experienced a growth in their profit margins because they have been able to take advantage of location, flexibility and convenience to engage in extensive non-price competition with the major chains. The market position of the major chains has not grown and the profit levels of the independent stores and their wholesaler Metcash have grown substantially.
- Longer shopping hours permitted consumers to have more leisure time to compare prices, search for bargains and to make more efficient shopping decisions.
- There is a noted consumer preference for multi-purpose shopping.
- Seven day trading resulted in a more efficient use of energy such as refrigeration and air-conditioning systems within the major shopping centres.
- Tourists and visitors to Rockhampton do not recognise any difference between the days of the week and shopping on a Sunday is expected.
- Many of the major stores' competitors trade on a Sunday in Rockhampton - e.g. homemaker centres in Rockhampton which include the following stores: The Good Guys; Harvey Norman; Sleep City; Mayne Furniture; Curtain Wonderland; Beacon Lighting; Forty Winks; Amart All Sports and Supercheap Auto, to name but a few.

Consideration and/or finding re: (e)

- [195] Primarily, "exempt" store owners have had to estimate what might occur to them if Sunday trade was granted to the "non-exempt" stores.
- [196] The Commission accepts that there may be an impact, to varying degrees, upon small stores on a Sunday if "non-exempt" stores were permitted to trade. Certainly, prior to the opening time sought in the application of 9.00 a.m., the small traders would retain a captive market. However, that time period does not represent the only prime earning period for those stores on a Sunday. Evidence was also given that other peak times on a Sunday were around midday and later in the afternoon. All smaller stores said that Sunday trade represented a significant percentage of their total trade for a week.
- [197] While most "exempt" store owners have made their estimation based upon their current trading pattern for a Sunday, there is no substantial evidence (except from Mr Wood and Mr Gow, both of whom gave general evidence about the introduction of 7 day trading) to suggest that all consumers would necessarily desert these stores because a "non-exempt" store was to open on a Sunday. Further, some of the evidence given by small traders with regard to their anticipated loss on a Sunday should the application be successful, was based upon the loss associated with Christmas trade during the 2 weeks that major retailers can trade. In our view, the Christmas period is discretely different to other periods within the year. Shopping habits are markedly different at that time of the year and any analysis of consumer shopping habits around that time must be viewed within context.
- [198] Two QRTSA witnesses were able to comment upon what change might occur in employment at their stores with the introduction of Sunday trade for non-exempt stores. Mr Wood owned an exempt store in Yeppoon when Sunday trade for non-exempt stores was granted and Mr Gow had owned a store at Emerald when 7 day trade was granted. Both witnesses said they suffered a downturn in trade (20% downturn for Mr Wood and a decline in sales for Mr Gow) with the commencement of 7 day trade.
- [199] In our view, "exempt" stores often retained an element of advantage of convenience over the major shopping centres. The location of the store was also an attraction for customers. [Transcript 4-29]. These stores were more accessible for vehicular traffic and local consumers than a major shopping centre. Further, the shopping done at these stores (and the "basket price") showed that consumers were using these stores primarily for quick shopping and convenience. [Transcript 4-30] With "basket prices" being recorded, through evidence, at around \$10 to \$20 dependant upon the size of the store, it would seem at least likely that these stores could retain much of their Sunday trade. Further, these convenience stores in the main are not competing with the major supermarkets on other types of goods which might encourage a consumer to visit a larger shopping centre on a Sunday, e.g. the sale of fashion goods, and merchandise and electrical goods etc. Mr Wood described his store as a "small top-up supermarket". [Transcript 4-30]

[200] The Commission also acknowledges that it may be the case that for many consumers who wish to utilise a major shopping centre on a Sunday, they take advantage of purchasing goods which may have otherwise been purchased from a convenience store.

[201] For many of the medium sized businesses, similar evidence was adduced and the Commission adopts a similar view as expressed above.

[202] We have taken into account the benefits listed by those non-exempt stores as to trade on a Sunday, and that, coupled with the survey results which show that a majority of consumers interviewed support non-exempt trade on a Sunday, leads us to a view that these are significant, but not the only, factors to be taken into account when determining this application.

"(f) the alleviation of traffic congestion"

[203] There were no submissions or evidence adduced around this consideration.

"(g) the likely impact of the order on employment"

[204] As is usual in these cases, there will be an increase in employee hours within the non-exempt stores if the application is granted. NRA witnesses stated that the combined non-exempt retail hours created would exceed 2,000 hours per week or an extra 42,000 hours per year.

[205] Against that, one must consider the estimated job losses suggested by the opponents to the application.

[206] These hours are not insignificant and must be taken into account. A further consideration, within this context, is that all stores which would benefit from a successful application have stated that work on a Sunday would be on a voluntary basis for all employees.

Consideration and/or finding re: (g)

[207] In our view, a known increase in working hours for employees is a positive factor supporting this application. The real effect of what could occur in exempt stores if the application was granted is largely unknown.

"(h) the view of any local government in whose area the order is likely to have an impact"

[208] The RCC evidence around this point has been extensively detailed in this decision.

[209] At the end of the day, RCC determined to leave the matter in the hands of the Commission, preferring not to express a view either way.

Consideration and/or finding re: (h)

[210] The RCC has adopted a neutral position.

"(i) such other matters as the industrial commission considers relevant"

[211] NRA has submitted that the Commission should consider the fact that there has been no change to trading hours applicable to Rockhampton since 1992 (other than the introduction of 7 day trading for hardware retailers in 2000).

[212] NRA states that the Commission should consider the very substantial changes to trading hours in most parts of Australia.

[213] Trading hours in Victoria, Tasmania, and most recently, New South Wales have been deregulated. Reference was made to other parts of Australia which have deregulated trading hours.

[214] Coupled with these changes, NRA says that consumer preferences have altered accordingly, with many people who either visit or migrate from these de-regulated areas expecting to enjoy the benefits of 7 day trade.

[215] NRA states that:

"The retail landscape has changed dramatically since 1992 with the emergence of new retail formats such as homemaker centres, and direct factory outlets, the proliferation of franchise arrangements and the emergence of mass merchants which don't recognise the traditional retail demarcations in terms of product categories."
[Submissions of NRA, point 76]

- [216] NRA also points to the consolidation of the independent grocery sector since 1992. NRA says that this consolidation has delivered the capacity of the independent sector to compete much more effectively on price through Metcash, the "third force" in the grocery market. This was confirmed in the evidence of Mr Henrick, who indicated that Supa IGA stores compete directly with Coles and Woolworths on price and range and that the independents in the grocery sector "have been going very well". [Submissions of NRA, point 77]
- [217] There has been a discernible growth in the banner groups with many consolidating under the brands of IGA, Foodworks and SPAR. Many of these businesses are very successful.
- [218] We have considered the evidence given by Mr Henrick and Mr Cummings. Their evidence was more of an overview of trading regimes throughout Australia and of the impact on the market of stores such as Coles and Woolworths. Mr Henrick stated that Coles and Woolworths had, in 1974, 34% of the market share in Australia. This share has now grown to approximately 80%.
- [219] Mr Henrick also said that from an employment perspective, Woolworths and Coles employed approximately 43% of full-time equivalents in the Australian retail grocery sector and the independents, with 20% of the market, employed approximately 57% of the full-time equivalent employees.

Consideration and/or finding re: (i)

- [220] These factors have been considered, however, on the question of deregulation of the market, it must be said that the deregulated regimes operating within other States of Australia have occurred primarily as a consequence of Government decision and action. This is not the case in Queensland. Queensland trading hours are determined by the Commission pursuant to the Trading Act.

CONCLUSION

- [221] All trading hours matters turn on their own facts. What might be a relevant consideration in one area of the State may be irrelevant in another.
- [222] We have determined to approve the application *in toto*. We have considered the mandatory provisions required by the legislation and, on balance, find that the submissions and evidence in support of the application outweigh the material and evidence supplied by the respondents to the claim. We have outlined our "consideration and/or finding" on all applicable elements of the Trading Act which require consideration.
- [223] In our view, even though there are a number of smaller retailers operating within the location of the application, there are added advantages in permitting the "non-exempt" stores to trade on a Sunday. To this end, we rely upon and accept the summary of submissions made under s. 26(e) [large business interests] of the Trading Act.
- [224] We have accepted evidence from consumer surveys which show that customers have largely supported the introduction of 7 day trading in the identified areas within Rockhampton.
- [225] We also note that the RCC was unable to support or oppose the application. The Commission is not required to "second guess" RCC as to the stance it has taken.
- [226] While we acknowledge that Rockhampton may not be viewed as a "tourist" area as such, we have accepted that many tourists travel through Rockhampton (because of its geographical location) *en route* to other tourist destinations. Certainly the amount of money expended within the region identified as the "tourist dollar" is of significance.
- [227] There is ample evidence to show there is substantial growth within the Rockhampton region. This is largely attributable to the growth of the resources sector around the Rockhampton region. We accept generally that a comparable growth in population would occur within the region.
- [228] While there was no direct evidence to show that residents of outlying areas would frequent Rockhampton on a Sunday if major traders were open, it could be argued that there could be some leakage of those residents into Rockhampton for the purpose of shopping on a Sunday in the major shopping centres. The Commission makes those comments but does not rely upon that consideration to support or oppose the granting of the application.
- [229] The Commission accepts that there would be an increase in employee hours within the non-exempt stores and that work would be conducted on a voluntary basis. In saying this, we are also mindful of the apprehension of small traders that they might have to dispense with some employees should Sunday trade for non-exempt stores occur. We understand that it is impossible for small traders to attempt to quantify any losses which they might

encounter as a result of a successful application for Sunday trade. That is not to say, however, that the Commission has disregarded those submissions. All submissions and evidence has been duly considered.

[230] When weighing all of these considerations, we believe that, on balance, the case for the granting of Sunday trade in this Rockhampton location is warranted.

[231] The SDA sought assurances from all relevant witnesses that if the application was granted then work performed on a Sunday by employees would be of a voluntary nature. This assurance was given by all witnesses supporting the application.

[232] The operative date for the amendment to the Order is 29 January 2010.

[233] NRA is directed to prepare and file a draft Order in the Registry within 22 days of the date of release of this decision.

Order accordingly.

D.A. SWAN, Deputy President.

G.K. FISHER, Commissioner.

J.M. THOMPSON, Commissioner.

Hearing Details:

2009 1 July
8, 9, 10, 11 September
6, 20 October

Released: 17 December 2009

Appearances:

Mr J. Moore, of National Retail Association Limited, Union of Employers.
Mr K. Murphy, of Queensland Retail Traders and Shopkeepers Association (Industrial Organisation of Employers).
Ms P. Town and Mr D. Gaffy, of Shop, Distributive and Allied Employees Association (Queensland Branch) Union of Employees.