



EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE

Members present:

Ms KE Richards MP—Chair
Mr MA Boothman MP (virtual)
Mr N Dametto MP (virtual)
Mr J Lister MP (virtual)
Mr JR Martin MP
Mr JA Sullivan MP

Staff present:

Mr R Hansen—Committee Secretary
Ms R Duncan—Assistant Committee Secretary

PUBLIC BRIEFING—INQUIRY INTO THE OPERATION OF THE TRADING (ALLOWABLE HOURS) ACT 1990

TRANSCRIPT OF PROCEEDINGS

THURSDAY, 30 SEPTEMBER 2021

Brisbane

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The committee met at 12.59 pm.

CHAIR: I declare open this public briefing for the committee's inquiry into the operation of the Trading (Allowable Hours) Act 1990. My name is Kim Richards. I am the member for Redlands and chair of the committee. I would like to acknowledge that we are meeting on the custodial land of the oldest living civilisation in the world and pay my respects to elders past, present and emerging of the Jagera and Turrbal people. We are very fortunate in this country to live amongst two of the world's oldest living cultures in Aboriginal and Torres Strait Islander people. With me here today is the member for Stafford, Jimmy Sullivan, and the member for Stretton, James Martin, who is substituting today for the member for Rockhampton, Barry O'Rourke. With us on the phone today are the deputy chair and member for Southern Downs, James Lister; the member for Theodore, Mark Boothman; and the member for Hinchinbrook, Nick Dametto.

On 14 September 2021 the Legislative Assembly agreed to a motion that the Education, Employment and Training Committee would inquire into and report on the operation of the Trading (Allowable Hours) Act 1990. The committee is required to report its findings by 31 January 2022. The motion included detailed terms of reference, which are available from the inquiry page on our website.

This is a very important inquiry for Queensland. The Trading (Allowable Hours) Act determines when and where every Queenslanders and visitor to our state shops for goods and services. The trading hours arrangements set by this act play a critical role in shaping local economies, employment and business conditions which are vital to the Queensland economy. If you shop, own a retail business or work in one, the committee's inquiry will impact you.

The purpose of the briefing today is to expand on a written brief the Department of Education provided the committee earlier this week and to provide useful background information about trading hours arrangements and the operations of the Trading (Allowable Hours) Act. That written brief is now available from our inquiry webpage and I thank the department for that response. It has been very useful.

The committee's proceedings today are proceedings of the Queensland parliament and are subject to its standing rules and orders. In this regard, I remind members of the public that under the standing orders the public may be admitted to or excluded from the hearing at the discretion of the committee. Only the committee and invited witnesses may participate in these proceedings. Witnesses are not required to give evidence under oath, but I remind everyone that intentionally misleading the committee is a serious offence.

The proceedings are being recorded by Hansard and broadcast live on the parliament's website. All those present today should note that it is possible you may be filmed or photographed by the media and images of you may appear on the parliament's website or social media pages. The media rules endorsed by the committee are available from committee staff if required. I remind committee members that officers are here to provide factual and technical information only. Any questions seeking an opinion about policy should be directed to the minister or left to debate on the floor of the House.

JAMES, Mr Tony, Acting Deputy Director-General, Office of Industrial Relations, Department of Education

SCHOSTAKOWSKI, Mr Tony, Director, Regulation and Compliance, Office of Industrial Relations, Department of Education

CHAIR: Welcome. I invite you to make an opening statement that covers the main points from your written brief before we go to questions.

Mr James: Thank you, Chair. I, too, acknowledge the traditional owners of the land on which we meet and pay my respects to elders past, present and emerging. I thank the committee for the opportunity to brief it on the Trading (Allowable Hours) Act 1990 and to assist you with your review of the act. My name is Tony James. I am the Acting Deputy Director-General of the Office of Industrial Relations and with me is my colleague Mr Tony Schostakowski. He is the Chief Industrial Inspector.
Brisbane

He is also the Director of Industrial Relations Regulation and Compliance. Industrial Relations Regulation and Compliance has operational responsibility for compliance with the Trading (Allowable Hours) Act. OIR has provided the committee with a background paper, as you have mentioned, Chair, and it also includes the outcomes of the 2016 review conducted by former Speaker John Mickel and a reference group of significant stakeholders drawn from employer and employee associations connected to the retail industry and also the Queensland Tourism Industry Council. In the best interests of assisting the committee today, I do not propose to repeat a lot of the information that is in that report. I trust you would prefer to use your time to ask us questions, and I and my colleague will endeavour to do our best to answer your questions. I will, however, highlight a few matters, and I will be brief.

The legislative requirement to conduct a review is found at section 46B of the Trading (Allowable Hours) Act. The act itself imposes restrictions on the permitted trading hours for certain retail shops throughout Queensland. The act distinguishes three classes of retail shop. There is the exempt shop, which, as the name suggests, is a class of shop exempt from all trading hours regulation. The second class is the independent retail shop. This is a class of shop subject to very minimal regulation. It is basically not to trade on certain public holidays unless it is a shop that is predominantly selling food or groceries, whereupon it is predominantly unregulated. The classification of an independent retail shop is based on small business type criteria. We then have the class of non-exempt shop. These are the larger retailers—the supermarkets and the department stores—which are subject to trading hours regulation. Their trading hours may also be determined by where they are in the state. Mr Schostakowski and I will address questions on the permitted trading hours for all classes of shops and in particular areas of Queensland.

The act also provides that the QIRC can consider applications and make orders for permitted trading hours outside the hours contained in the act. However, with the exception of a limited circumstance, a five-year moratorium was placed on the QIRC in 2017 from exercising its power in this regard, and that was a recommendation of the 2016 review. The Mickel review recommended a moratorium period on further applications for trading hours changes to give industry, employers, employees and the public a period of stability and certainty about the permitted trading hours, with the expectation that an assessment of the trading hours arrangements following his review and government changes would be made after they had been in place for a reasonable time, and here we are.

Although there is a moratorium on hearing applications for changes in the permitted hours, the QIRC can, however, receive an application to make an order to vary prescribed hours in limited circumstances, and that is at section 5 of the act which enables the QIRC, upon application, to declare an event as a special event and all shops within the stated area of that event to be exempt from the trading hours restrictions for the period of the declaration. In effect, it turns all shops in that area to be exempt shops. Since the 2017 amendments came into force, 23 applications have been made to the QIRC for the declaration of a special event. The briefing paper provides the committee with a breakdown of those applications and observations of the impact of those declarations.

I am acutely aware that your terms of reference also include consideration of the impact of the 2017 changes and the effect of trading hours regulations on the Queensland economy. OIR—my team and I—are assembling employment and other relevant economic indicators data for you for the retail trade industry that will have relevance to your considerations for retail trading hours regulation. The committee may note—and I think it was also made clear in John Mickel's report as well—that there are many potential drivers for growth in retail employment, retail spending and gross state product and these drivers also include the normal business cycle, population growth, international trade patterns, market structure and of course in the last two years COVID. The interplay of all of these things does create complications for interpreting data for the purposes of isolating and analysing the impacts of trading hours. I and my team are working with Queensland Treasury including using ABS data, labour force survey data and quarterly estimates of employment by industry at regional levels and data in jobs in Australia publications for the estimate of numbers of jobs by industry and by region on a financial year basis. That is in addition to the other more generic economic indicators such as retail turnover and gross state product. We have Christmas trade data and the like. I undertake to report this to the committee as soon as it is completed and I am aware of the committee's timetable and public submissions and hearings. I anticipate that I should have this before 15 October, which I believe is your public submissions closure time.

CHAIR: Yes.

Mr James: Chair, I will leave it there. Mr Schostakowski and I would welcome any questions the committee may have.

CHAIR: Thank you very much, Mr James, and we really look forward to receiving that data. I think it will be extraordinarily useful, although, as you say, possibly in light of COVID and current data that comes in, it may be a little disrupted in terms of being able to compare.

Mr James: You have to go with what you have, Chair.

CHAIR: Absolutely; indeed.

Mr LISTER: Thank you, Mr James and Mr Schostakowski, for coming in. Mr James, I ask you to give me just a bit of a background explanation of the involvement of OIR and the QIRC and what the respective roles of each have been in the regulation of trading hours under the act.

Mr James: I will turn to Mr Schostakowski when we come to talk to the role of OIR as the inspectorate. In terms of the QIRC, the QIRC has for a considerable period—and I will get some advice from my colleague of time, but for as long as I can remember, and I have been around for 40 years—been the tribunal that has considered applications for trading hours. Prior to the 2017 amendments and the Mickel review, there were about 99 trading hours orders. One of the things that the Mickel review did was make the trading hours arrangements more transparent by simplifying and taking out some of the complexity of orders and moving them into the base legislation.

The QIRC has a role to hear applications from applicants and to consider, against criteria that are set out in the act, the merits of a particular order to change trading hours. In the 2017 amendments the QIRC's power to adjudicate on applications was suspended to the moratorium, although it did introduce a new role in terms of this special events criteria. Matters for the QIRC are heard as single commissioners and the legislation itself does set out the criteria and the relevant powers of the QIRC. I am happy to go into those details further. I will have a quick look, but I will turn to my colleague Tony, who heads up the inspectorate.

Mr LISTER: Yes, please.

Mr Schostakowski: The role of the inspectorate is really two pronged. First of all, we give information to the public on trading hours, because people generally are very interested in trading hours. Business owners obviously and the public are very interested in trading hours in shops across the different areas of the state, particularly when it gets to public holidays and different trading hours periods throughout the year. We have an information service and the website where we provide that information. The other area is if there are any complaints from any of the stakeholders, whether it is a business owner or whether it is a member of the public. They lodge complaints and we do take complaints about breaches of the act and investigate those. There have been matters in the past—nothing recent but in the past—that have proceeded through courts, but generally a lot of our role now is providing information to the public.

Mr LISTER: Do you find, being at the coalface in dealing with traders, that you and your officers receive feedback either formally or informally about the arrangements? Do you have a mechanism in place to collate and feed that back?

Mr Schostakowski: The majority of the inquiries are simply about what are the hours, so standard inquiries like that. There are times where major stakeholders—and throughout the pandemic is a good example—will write to the department concerning issues about trading hours, so we do receive those types of inquiries as well.

Mr James: That is right. The really small end of town—the small businesses, exempt shops for example—are pretty much unregulated, so the trading hours act itself does not particularly touch them. The larger retailers are organised mostly through the National Retail Association and they do raise issues with us from time to time. Just for clarity, the QIRC has been the tribunal for trading hours considerations since 1964, and, Chair, I was amiss. I have two other officers from the Office of Industrial Relations with me—Mr Mark Hopgood and Ms Carolyn O'Brien, and I thank them for accompanying us. I would turn the committee's attention to the act and part 5, from about section 21 on, which talks about the fact that the Industrial Commission is to decide trading hours for non-exempt shops. They are the relevant sections and it does set out the criteria at 26 in terms of matters that are relevant to their considerations.

Mr LISTER: Thank you very much.

Mr SULLIVAN: Thank you for that introduction and for the detailed submission you provided. Forgive me, but I am going to start by saying that I am probably going to be going into the weeds a little bit. I think that is a bit of the nature of this inquiry and this particular line of work, so forgive me for that. Seguing on from your previous answer in terms of the role of the QIRC, is it your view, Brisbane

because of the reduction of ongoing applications or ongoing work that they have had to do in this space that was a bit all over the shop, that they have had the time to deal with the matters that do come before them and they have been able to turn that around pretty quickly—for example, special events?

Mr James: I would suggest that that is a question for the QIRC rather than me. However, I will make an observation, so I thank the member for the question. The observation that I would make is that applications for special events, which are the ones that have been happening since 2017—23 of them—to the best of my knowledge have been turned around extremely quickly. In fact, I think I could probably get you some time lines on them, but you are talking a week or two, not a month. The normal process for that is that an application is lodged, in most cases by the NRA. That has been the history. The matter is distributed to a relevant member. The member then issues a directions order and also calls for interested parties. Mr Schostakowski and I and the SDA are down as interested parties on all applications, so we get notification. I know the SDA is very active in responding, as is the AWU in responding. If they wish to be heard, the matter is then set down and it is not set down with any delay. It is normally heard on a day—I do not think any of them have gone any longer than a day—and very often the member comes back with a decision either at that time or within hours. I can undertake for the committee to talk with the Industrial Registrar and get some data about the turnover.

Mr SULLIVAN: That would be really useful if you could, so thank you. In particular in the last 18 months we have seen not just small events that have to get cancelled or postponed at the last minute but large events as well, so I could imagine that for the postponement, for example, of city-wide events or a regional event there might need to be a quick turnaround, so having that intel would be useful.

Mr James: If I may, I thank you for that observation. I am looking at some of the matters that have gone up for trading hours. They are usually looking for a declaration for a day or two. The Mount Isa Rodeo is a significant event in Mount Isa. I think they have sought every year now a declaration that it is open. If COVID was to call a lockdown and the thing was cancelled, I am not sure that the commission needs to do anything further. It has made its declaration, but the declaration does not compel a shop to open. It basically says, 'In this area for this particular period your shop'—and it is really the non-exempt shops we are talking about—'can continue to trade.'

CHAIR: So it is a may, not must?

Mr James: It is definitely a may, not must. In fact, I think you will find on the observations that we have made in our paper, despite the fact that section 5 says it is a blanket for this period, shops are exempt, so really they have no regulated trading hours. This is what we have observed, and it is very difficult to find because you can only look at advertised changes in trading hours. We have found that in some cases the larger shops may have opened an hour or two either end, but certainly I do not think any observations we have made would say that when they have a declaration for a special event there has been an open slather 24-hour trade. In fact, I would suggest that that has not been the case.

Mr SULLIVAN: It still has to be economical for them as well.

Mr James: Absolutely, and I am sure those are the questions and the drivers.

Mr SULLIVAN: Again, as I said, let us get into the weeds a little bit. For those of us who are new to this committee, could you provide us a bit of the background to the specific history of the Mossman and Port Douglas scenario? I should declare that I previously worked for the Attorney-General, who was community champion for that part of the world, for Mossman Gorge, so I have spent a bit of time there and noticed some of those peculiarities. Could you give us a history of how that landed where it has?

Mr James: Certainly, and I will turn to Mr Schostakowski. I certainly am also familiar with the Port Douglas particular area and I know when Mr Mickel went there there was a lot of conversation about, particularly at that time, the tourism cruise industries.

Mr Schostakowski: Basically, the Douglas Chamber of Commerce, I think, was pretty well one of the main drivers and very interested in the tourism aspect. From that, Mr Mickel in the 2017 review spoke to the major stakeholders in the area. The outcome was that it was decided that one of the recommendations from the review was that that would be an ideal area to trial for a period of five years where the non-exempt shops were classified as exempt, so unrestricted trading in that Mossman/Port Douglas area. There was also acknowledgement that at the time there was a cruise terminal there and quite a busy tourism area with a variety of shops there that needed to service cruise passengers, including—

Mr SULLIVAN: At what could be odd times.

Mr Schostakowski: Yes. That was through the push from the Douglas Chamber of Commerce in that they were interested in it and it arose from that and turned into a recommendation for a five-year period where an exemption applies to all the non-exempt shops there to trade unrestricted, and that was then accepted by the government at the time.

Mr James: If I may, I am desperately looking through the Mickel review because I know he has commentary on that. If you look at recommendation 10, where the heading was 'Redefining some non-exempt shops as exempt shops', that is the recommendation that led to the opening up of Mossman and Douglas. There is some commentary there, but, again, by the end of this session I might be able to get one of my people to have a look and see if there is any other commentary.

Mr SULLIVAN: That is fine. I have further questions, Chair, but I am happy to pass to other members first.

Mr DAMETTO: Thank you, gentlemen, for coming along today to this public briefing. Have there been any breaches of the current regulation and legislation? If so, what was the involvement of the QIRC in prosecuting any of those breaches?

Mr Schostakowski: The role of the regulation falls within the Industrial Relations Regulation and Compliance area as opposed to the commission, which basically has more the role of a judiciary and hearing the applications under section 5. Our role is to accept complaints. If there are complaints, we would normally contact the parties and try to resolve the matters without instigating legal action. Over the last five years there have not been any prosecutions under the act against occupiers, but a lot of the work has been obviously to advise people what the restrictions are. In most cases it is a case of where people may be unaware of some of the restrictions and they have been able to be resolved that way. I will just add that those breaches are prosecuted in the Industrial Magistrates Court, not the commission, so they are treated as breaches of the act in the same way there would be a breach of another piece of legislation that is taken in the Industrial Magistrates Court for those breaches.

CHAIR: I just wanted to close out the conversation on Mossman and Port Douglas. Given the background to that with the Douglas Chamber of Commerce and its tourism value to its local economy, have any other tourist regions since 2017 sought any sort of special trading hours arrangements similar to those for Port Douglas and Mossman?

Mr James: There are specific trading hours arrangements for tourist and seaside areas in the act, and we can talk you through those. In terms of areas asking for trading hours, as you would be aware, through COVID there were a number of requests for increased hours, and in fact the Chief Health Officer has some powers under the public health acts to extend hours. You might recall we had the community hour, which allowed big shopping centres to, and I do recall Mission Beach made an inquiry regarding an extending of hours, but that was more to do with a shop—a Coles I think, and I would have to go back and check my facts here—that may have been closing down and there was a bit of a push to try and get the extra hours that the community felt may have made it more economical. Because the moratorium was on, normally that would be done by application to the commission. Any area or any applicant that wishes to change the trading hours in a particular area can make the application to the commission and the commission then considers it on its merits. Whilst the moratorium was on, none of those applications were brought forward, but specifically I cannot say that I recall anyone vehemently seeking a change, mainly because there was a moratorium.

Mr SULLIVAN: You have briefly touched on one of the definitions under schedule 1AB—that is, the seaside resort provisions. There are a few specific seaside resorts or specific locations listed. How does that operate, because I cannot imagine that they have the Coles and Woolies of the world operating in those sorts of scenarios? How do the trading hours apply in those seaside resort areas?

Mr James: It is exactly that. It is the non-exempt shops that would be in those, so I will have my colleague look at what—

Mr Schostakowski: Yes, thanks for the question. The seaside resorts have trading hours specifically for those areas. They have Monday to Friday 8 am to 9 pm, Saturdays 8 am to 6 pm and Sundays closed. This is specifically the seaside resort areas as opposed to other areas. The seaside resort area covers places including Rainbow Beach, Tin Can Bay and then up to Keppel Sands and the islands off the Queensland coast, so they are specific provisions there but once again for non-exempt shops—for the large department stores and Coles and Woolies—as opposed to areas that are in a tourist area, and the tourist area covers the major tourism areas such as the Cairns CBD and it even goes down to New Farm, Hamilton Northshore, Gold Coast, the Great Barrier Reef Wonderland and Pacific Fair Shopping Centre, so it names specific areas that are high tourism. Those areas have quite extensive trading hours—6 am to 10 pm Monday to Friday, 7 am to 10 pm on Saturday and then on Sunday and public holidays 7 am to 9 pm, so quite a wide variety for tourism.

Mr SULLIVAN: Part of this inquiry is defining what we are investigating and equally what we are not investigating or what we are not inquiring into, so to that degree in terms of exempt shops—I know there is an extensive list in the legislation—do petrol and service stations receive a specific reference?

Mr Schostakowski: Service stations are exempt.

Mr SULLIVAN: What about some sort of entertainment providers that might have a crossover in retail such as movies or—

Mr Schostakowski: Like a picture theatre type thing?

Mr SULLIVAN: Yes.

Mr Schostakowski: They would not be classed as a shop as such, and even the shop at the front of the cinema—

Mr SULLIVAN: That is right—

Mr Schostakowski:—is exempt anyway.

Mr SULLIVAN: So that does not engage—

Mr Schostakowski: Fast food and that sort of thing?

Mr SULLIVAN: Yes.

Mr Schostakowski: Exempt.

Mr SULLIVAN: Okay; thank you. Likewise, as I said in terms of defining the scope of what is in and out—again, I have had a bit of experience of this over the years—can you explain and put on the record why we are not dealing with trading hours for liquor and licensed places and why that is a separate issue?

Mr James: The sale of alcohol in Queensland is regulated by the Office of Liquor and Gaming Regulation in DJAG and it is subject to totally separate regulation under the Liquor Act. Licensed premises are, in fact, referenced in the trading hours act. They are referenced at schedule 1AA and it is to note that they are an exempt shop. If they are licensed they are exempt, but all licensed venues, including those shops that sell liquor, draw their regulation from the relevant liquor legislation. The regulation of the sale of liquor is actually a policy matter for government. I am not aware that the sale of packaged liquor is a part of this review. It was raised in the 2016 review with John Mickel. I note that at the time Mr Mickel in his report noted—I think it is at the end of his executive summary—that the sale of packaged liquor was outside the parameters of his review at the time.

CHAIR: To be very clear, the terms of reference before us are outside of the liquor trading hours, and that falls under DJAG and other legislation and not within the terms of reference of this inquiry. Thank you.

Mr SULLIVAN: Further to Mr James's point about having a totally different framework, that includes applications for extensions or applications for special events. That is likewise a matter for OLGR.

Mr James: I am not an expert in the OLGR or the liquor trades. It is just something that has never been subject to the trading hours legislation, so I am afraid I cannot advise you with certainty.

CHAIR: In regard to the terms of reference of this review, does the Trading (Allowable Hours) Act in any way determine the actual days that official public holidays are held in Queensland?

Mr James: No.

Mr BOOTHMAN: I am interested to hear what feedback has actually come back from organisations such as the CCIQ specifically to do with the Commonwealth Games back in 2018 about what benefits the relaxation of those trading hours actually had on the economy. What has been the feedback from local businesses and the CCIQ when it comes to the Commonwealth Games?

Mr James: I do not have the economic data that would say what happened for the Queensland Commonwealth Games, but I know that there was an order declared for the Commonwealth Games. In fact, when that particular section was being mooted, the Commonwealth Games on the Gold Coast were very much at the forefront of that sort of consideration. It will be difficult, because the declarations are of such short duration, to find any economic indicators like an employment indicator. The associations may be best placed to talk about the experience of their members during that, but unfortunately today I have no data that says they were a boon or they were not a boon.

Mr BOOTHMAN: Was there any feedback from businesses on the Gold Coast through the CCIQ on the relaxation in trading hours? What discussions did the department actually have with the CCIQ? That is what I am trying to find out. How was it received? How did business respond to it?

Mr James: Certainly none of the shop owners have spoken to me or brought matters to my attention. I would not like to say the CCIQ has not because we do a lot of consultation and discussion with CCIQ. I can check, Chair, if there was any consultation at the time or any feedback at the time, but nothing springs to mind.

Mr Schostakowski: If I could add to Tony's response, what we tried to do in the background paper was list all the section 5 applications and put in there some of the issues that arose in each of the cases and what the outcomes were. Obviously most of them were a given, but I just make the point that the applications are argued in the commission and the major stakeholders are invited to make submissions to those applications and the commission then makes a decision.

CHAIR: Thank you for the work you are going to do in terms of collecting the data and hopefully providing a bit of an analysis around the impacts of the changes since 2017 in terms of employment and economic opportunity that those amendments have provided. Has the government to date undertaken any surveys of businesses or stakeholders since those reforms?

Mr James: Nothing has been undertaken through the Office of Industrial Relations that I am aware of, no.

Mr Schostakowski: I can confirm that no survey has been conducted.

Mr SULLIVAN: Can I ask you about page 9 and then over to page 10 of your briefing paper in regard to pandemics and natural disasters—the disaster management and public health acts. Can you give us some examples of how that would work, who they give the power to and whether trading hours changes are for the purpose of extending trading hours and/or reducing trading hours? If there is a cyclone coming off Ingham, is there the ability to say shops must be shut at a certain time or is it to say they can be open 24/7 because people are going to need emergency replacements? Can you talk us through the practicalities of how that works?

Mr James: I can, and I appreciate the question. In the event of an extraordinary situation an urgent change to permitted trading hours may be needed. In terms of ordering shops to shut, I am not sure what the policing powers are. I have never seen the disaster response to order shops to shut through trading hours legislation. It might be through something else.

Mr SULLIVAN: Or indeed just public warnings and common sense.

Mr James: You would hope so. I am aware that there are a number of instances. The Bundaberg floods of 2011 were a classic example of where there is a power under the Disaster Management Act where the disaster management council, on the declaration of a state of emergency, has local powers and can do things for the betterment of the local community, and that does extend to trading hours. I can read a bit of a script here, Chair, if you like, just on the relevant sections that may inform the committee on that.

Mr SULLIVAN: Before you do that, on what you have just said then about Bundy, could you give us some practical examples of how that happened? In those 2011 floods, did they instigate broader hours?

Mr James: They did. The section 77(1)(p) power of the Disaster Management Act was broad enough for an order to be made to permit a shop to open outside ordinary permitted trading hours to provide food and other essential items during a disaster. The provision was used in the January 2011 floods when a direction was issued by the State Disaster Management Group to allow for the suspension of normal trading hours for groceries and essential goods. The direction was issued with the proviso that the local disaster management group was given the power to determine if the direction should apply. In that case, from my memory, the state disaster group said, 'Yes, we give that power but we delegate it to the local disaster coordinator,' and the local disaster coordinator had the capacity then to suspend trading hours. In fact, from my memory, in Rockhampton—maybe Rockhampton, but certainly Bundaberg—they did. They suspended the trading hours arrangements and allowed those shops to open. I am not sure whether Sunday trading applied back in 2011, but it is exactly how it should work. The local disaster coordinator can have the capacity to override, so to speak, trading hours for food and groceries in particular.

CHAIR: In terms of rural, regional and remote areas of the state, I was wondering if you could talk us through the impacts of recommendation 2 from the Mickel review, which was not fully adopted, in terms of allowing Sunday and public holiday trading for non-exempt shops. Could you talk about the impact for shoppers in rural and regional areas of the state?

Mr Schostakowski: One of the recommendations from the Mickel review was that standardised hours be applied. Obviously that did not get adopted by the government. The areas outside South-East Queensland that did not have Sunday and public holiday trade remained so through this period of the moratorium. That means that places such as—and I think we have listed Brisbane

these in the report—Mount Isa and others I think you may be aware of never got the Sunday/public holiday trade. My comment would be that this review and the period of moratorium would be the opportunity to take stakeholders' views on the for and against.

CHAIR: I am also keen to understand with regard to the independent retail shops and the results of the amendments in terms of increasing the cap on 30 staff operating in one shop and 100 if they have multiple stores. Can you give us a bit of background on how that criteria was developed? Is that still consistent in 2021, as it was in the 2016 review, in terms of bricks and mortar shops?

Mr Schostakowski: One of the recommendations, obviously adopted, was that the independent retail shops—the definition, which is based on the size of the shop, was at the time 20 staff engaged at any one time in the shop or 60 in the state. That was lifted, and there were concerns raised in the 2016-17 review about those numbers limiting their power to trade and the numbers that they could engage and employ and staff in regional areas. The review did recommend that those numbers be increased to 30 employees engaged at any one time in the shop and 100 employees engaged in the state. I cannot say whether there has been any feedback. I have not received any specific feedback through the Office of IR about that specific issue, but it definitely was in the 2016 review a quite topical and contentious issue.

Mr SULLIVAN: I meant to check this before and you have jogged my memory, thank you. In terms of the 30 and the 100, is that defined as an FTE or is that an individual person?

Mr Schostakowski: That is a good question. We have interpreted that as 30 staff.

Mr SULLIVAN: If you had 20 of them doing an hour a week, they still count as 20?

Mr Schostakowski: It is at a point in time. We have interpreted that as a point in time. At eight o'clock at night you might have a certain amount of staff on the floor. In the morning it might be more. Normally we would look at what is the maximum that you engage at a certain point in time.

CHAIR: It is not necessarily the number of employees on the books; it is the personnel on the day of trading?

Mr James: That is right, Chair. It is not 'I have 30 on my books'. We take that as: what is the maximum number of people that would be employed at any one time in the store? If you think about it, it is a small business type criteria. As Mr Schostakowski had said, there was some considerable discussion through 2016. Going forward, I have had no further discussion from any of the stakeholders, which is really the Master Grocers Association, the people who represent the IGAs, those mid-level ones. I have had no specific conversations about the employment levels. I am not saying that they are not interested in that space, but I have not had any particular conversations on that matter.

CHAIR: No feedback one way or the other in terms of contentedness with the current numbers?

Mr James: That is right: no feedback one way or the other.

CHAIR: Online shopping, particularly in the last two years, has gone gangbusters. Can you talk a little bit about what that impact might look like on trading hours and also in relation to the pre-Christmas extension of trading hours for certain groups? What have been the successes of that and what other opportunities do you think might exist?

Mr James: Certainly online shopping is here to stay, and it is an enormous challenge to the retail industry. In terms of our intersection with online shopping, click and collect was an issue that was raised with our office. We were of the view that the legislation is clear: click and collect can only be done during ordinary trading hours, because trading hours are about customers coming in through the front door. To the best of my knowledge, all the major retailers comply with click-and-collect arrangements through their normal trading hours.

The Christmas extension and expanding those Christmas trading hours through the 2016 review was very much in response to ensuring that retailers could compete with the online experience of shopping. From what I see, it has been well received but, again, I am just a punter, a consumer. Those questions may be best addressed through some of the stakeholders. I am absolutely certain that this committee will get significant feedback from stakeholders. Trading hours is a very emotive issue across the community, particularly with the larger and smaller retailers and the communities they serve. With the internet, click and collect was our intersection with it.

CHAIR: Click and collect is interesting. I understand that, in looking at some of the new ways of doing click and collect, they might have a locker storage facility that would allow people who have purchased online to click and collect outside of those hours. Obviously without a staff member being there to complete the transaction, as is currently the case with click and collect, you would go to a locker-style thing and punch in your code to take your goods outside of those hours.

Mr James: Without unduly complicating the discussion, I can online shop on the platforms at any time of the day or night and they can deliver to me.

CHAIR: True.

Mr James: The legislation itself is not really equipped for that digital experience. Certainly our view is that, provided the shop is not open for customers coming through the door, those are the shop trading hours. You raise a good point.

Mr SULLIVAN: Noting the work that this committee is planning—where we might travel and who we will engage with—you have mentioned a few key stakeholders. Is the LGAQ and/or individual councils on that list for you? I know that you have mentioned the Retail Association, the relevant unions and CCIQ. Is the LGAQ one that is actively on your radar or is it secondary?

Mr James: The LGAQ and the views of local councils are a feature of the consideration of section 5 applications. It is my experience that, whilst they may be invited in, they have not particularly been that engaged, although they certainly are engaged in some applications. The simple answer is, yes, the LGAQ is a stakeholder that should be concerned with this matter.

CHAIR: That concludes this briefing. Thank you very much for sharing all of that information with us today and, again, thank you for the brief that has been prepared. It will be extraordinarily useful. A transcript of these proceedings will be available on the committee's inquiry webpage in due course. There were no questions taken on notice, although I do note that you will be providing us with some data and analysis from the QIRC before submissions close on 15 October. Thank you for that. Finally, the committee encourages anyone and organisations with views on trading hours—as I said, I do not think there is anybody in Queensland who is not impacted by the Trading (Allowable Hours) Act—to make a written submission by Friday, 15 October 2021. I declare this public briefing closed.

The committee adjourned at 1.50 pm.