SHOPPING CENTRE
COUNCIL OF AUSTRALIA

SUBMISSION TO EDUCATION, EMPLOYMENT AND TRAINING COMMITTEE
INQUIRY INTO THE OPERATION OF THE TRADING (ALLOWABLE HOURS) ACT 1990

The Shopping Centre Council of Australia (SCCA) welcomes the opportunity to provide a submission and recommendations to the Education, Employment and Training Committee to assist in its *Inquiry into the Operation of the Trading (Allowable Hours) Act 1990* (the Inquiry).

The SCCA represents major shopping centre owners and developers in Queensland and across Australia. Our members own and operate 139 shopping centres in Queensland, accounting for approximately 70 percent shopping centre floor space.

The SCCA has a longstanding involvement in trading hours policy, including in the 2016 'Review of Queensland's Trading (Allowable Hours) Act 1990' (the Mickel Review). Prior to the current moratorium, we have also been involved in trading hours applications to the Queensland Industrial Relations Commission (QIRC). We work closely with the National Retail Association (NRA) on trading hours matters and are aligned in our position and recommendations with respect to the Inquiry.

To aid in the Committee's consideration, the SCCA and NRA commissioned independent market research of Queenslanders which identified, amongst other things, the points illustrated below (see also Attachment A - Queensland Trading Hours Regional Voter Research).

KEY FINDINGS OF RESEARCH CONDUCTED ON SUNDAY TRADING

Source: Insightfully (polling of voters in affected towns, conducted 6 & 7 October 2021)

The 16 regional towns surveyed for the market research were selected as they are towns in which Sunday trading is currently not permitted for all retailers. The survey results clearly highlight that there is support for Sunday trading within communities unable to enjoy equity of access to major retailers. The research also highlights additional evidence that further deregulation and flexibility of trading hours has positive economic impacts (including for unemployment) as well as benefits for businesses.

The time has come for the Committee to acknowledge the evidence and recognise that Queenslanders want change. We submit the following recommendations to the Committee:

1. Government should amend the Act to harmonise prescribed Sunday and public holiday trading hours, effectively bringing all regional local government areas (LGAs) in line with South-East Queensland (SEQ); and/or
2. Government should allow the moratorium on trading hours orders (section 59 of the Act) to lapse on 31 August 2022.

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The five-year moratorium was introduced following the 2016 Mickel Review and the subsequent report by Mr John Mickel, former Speaker of the Queensland Legislative Assembly. The resulting amending legislation, the *Trading (Allowable Hours) Amendment Act 2017*, was assented on 31 August 2017 and as such the moratorium expires on 31 August 2022.

In the *Trading (Allowable Hours) Act 1990*, the moratorium is defined and outlined in Section 55 and Section 59 of the Act, and restrict the QIRC's ability to make orders under Section 21 of the Act (i.e. the Commission is not able to make orders regarding trading hours with regards to 'non-exempt' shops).

The moratorium has run its course, and the Committee should recommend that it lapses as currently planned. There is no fair or logical reason that the moratorium be extended, including any claims about the effect of the COVID-19 pandemic.

The moratorium has denied businesses the right to seek independent consideration on trading hours adjustments, including consideration of evidence and expert testimony via applications made to the QIRC. The Committee should be concerned with the curtailing of the QIRC's functions and their role as an independent body.

As defined on the QIRC's webpage, *"The Commission plays a major role in contributing to the social and economic well-being of Queenslanders through furthering the objects of the Industrial relations Act 2016 which are principally to provide a framework for industrial relations that support economic prosperity and social justice."*

KEY POINTS

- Our industry position is that Government should deregulate trading hours for 'non-exempt' shops, except for maintaining restrictions on culturally significant days such as Anzac Day, Good Friday and Christmas Day.
- Short of this, and with the exception of some regional LGAs, the 2017 amendments to trading hours legislation within the *Trading (Allowable Hours) Amendment Act 2017*, were a much welcome and impactful first step.
- There is strong support for further trading hours reform in regional areas which are lagging when compared to South-East Queensland (SEQ) and other jurisdictions. 72 percent of Queenslanders in these areas, support further trading hours reform, with only 19 percent opposed.
- Prescribed trading hours for non-exempt shops have a significant flow on effect for 'exempt' shops in shopping centres; smaller/exempt tenants typically do not open unless an anchor-tenant (i.e. a non-exempt supermarket, discount or department store) is able to, such that exemptions granted to benefit smaller businesses are ineffectual and grant unfair commercial advantages to the competitors of non-exempt shops and surrounding exempt shops.
- Accordingly, and for reasons outlined herein, Government should seek to harmonise prescribed trading hours in all regional LGAs with SEQ.
- While the moratorium has been effective in establishing 'new norms', it is timely and appropriate that the QIRC be enabled to consider all new applications within this context, to provide an independent assessment of the merits of setting permitted hours outside of prescribed hours.
- When opportunities present, average retailer participation outside 'core' trading hours (i.e. Sundays and public holidays) is around 80 percent, indicative of an appetite for additional permitted trading hours.
- In considering the above, due consideration should be given to the following key arguments for both the further deregulation of prescribed hours and flexibility concerning permitted hours:
  - *Consumer sentiment*: choice and convenience; and equity of access.
  - *Positive economic impacts*: job creation/addressing youth unemployment; cross-jurisdiction comparisons; benefit to broader 'activity centres'.
  - *Benefits for tenants*: additional trading opportunities; increased flexibility; responsiveness to emerging sources of competition.
  - *Addressing common misconceptions:* including regulated hours enabling 'competition', that employees and businesses will be required to work/open, that only larger businesses benefit, visitation will be 'spread out' and not increase, core trading hours may be changed, consumers are not in favour of further deregulation etc.

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SHOPPING CENTRES IN QUEENSLAND

Shopping centre landlords take substantial property risk, which enables large and small retailers to agglomerate and have a network effect (the *Retail Shop Leases Act 1994* defines a 'retail shopping centre' as a cluster of five or more premises) – a critical economic principle – and access lease-hold title rather than them having to outlay and risk substantial capital for their own free-hold title. Our members are therefore heavily exposed to retail and consumer risk, and other economic risks, and the success of our tenants ensures our investment and community success.

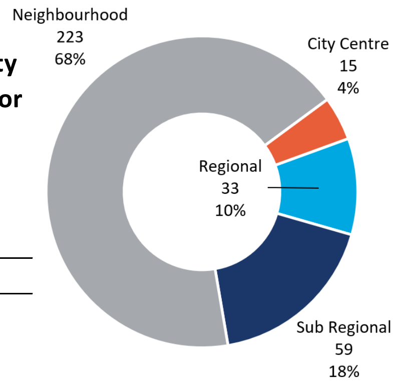
Trading hours opportunities are relevant to the leasing and operating programs in shopping centres as generally larger tenants 'anchor' these developments, seek the broadest range of allowable trading hours for them to respond to consumer demand and are also the ones most impacted by the current trading hours restrictions. Deregulation of trading hours would provide maximum flexibility and opportunity for all tenants, allowing them to benefit from agglomeration.

To inform the Committee's deliberations, it is critical that shopping centre types and tenant mix (including exempt and non-exempt shops) is understood (see Figure 1), as this will have flow on effects for the efficacy of prescribed trading hours, which is expanded on later in this submission.

Of note, 'majors'/non-exempt shops (i.e. Myer, David Jones, Big W, Target, Woolworths and Coles) are critical to a shopping centre being able to feasibly open to trade, particularly given they serve as major generators of customer foot traffic. Generally, if these non-exempt shops are unable to open, this makes it less feasible for a shopping centre to be able to open and trade due to relatively lower customer traffic, which fails to benefit the smaller, or 'specialty', retailers within the centre.

FIGURE 1 - QUEENSLAND SHOPPING CENTRES BY TYPE

Centre Type	No. of Centres	Avg. No. Retailers		Avg. GLAR (sq m)		Specialty per Major
		Major	Specialty	Major	Specialty	
Regional	33	7	157	4,910	151	23
Sub Regional	59	3	48	4,200	147	19
Neighbourhood	223	1	25	2,925	91	25
City Centre	15	1	37	6,552	166	37
Total	**330**	**2**	**43**	**4,059**	**127**	**23**



Source: SCCA Research

THE EFFECT OF PRESCRIBED HOURS

Prescribed trading hours for non-exempt shops has a significant flow on effect for exempt shops, including in shopping centres. Our smaller/exempt tenants typically do not open unless an anchor-tenant (i.e. a non-exempt supermarket, discount or department store) is able to, such that exemptions granted to benefit smaller businesses (namely independent food and drink retailers, and supermarkets) are ineffectual and grant unfair commercial advantages to their competitors and other exempt shops that do not compete for market share or conditions. This is expanded on through our submission.

Further deregulation will provide for maximum flexibility and equal opportunities for small businesses and ensure that prescribed hours do not disadvantage exempt shops, the very businesses they are aimed at helping. Accordingly, we reject arguments that have constrained more comprehensive deregulation to certain LGAs, for instance that regulated hours enable smaller business to 'compete', that employees and businesses will be disadvantaged etc. We encourage the Committee to examine these claims in detail to determine their validity and the weight that should be afforded to them. See 'addressing misconceptions', below.

THE EFFECT OF THE MORATORIUM

The SCCA supports the QIRC resuming its role in adjudicating allowable trading hours outside the legislated spread of hours for non-exempt shops. While the moratorium has been effective in establishing 'new norms' and certainty in relation to trading hours, the recommendation was made in the context of Mr John Mickel's report and the total of 13 recommendations it provided. It is timely and appropriate that the QIRC be enabled to consider all new applications within this context, to provide an independent

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assessment of the merits of setting permitted hours outside of prescribed hours including evaluating evidence. We note that the moratorium was introduced:

1. To provide industry, employers, employees, and the public with a period of certainty with regard to permitted trading hours.
2. With the expectation that a proper assessment of the effectiveness of these arrangements, and efficiencies achieved, can only be assessed after such arrangements have been in place for a reasonable period of time.

The moratorium has now fulfilled its purpose, such that its continuation would only limit economic and employment opportunity. Further, the Mickel Report did not recommend that the moratorium should be enduring, so that applications could not be put forward into the future. The retail sector should be reenabled to present applications for additional permitted hours, consistent with the new baseline established in 2017 and other jurisdictions that do not have fully deregulated trading hours.

THE CASE FOR FURTHER DEREGULATION AND FLEXIBILITY

As outlined previously, the SCCA supports the full deregulation of trading hours for non-exempt shops, except for maintaining restrictions on culturally significant days, similar to New South Wales and Victoria in this regard.

While the 2017 amendments to trading hours legislation were a welcome and impactful first step, the Committee and Government should consider the scope for further deregulation and reintroducing the means through which cases for adjustments to prescribed hours can be made. Arguments pertaining to both are as follows and can be made with respect to consumer sentiment, positive economic impacts, benefits to tenants, and through addressing common misconceptions.

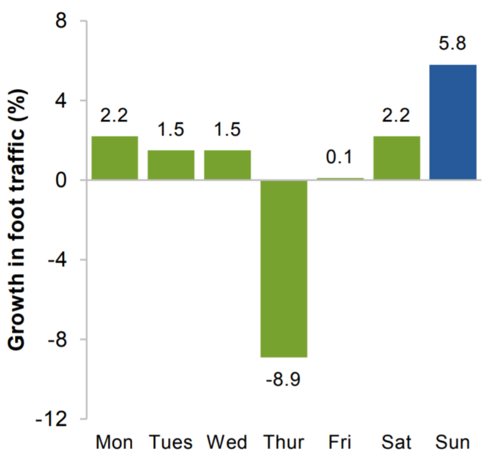
RESPONDING TO CONSUMER SENTIMENT

CHOICE AND CONVENIENCE

In considering the suitability of permitted trading hours, as currently prescribed, the Committee's advice to Government should be mindful of consumer sentiment, which overwhelmingly points to a demand for additional hours and greater flexibility with respect to access. This is reflected in analysis previously provided by the SCCA to the Productivity Commission, which indicates that where Sunday trading is largely permitted it is increasingly popular, in one comparison (Figure 2) it resulted in a 5.8 percent growth in foot traffic, more than double the rate of any other day of the week.

This is reinforced by Figure 3, which shows that following the introduction of Sunday trading, foot traffic rose by 13 percent overall in a medium sized Queensland shopping centre. It should be anticipated that a similar benefit would be realised if introduced more broadly and/or with respect to other trading hour extensions, i.e. extended Christmas trading hours, earlier weekend openings etc.

FIGURE 2 - GROWTH IN AVERAGE DAILY FOOT TRAFFIC IN SHOPPING CENTRES, 2009–2014



Source: SCCA Research

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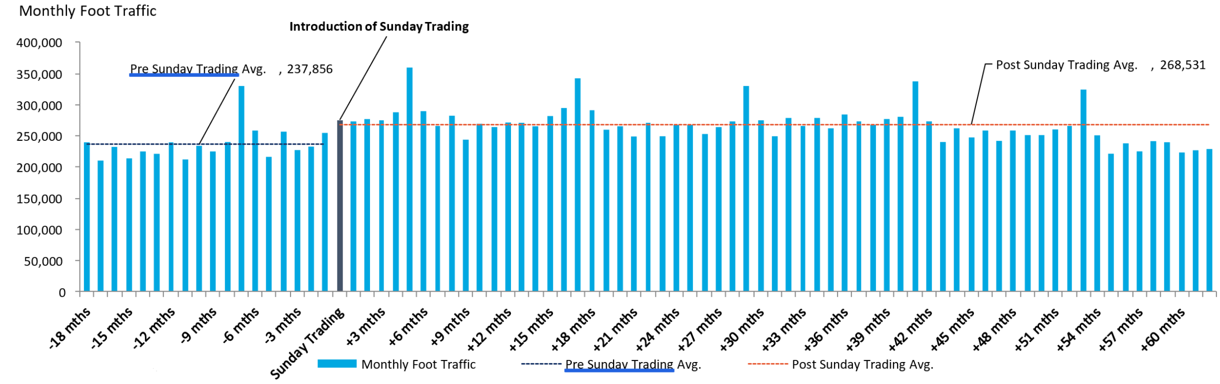
FIGURE 3 - MEDIUM SIZED CENTRAL QUEENSLAND SHOPPING CENTRE



Source: SCCA Research

To explore community sentiment further, the SCCA and NRA commissioned Insightfully to conduct a Regional Queensland Trading Hours Survey, the results of which are provided at Attachment A and referenced throughout this submission. The Survey points to a clear community want and expectation that Sunday/public holiday trading should be provided for by Government, with 71 percent support for all shops being able to open on a Sunday.

EQUITY OF ACCESS

The current trading hours regime has created inequality of access to goods and services between certain regional LGAs when compared to SEQ. The SCCA is unaware of any evidence that suggests that this policy discrepancy is justified. What is more, our Survey indicates that 64 percent agree that opening more local shops on Sundays would improve convenience.

This inequity of access extends to delineating between the merits of servicing tourists (where economic arguments and community sentiment has prevailed with respect to the Mossman and Port Douglas Tourist Area) vs. shift workers (who would stand to benefit from similar such concessions) and indeed the wishes of local communities. It is also fair to contrast Mt Isa with Gympie in that they have similar populations, but the population of the former has less ready access to shops.

As mentioned previously, majors (mostly non-exempt shops) have a positive flow on effect for other retailers. Our experience tells us that for every major that opens, 80 percent of other retailers will open. This means that when a non-exempt shop cannot open, the viability of the others opening is significantly limited. Not to mention the overall benefit of a shopping centre is severely hindered.

Figure 4 shows the number of retailers for every major, ranging from 3-45 in LGAs that where non-exempt shops are not permitted to trade on Sundays, further illustrating this point. This may lead to up to 136 retailers trading that would otherwise have been disincentivised from doing so.

FIGURE 4 - REGIONAL LGAS WITH NO SUNDAY TRADING

Location	Pop.	Centres	Majors	Specs	Retailers
Ayr	8,738	1	1	7	8
Blackwater	4,749	1	1	18	19
Bowen	10,377	1	1	11	12
Charters Towers	2,134	1	1	10	11
Childers	1,584	1	1	5	6
Chinchilla	6,612	1	1	6	7
Goondiwindi	6,355	1	?	?	?
Kingaroy	10,398	1	2	45	47
Longreach	2,970	0	0	0	0
Mission Beach	815	1	1	9	10
Mt Isa	18,588	1	2	21	23
Murgon	2,378	1	1	3	4
Pittsworth	3,294	1	1	6	7
Proserpine	3,562	1	1	5	6
Roma	6,848	1	1	9	10
Weipa	3,899	1	1	15	16
	93,301	**15**	**16**	**170**	**186**

Sources: SCCA Research and ABS

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Summary
Community sentiment indicates that:

- Where introduced, Sunday/public holiday trading is popular; consumers will avail themselves of opportunities presented.
- Deregulated trading hours will enable all retailers to take advantage of growth and convenience of access.
- Residents in the aforementioned regional LGAs are acutely aware of the choice and convenience that exists elsewhere in the state and want equity of access.
- These residents do not expect that this will shift trading preferences from those protected businesses to larger/non-exempt shops.

POSITIVE ECONOMIC IMPACTS

JOB CREATION/WAGE GROWTH/ADDRESSING YOUTH UNEMPLOYMENT

Further deregulation of, and flexibility concerning, trading hours will have a positive impact in terms of job creation, wage growth and employment opportunities. This is particularly relevant in regional LGAs. Figure 5 highlights the discrepancy between youth unemployment in SEQ and regional Queensland (Brisbane Inner City [10.1 percent] compared to Queensland – Outback [27.9 percent]). Residents in regional LGAs are acutely aware of this; when surveyed, 87 percent indicated that they were concerned or very concerned about a shortage of jobs for younger people in their town.

FIGURE 5 - YOUTH UNEMPLOYMENT RATE BY SA4 (DECEMBER 2020)

SA4	Dec 19	Dec 20	Annual change
	— % —		percentage point
Brisbane - East	6.2	21.2	14.9
Brisbane - North	11.9	16.1	4.2
Brisbane - South	13.3	10.3	–3.0
Brisbane - West	12.7	16.9	4.2
Brisbane Inner City	9.7	10.1	0.4
Ipswich	18.2	18.5	0.3
Logan - Beaudesert	19.0	18.2	–0.8
Moreton Bay - North	16.6	17.7	1.1
Moreton Bay - South	12.8	17.0	4.2
Cairns	9.1	13.0	3.9
Darling Downs - Maranoa	8.6	16.5	7.9
Central Queensland	17.4	10.5	–6.9
Gold Coast	13.0	14.5	1.5
Mackay - Isaac - Whitsunday	11.8	12.0	0.2
Queensland - Outback	24.9	27.9	3.0
Sunshine Coast	14.7	15.8	1.1
Toowoomba	15.6	21.9	6.3
Townsville	18.5	11.0	–7.5
Wide Bay	19.2	27.7	8.5
Queensland	**14.2**	**15.8**	**1.6**

Sources: ABS and Queensland Government Statistician's Office

Wage modelling (Figure 6) also shows the capacity for a ~30 percent wage increase for retail workers able to work on Sundays (also public holidays), which applies to further opportunities for deregulation in regional LGAs and SEQ, whether by determination of legislative reform or QIRC determinations, respectively.

FIGURE 6 - QUEENSLAND TRADING HOURS (SCCA WAGE MODELLING)

Current Earnings - 18hrs per week						
Additional Wages		Fast Food	Gen Retail	Hair/Beauty	Pharmacy	Restaurant
Hours @ Base Pay Rate	12	$255.60	$334.68	$250.92	$301.08	$270.12
Hours @ Saturday Rate	6	$159.78	$200.82	$133.50	$180.66	$162.12
Total Wages		**$415.38**	**$535.50**	**$384.42**	**$481.74**	**$432.24**

Scenario 1 - Current Earnings + Sunday (no additional hours per week)						
Additional Wages		Fast Food	Gen Retail	Hair/Beauty	Pharmacy	Restaurant
Hours @ Base Pay Rate	10	$213.00	$278.90	$209.10	$250.90	$225.10
Hours @ Saturday Rate	4	$106.52	$133.88	$89.00	$120.44	$108.08
Hours @ Sunday Rate	4	$127.84	$156.16	$133.84	$140.48	$108.08
Additional Wages		*$31.98*	*$33.44*	*$47.52*	*$30.08*	*$9.02*
Total Wages		**$447.36**	**$568.94**	**$431.94**	**$511.82**	**$441.26**
Increase		8%	6%	12%	6%	2%

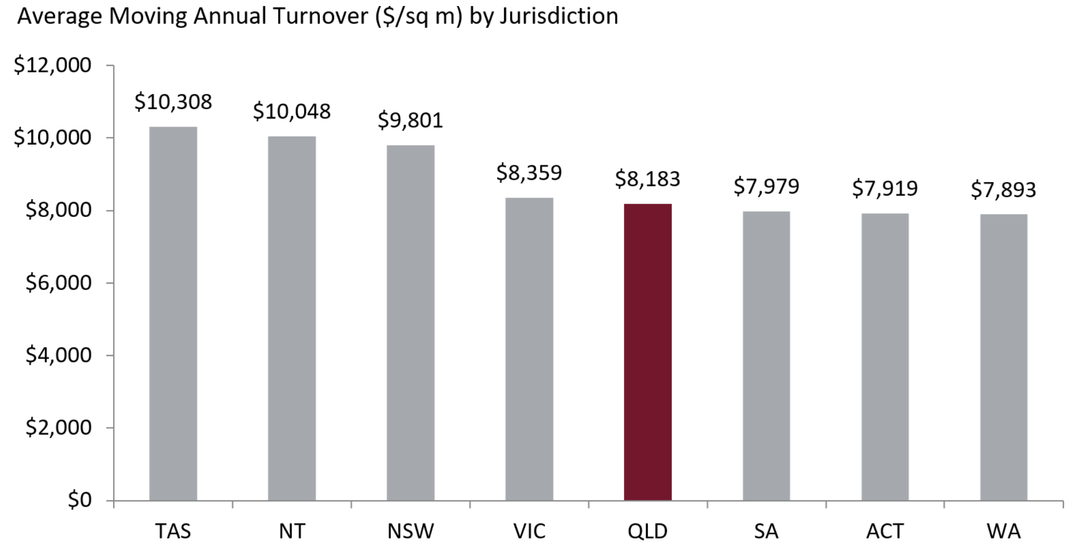
Scenario 1 - Current Earnings + Sunday (4 additional hours per week)						
Additional Wages		Fast Food	Gen Retail	Hair/Beauty	Pharmacy	Restaurant
Hours @ Base Pay Rate	12	$255.60	$334.68	$250.92	$301.08	$270.12
Hours @ Saturday Rate	6	$159.78	$200.82	$133.50	$180.66	$162.12
Hours @ Sunday Rate	4	$127.84	$156.16	$133.84	$140.48	$108.08
Additional Wages		*$127.84*	*$156.16*	*$133.84*	*$140.48*	*$108.08*
Total Wages		**$543.22**	**$691.66**	**$518.26**	**$622.22**	**$540.32**
Increase		31%	29%	35%	29%	25%

Source: SCCA Research

CROSS-JURISDICTION COMPARISONS

The Committee (and Government) should also consider the impact of regulated trading hours in comparison to other jurisdictions. We note that Queensland performs poorly when compared to states/territories with largely unregulated trading hours, for instance Tasmania, the Northern Territory, New South Wales and Victoria. It is reasonable to conclude, considering the evidence put forward in this submission, that regulated/restricted trading hours have a negative economic impact on retail trade, including small businesses that are affected by their co-location with a shopping centre.

FIGURE 7 - SHOPPING CENTRE PERFORMANCE



Source: SCCA Research and SCN

BENEFIT TO BROADER 'ACTIVITY CENTRES'

Shopping centres often form the centrepiece of 'activity centres' which are concentrated areas that accommodate employment, education, community and commercial use as well as providing opportunities for social interaction, economic growth and local employment. The non-opening or restricted opening of non-exempt shops results in the 'deactivation' of shopping centres, and as a result, the commercial/town centres that they are located in.

Shopping centres are more than just retail alone, they also function as 'living centres', for people to access health, beauty, food and entertainment services. A key trend in our sector is the growth of 'non-retail' tenancies and services, such as banks, government services, medical facilities and parents rooms. Indeed, several of our members' centres are the locations of electorate offices of Members of Parliament, acknowledging their role as a community hub and part of the cultural fabric. Further, our members' assets are also integrated with Government infrastructure – on centre land – such as bus terminals and interchanges which recognises their role as a an 'activity centre' hub, central to economic efficiency and productivity.

We also observe an increase in Friday and Saturday evening trading, which reflects a trend in increased food and dining retailing, including new major food and beverage precincts. In such areas, a 10pm or midnight closing time is more appropriate than a 9pm closing time, particularly in areas such as tourist zones and commercial districts. Again, there is no justification that opening hours in tourist zones should be able to be extended without allowing the same in local, community areas.

The economic and social impact of constraining trade in these areas is a direct consequence of prescriptive trading hours and an enduring effect of the moratorium on QIRC's capacity to consider this further.

Summary

The positive economic benefits are:

- 87 percent of Queenslanders surveyed in affected regional LGAs are concerned about a shortage of jobs for younger people in their town.
- 61 percent agree that opening more local shops on Sundays would create more local jobs
- This could provide for ~30 percent wage growth and additional employment opportunities.
- Improved economic outcomes for all shopping centre tenants, in comparison to 'high street' retailers and other jurisdictions, enlivening activity centres in currently restricted trading areas.

BENEFITS FOR TENANTS

ADDITIONAL TRADING OPPORTUNITIES; INCREASED FLEXIBILITY

While there are different types (sizes) of shopping centres (regional, sub-regional, neighbourhood etc), across these types is the shared importance of 'anchor' tenants. These tenants have some key characteristics including: a large trade catchment; the generation of significant customer foot traffic to the shopping centre; larger floor space (e.g. 3,000m² and above) and; longer leases (e.g. 20years). These anchor tenants are major generators of foot traffic and generally, if they are unable to open, it makes it less feasible for a shopping centre to be able to open and trade due to lower customer traffic.

Prescribed trading hours for non-exempt shops (which are often anchor tenants) have a significant flow on effect for exempt shops in a shopping centre. Smaller (exempt) tenants typically do not open unless an anchor-tenant (i.e. a non-exempt supermarket, discount or department store) is able to, largely due to effects on foot traffic. As such, the trading hour restrictions are having negative flow on impacts for smaller (exempt) retailers that they are aimed at assisting.

For every major (e.g. non-exempt) retailer in one of our members' centres such as a supermarket or discount department store, there is at least an additional 26 specialty (e.g. exempt) retailers. Queensland's non-metropolitan shopping centres have a high ratio (26.2:1) of specialty retailers which can open and trade for every major retailer that can open and trade (see below).

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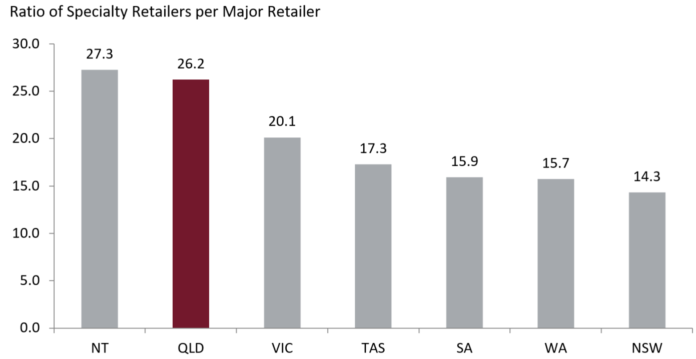
FIGURE 8 - NON-METRO CENTRE MAKE-UP



Source: SCCA Research

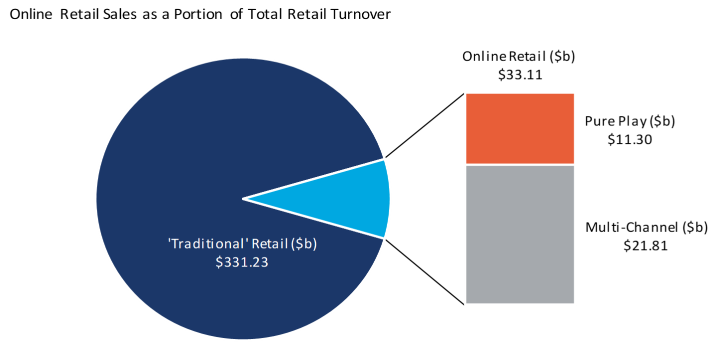
There is a strong appetite for additional hours demonstrated in retailer participation outside 'core hours', such as Sunday trading, which is 80 percent when allowable (this translates to an average of 20 retailers open their business to trade, at their choice, for every major retailer that can open and trade). We can also observe this in other jurisdictions, for example in Perth during extended Christmas trading hours, approximately 50 percent of customer demand comes from 8am-11am period. This challenges any claims that extended trading hours are solely limited to the benefit of non-exempt shops.

Indeed, Figure 3 shows this by demonstrating that since the introduction of Sunday trading, weekend customer foot traffic has increase from an average of 17 percent of weekly traffic to 26 percent of weekly foot traffic, with Sunday trading alone accounting for 11 percent.

RESPONSIVENESS TO EMERGING SOURCES OF COMPETITION

Online retail is growing as a proportion of retail trade, which complements traditional/physical retailers and provides consumers with additional choice. Benefits include allowing retailers to sell their goods online and either deliver to customers or offer 'click and collect' services, businesses that utilise both physical and online retail are labelled 'multi-channel' ('pure play' is only online). Analysis shows that 'multi-channel' retail sales make up a larger percentage of Online Sales than that of 'pure play' retailers, shown in Figure 9.

FIGURE 9 - ONLINE RETAIL TURNOVER



Source: SCCA Research and ABS

This illustrates how retail is adapting to provide 'multi-channel' avenues to reach customers, with the additional benefit of going around trading hours restrictions. However not all businesses are able to provide this, placing them at a disadvantage, and even those businesses that seek to increasing sales by offering multi-channel avenues for purchase such as click-and-collect, are still restricted by trading hours. In the Public Hearing held by this Committee on 31 September, Mr Tony James, Acting Deputy Director-General, Office of Industrial Relations, Department of Education, observed:

> *"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 been 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."*

This again places constraints on businesses to be able to adapt to consumer behaviour, placing them at a disadvantage to online (delivery) retail. Mr James also noted at the public hearing: *"I can online shop on the platforms at any time of the day or night and they can deliver to me."*

Physical retailers, and even those that have sought to adapt to include multi-channel options, are unfairly disadvantaged from online retailers that allow customers to order a product online and have it delivered directly to them. An additional component of this is that other businesses lose out as this customer will not have to go to a physical store, other small businesses sale opportunities from any potential discretionary spending that customer might otherwise make.

This additional competition created by online retail, and changing consumer preferences that desire 'immediacy', creates an environment that greatly disadvantages smaller retailers that are hindered by trading hours and its flow on impacts. The trading hours' regime needs to enable retailers to adapt, respond, and innovate and not hinder them when they do so.

Restricting trading hours effects multi-channel retailers that rely on click and collect, as well as shopping centres seeking to utilise their assets increasingly for entertainment and leisure purposes. For instance, why should a customer be prevented from shopping at a large supermarket after seeing a movie until midnight if they so desired?

Summary

The major (additional) benefits for businesses are:

- Small and large businesses will have greater capacity to trade.
- Provide for greater flexibility, including responding to 'pure play' online trading and the capacity to benefit from extended hours.

ADDRESSING MISCONCEPTIONS

We make several observations on the challenges and arguments against progressing with trading hours reform, based on our experience with trading hours policy and legislation across various jurisdictions, and ask that the Committee consider the accuracy and validity of these with respect to opposing perspectives.

MORE THAN JUST SUPERMARKETS…

- Trading hours reforms are too frequently viewed through the narrow lens of the supermarket sector, which is only one of 3 'major' retail tenancy types, alongside discount department stores and department stores.
- The focus on supermarkets is possibly at the expense of other sectors that might want to trade. Prior to the moratorium, one of our members commented that opposition against their full-line supermarket trading on a Sunday meant that a discount department store and 30 specialty retailers miss out on the opportunity to open and serve their customers.
- This could also lead to perverse outcomes (some people drive a couple of hours to do their 'total' shop at a regional centre that can trade on Sundays).
- Claims are often made about the need to protect 'small business' or 'mum and dad' retailers from larger retailers, and therefore have a broader range of allowable trading hours.
- We believe that some of these arguments can be spurious when measured against the original intention of such shop-type differentiation, particularly given that the scale of some businesses in certain retail categories are quite large and sophisticated, including through franchising systems.
- Our Survey of consumers indicates that 79 percent would still shop on a Sunday at smaller retailers if other retailers were allowed to open, increasing to 84 percent of existing Sunday shoppers.
- Despite this growth into large retail operations, such businesses possibly benefit from being structured or defined within the rules of, say, and 'independent retailer'. It may be the case that some claimed 'independent retailers' are not 'small' businesses, but are actually large, sophisticated multi-store operations.
- We also live in an environment where, for instance, bakeries have gone from being 'small' businesses to successful national business (e.g. Bakers Delight), some of them under franchise systems. Even some 'independent shops', would likely surpass the ABS definition of 'small business', which includes an annual turnover of up to $2 million.

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- While the SCCA is not privy to the labour costs of such businesses, we estimate that a staff of 60 people could result in an annual payroll cost of more than $2 million, let alone the retail turnover required to meet such labour costs.

NO MORE PEOPLE WILL GO SHOPPING – IT WILL JUST SPREAD OUT ACROSS THE EXTENDED HOURS

- A view is often put forward that additional trading hours will not generate any additional customers, or sales, and that the same market will just be distributed across an extended range of hours.
- While this argument ignores possible consumer preferences as to when they would prefer to shop, our experience is that there is additional customer demand when hours are extended.
- As an example, analysis of one of our members' centres highlights the positive impact of being granted Sunday trading by the QIRC. In the 18-months prior to the approval of Sunday trading, monthly customer foot traffic averaged 237,856, whereas the proceeding 18-months, and the time since that Sunday trading commenced, it has averaged monthly customer foot traffic of 268,531 – an increase of around 13 percent (see Figure 2).
- Indeed, since the introduction of Sunday trading, weekend customer foot traffic has increased from an average of 17 percent of weekly traffic to 26 percent of weekly foot traffic, with Sunday trading alone accounting for 11 percent.

CHANGING CONSUMER PREFERENCES…

- The consumer is often directly missing in debates about trading hours reform, or their preferences are often cited in terms of what they *don't* want, or judgements made that they should simply do all their shopping on a Saturday.
- Consumer surveys and data that we have commissioned and cited generally notes a desire for more flexibility to undertake their shopping to help-achieve a desired work-life balance. This may be due to broader factors such as weekday commute times or shopping being an activity that people undertake, or families do together, on weekends.
- We also observe a line of argument about other issues which may be legitimate (e.g. sport, cultural, religious), but can be at the expense or ignore different demographics and communities, and shifting and modern day consumer trends (e.g. more frequent visit to shops, with smaller baskets of goods).

RETAILERS CAN'T BE 'FORCED' TO TRADE, NOR DO THEY PAY OUTGOINGS IF THEY DON'T OPEN TO TRADE

- Another excuse we've seen used to argue against reform is that landlords will 'force' retailers to trade.
- Under the *Retail Shop Leases Act 1994*, retailers cannot be forced by landlords to trade outside of 'core' trading hours, which are the shopping centre hours when a retailer is required to be open for trade. Further, there are there no penalties for retailers if they do not trade outside core trading hours, and nor would it be a breach of their lease. The *Trading (Allowable Hours) Act 1990* refers to the concept of 'core' trading hours.
- In the *Retail Shop Leases Act 1994*, this provision was made following the 1993 review of the *Trading Hours Act 1990*, ensuring that shopping centres cannot force smaller retailers to open longer hours as a result of extended trading hours.
- Outside these hours (e.g. "extended hours" as defined under section 36 of the *Trading (Allowable Hours) Act 1990*, including where, for instance, Sunday trading has been granted by the QIRC, a shopping centre owner cannot 'force' retailers to trade.
- The issue of retailers being 'forced' to trade, or appearing on a landlord's 'blacklist', or being coerced or threatened, is nothing more than a general myth or a tactic to undermine the perception of legitimate legal protections.
- As we cited above, the average typical retailer participation in our members' centres is around 80% on days such as Sunday, which includes smaller retailers. If retailer could be 'forced' to trade, this participation rate would obviously be 100 percent.
- In addition, retailers can't be required to pay a portion of centre outgoings (e.g. cleaning, security, air-conditioning) when they are not open. This means, generally, that the less shops that open outside core trading hours, the higher their costs are relative to times during core trading hours whereby costs are distributed across all retailers.

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CORE TRADING HOURS CANNOT BE CHANGED AUTOMATICALLY BY A LANDLORD

- It should also be noted that a shopping centre owner cannot automatically amend a centre's core trading hours.
- The *Retail Shop Leases Act 1994* provides (at Part 7), the ability for a shopping centre owner to conduct a ballot to change trading hours outside the 'allowable hours' under the *Trading (Allowable Hours) Act 1990*.
- This requires, for instance, at least 50 percent of eligible shops to vote and a resolution to be supported by at least 75 percent of the eligible lessees.

Summary

The following statements hold true with respect to trading hours reform, despite misconceptions and arguments to the contrary:

- Both small and large businesses stand to benefit from further deregulation; 79 percent of Survey respondents indicated that they would still shop on a Sunday at smaller retailers if other retailers were allowed to open, increasing to 84 percent of existing Sunday shoppers.
- Consumers will not disperse shopping over an extended period of time, rather, additional trading hours increases spending overall.
- Consumers have proven that there is an appetite for additional trading hours.
- Retailers (and their staff) cannot be forced to trade outside core hours (which cannot be changed automatically by a landlord).

CONTACTS

[redacted]

SHOPPING CENTRE COUNCIL OF AUSTRALIA

ATTACHMENT A:

QUEENSLAND TRADING HOURS REGIONAL VOTER RESEARCH

Insightfully.

Queensland Trading Hours Regional Voter Research

October 2021

Project Background

The National Retail Association (NRA) and the Shopping Centre Council of Australia (SCCA) will both make submissions to the Inquiry into the operation of the *Trading (Allowable Hours) Act 1990* being undertaken by the Education, Employment and Training Committee. This research of voters in 16 regional towns will help understand voters' views on the issue and inform the NRA's and SCCA's submission to the Inquiry.

This market research has been conducted solely for the purpose of the committee to consider the effectiveness of prescribing permitted hours in legislation, and the suitability of the permitted hours as currently prescribed. In particular, the research seeks to gauge the appetite of consumers to access all shops in their own town on a Sunday (should the retailer choose to trade).

Methodological Summary

The survey was designed to measure responses of voters in 16 towns in Regional Queensland in which Sunday Trading is currently not permitted for all retailers. These towns have a collective population of approximately 93,000 and are geographically spread throughout Queensland. However, they do share similar characteristics as Regional Queensland towns, aside from inequitable trading laws.

A large, representative telephone survey among n=1313 registered voters was conducted on Wednesday and Thursday October 6 and 7 in the 16 towns listen listed below.

The towns were split into two separate analysis groups ('North' and 'South') and cover eight separate regions of Queensland:

- 'North' Analysis area (n=663),
    - Central Queensland (Blackwater),
    - Central West Queensland (Longreach),
    - Far North Queensland (Mission Beach & Weipa),
    - North Queensland (Ayr, Bowen, Charters Towers & Proserpine),
    - North West Queensland (Mt Isa),
- 'South' Analysis area (n=650),
    - Darling Downs (Chinchilla, Goondiwindi & Pittsworth),
    - South West Queensland (Roma), and
    - Wide Bay-Burnett (Childers, Kingaroy & Murgon)

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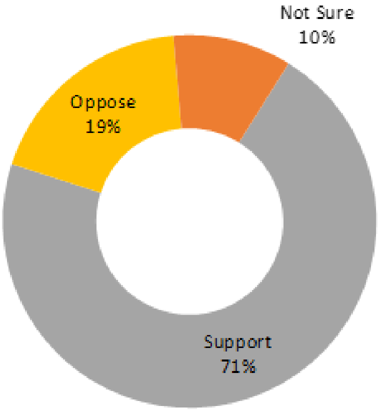
- With the large sample size, and data weighting applied where necessary so the results are representative of the views of registered voters in these towns based on AEC statistics, total results are accurate to within a total margin of error of +/-2.69% (at the 95% confidence interval) and the north and south sub-samples have an MOE is approximately +/-3.81%.
- **Results can be shared externally upon written agreement with Insightfully regarding who they will be shared with and which data points will be shared.**

Key Insights

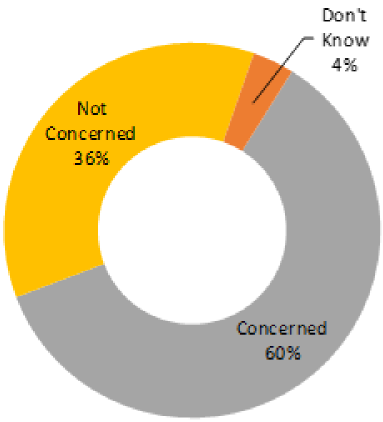
Q3. Would you support or oppose all shops in your town being able to open on a Sunday if they wanted to?

- **Regional Support for Sunday Trading.** Voters in Queensland's regional towns are highly supportive of allowing all shops in their town to open on a Sunday if those shops choose to do so. 71% of voters support Sunday trading for all shops, and less than a fifth of voters (19%) are opposed.
  - Support for Sunday trading is significantly higher among young people: 90% of people 18-34 years support Sunday trading. Even though support is higher among younger voters, still nearly two-thirds of voters over 35 years support Sunday trading (64%).
  - Support for Sunday trading is consistent across both northern towns (72%) and southern towns (70%).
  - **Opposition to Sunday trading is being driven by people who never have to shop on a Sunday.** Opposition to Sunday trading is 19% across the board but rises to 34% among voters who never shop on a Sunday.



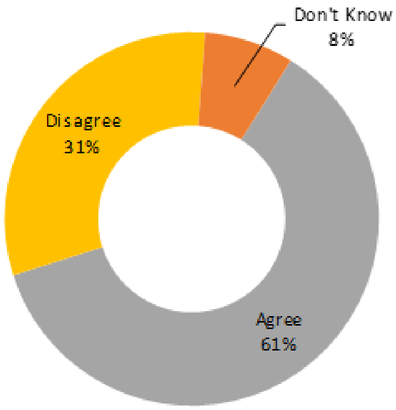
Q1. How concerned are you about a shortage of jobs for younger people in your town?

- **Jobs Concerned.** Voters in Queensland regional towns that do not have Sunday shopping are concerned about a lack of jobs for young people. A majority (60%) are concerned, and more than a quarter (27%) are very concerned.
  - Males between 18 and 34 years of age are significantly more concerned about a lack of jobs, with nearly half – 45% – saying they are very concerned
  - Voters in the northern towns (listed above) are significantly more concerned, with nearly a third – 31% – saying they are very concerned about a shortage of jobs for younger people in their town.



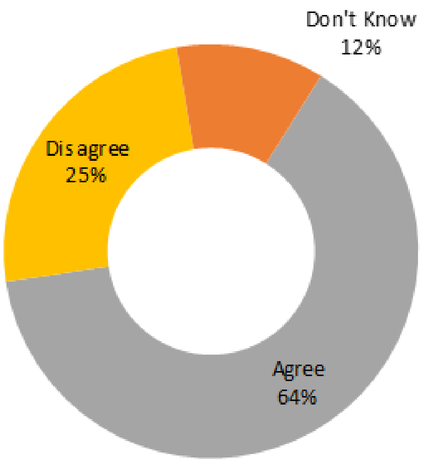
Q6. Do you agree or disagree that opening more local shops on Sundays would create more local jobs?

- Job Creation with Sunday Trading. Queensland voters agree that allowing shops to open on a Sunday would create more jobs in regional towns. Nearly two-thirds, 61% of voters agree that opening more local jobs on Sunday would create more local jobs.
  - Disagreement that more Sunday trading would increase jobs is being driven by people who never shop on a Sunday: 51% of people who never shop on a Sunday do not agree that Sunday trading would create more jobs.



Q5. Do you agree or disagree that opening more local shops on Sundays would improve convenience?

- Convenience. Voters agree that opening more local shops on Sundays would improve convenience (64%), and this is significantly higher for younger male voters 18-34 years (90%), and male voters generally (69%).
  - People who rarely or never shop on a Sunday are significantly less likely to say their convenience is improved by Sunday shopping.



Q2. In some parts of regional Queensland – including your town [NAME] – larger retail shops cannot open on a Sunday. The Queensland Government is reviewing this decision, with submissions due next week. Thinking about your own shopping habits, how regularly do you shop in your town on a Sunday?

- **Sunday Shopping Habits.** 44% of voters in these towns shop on a Sunday every week. 42% occasionally shop on a Sunday (37% 1-3 times a month and 5% less than once a month). 15% of voters in these towns never shop on a Sunday.

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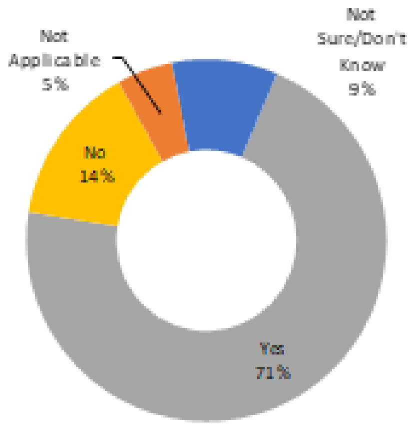
- Males are significantly more likely to shop every Sunday (35%) and less than a quarter 25% of voters over 55 years (23%) shop every Sunday.

Q4. If larger shops such as discount and fashion stores, cafes and restaurants could open on Sundays would you still shop at smaller retailers on a Sunday?

- **Effect on Small Shops.** 71% of voters would still shop on a Sunday at smaller retailers if other retailers were allowed to open. This is significantly higher among people who currently shop weekly on a Sunday: 84% of weekly Sunday shoppers would still shop at smaller retailers if other retailers were allowed to open. Less than one in 10 weekly Sunday shoppers (9%) said they would not shop at smaller retailers if other retailers could open.



Who we are

- Insightfully is a full-service public opinion and market research agency, located on Queensland's Gold Coast.
- We have a strong track record of helping high-profile clients answer market questions, manage community opinion and influence stakeholder behaviour.
- Insightfully is trusted by some of Australia's most senior decision makers to provide high-quality, accurate insights and strategies. Our direct-brief clients include CEOs, boards members and corporate affairs professionals.
- Key areas of expertise include:
  - Qualitative research: Focus groups, depth interviews, triads, mini-groups, forums
  - Quantitative research: CATI (telephone), online, IVR, mixed-mode, face-to-face
  - Fast turnaround projects
  - Large studies and tracking
  - Community attitudes and opinion
  - Creative assessment: Working with creative agencies to develop and refine creatives for social and consumer campaigns.
- We have helped understand community opinion and solve issues for clients across a wide range of sectors including:
  - public affairs & policy development
  - government
  - education
  - health & pharmaceutical
  - transport & infrastructure
  - financial services, and
  - property.
- Insightfully is headed by highly respected research and communications professional Leanne White (QPR, TRS).