Dear Chair,

RE: Personal submission to the Queensland Trading Hours Review

I write to express my views regarding retail trading hours in South East Queensland. I am a resident of northern Brisbane and I strongly believe that full deregulation of the retail trading hours would be highly beneficial for consumer choice and employment. In the alternative, I believe that if full deregulation is not pursued, then the current regulatory regime should at be liberalised considerably, starting with South East Queensland and progressively extending to other parts of Queensland.

In pursuing deregulation or at least substantial liberalisation, Queensland would be following the successful path of the other eastern Australian jurisdictions (the Northern Territory, Tasmania, New South Wales, Victoria and the Australian Capital Territory) which liberalised retail trading hours over a decade ago, to great consumer benefit and no significant harmful effects. I have set out below my response to the questions in the Issues Paper dated October 2016.

**Question 1:** Should there be substantial deregulation of shop trading hours in Queensland by adopting the approach found in a number of other States (e.g. New South Wales, Victoria and Tasmania) where there is minimal regulation of shopping hours other than restricted trading days on certain public holidays?

*My personal view*

Yes. I consider that there should be full deregulation of shop trading hours in Queensland, consistent with the almost entirely deregulated approach to retail trading hours in the other jurisdictions in eastern Australia (NSW, Victoria, ACT, Tasmania and the Northern Territory). I believe there is clear pent-up demand for longer retail trading hours for non-exempt shops in Queensland, particularly on weekends. My experience of living and travelling in other Australian states supports a view that South East Queensland consumers would continue to shop into the early hours of the evenings on weekends, if provided with the option to do so. The recent extension of regulated trading hours to allow non-exempt retailers in South East Queensland to trade from 7am-9pm on Monday to Saturday (effective 1 December 2016) is welcome, but much more deregulation or deeper liberalisation would provide even greater benefits and should be pursued.

The regulation of retail trading hours for non-exempt stores is an unnecessary impediment to consumer choice and productivity. In most parts of Brisbane, including my local area of Nundah, all major supermarkets, hardware stores and discount department stores are required to close by 5pm on Saturday and 6pm on Sunday. This commonly leads to long queues and a "mad rush" around closing time, as people feel compelled to abandon their afternoon activities and rush to the stores to purchase dinner ingredients or other goods. This effect is most noticeable at supermarkets but affects many other types of retail stores, including major 'destination' stores in other suburbs, such as Kmart, Ikea and Bunnings. It is apparent to any observer that these legislative constraints on retail trading hours for non-exempt shops disadvantage and inconvenience a great number of people, and are opposed by both consumers and the businesses themselves.

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1 To be extended to 9pm Saturday, effective 1 December 2016
Public and economic policy considerations
Furthermore, as a matter of public and economic policy, I consider that there are no significant reasons for the Queensland Government to continue to impose substantial restrictions on shop trading hours. Fundamentally, I do not perceive that there is a need for the Queensland Government to dictate to retail business owners when they may open their stores for trading. In a free market, liberal economy such as Australia, it seems deeply anachronistic for the Queensland Government to retain a role in determining when businesses may trade. The regulation of trading hours in Queensland is an embarrassing anomaly when viewed in light of the near-full deregulation of trading hours in NSW, Victoria, the ACT and Tasmania that has existed for over a decade.

Effects on small businesses
The most commonly cited reason for continuing to regulate retail trading hours in Queensland is the concern that small independent retail traders may find it more difficult to maintain their current level of profitability and market share, compared to major retailers who may find it easier to trade for longer hours.
In principle, I agree that small independent retail traders may suffer a loss of market share or profitability when deregulation or liberalisation of trading hours occurs. However, I question the size of this impact, and I strongly believe it is the responsibility of the Queensland Government to set policies that are in the best interests of the greatest number of Queenslanders.
At the heart of many public policy issues, including retail trading hours, is that the economy-wide ‘losses’ from a proposed change (such as deregulating trading hours) are concentrated in a very small but vocal group of ‘losers’, while the economy-wide ‘gains’ are dispersed amongst a very large group of ‘winners’ (i.e. all Queensland consumers) who each benefit in a small way and therefore have less of an incentive to speak up for their interests than the ‘losers’ who are more directly affected.
In my view, regulated shop trading hours protect the interests of small independent retail traders, to the significant detriment of every Queensland consumer who is forced to pay higher prices for goods at smaller independent retailers or who is forced to re-arrange their activities to shop within the regulated retail trading hours.
I believe that the loss to small independent retail traders upon deregulation would be vastly outweighed by significant gains to every Queensland consumer who no longer incurs costs to ‘work around’ the current retail trading regime.
In addition, I note the following:
1. Small supermarkets and corner stores are rare in many parts of Brisbane. In my local area, Nundah, there are no independent supermarkets within a 5km radius, whereas there are 3 major national supermarket chains within a 2km radius. The nearest independent supermarket is located at Boondall, approximately a 10 minute drive away, which is much less convenient than the 3 nearby national chain supermarkets which are within walking distance. Consumers should not be required to drive long distances simply to shop at a supermarket solely because their local supermarket is required to close at 9pm (Saturday) or 6pm (Sunday) for competition reasons.
2. Furthermore, most people do not consider that the small supermarkets that do exist in some parts of Queensland are an acceptable substitute for a major supermarket when shopping for the ingredients for a meal or for the groceries necessary to feed a family for several days or a week. Generally, small supermarkets offer a more limited range and far more expensive prices, and as a result I submit that most people schedule their larger ‘trolley shops’ in order to be able to shop at major (non-exempt) supermarkets.
3. Liberalised trading hours in other states (NSW, ACT, Victoria and Tasmania) have not led to the demise of small supermarkets. In the ACT, small independent supermarkets thrive alongside major national chains, due to more convenient locations, friendly service, a focus on local and regional produce and gourmet speciality lines, e.g. bakery goods and gluten-free products.
4. While I share the concerns of some people about the pricing power and predatory behaviour of the major national supermarket chains, I believe that competition policy is an issue which is most effectively dealt with by the the Australian Competition and Consumer Commission at the Commonwealth level. Regulated trading hours are a blunt tool of competition policy, which are prone to unintended and perverse outcomes. For example, Brisbane consumers are currently unable to obtain ingredients for dinner from their local supermarket after 5pm (Saturday) or 6pm (Sunday), yet they are free to purchase alcohol from takeaway liquor stores until 10pm or later. This outcome is even more perverse when considering that the many takeaway liquor stores (e.g. BWS, Liquorland) are owned by the same supermarkets which are forced to close at 5pm on a Saturday!

I urge the Queensland Trading Hours Review to give appropriate weight to the ‘economy-wide’ gains from deregulated trading hours and the interests of the ‘silent’ majority of consumers who would each enjoy small incremental gains from deregulated trading hours.

Question 2: Should government determine the trading hours through legislation alone, or should the determination of trading hours remain with the QIRC?

I consider that the Queensland Parliament is the most appropriate arbiter of trading hours in this state. I acknowledge that the independence of the QIRC allows it to make decisions that may not necessarily be politically popular. However, I consider that the role of the QIRC, as a government arbiter of when businesses may open for trading, is anachronistic in the modern, 24/7 digital economy and should preferably be removed.

Question 3: Should the basic hours in the Trading Hours Act be amended to permit trading throughout the whole State for uniform basic allowable hours reflecting Orders already made by the QIRC and community and business expectations? What should those hours be? Should such hours be the same for all types of non-exempt shops?

I believe that full deregulation is the most preferable option. If this not considered politically feasible, then yes, I believe that the the basic hours in the Trading Hours Act should be amended to permit trading throughout the whole State for uniform basic allowable hours reflecting Orders already made by the QIRC and community and business expectations.

The experience of deregulated retail trading hours in NSW, Victoria, the ACT and Tasmania indicates that without restrictions on trading hours, most supermarkets choose to open at 6am each day and close between 9pm and (more commonly) midnight. For South East Queensland, I believe that the community and business expectations of regulated trading hours would be, at a bare minimum, for retailers to be free to trade between 6am-9pm, 7 days.

If full deregulation was not pursued, I believe a 6am start time to regulated trading hours is necessary to reflect the fact that many Queenslanders are very early risers, given the very early sunrises between October and February, the absence of daylight saving time and South East Queensland’s position in the far eastern part of the GMT+10 time zone. I believe that trading until at least 9pm would be desirable on every day of the week including Sunday. Of course, some stores would likely choose not to trade for this full range of hours, but I believe that most supermarkets would choose to do so, given the experience in other states with deregulated trading.

I believe that the uniform basic allowable hours should be the same for all types of non-exempt shops. As noted above in response to Question 2, I do not perceive that there is a need for the Queensland Government to dictate to retail business owners when they may open their stores for trading. In a free market, liberal economy such as Australia, it seems deeply anachronistic for the Queensland Government to retain a role in determining when businesses may trade.

Question 4: If the QIRC is to be retained as the arbiter of trading hours’ arrangements, should the Trading Hours Act limit the QIRC’s order making powers? Should the Trading Hours Act set some basic allowable extended trading hours for the Christmas trading period for non-exempt shops?

As noted above, I believe that full deregulation of retail trading hours should be the preferred course of action for the Queensland Government. If this not considered politically feasible, then I believe that the Trading Hours Act should set some basic allowable extended trading hours for the Christmas
trading period for non-exempt shops, preferably allowing unrestricted (24 hour) trade at any time during the three weeks prior to Christmas. This would avoid the annual expense of lodging applications for extension to the regulated trading hours during this period.

Question 5: Should the criteria used by the QIRC in deciding applications for extensions of trading hours for non-exempt shops be varied?

As noted above, I believe that full deregulation of retail trading hours should be the preferred course of action for the Queensland Government. If this not considered politically feasible, then yes, I consider that the criteria used by the QIRC in deciding applications for extensions of trading hours for non-exempt shops should be varied to emphasise and prioritise the interests of all Queensland consumers.

I believe that the current criteria places undue emphasis on the interests of small businesses and small retail traders, at the expense of the ‘silent majority’ of all consumers who are inconvenienced by regulated trading hours. While the individual impact to a particular consumer may be small, in aggregate, across the entire population, the economic effects of regulated trading hours on Queensland consumers and large businesses is likely to be significant.

As noted above, in my view, regulated shop trading hours protect the interests of small independent retail traders, to the significant detriment of every Queensland consumer who is forced to pay higher prices for goods at smaller independent retailers or who is forced to re-arrange their activities to shop within the regulated retail trading hours. I believe that the loss to small independent retail traders upon deregulation would be vastly outweighed by significant gains to every Queensland consumer who no longer incurs costs to ‘work around’ the current retail trading regime.

In addition to the beneficial effects on consumer choice and employment, this liberalisation would have a number of secondary benefits, including:

1. Enlivening mixed-use residential/commercial precincts, such as the Nundah Village and West End Village areas, in the early hours of weekend evenings when they are currently required to close at 5pm (Saturday) or 6pm (Sunday).
2. Catering to the diverse lifestyles of Queensland residents, some of whom work on weekends or have sporting or social commitments during weekend daytime hours, and would therefore welcome increased choice of shopping hours on weekend evenings.

While these factors have been considered in recent decisions of the QIRC (e.g. the October 2016 decision to extend South East Queensland trading to 7am-9pm, 6 days), I believe that they should receive greater consideration than the interests of a relatively small number of small business owners.

Question 6: Should the current arrangements for setting extended trading hours for non-exempt shops be maintained with no changes because they are achieving their purpose under the Trading Hours Act?

No. The current arrangements for setting extended trading hours for non-exempt shops are time-consuming and expensive for non-exempt shops who wish to seek extending trading hours.

I understand that the most recent trading hours decision to extend regulated trading for non-exempt retailers in South East Queensland to 7am-9pm, Monday-Saturday, was lodged in 2014 and only decided in October 2016. I expect that thousands of hours of time and tens of thousands of dollars in costs were incurred by all interested parties in participating in this process.

As noted above, I believe that full deregulation of retail trading hours should be the preferred course of action for the Queensland Government. If this not considered politically feasible, then I consider that the current arrangements for setting extended trading hours for non-exempt shops should be substantially streamlined to reduce the regulatory burden on businesses who wish to trade outside of the current regulated trading hours.

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2 Effective 1 December 2016, this will be extended to 7am-9pm, Monday to Saturday.
Question 7: Should the categories of independent retail and exempt shops be amalgamated into a single category of exempt shop having no restrictions on trading hours on any day of the year?
Yes. I believe that the current regulation of retail trading hours is deeply anachronistic and costly for Queensland businesses and consumers. As noted above, I believe that full deregulation of retail trading hours should be the preferred course of action for the Queensland Government. If this not considered politically feasible, then at a minimum, ‘lighter touch’ regulation should be adopted. This would include amalgamating the categories of independent retail and exempt shops be amalgamated into a single category of exempt shop having no restrictions on trading hours on any day of the year.

Question 9: Is the number of employees engaged at an independent retail store or stores at any one time an appropriate criteria for determining that businesses access to more liberalised trading hours? If so, should the current limits be increased? If not an appropriate criteria, what do you consider to be appropriate, for example floor space (as in South Australia) or retail turnover, or public –v- private ownership?
No comment.

Question 10. Should any additions or deletions be made to the list of exempt shops?
Yes. As noted above, I believe that full deregulation of retail trading hours should be the preferred course of action for the Queensland Government. If this not considered politically feasible, then the list of exempt shops should be streamlined and simplified to the greatest extent possible. The experiences of Victoria, which lists a mere handful, may be useful in this regard.

Sincerely,

Phillip Dalton