

**REVIEW OF  
TRADING HOURS  
IN THE  
AUSTRALIAN CAPITAL TERRITORY**

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This Report was prepared for the ACT Government  
by Mr John Hyndes, a consultant engaged by the  
Government to undertake a review of trading  
hours in the ACT.

The views expressed herein are not necessarily  
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**Australian Capital Territory**

**REVIEW OF TRADING HOURS**

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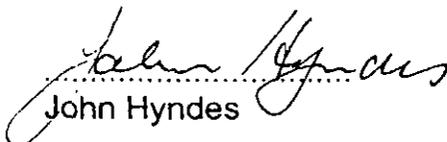
15 December 1995

Mr Tony De Domenico  
Deputy Chief Minister  
Minister for Business, Employment & Tourism  
ACT Legislative Assembly  
CANBERRA ACT 2601

Dear Deputy Chief Minister

I am pleased to present you with my report on the Review of Trading Hours in the Australian Capital Territory. The report seeks to address as much of the Terms of Reference as possible based on the material available at this time.

Yours sincerely

  
John Hyndes

***EXECUTIVE SUMMARY***

***RECOMMENDATIONS***

## **REVIEW OF TRADING HOURS**

### **EXECUTIVE SUMMARY**

This review was approached on the basis of visiting over 100 retail centres in the ACT and making direct observations as to retail activity, holding discussions with upwards of 500 people involved in those areas, consideration of 167 written submissions, discussions with 23 groups associated with retail and business activities, co-operation with 6 sections of ACT government activity, meetings with Queensland and Victorian government and industry officials, plus the holding of a public meeting attended by 200 persons.

The reviewer reached an early conclusion that the problem being encountered in Neighbourhood Shopping Centres revolved around lack of viability of the supermarket as the anchor of the centre which was due to a combination of the defacto deregulation of trading hours and intense product and price competition prevailing in the ACT in the supermarket industries, particular in the Town Centres and Group Centres.

The accelerating lack of viability of Neighbourhood Shopping Centres, particularly since 1992 when deregulation began in earnest, has seen 12 supermarkets close over the past two years with over 20 neighbourhood supermarkets under threat.

In relation to the Trading Hours Act, selling of non-exempt goods on Sundays is having little tangible effect on the decline of business being directed to the Neighbourhood Shopping Centres and while some shoppers, particularly in the major malls located in Town Centres, do take advantage of the availability of the supermarkets when shopping for apparel etc, the incidence of this activity is not strong.

The Neighbourhood Centres are no longer enjoying the after-hours business, late in the evening, Saturday afternoons and Sundays that used to be the norm. In some cases the neighbourhood supermarkets are not even being used for convenience shopping, and they are there for emergency shopping only. This means that the supermarkets are operating in excess of 12 hours per day, for little return. Some of these supermarkets are badly run down and provide little attraction to customers.

It is not only the national chains located in the major malls in Town Centres that are causing the problem to Neighbourhood Centres. Major ACT based supermarkets located in Group Centres and in some Neighbourhood Centres present well in terms of merchandise at the right price and are also placing competitive pressure on neighbourhood supermarkets. It is therefore incorrect to

say that national chains are the sole source of the problems being encountered by Neighbourhood Centres.

The reviewer reached a conclusion that the only way that the poorer performing Neighbourhood Centres will return to viability is through once again having a trading period available where they are not facing competition from the Town and Group Centres. Therefore the reviewer recommends a redrafting of the Trading Hours Act to reintroduce regulation, details of which appear in the Recommendations following this Executive Summary.

In reaching the decision to regulate the trading hours the reviewer was persuaded from three main perspectives. These are:

- . the accepted policy of supporting Neighbourhood Shopping Centres as elements of the small business community,
- . the economic policy of taking action to support an asset which is capable of earning revenue for the ACT government as well as generating economic benefits to the community at large,
- . the generally accepted benefit in having the centres continue in order to provide social and economic support to the suburban residents particularly the less mobile, the aged, and the disadvantaged.

The reviewer believes that regulation alone will not bring custom back to some neighbourhood supermarkets and there needs to be intensive effort to upgrade the appearance and stock level of these establishments. The reviewer also believes that in some cases the supermarket will fail and the centre will struggle to survive from that point on. The Government will need to address candidates for re-structure, alternative uses, and relocation. Concepts of application of betterment, and other options will need to be considered as part of that exercise.

## RECOMMENDATIONS

1. The reviewer recommends that the Government announce that the following regulation to trading hours will apply.

### Town Centres (Major Malls)

The trading hours for Major Malls to be:

Monday to Thursday 8 am to 7 pm;

Friday 8 am to 9 pm;

Saturday 8 am to 6 pm;

Sunday 8 am to 6 pm.

Restaurants, fast food, newsagents, service stations and pharmacies, amongst others, to be deregulated. Cinemas, video outlets, leisure centres, and retailers associated with cinemas and leisure centres to be deregulated (retailing nexus with cinemas and leisure to be established).

Above hours to be considered as the maximum. Core hours during which time retailers are obliged to open to be settled between owners, management and tenants. (Retailers should not be subject to undue pressure to trade to maximum hours unless the lease agreement provides for this on the basis of precise hours stipulated.)

Retailing conducted outside major malls to follow above hours with similar deregulation exceptions.

### Group Centres

The trading hours for Group Centres to be:

Monday to Thursday 7 am to 8 pm;

Friday 7 am to 10 pm;

Saturday 7 am to 7 pm;

Sunday 7 am to 7 pm.

Restaurants, fast food, newsagents, service stations and pharmacies, amongst others, video outlets and leisure related activities to be deregulated.

### Neighbourhood Centres

The trading hours for Neighbourhood Centres to be deregulated.

### Stand Alone Supermarkets

Stand alone supermarkets below 1000 square metres to be deregulated.

Stand alone supermarkets above 1000 square metres (if any) to be subject to Group Centre trading hours.

. Fruit and Vegetable Markets

The trading hours for Fruit and Vegetable Markets to be deregulated.

. Extended Trading Prior to Christmas

Extended trading to 9 pm for up to five trading nights prior to Christmas Day to be allowed.

. Public Holidays

Government to consider the position of Christmas Day, Boxing Day, New Year's Day, Australia Day, Good Friday, ANZAC Day, Canberra Day and Trades and Labour Picnic Day for special consideration. Whilst public holiday trading is very much a matter for government directive, the reviewer believes that trading days for Christmas Day, Good Friday, and Anzac Day up to midday, should be confined to Neighbourhood Centres and other deregulated retail shops. Trading on the other days should be subject to normal union-management arrangements.

. Special Trading Days

All retailers in locations other than Neighbourhood Centres be allowed, on application, up to 20 nights of deregulated trading each year to accommodate community events as well as special sales days

. Possibility of Extended Hours for CBD and Other Areas If Afforded Tourism Zone Status

Possibility of some form of extended trading for CBD retailers in the event of Civic being afforded tourism status to be noted.

. Retailing Outside Hierarchy

Retailing conducted outside Town, Group and Neighbourhood Centres to be subject to same hours as Group Centres. Special position of some retailing e.g. liquor, entertainment, leisure, fruit and vegetable markets etc. to be noted.

. Non - Fuel Retailing (Service Stations)

Non-fuel retailing from service stations to be deregulated subject to maintenance of current space restrictions for non-fuel outlets.

2. Penalties for Breaches

Penalties for breaches - Maximum fine \$20,000 for corporations, \$2,000 for individuals.

3. Act to be amended

Trading Hours Act to be completely re-drafted.

Transition Period Prior to Regulation

If the above recommendations are accepted by the Government a policy announcement should be made outlining the Government's direction in this matter and in order to allow for any adjustment of stock ordering/levels and to enable appropriate negotiations to take place with the relevant unions, a start date of, say, 1 April could be indicated. In the absence of any over-riding agreement there will be an adjustment of penalty rates for employees rostered for Sunday work and advance notice should be given to enable arrangements between employers and employees to be made.

**Pending and following any form of announcement by the Government on this matter the question of completion of other aspects of this review which would remain outstanding under the Terms of Reference will need to be addressed.**

The reviewer further recommends that the following action be taken or initiated pending commencement of regulation.

4. The application of the findings of the Social Impact Study relating to residents of Neighbourhood Centres to be merged with the reviewer's findings and recommendations and modification/extensions made where necessary.

5. Consequences of findings by Social Impact Study and reviewer as affecting social and economic role of local centres and local area planning be taken up with appropriate authorities.

6. The question of restructuring of selected Neighbourhood Centres to be approached by first designating candidates for closure in their present form or reducing size of operating retail space then developing a strategy for alternative uses. Concepts of multi-faceted corner stores to be considered as part of this exercise. Possibility of creating 'corner shops' in strategically placed private dwellings to be included as part of the exercise.

7. Possibility of complete relocation of centres so that one Neighbourhood Centre services two adjacent suburbs, to be considered.

8. Remedial activities conducted in other states such as the Main Street Program to be further examined and applied as necessary.
9. Further consideration of developing the tourism zone in Civic following Government's deliberations relating to the reviewer's proposals of 20 November 1995 concerning the general refurbishment and refocus of the CBD.
10. Further resolution of the IBECON Report, in its present form, as challenged by the Jebb Holland Dimasi critique in its application to the total retail inventory of the ACT.
11. Development of a supermarket and associated retail inventory to establish whether the ACT is oversupplied or under supplied with this type of retail space on a suburb by suburb basis. Approval for any additional supermarket space to be subject to this exercise.
12. Whilst acknowledging the need for retail development at Conder, the reviewer sees a need for control of the size of the complex, particularly the supermarket, until the population of the area justifies some form of increase.
13. Approach to restructuring of local centres and future management of the retail inventory to be subject to whatever controls to be put into effect following implementation or otherwise of the Report into the Administration of ACT Leasehold.
14. Based on the reviewer's experience in prosecuting and defending matters in the Magistrates Courts, if the Government is to accept a recommendation concerning regulation there needs to be a careful approach made as to the questions of penalties and of how the law is to work in practice as well as the defining of the entities to be subject of the law. It will be pointless to pursue any policy of regulation if it was not to be observed by retailers or if prosecutions were undertaken the penalties were too light or prosecutions fail due to defects in the legislation. That is why the reviewer believes a fine of up to \$20,000 for corporations and \$2,000 for individuals is appropriate. This should at least create a climate of compliance by those involved. Redrafting of Trading Hours Act would require close cooperation of all interested departments particularly those responsible for enforcement.
15. Unfair competition problems created by "weekend market" retailers generally based outside Canberra and trading from residences to be further examined.

16. Inadequate/inconsistent road traffic directory signs leading to or adjacent to Neighbourhood Centres be examined

17. Possibility of paying ACT and Commonwealth Government employees in alternate weeks should be examined.

18. Re-evaluation of priorities allocated to suburbs in the progression of the Precinct Management Strategy

19. An entity within the ACT Government should be established to administer the retail industry. This organisation would be tasked with the responsibility of maintenance of the retail inventory, making recommendations as to further development and redevelopment as well as progressing all proposals for reconstruction and repositioning of retail entities. The reviewer believes that there could be a case for combining some of the activities currently conducted by several areas under the one form of control. The reviewer notes the difficulties of achieving this in the light of inevitable division of Ministerial Portfolio responsibility.

***REPORT***

***ACT Trading Hours Review - John Hyndes***

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# **REVIEW OF TRADING HOURS IN THE AUSTRALIAN CAPITAL TERRITORY**

## **INTRODUCTION**

The Minister for Business, Employment and Tourism, Mr Tony De Domenico announced on 1 September 1995 that John Hyndes was to conduct a review of trading hours in the Australian Capital Territory under the following terms of reference:

### **"REVIEW OF TRADING HOURS IN THE ACT**

#### **Terms of Reference**

To review, and provide recommendations to the ACT Government on, trading hours arrangements in the ACT. A key objective of the Review will be to identify options on how to keep local centres alive and to encourage public discussion of these options. In developing its recommendations, the review will take into account the broader interests of the community, business groups, retail industry employees and the tourism market.

The review is to consider:

1. the economic and social impact of existing trading hours on consumers (both local and major shops); on shop owners/lessees; and on the ACT economy;
2. the social and economic role of local centres, and local area planning;
3. the extent to which the existing trading hours regime and other factors affect the viability of small suburban and Group Shopping Centres; and
4. the viability of developing a special tourism zone in Civic.
5. any other issues relevant to trading hours arrangements.

In undertaking the review, the following will need to be taken into account:

- . the ACIL Report into Trading Hours in the ACT (April 1991);
- . the current independent retail study commissioned by DELP (undertaken by IBECOM);
- . national trends in retail trading hours;
- . the trading hours arrangements in NSW, and in Queanbeyan in particular;
- . programs that have been developed in the ACT and other States/Northern Territory to improve the viability of small shopping centres;
- . the role of residential development within the centre or near to the centre;
- . the Community Safety Study undertaken by the ACT Planning Authority, Attorney-General's Department and the Australian Federal Police;
- . the potential for restructuring local centres; and
- . other retailing options at the local level such as corner shops.

The Review will consult widely with interested parties and will invite public submissions."

#### Certain Terms of Reference Excluded from Total Examination

As Terms of Reference No.'s 1 & 2 indicate the review was to canvass a variety of social impact aspects relating to trading hours on consumers, shop owners, lessees and on the ACT economy as well as the social and economic role of local centres and local area planning. The original intention was for this review to incorporate those social impact findings into development of future strategies for the restructuring of local centres where necessary and in general focusing on the means by which local centres could be kept alive. Following further consideration by the Government of the entire retail scenario as applicable to the ACT the reviewer was directed to proceed with report finalisation without the conclusions of the Social Impact Study being available and provide a report to the Minister by 15 December 1995.

This report concentrates on Term of Reference No. 3 namely the extent to which the existing trading hours regime and other factors affect the viability of small suburban and Group Shopping Centres. The position of Town Centres from the major shopping mall perspective will also be traversed as part of the exercise. The reviewer was able to reach certain conclusions on the economic impact of existing trading hours on consumers/shop owners/lessees and on the ACT economy as well as the economic role of local centres and local area planning thereby covering certain elements of Terms of Reference No.'s 1 & 2. These conclusions are all relevant to the general viability question and will be considered as part of that study.

## Presentation of Report

The report is presented under the following broad headings:

- Background to the Trading Hours Issue;
- Approach to Inquiry;
- Initial Observations of Reviewer;
- Difficulties Encountered by Reviewer;
- Results of Existing Trading Hours Regime as Experienced by ACT Retailers;
- External Factors Affecting Shopping Centre Viability;
- Would Position of Retailers be Affected if Regulation of Trading Hours were Introduced;
- Relative Positions Expressed on Benefits if Regulation;
- Effect on Consumers if Trading Hours were to be Regulated;
- Should Trading Hours be Totally Deregulated;
- Employment Issues;
- Alternative Regulation Approaches
- Conclusion;
- Recommendations - for ease of reference follows Executive Summary

This report will focus on the major issues raised which, in the main were covered at the Public Hearing on 14 November 1995 (Transcript of proceedings appears at Annexure A). There will also be some reference to written submissions and meetings held with retailers and industry representatives. It was not possible to refer to all material received in this document, but all submissions have been taken into consideration. The reviewer wishes to extend his gratitude to all those entities who participated in this Review.

### Remaining Terms of Reference to be Subject to Further Examination

The remaining Terms of Reference as applicable to this review will be fully canvassed by the Government following consideration of other reports. As previously stated the study of the social and economic impact of existing trading

hours on consumers, on shop owners/lessees and on the ACT economy as well as the social and economic role of local centres and local area planning revolve, in part, around the findings of the Social Impact Study being undertaken by The Planning Team (a firm of consultants commissioned by the ACT Planning Authority) and this Study will also have relevance to outstanding matters particularly in the area of considering candidates for restructure and other retailing options.

The viability of developing a special tourism zone in Civic (Term of Reference No. 4) will follow Ministerial consideration of the reviewer's proposals dated 20 November 1995 relating to the general state of the Central Business District (CBD) as well as the proposed strategy for a general co-ordinated approach to the upgrade of Civic. In support of general recognition of the status of Civic the reviewer notes that the Territory Plan indicates that "*Civic will remain the prime metropolitan centre for commercial, entertainment and tourist activities as well as a range of major community facilities.*"

## **BACKGROUND TO THE TRADING HOURS ISSUE**

The present position relating to trading hours in the ACT is unsatisfactory from a number of perspectives. The provisions of the Trading Hours Act 1962, as they currently stand, are being ignored by shopping centre owners, managers and retailers. Governments in the past have not been enforcing the legislation and in any case the maximum fine of \$200 provides little disincentive to commit breaches.

The Trading Hours Act provides for the following broad scenario:

### **TRADING HOURS ACT 1962**

In general the Act covers the following:

The sale of goods at a shop is prohibited:

- . on a Sunday;
- . on a Territory public holiday;
- . before 6 am on any other day;
- . after 6 pm on a week-day that is not a late-shopping day;
- . after 9 pm on a week-day that is a late-shopping day;
- . after 5 pm on Saturday [note that this is an extension of the time (12 am) stipulated in the Act and has been approved by Ministerial declaration].

### **Exceptions**

The sale of certain goods and sales by certain people are not regulated by the Act.

### **Exempt Goods**

In particular, the sale of the following goods are not prohibited by the Act:

- . foodstuffs and non-alcoholic beverages;
- . flowers;
- . garden requisites;
- . goods for use in the decoration, renovation or repair of domestic premises;
- . hardware;
- . hobby and handicraft goods;
- . ice;
- . motor vehicles and parts for motor vehicles and engines;
- . newspapers, books and periodicals;
- . paints;
- . plants, trees, shrubs. seeds and turf;

- . petrol, fuel-oils and lubricants;
- . second-hand goods;
- . soap, toothpaste, tooth-brushes, shaving-cream and lotions, cosmetics, razors and razor blades, adhesive bandages and toilet paper and tissues;
- . souvenirs, postcards, stationery, art works and reproductions of art works;
- . timber and goods for use in wood-working;
- . tobacco, cigars, cigarettes, cigarette-papers, cigarette-holders, matches, pipes and pipe-cleaners;
- . tyres and tubes; and
- . wallpaper.

### **Exempt sales**

The Act does not apply to the sale of any goods:

- . by a person otherwise than for the purpose of carrying on a business;
- . by a registered pharmacist in the course of carrying on business as a pharmacist;
- . by a hawker in the course of carrying on business as a hawker;
- . by an organisation for charitable purposes;
- . at a show held by The National Agricultural Society; or
- . at an exhibition or fair approved by the Minister.

The Act does not apply to the sale of liquor in accordance with the provisions of the Liquor Act 1929 or of any other Act relating to the sale or supply of liquor.

Other provisions:

The Act makes detailed provision for sales by auctions and for the setting of late night shopping days. These provisions are not set out here.

### **Progression Towards Deregulation**

The most recent attempt by the Government to address this problem occurred in April 1991, with the release of the ACIL Report which recommended several options for the deregulation of shopping hours. One option was to deregulate immediately, the other was to deregulate in three stages beginning with the extension of Thursday evening etc, deregulation of the hours of 12 midnight Sunday to 6 pm Saturday, and finally allowing Sunday trading to be introduced in 1992. The ACIL Report took the view that despite arguments to the contrary, particularly from the smaller traders, deregulation would be of benefit to the community as a whole.

Since the release of the ACIL Report there has been a progression towards de facto deregulation of the ACT retailing market from the trading hours perspective and we have seen the Town Centres gradually move into trading on Sundays by the majority of retailers with sales of non-exempt goods being widely practised. A further development has been in the area of major supermarkets located in Town and Group Centres, where from 1992 onwards Coles, Woolworths, Jewel and Franklins have gradually extended their trading hours (Coles to 24 hours). Major locally based supermarket chains (Festival, Cannons, Supa Barn, FoodTown, Shop Ezy etc) also extended their hours in order to match the market although none of these extended to 24 hour trading. It should be noted that under the Trading Hours Act, 24 hour trading has always been legal for supermarkets offering for sale exempt goods such as food under the Trading Hours Act. At the same time the reviewer notes that part of each supermarket stock inventory includes an element of non-exempt goods.

Please refer to Annexure B for an outline of current opening hours for ACT and Queanbeyan supermarkets and it should be noted that Queanbeyan consumers also have extended trading hours available.

#### Recent Government Action

The current Government undertook to examine the situation relating to retail trading in the ACT as part of the 1995 pre-election policy. This followed concerns raised as to the plight of the smaller Neighbourhood Shopping Centres manifested by the compiling of a petition containing some 31,000 signatures, which declared support for local and small business in the Canberra region and called for its preservation and growth. The petition was headed "Save Our (Local) Shops".

A series of initiatives were introduced with a view to clarifying the retail position in the ACT as well as attempting to examine the extent of and address the problems being encountered by those Neighbourhood Shopping Centres and other retailers experiencing difficulties. These include:

The IBECON Retail Study;

The Social Impact Study;

The Precinct Management Strategy (Community Groups).

The Government was also aware that the Board of Inquiry into the Administration of ACT Leasehold would probably cover certain aspects of retailing difficulties. These will be considered by the Government as part of the examination of the overall retailing situation.

The IBECON Study initially examined the impact of the proposed extensions by Leda Holdings to Tuggeranong Hyperdome on the local community. A resident

survey was conducted as well as an assessment of the impact on existing retail businesses located within range of the Hyperdome. The study was extended and purports to cover the ACT retailing position from a space allocation viewpoint. The IBECON Report will be discussed later in this document.

The Social Impact Study will mainly concentrate on the resultant effect on residents of suburbs where retailers in Neighbourhood Shopping Centres, particularly supermarkets, have closed or may be obliged to close. Examination of the social impact on shop owners/lessees of the existing trading hours regime should also be included as part of that study.

The Precinct Management Strategy is being initiated in three pilot areas being Hughes, O'Connor and Narrabundah. It involves capital works funding with a view to rendering the precincts more attractive to shoppers and visitors, and includes an examination of the possibilities of diversification of activities as well as recognising the different needs and priorities of individual communities. The reviewer understands that Civic, Manuka, Yarralumla, Woden and Weston will also be subject to the Precinct Management Strategy in the near future. The reviewer is supportive of these initiatives but believes that there could be further examination of the method of deciding which suburbs should receive priority in the application of the scheme.

## **APPROACH TO INQUIRY**

### **Direct Contact Approach**

On receipt of the Terms of Reference it was decided that this inquiry would essentially need to follow a hands-on course of action with the first step being to visit each of the Neighbourhood Shopping Centres and speak with retailers located in those Centres about problems being encountered and observe the general trading/customer flow position of the outlets.

The Terms of Reference were subject to press advertisements in The Canberra Times and other local newspapers and written submissions were invited. Notice was also given of the holding of a public forum.

Over 100 retail areas were visited and discussions held with in excess of 500 people. In some areas there was a certain reticence to discuss the problems and a wish for privacy was respected in this matter. The visit to centres was of benefit in that it ensured that the Terms of Reference for the review plus the invitation to make written submissions was in the hands of as many retailers as possible as well as giving the reviewer the opportunity to assess the general state of affairs.

Centres were observed at a variety of times including evenings and weekends. It was of particular importance to note the level of trading at weekends as this had hitherto been a strong trading period for the Neighbourhood Centres. Certain areas were subject to follow-up visits during the course of the review and further observations made as to levels of activity.

### **Industry Meetings**

Persons requesting private appointments following release of the terms of reference were accommodated. As well as conversing with individual retailers, discussions were held with the following entities on one or more occasions:

Mayor and General Manager of Queanbeyan City Council;  
National Director Retail, BOMA National;  
Chair-BOMA-Australian Council of Shopping Centres - ACT;  
Representatives, Shop Distributive and Allied Employees' Association  
Centre Manager, Tuggeranong Hyperdome;  
Centre Manager, Westfield Belconnen;  
Centre Manager, Woden Plaza;  
Centre Manager, Canberra Centre;  
Representatives, Queensland Investment Corporation;  
Managing Director, Fyshwick Markets  
Proprietor, Group Centre, Jamison;  
Manager, Group Centre, Kippax;  
Manager, Group Centre, Calwell;  
Manager, Homeworld;

Managing Director, Koundouris Group;  
Representatives, Canberra Small Business Council;  
Managing Director, Una Porter complex;  
Leasing Agents Representatives;  
Representatives, Coles/Myer;  
Representative, Australian Institute of Supermarkets;  
Representatives Woolworths and Big W;  
Representatives Council of Small Business Organisations of Australia;  
Representatives, Canberra Property Owners Association;  
Representative, Commercial and Retail Tenants' Association.

#### Meetings with Government Officials

Discussions were also held with the following ACT Government areas:

ACT Planning Authority;  
Convenor, Social Impact Study (to be undertaken through ACT Planning Authority);  
Convenor, Precinct Management Strategy Program;  
Manager, ACT Roads and Traffic Branch;  
Deputy Law Officer ACT;  
Executives from the Department of Business, the Arts, Sport and Tourism.

#### Examination Of Position In Other States

The Terms of Reference also included a requirement to assess trends in other states. Accordingly, accompanied by Business Regulation Review Unit representative, Angelo Zorbas, visits were made to the Brisbane and Melbourne areas where discussions were held with industry and government officials and trading areas observed.

In both Brisbane and Melbourne the CBD and other proclaimed tourism areas are permitted to trade on Sundays although there is pressure from some areas of the retail industry to extend this facility. Conversely there is pressure from smaller supermarkets, corner stores etc to restrict the trading hours of the major operators. In general terms the retail industry observes the restrictions although in Victoria major furniture retailers are ignoring the proscription against trading on Sundays.

The New South Wales position was canvassed in meetings with the Retail Traders Association of New South Wales (RTANSW) which purports to represent national chains and smaller operators. RTANSW reported general satisfaction among the membership as to the extended trading hours position being adopted in New South Wales, where trading hours are deregulated Monday through Saturday with Sundays being available for certain retailers, particularly supermarkets with support from local councils.

Please refer to Annexure C for a general summary of the Trading Hours legislation as applicable in the ACT and other States.

### Public Forum

The public forum held at the Canberra Workers Club on 14 November 1995 was opened by the Deputy Chief Minister and attracted around 200 attendees. Twenty one persons spoke for five minutes each representing a particular area of interest. A list of invited speakers appears at Annexure D. The presentations covered the many aspects of the trading hours problem and gave those attending an understanding of the divergence of views prevailing on the matter.

### Written Submissions

167 written submissions were received. These are held on file at the Business Regulation Review Unit. Certain elements of these submissions will be of relevance to the further examination of the remaining Terms of Reference following release of the Social Impact Study.

### General Research

The reviewer had the benefit of being able to research several articles either in favour of, or against deregulation. The views of academics and those associated with the industry are not in unison and there is ample material to support either side of the argument. In addition, it is not always appropriate to apply findings generated from other states to the situation in Canberra. Even so the reviewer notes that public opinion, as expressed, seems to be in favour of increased deregulation.

### Assistance by Departmental Representative

As the sole person conducting the review the high standard of administrative and professional support given by Angelo Zorbas of the Business Regulation Review Unit was greatly appreciated by the reviewer.

## INITIAL OBSERVATIONS OF REVIEWER

### Supermarket Viability - Central Problem

By visiting each centre, some on more than one occasion, particularly during weekend periods or during the evening after 6 pm, which was previously a strong trading period, observations were made of the state of customer numbers and cars parked at the centre. Based on these observations, supported by the reviewer's previous retail experience plus generally accepted propositions within the industry it is reasonable to suggest that the problem being encountered in Neighbourhood Centres relates to food, particularly food sold in supermarkets, with related customer flow problems applying to butcher shops, newsagents, pharmacies etc. It is not surprising therefore to note that a significant concentration of submissions received from the small business sector emanated from these industry groups.

The supermarket, in the opinion of the reviewer, is the anchor of every Neighbourhood Centre. Certainly the other retailers play their part, particularly pharmacies (if one still exists), butchers (if one still exists), newsagents (if one still exists), as well as takeaways, bakeries, etc. The existence of a service station is also a valuable link in Neighbourhood Centre viability, however, many have closed in recent years as part of industry rationalisation.

The reviewer found during visits to Neighbourhood Centres a fairly dismal trading picture as compared with the situation through to the late 1980's and early 1990's. It became apparent that the problem being encountered in the Neighbourhood Centres was intrinsically linked with the fall-off of trade previously enjoyed by the supermarket although other areas of activity, particularly butcher shops were also adversely affected. The problem has accelerated since 1992 and the decline in trade has coincided with the aggressive progression of major supermarkets into the area of extended trading.

The reviewer also visited Town Centres, Group Centres, fruit and vegetable markets as well as unclassified (from a retail hierarchy sense) areas such as Fyshwick. Attention was paid to the level of Sunday and evening trading activities. These observations are dealt with in the section headed '*Results of Existing Trading Hours as Experienced by ACT Retailers*'.

### Unreal Expectations of Retailers

In discussions with some of the proprietors of supermarkets located in Neighbourhood Centres it became apparent to the reviewer that in some cases there was an air of unreal expectations as to what the Government should or could do in relation to the predicament that these proprietors found themselves in with a downturn in trading levels and a corresponding decline in value of the businesses. This misunderstanding, whilst mainly due to the total frustration of this contingent of supermarket operators has also been caused, in part, by their observing the Commonwealth Government's approach since 1991, to the closure of surplus

pharmacies where compensation up to a maximum \$80,000 sum was paid as an inducement to cease trading and leave the industry. It is understood this program, instigated under the National Health Act, resulted in the closure of 17 Pharmacies up to 30 June 1995. Following this theme some supermarket proprietors see themselves running a business which is surplus to ACT requirements and that this is due to planning errors and the Government should compensate accordingly. Whilst appreciating the difficulties being encountered, the reviewer could not see the Government being in a position to make a direct personal financial contribution to these retailers in this economic climate.

### Landlord Activities

There were also incidences where supermarket proprietors laid the blame at the feet of landlords who were generally insisting that the provisions of pre-existing leases be adhered to. Whilst the reviewer does not doubt that there would have been some incidences of an unreasonable landlord behaviour, it also remains a fact that many landlords are heavily geared by some form of mortgage and rental payments which are critical to cash-flow requirements thereby making rental reduction impracticable. The reviewer noted that there were also cases where landlords did their utmost to assist ailing tenants and this point needs to be acknowledged.

### Poor Presentation

The reviewer noted a down-grading of the standard of presentation of the centres as trading difficulties encountered by retailers accelerated. Whilst owners and tenants are the initial losers in this situation the decline in the value of the asset with the possibility of tenants vacating, also has a detrimental effect on potential ACT revenue collection capacity with economic consequences to all ACT residents.

### Tenancy Tribunal Matters

In some cases allegations of misrepresentations as to customer flow and general retail capacities of businesses were made which mainly applied to major malls. The criticisms were generally levelled at centre management/owners. These are Tenancy Tribunal matters and are beyond the ambit of this inquiry. Nevertheless disagreements which fall within Tenancy Tribunal jurisdiction can certainly have an effect on the viability of retailing businesses.

## **DIFFICULTIES ENCOUNTERED BY REVIEWER**

### **Lack of Accurate Turnover Details**

The review was not convened under the Inquiries Act and therefore it is important to note that the reviewer's discussions with retailers were of an informal nature only and the evidence could not be tested as to veracity as it was not presented under oath. The written and oral submissions were in the main reflective of the respective interests of relevant entities. Even so, for the purposes of gathering representative information the reviewer found personal observations, face to face discussions and assessment of written submissions most appropriate. However, the translation of the variety of opinions into hard-fact evidence has proved to be difficult.

One area which was of major concern to the reviewer related to the difficulty in extracting accurate turnover figures from the supermarket industry. (The reticence to provide these details is not unnatural). There was appropriate cooperation by the ACT based supermarket groups but in the area of comparative analysis, data provided by the national chains is also necessary. It is in this area that the reviewer sees much to be gained if there had been an option to run part of the review under the Inquiries Act.

The reviewer acknowledges that his opinions as to the importance of accurate turnover figures may be excessive and one does not require assistance from turnover data when observing supermarket premises which have ceased operation. Assessment of accurate turnover figures will, however, probably be necessary in order to determine action to be taken in relation to candidates for restructure.

### **Retail Floor Space Performance Data Questionable**

Another problem faced by the reviewer revolved around the statistical data currently available. The IBECON Report has apparently been adopted and endorsed by ACT Planning Authority subject to some reservations. However, it is, in the opinion of the reviewer, a document which pre-supposes a strong statistical background by the reader where there seem to be several assumptions being made by IBECON which the reviewer found difficult to extend and apply to the current position being faced by Neighbourhood Shopping Centres, particularly supermarkets. (The IBECON Report has also been challenged in certain areas, particularly by Queensland Investment Corporation who briefed Jebb Holland Dimasi to provide a report on the matter, as well as the Canberra Property Owners Association).

One of the problems with IBECON appears to be that in relation to retail space/expenditure/performance as to food as in supermarkets, restaurants, taverns, takeaways etc. are included in the statistics together with home deliveries, e.g. pizzas. Therefore, from the IBECON perspective some of this statistical data must

be questioned as to whether some Neighbourhood Centres are performing in a low, average, or high capacity and there are several allocations of suburb performance category which the reviewer believes could be challenged. This is of importance when considering candidates for closure and ultimate restructuring programs which will be dealt with as part of the Government's follow-on action in this matter.

Having reached an early conclusion that the main problem in Neighbourhood Centres related to food as sold in supermarkets and associated outlets, the reviewer was looking for some avenue where the Government could be presented with statistical data whereby the amount of retail space allocated to supermarkets and related food outlets could be compared against the general demographic details of the population of the ACT as a whole as well as on a suburb by suburb basis. From this an assessment could be made as to whether the ACT is over-supplied in terms of supermarket and related household food space, or under-retailed. The exercise would require collation of the total inventory of the supermarket food space and for this to be assessed against an up to date comparison of the amount of expenditure on food on a household basis. This would be then compared against general averages of sales performance on a square metre basis of supermarkets and associated food retailers and hence some sort of conclusion could be reached as to the state of the available inventory as against disposable household income directed to food. Some projections could be made as to the effect of population growth which, according to the Australian Bureau of Statistics, seems to be slowing.

The question of the problems with statistical data has been taken up informally with the Australian Bureau of Statistics and the ACT Planning Authority, and whilst the reviewer is hopeful that some further progress may be made with this issue, it should be noted that, at this stage, the Planning Authority appear to be using the IBECON report as the database source. The Planning Authority has recognised some of the deficiencies particularly relating to household shopping patterns and is reportedly organising further research in this area to take place in 1996.

Based on information supplied by the Australian Supermarket Institute using figures from the most recent retail census undertaken in 1991/1992 by the Australian Bureau of Statistics, it is stated that the provision of supermarket and grocery space relative to population in Canberra that year was 17% below the average throughout Australia and slightly below the average applicable to Australia's Capital Cities. The reviewer believes that notwithstanding the overall position there is an imbalance in space allocation on a suburb by suburb basis when analysed in terms of proximity to Town and Group Centres. In terms of performance against space occupied, some of the neighbourhood supermarkets deemed to be marginal in terms of viability rate very poorly. On the other hand, the supermarkets based in Town and Group Centres are, in the main, extremely efficient in terms of space utilisation in their delivery of the right product at the right price.

It is critical to the future approaches by the Government to establish the state of the inventory on an ACT wide as well as a suburb by suburb basis particularly in areas such as Belconnen where we have many centres in close proximity to each other

together with an overlay of Town and Group Centres. In addition to assessing the appropriate numbers of Neighbourhood Centres the Government would then be in a position to consider the overall effect of the grafting of Group Centres and Town Centres into the inventory which would enable a proper evaluation (based on information presented on an industry average basis) as to whether the addition of further retail space for supermarkets in any particular area was appropriate.

#### Study of Consumer Shopping Habits Required

There is also a need to make a complete study of the current shopping habits of ACT consumers on a suburb by suburb basis. Whilst acknowledging that demographic shifts could change the situation, data based on customer patterns relating to suburbs or groups of suburbs, is critical to overall planning.

#### Effect of Extended Trading on Retail Space Requirements

There does not seem to be any data available as to the effect of extended trading on the food retail inventory. The question arises as to whether the extension of trading hours by up to 40% in some food cases has led to some form of corresponding decrease in the requirement for available food space.

#### Government Responsibilities for New Retail Development

In the opinion of the reviewer it is not a sufficient discharge of government responsibilities to rely on feasibility studies conducted on behalf of those entities wishing to establish additional retail space. Certainly, full responsibility for the assessment of future viability of the proposal should rest with the applicant and the maxim "caveat emptor" applies. However, in terms of the acceptability of any such proposals the overall position of the quantity of retail space in the immediate area and the ACT as a whole when compared against population requirements should be extremely persuasive as to the outcome of the application. As things currently stand the reviewer is yet to be persuaded as to whether anyone really knows whether the ACT is under-supplied or over-supplied with supermarket space. Whilst the reviewer lacks the technical expertise and resources to personally challenge IBECON one may well ask what was the authoritative database for the ACT before the IBECON report was commissioned.

There is also a further potential downside to the maxim "caveat emptor" in these circumstances. A strategically placed national chain or other major supermarket would, if developed within reasonable distance from suburbs served by the smaller Neighbourhood Centres, immediately extract a large percentage of business from those smaller supermarkets. A well equipped major supermarket could absorb the total business from a local supermarket with very little increase in operating costs. Whilst this would be of initial benefit to consumers, particularly the more mobile, the problem of maintaining Neighbourhood Centres would continue to worsen.

For example, the reviewer believes that if a major supermarket is developed on the site of the Manuka car park up to double the size of the existing Woolworths, the initial sales budget of the new supermarket would be to reach an annual turnover of, say \$50-55 million, within two years, possibly more. The strategy adopted to achieve this level of sales would be to concentrate on existing customers and also target the suburbs which could reasonably be identified as being within the primary trade area. These would include Manuka, Forrest, Kingston, Barton, Narrabundah, Griffith, Red Hill, Deakin, Yarralumla and possibly Hughes and Garran. The pressure placed on the supermarkets located in these areas would be enormous and would exacerbate what is already perceived to be a difficult trading position. In addition, the reviewer notes the already difficult parking situation around Manuka and reflects as to whether the proponents of the new supermarket are going to satisfy the parking requirements without disturbing the ambience of an already stretched neighbourhood.

The above comments should not be construed as a criticism of ACT Planning Authority and the reviewer is constrained to point out that IBECON is well regarded in the retail industry. However, the reviewer believes that the Planning Authority should be able to isolate the supermarket and related food data from other retail activities in order to establish a meaningful database to facilitate future planning decisions.

#### Lack of Consensus within Retail Industry

In terms of problems encountered by the reviewer a major difficulty arose relating to the lack of consensus amongst the various stakeholders in the retail industry. Whilst some groups were identifiable as to the preferred position relating to trading hours there were other groups which were unable to reach any form of agreement among themselves. Therefore it needs to be acknowledged that there is no solution to this problem which will satisfy all parties.

## **RESULTS OF EXISTING TRADING HOURS REGIME AS EXPERIENCED BY ACT RETAILERS**

For the purpose of this report the retailing categories are classed as Town Centres, Group Centres, Neighbourhood Centres, Fruit and Vegetable Markets and Other. A plan of the Centres appears at Annexure E. Commentary on representative supermarket sales performances since 1990 appears at the end of this section.

### **TOWN CENTRES**

The ACT is positioned with four major shopping malls, namely Belconnen Westfield, Canberra Centre, Tuggeranong Hyperdome and Woden Plaza, as the central point of Town Centre retailing. (For the purposes of overall consideration, Riverside Plaza, Queanbeyan should be classed as a Town Centre mall with Karabar falling in the Group category.)

The range of trading hours as conducted by the major malls (with the exception of supermarkets, fast food restaurants and other leisure type retailers are as follows:

Monday - Thursday	9 am - 5.30 pm
Friday	9 am - 9 pm
Saturday	9 am - 5.30 pm
Sunday	10 am - 4 pm

This indicates a trading operation of more than 60 hours per week. The range of trading hours for major national supermarkets such as Woolworths 7 am - 12 midnight and Coles 24 hours suggest weekly trading hours of between 119-168 hours. On the other hand at the lower end of the trading hours zone, Franklins with staggered opening times operates for up to 70 hours per week. Town Centre retailing tends to follow core hours of the major malls with some exceptions particularly in the areas of restaurants, fast food and leisure activities.

### **Non-Exempt Trading Not Cause of Problem to Neighbourhood Centres**

Each of the Town Centres are practising deregulation in some form or other, particularly in the area of trading in non-exempt goods on Sundays. The extended trading hours being conducted by major supermarkets particularly Coles and Woolworths, whilst legal, have nevertheless been undertaken in a climate of deregulation. From the viewpoint of non-exempt goods trading (particularly apparel), the reviewer observed that this activity alone was not contributing a great deal to the problems encountered by Neighbourhood Centres although by drawing customers to the Town Centres for the purposes of purchase of apparel and other non-exempt goods, this does create the opportunity for customers to spend time at

the supermarket and other food outlets which, in turn, may contribute to a loss of business to Group and Neighbourhood Centres. The reviewer spent part of eight Sundays observing shopper patterns in the Town Centres. There was not a great incidence of non food shopping being combined with major food shopping.

### National Chains Supportive of Deregulation

The adoption of extended trading hours by the four Town Centres seems to have satisfied the national chains, particularly Grace Bros, although David Jones expressed guarded support of Sunday trading at Woden and Canberra Centre. Submissions (written and oral) have been received to the effect that the Town Centres are satisfying the consumers and a major element of shopping is done after 6 pm at night and on a Sunday which in some cases is now the third most important trading day. The accuracy of this data could not be tested by the reviewer.

### Consumer Support for Sunday Trading

It is reasonable to suggest from the direct observations that Sunday trading in particular is receiving support from the public and customer count figures as supplied by major mall managements indicate around 60,000 consumers use the four Town Centres each Sunday. Even so, from observations of the level of activity in Coles Supermarkets trading in the early hours of the morning, there appears to be very little consumer support for 24 hour trading which is manifested by people actually shopping, although Coles executives argue that this is what the customer wants and are strong supporters of the concept of deregulation.

### Some Smaller Retailers Against Deregulation

Not all traders in major malls are comfortable with the extended trading hours and submissions were received to the effect that Sunday trading is a waste of time for some retailers and they barely cover costs. On the question of costs, it should be noted that double time is paid to employees on Sundays in the absence of any form of staff agreement to the contrary. Operating costs are generally shared on a pro-rata shop size basis.

The reviewer also received oral submissions to the effect that the extended trading practised by the major supermarkets and other national chains was diluting the supposed benefits to some of the smaller retailers of being co-located with major retailers. It stands to reason that if shoppers are attending major retailers outside the normal core times being practised by the smaller retailers then the opportunity for comparison shopping plus general initiative shopping being directed to smaller retailers is lessened if shoppers can attend on major chains almost any hour of the day. It has always been a proposition put forward by shopping centre owners and managers that part of the rationale for national chains enjoying a lesser rent per square metre than the smaller retailers is that their very presence creates retailing opportunities to the smaller retailer. Naturally enough these proximity opportunities only occur if the smaller retailers can be open.

Regardless of the hours being conducted by national chains the majority of smaller retailers choose to close by 5.30 - 6 pm Monday to Thursday, 9 pm on Friday, 4 pm on Saturday and 4 pm on Sunday. Smaller operators do not have the resources to extend their trading hours to the same extent as the major operators and it should be noted that extended trading by national chains is, in the main, restricted to supermarkets apart from regular late nights by organisations such as Target.

It has been suggested on behalf of some major operators that if the smaller retailers choose to close while the major retailers remain open they do not deserve to participate in the extended customer flows. The reviewer is disenchanted by such a proposition - it is totally absurd to suggest that a smaller retailer has the financial or physical capacity to match the national chains opening hours and such comments are certainly not conducive to cooperation within the industry.

Overall, the data provided by the Town Centres indicates that extended trading is proving to be effective with Sunday results gaining strength in particular. Not all retailers are enjoying similar increases and in some cases the smaller entities are not covering costs. Nevertheless, from a consumer viewpoint the popularity of being able to shop on Sundays is self evident.

### **GROUP CENTRES**

There are 16 Group Centres each of which being anchored by at least one of a national or major ACT supermarket chain. The hours of trading range from 24 hours a day to approximately 12 hours a day.

On average the trading hours of Group Centres as a whole are as follows:

Monday - Thursday	8 am - 7 pm
Friday	8 am - 9 pm
Saturday	8 am - 6 pm
Sunday	8 am - 6 pm

This indicates trading operations of more than 75 hours per week.

### Extension of Trading Hours to Match Town Centres

In the case of Group Centres the major supermarkets have been obliged to operate extended trading hours from 1992, as a means of meeting the competition from the Town Centres in some Centres up till midnight, with two Coles outlets trading for 24 hours. From customer flow observations Group Centres seem to be coping reasonably well, although there are, of course, concerns expressed by owners/operators as to the state of business. The pricing and selection range offered by locally based supermarkets in the Group Centres, e.g. Cannons, Festival, Supa Barn seem to be in the main comparable with that offered in the Town Centres and as such, represent good value to consumers. There will, of course, be certain commodities where the national chains' superior buying power is difficult to match and their product range and stock levels are more extensive due to the larger floor space.

From the Group Centre perspective the move to extended trading hours from 1992 was more a case of matching the market with the Town Centres rather than requiring extended trading hours to fulfil an existing customer need. Once again the major supermarkets provided the greatest extension of trading hour patterns. As more customers took advantage of the extended hours, consumer and shopping patterns changed accordingly.

In relation to the smaller operators, butchers, delicatessens, bakers, newsagents etc. the extended trading by the supermarkets at Group Centres also weakens the customer concentration during core hours and this is not beneficial to those smaller businesses. Even so, whilst there could be some adjustment of tenancies following lease expiry and there have been some business failures, the Group Centres will remain attractive to retailers.

### Group Centres Also Threat to Neighbourhood Centres

The strategic location and price competitiveness of the Group Centres (particularly supermarkets) makes them an acceptable alternative to the Town Centres and in most case the preferred option to Neighbourhood Centres in the eyes of the consumer seeking price, presentation and stock range benefits. This needs to be understood in the context of the threat to the viability of Neighbourhood Centres. It would be quite wrong to suggest that competition from the Town Centres is the only source of the problem. Such a proposition downplays the value and effectiveness of the supermarkets located in Group Centres.

In relation to the other retailers located in Group Centres - apart from those involved as restaurants or takeaways - very few extend their trading period beyond 7 pm Monday to Thursday, 9 pm Friday, 7 pm Saturday and 7 pm Sunday. These people simply have not got the physical or financial resources to continue to match the trading hours of the major supermarkets.

The view was expressed from a Group Centre management perspective that if trading hours of the Town Centres were to be curtailed particularly in the area of supermarket activity the Group Centres would be satisfied to follow likewise to a certain degree.

### **NEIGHBOURHOOD CENTRES**

There are 72 Neighbourhood Centres anchored by a supermarket which, on average open at 7 am and close between 8 pm and 10 pm depending on location. This indicates operations of up to 105 hours per week.

### Out of Hours Trade No Longer Channelled to Neighbourhood Centres

The extended trading hours being practised by the Town and Group Centres has offered the consumer strategically placed outlets for not only major food shopping but also smaller convenience style shopping at a more competitive price. This in turn has meant that the Neighbourhood Centres, particularly supermarkets, can no

longer rely on the trade in the late evening during the week, or Saturday afternoon and Sundays as the main source of business as they are competing against outlets which can offer superior product range at cheaper prices and are open for longer hours.

In some of the Neighbourhood Centres the supermarket has moved from convenience style shopping to that of emergency shopping only, apart from those people who lack mobility to move out of the neighbourhood. This does not form a basis to support a supermarket operation and is more suited to the traditional corner store as understood in the Melbourne or Sydney sense where basic requirements - milk, bread, tea, coffee, newspapers etc are stocked, the product range is narrow, and the customers are prepared to pay higher prices and the operator occupies less space at lower rent. Some ACT supermarkets are occupying too much space when compared with the range of stock required to support the operation and it is usually space occupied by premises which dictates rent payable. It is in the context of efficient use of space available that the neighbourhood supermarket fails to compete in a profitable fashion.

#### Difficulty in Establishing Alternative Market Niche

There are some neighbourhood supermarkets which are cushioned from downturn to a certain degree. This is because they present well from a price and product perspective and generally belong to one of the major ACT Groups. In some cases the Neighbourhood Centre has adjusted to consumer requirements or a certain market niche has been developed by the centre, e.g. Griffith with the accent on health foods.

Much has been said about the need for retailers in Neighbourhood Centres to adjust their activity and presentation and find a more suitable market niche. The success of the Griffith shopping centre as an example of retailer initiative was quoted on several occasions. Certainly the accent on health and lifestyle retailing as conducted in the Griffith centre is most commendable. However, the reviewer is constrained to point out that whilst new initiatives should be encouraged, in an area with a total population of around 300,000 with easy access by motor vehicle there is a limit to the style of demand generated by health style retailers and other market niche operators.

The cases of Lyneham and O'Connor were also quoted as success stories in relation to the Neighbourhood Centre activity. The reviewer noted that the restaurants were certainly very successful and created their own form of atmosphere. However, the reviewer was less impressed at the level of success being enjoyed by the other retailers located in those centres although there may be benefits which escaped the reviewer's attention. The level of trade enjoyed by the supermarkets appeared reasonable rather than brisk and in the case of Lyneham a small supermarket seems to be battling against a variety of factors.

### Car Park Occupation Not Conclusive of Retail Activity

The reviewer received several oral submissions as to the assumption that certain Neighbourhood Centres were doing better than others and the state of car parks was quoted as a reason. The reviewer examined this situation quite carefully and noted that in a Neighbourhood Centre in the Woden area the car park was almost full and the shopping centre was almost empty. Further examination indicated that the car park was being used by patients and staff at an adjacent medical centre. In the same vein in the busy car park areas of O'Connor and Lyneham the majority of customers were utilising the restaurants and there was not the same level of business being enjoyed by other retailers. Therefore one must look behind the state of the car park to determine the level of retail activity being enjoyed by the centre.

### Trading Hours Not Sole Reason for Downturn in Business

Trading hours are not the only reason for the downturn in business and the section of this report entitled "*External Factors Affecting Shopping Centre Viability*" canvasses some of these. Demographic shifts in population, particularly in the older suburbs, has diluted the customer base of several of the local centres. Closure of some pharmacies and viability problems being encountered by newsagents has not assisted. Butchers, where remaining, are continually under threat and the reviewer believes it to be a great pity such a professional group and hitherto strong employer of skilled trades people is encountering such difficulties. The disappearance of suburban service stations presents another problem in terms of neighbourhood focus and the state of abandoned sites is not conducive to Neighbourhood Centre ambience.

Another result of the downturn in trade and resulting loss of income to the local supermarket operator is in the area of stock levels and presentation, particularly in the commodities such as fruit and vegetables, meat and other perishables. It is obvious that in some areas the overall stock levels are declining and the meat, fruit and vegetables sometimes look old and tired. The reviewer also encountered some situations where liquidity/credit problems obliged supermarket operators to replenish stocks by purchasing "off the shelf" at major supermarkets. Examination of freezer cabinets indicate that not only is the stock date questionable in some cases but the state of the freezer cabinets themselves indicate a need for refurbishment. Signage and general appearance is another area which tends to fall away. While the reviewer is reluctant to criticise these operators as the shortcomings are obviously due to lack of funds, he is constrained to make the comment that the premises are, in some cases, unattractive to consumers. Therefore whilst trading hours situation may be one factor contributing to the competition problem it is further compounded by the lack of consumer attraction.

### Extended Trading Hours No Assistance to Neighbourhood Centres

Extended trading hours has been of no assistance to the vast majority of Neighbourhood Centres. Turnovers have been in decline from 1991/1992 and as a

general proposition the values of the businesses are also in decline. A neighbourhood supermarket could previously command around 10 times average weekly takings as the goodwill element of sale of a supermarket business. That equation is no longer available and if the businesses were saleable very little by way of goodwill would be applied in today's market. This has brought about a position where supermarket proprietors, who have often mortgaged their homes in order to finance the purchase of a supermarket some years ago, find the value of their asset severely eroded to the extent that they are simply keeping open in order to pay the rent and service the debts. They are in no position to close because of the lease on foot and in any case they remain liable for rent for the duration of the lease unless the premises are let in between. There is also the matter of needing income stream to service the loans. In addition, many of these proprietors are no longer young and the opportunities for employment elsewhere are slim indeed.

#### Family Operations - Quality of Life/Morale Low

Very few of the smaller supermarkets can afford to employ staff these days and it is generally the families which operate them. We have a situation where husbands and wives and occasionally children operate the supermarket between 12 and 14 hours per day. In the light of declining custom and hence income, the quality of life and attendant morale of these people is in a desperate state. The reviewer received oral submissions to the effect that several of the family-based supermarkets are not making enough money to exceed welfare payments. However, they cannot afford to close as failure to service debts will possibly lead to the loss of the house property. These are hard-working people but the reality is, as things currently stand, hard work alone will not save them.

When considering the future of Neighbourhood Centres and the supermarket in particular it is important to note that the overall financial position of the supermarket operator could affect future viability to the extent that he or she is heavily geared to banks and other finance houses or paying too much rent as against turnover. However, based on the reviewer's own observations and perceived level of custom, plus information gained from the industry, the combination of extended trading hours as well as outright competition is the prime cause of the erosion of that custom.

#### Supermarket Closures

There have been 12 supermarkets close in recent years and the reviewer predicts further closures on lease expiry with a strong possibility that there will be intervening involuntary closures as well. This will leave the Neighbourhood Centres in the position of being without supermarkets and unless another operator is prepared to take the business on and find the capital to restart, the future of those Neighbourhood Centres is in jeopardy. The reviewer has noted that in cases where the supermarket has closed newsagencies or other businesses generally take on the emergency household items such as milk, bread etc. Whilst this at least ensures some form of supply, the range is restricted. The reviewer also noted the case of

Macquarie where the pharmacist has taken on emergency household supplies. Whilst this is most commendable, a visit to Macquarie on a Sunday when the pharmacy is closed reveals a Neighbourhood Centre which is totally shut down and brings to focus a declining ACT asset with possible economic consequences to the Government.

The reviewer is particularly concerned about those supermarkets which have recently closed which must, of itself, put a question mark as to the future viability of the remaining retailers in the centre. Those closed are:

- Weston
- Chifley
- Rivett (small supermarket remaining in Centre)
- Aranda
- Macquarie (pharmacy supplying convenience style items)
- Farrer (small supermarket remaining in centre)
- Fadden (newsagent attempting to create convenience style supermarket)
- Kambah x 3
- North Lyneham (small supermarket started up)
- Kaleen central

### Supermarkets Under Threat

Based on the reviewers own observations plus IBECON opinion, supermarkets located in Neighbourhood Centres identified as under threat due to future viability include:

- Fraser (293m<sup>2</sup>)
- Holt (422m<sup>2</sup>)
- Weetangera (263m<sup>2</sup>)
- Farrer (remaining supermarket) (179m<sup>2</sup>)
- Kambah x 2 (402m<sup>2</sup> and 594m<sup>2</sup>)
- Wanniassa (243m<sup>2</sup>)
- Page (316m<sup>2</sup>)
- Rivett (remaining supermarket) (78m<sup>2</sup>)
- Cook (320m<sup>2</sup>)
- Giralang (343m<sup>2</sup>)
- Higgins (395m<sup>2</sup>)
- Macgregor (600m<sup>2</sup>)
- McKellar (480m<sup>2</sup>)
- Melba (358m<sup>2</sup>)
- Campbell (214m<sup>2</sup>)
- Downer (206m<sup>2</sup>)
- Waramanga (505m<sup>2</sup>)
- Pearce (413m<sup>2</sup>)
- Lyons (566m<sup>2</sup>)
- Oaks Estate (130m<sup>2</sup>)

The above list could be subject to adjustment and should not be taken as conclusive and some dimensions listed require further examination. However, the reviewer is of the opinion that in the majority of the above cases the premises are too large when compared against sales performance. This leads to overheads, particularly rent, being out of proportion to the capacity to pay and forms the basis for an inefficient operation.

### Possibility of Restructure

A question of possible restructuring non-viable centres has been included as part of the reviewer's brief. This will be progressed after the Social Impact Study is made available. The reviewer believes that a business plan approach combined with cost of benefit analysis should be taken with this matter in order to assess the community requirement for retention and establish the actual position as to viability. The reviewer believes that this is a vital element of the entire trading hours review and will be considered by the Government as an ongoing exercise. Any plans for restructure will require close consideration as to whether waiver of betterment requirements or other concessions should apply as this is central to the stated aim of keeping Neighbourhood Centres alive.

The reviewer also believes that as part of the restructuring exercise the requirement for some suburbs to share appropriately located Neighbourhood Centres will be inescapable. The possibility of allowing 'corner shop' outlets in appropriately placed residences must also be considered. In the majority of poorly performing areas the size of the food element of the store must be reduced and either replaced by other retail activities or downsized altogether.

### Comparative Data on Supermarkets

In order to obtain an indication of relative progress in the supermarket area since the commencement of extended trading the reviewer requested comparative data from key operators from 1990 onwards on a sales per square metre basis.

As previously indicated there was some difficulty in obtaining turnover figures from national chains and those figures received were accompanied by a request for a "Commercial in Confidence" classification to be applied which makes inclusion inappropriate for a public document. Based on knowledge obtained within the industry upon which there was no embargo the reviewer is able to say that the national chains are enjoying steady growth in Canberra particularly Woolworths who have two stores (Dickson and Tuggeranong) rated in the Top Five performers in NSW. Coles supermarkets have also shown strong growth since 1992.

In the case of ACT operators the majority of local operators reported a decline in turnover since 1992 when extended trading was commenced by the national chains. Prior to that point reasonable growth was enjoyed with some exceptions. From 1994 onwards there has been some recovery by some of the better operated and

better positioned outlets but on an ACT wide basis the position remains comparatively bleak for the smaller operators.

## **FRUIT AND VEGETABLE MARKETS**

### Extended Trading Hours Adversely Affecting Markets

The three separate fruit and vegetable markets, Fyshwick, Belconnen and Tuggeranong are also feeling the effect of extended trading hours particularly in the form of competition from Coles, Woolworths and major ACT chains located in Town and Group Centres who are concentrating on fresh fruit and vegetables. Those local supermarket groups who are maintaining overall viability are also active in this area.

Although an important market, City Market is in a different position from Fyshwick, Belconnen, and Tuggeranong, being an integral element of Canberra Centre where the anchor supermarket, Supa Barn and the other retailers - fruit and vegetable, butcher, baker, delicatessen etc provide a basis for comparison shopping. City Market trades seven days a week. Fruit and vegetable markets placed in Woden Plaza, Westfield Belconnen and Tuggeranong Hyperdome are in a similar position.

### Fyshwick Market

Fyshwick Market continues to operate in a strong fashion and has extensive business in the area of supplies to hotels and restaurants. There has been some adverse effect following extended supermarket trading, however, Fyshwick is sufficient distance from major supermarkets to be cushioned from the results of extended trading hour activities. Even so the operators there are anything but complacent over the issue and have expressed the view that if extended trading hours continues unchecked then the adverse effects currently being experienced will accelerate and could lead to some closures.

### Belconnen Market

Belconnen Market has suffered through the entry of Coles, Woolworths and other major supermarkets into extended trading with their considerable focus on fruit and vegetable activity. Belconnen Market is in close proximity to Westfield Belconnen and is a short car drive from Jamison Group Centre. The reviewer noted the different trading intensity of Belconnen as against Fyshwick on several occasions particularly on weekends and believes the concerns expressed by Belconnen traders to be justified. The reviewer believes that there may be scope for Belconnen Market traders to re-examine their own trading hours which are currently 8.30 am to 6.30 pm - Thursday and Friday and 8.30 am to 5.30 pm Saturday and Sunday.

## Tuggeranong Market

Tuggeranong Market is literally "over the road" from Tuggeranong Hyperdome. The market is open seven days a week (unlike Fyshwick and Belconnen who open Thursday through Sunday) and there are some vacancies. The lack of extensive competition in the fruit and vegetable outlets would probably give customers a feeling of lack of shopper value although the reviewer noted that the price/product measured up well against other venues. Market management expressed concerns to the reviewer of the reduced customer flow as against Belconnen and mainly Fyshwick.

The state of the car park adjacent to Tuggeranong Fruit and Vegetable Market gives a false impression as to the level of business. The car park area facing Scollay Street is owned by the Hyperdome and is always filled with cars belonging to Hyperdome retailers and staff who park there rather than taking up customer parking space at the Hyperdome. In addition there is a practice adopted by public servants employed by the Government in the vicinity of the Hyperdome to park in the car park adjacent to Tuggeranong Markets. There is an area of restricted parking and examination of that space will give a truer picture of the state of the custom although the reviewer noted some Hyperdome patrons also choosing to park in that restricted area.

## **OTHER RETAIL**

### Sunday Trading Popular with Furniture and Electrical Goods Retailers

Retail elements outside those previously described also feel the effect of extended trading hours depending on the type of goods sold. Areas of category concentration such as Fyshwick for furniture, electrical, home goods, hardware, etc have tended to become destinational for that segment of the consumer base and in the absence of any submissions or other evidence to the contrary appear to be coping reasonably well. Retailers involved in identical activity to that practised in the Town Centres have been obliged to match the extended trading hours but as this is in the area of non supermarket retail the extra hours amount to Saturday afternoon and Sunday trading which has become the norm since 1991. Sunday trading has proved very popular in the cases of furniture, white and brown goods and similar type items.

It should be noted that significant retail activity is also carried on outside the main malls in Woden, Belconnen, Tuggeranong and the CBD. Kingston is another busy general retail area.

### Service Stations

Non-fuel and automotive retailing as conducted by service stations runs in a deregulated fashion at present with the only restriction being the maximum size (150 square metres) for service stations located in Town and Group Centres and 50

square metres for Neighbourhood Centre service stations being allocated to such retail.

## **EXTERNAL FACTORS AFFECTING SHOPPING CENTRE VIABILITY**

Specific issues, apart from trading hours, which are possibly having an effect on businesses (particularly Neighbourhood Centres) and ultimately affecting the overall retail scenario in the ACT, include:

### **Government Activities**

#### ACT Government

- . Questionable planning decisions relating to retail development in Group and Town Centres.
- . Lack of overall control of retail food inventory.
- . School closures.  
School closures have also been identified in submissions as being a contributing factor to the decline of commercial centres, although new schools have opened to take account of growing populations. Amalgamations have also featured in this scenario. Schools which have closed since 1991 include:  
Hackett Primary School, Holder Primary School, Holder High School, Holder High campus, Griffith campus and Holder and Fisher Preschools.
- . Possible approval for additional retail space particularly for Town and Group Centres e.g. Hyperdome and Manuka.
- . Danger of Group Centres enlargement turning into de facto Town Centres, e.g. Dickson with office development.
- . Approval of additional retail space for stand alone fast food chains.
- . Changes to Lease Purpose Clauses (two-edged issue - enables leases to be changed where business is declining but can also introduce added competition which might adversely affect individual shop proprietors).
- . Need to address mechanism for changes in Purpose Clauses. Time factor needs examination.
- . Need to review the question of applicability of Betterment Tax etc.
- . TAB closures.  
Agencies have closed and new agencies opened. These changes reflect market conditions. Since 1990-1991 agencies which have closed include:

Campbell, Watson, Giralang, Deakin, Civic East, Narrabundah and O'Connor.

- . Development of convalescent homes near shopping centres which do not contribute to the disposable income of the suburb.
- . Development of Child Care Centres away from local centres and closer to work centres.
- . Approval of "weekend markets" such as EPIC, Kingston Bus Exchange, Albert Hall which might compete directly with retail outlets and receive favourable rental considerations and do not need to adhere to normal business and regulatory requirements.
- . Inadequate/inconsistent road traffic directory signs leading to or adjacent to Neighbourhood Centres.
- . Non-enforcement of lease conditions (which allow landlords to leave closed shops untenanted and sites undeveloped).
- . Failure to establish/maintain public facilities in local centres such as seating, toilets, shaded areas, areas for rubbish hoppers, parking facilities, etc.
- . Trading hours legislation not policed and offence penalties inadequate.
- . Public holidays no longer providing Neighbourhood Centres with additional trading opportunities.

#### Commonwealth Government

- . Transfer of public servants away from previously occupied areas.
- . Pharmacy closures (since 1991).  
Downer, Giralang, Manuka, Kingston, Hackett, Latham, Melba, Dickson, Phillip, Chifley, Kaleen and Torrens
- . Australia Post closures.

#### **Private Sector Decisions**

- . Closure of local community petrol service station sites with preference to transfer to "freeway" locations. Suburbs affected by service station closures include:  
Curtin, Weetangera, Narrabundah, Dickson, Pearce, Latham, Jamison and Macquarie.

- . Failure by some oil companies to properly `make good' vacant sites.
- . Competition from Canberra Times Direct sales on newsagents leading to weakening viability.
- . Competition from national supermarket chains to introduce products generally offered by specialist shops e.g. newspapers, flowers, plants, bakery products, fast food, etc.
- . Competition through fast food "home" deliveries.

### **Property Owners**

- . Demise of shopping centres lead to reduced property values with less capital for maintenance/refurbishment.

### **Social/Economic Issues**

#### **Business Proprietors**

- . Declining turnover/profits since "deregulation" commenced.
- . Expendable Income has not increased, consumers simply have more time to shop.
- . Small businesses cannot afford to employ young people since advent of "deregulation".
- . Working longer hours has led to decrease in youth employment levels and adverse effects on family life. (There are also claims that extended hours have increased employment opportunities)
- . Local businesses spend and invest locally and support local community organisations as well as local suppliers of goods and services, whereas "majors" spend and dispatch profits outside the ACT and generally are unsupportive of local community interests. (It should also be noted that management of Town and Group Centres support local charities.)
- . There is no level playing field between small business and the major food and department stores who have taken advantage of "deregulation". The majors have:
  - . bulk buying power;
  - . concessional rentals;
  - . separate award rates which small business cannot match in consultation with unions, and

- . better access to (government) subsidised employees.
- . EFTPOS facilities
- . offers of discounts to shareholders through various promotional programs.

### Consumers

- . View is that consumers generally are entitled to unrestricted convenience to choose goods and services.
- . "Deregulation" may lead to monopolistic practices, reduced choice and ultimately higher prices for consumers although this assumption has yet to be verified.

### Miscellaneous Matters - as applicable to Retail and Commercial Leases (Code of Practice) - if Appropriate

- . Some landlords insist on tenants complying with lease provisions in some cases where businesses are no longer viable at that rent level.
- . Some landlords prefer to maintain closure of adjoining shops in order to retain rent level of existing shops.
- . Mall managers introduce tenants with competing products/services.
- . Small businesses generally reticent about being vocal on tenancy issues because of perceived possible reprisals by landlords.

## **WOULD POSITION OF RETAILERS BE AFFECTED IF REGULATION OF TRADING HOURS WERE INTRODUCED**

### **TOWN CENTRES (MAJOR MALLS)**

#### Overall Position Difficult To Determine

Supermarkets situated in major malls would be affected by regulation in that there would be some reduction of opportunity. However, it is not certain as to whether reduced business opportunity would translate to significant reduction in sales performance. This would depend on the level of trading hours curtailed. The question as to whether consumers would adjust their shopping patterns to fit in with the newly regulated hours is a matter of some speculation, but the reviewer believes that providing the price and product and presentation of the operators located in major malls was maintained there would not be a great loss of business as the level of retailing would be concentrated over core hours rather than extended hours. This would lead to a need for adjusting staffing levels in order to avoid congestion and inconvenience for consumers.

Larger non-food operators e.g. Grace Bros, David Jones tend to operate within core hours (including 10 am - 5 pm on Sundays). On occasions some major operators e.g. Target run special trading days to midnight or later which involve heavy discounting.

In relation to the smaller retailers the contraction of the trading envelope would, in the opinion of the reviewer, lead to an increase in comparison style and spontaneous shopping with those retailers, particularly the smaller ones who are unable to open the same hours as the national chains. The evening up of the trading hour position would facilitate the competitive position of the small retailers against the larger ones, particularly in the case of specialty fashion, butchers, delicatessens, bakers, etc. Despite those initial observations, the overall effect is difficult to predict.

#### Some Exceptions To Regulation

From a major mall viewpoint, an assumption is made that cinema complexes and leisure centres would receive some form of special consideration as co-located retailing would be required to service cinema and leisure centre patron needs. Restaurants, takeaways, newsagents and video outlets would also require special consideration. Pharmacies would also be candidates for deregulation depending on overall health support requirements.

#### Non-Mall Retailing

Retailers located outside the major malls in Town Centres tend to follow mall hours including Sundays with restaurants, food and leisure outlets working deregulated

hours. Regulations of trading hours would at least create some certainty as to opening options.

## **GROUP CENTRES**

### Competitive In Own Right

The contraction of trading hours by the Group Centres, particularly in the case of supermarkets, would, in the opinion of the reviewer, not have a marked effect on performance providing the hours of operations were at least identical to the Town Centres. This would allow entities such as Supa Barn, Cannons, Festival etc. to compete in their own right. These are very professional organisations and as previously stated, have the capacity to meet the challenge of Woolworths and Coles, subject of course, to the slight edge that Woolworths and Coles may have in relation to national purchasing power and the additional stock range available due to larger floor space.

### Smaller Retailers May Benefit

For the smaller retailers, as in the case of the Town Centres, the contraction of the trading envelope should lead to a higher concentration of customer traffic in core hours and improve the general viability of the businesses particularly where similar businesses to the supermarket are being conducted, i.e. butcher, baker, delicatessen. The reviewer believes that the smaller retailers would benefit from this exercise although flexibility would need to be given to restaurants, takeaways, videos, newsagents and pharmacies.

## **NEIGHBOURHOOD CENTRES**

### After Hours Opportunities

Assuming that restrictions would not apply to Neighbourhood Centres the regulation of trading hours of Group and Town Centres will place the Neighbourhood Centres in a position of offering supermarket contents outside the hours traded by the Town and Group Centres for at least part of each day. This should give those supermarkets the opportunity to redevelop part of the traditional after hours market niche although obviously the extent of potential for improvement would depend on the level of regulation applied to the Town and Group Centres.

There are some locally based supermarkets (Festival, FoodTown, Shop Ezy, Ace, just to mention a few) which are based in Neighbourhood Centres and provide extensive range and quality with reasonably keen prices depending on the size of the outlet. The reviewer believes that a return to regulated trading hours would assist this type of supermarket and there would be flow on benefits to the rest of the Neighbourhood Centre retailers. In the case where the supermarkets have been allowed to run down or where stock range is limited the position is more difficult to assess as more positive steps would need to be taken to recapture some of the

market share and this would require capital expenditure input which may prove difficult.

### Convenience Style Shopping for Consumers

If the trading hours were restricted, the consumer would suffer some inconvenience on price and product range but would at least be secure in the knowledge that the Neighbourhood Centre would still be open, say, two to three hours after Town and Group Centres had closed. This should lead to some return at least to convenience style shopping at the local Centre.

Whether other businesses located in the Neighbourhood Centres would have the stamina to match the hours traded by the neighbourhood supermarket remains a matter of conjecture. There is, however, every possibility that this would be the case at least in the area of takeaways, restaurants, etc. Once again if there is a return to the convenience style shopping for the smaller supermarkets and in some cases, the major shopping at the better equipped local supermarkets, this should improve the general customer flow to the area.

### Shift in Demographics

In suburbs where the shift in demographics has led to a decline in available household expenditure for food, improvement from regulation is more difficult to assess. Nevertheless a return to some convenience style shopping by the more mobile consumer should emerge and this should lead to flow-on benefits.

## **FRUIT AND VEGETABLE MARKETS**

Fyshwick Markets would probably benefit from restricted trading hours being applied to Town and Group Centres but in the case of Tuggeranong, due to location adjacent to the Hyperdome, the restriction would need to be very extensive to produce a real beneficial effect. The position of Belconnen Markets is less critical than Tuggeranong but the reviewer finds it difficult to assess the possible results of regulation. The reviewer believes that the trading hours of the markets may be in need of adjustment.

## **OTHER RETAIL**

Assuming that the problems of exempt/non-exempt goods were removed (and no case has been presented in favour of retention) the effect of regulation would not create a major shift in the level of business. An exception to this observation would be in the cases of similar type retailing to that conducted by the major malls which would create a need for matching of trading hours to other retailers of those products which is, in the main, being practised at this point in time.

## **CUSTOM LEAKAGE TO QUEANBEYAN**

If trading hours in the ACT were to be regulated it is possible that the major supermarkets, Coles, Woolworths and Jewel at Queanbeyan Central and Supa Barn at Karabar who trade within the range of 24 hrs, 7 am - 12 midnight, 7 am - 10 pm and 8 am - 9 pm respectively could gain some business from the ACT by continuing to offer extended hours. The reviewer believes that the customer leakage from the ACT to Queanbeyan will not be great at the same time noting that the proposed Franklins Big Fresh at Riverside could attract a drift of custom from the ACT particularly when first open.

## RELATIVE POSITIONS EXPRESSED ON BENEFITS OF REGULATION

Before considering what trading hours should be applied to ACT retailing if regulation were to be introduced, it is of assistance to reflect on some of the positions expressed by proponents/opponents of regulation. The views were conveyed to the reviewer by face to face conversation, written submissions, and include the presentations at the open meeting conducted on 14 November. For the purposes of an overall appreciation of the position, the views expressed at the Public Meeting on 14 November 1995 will be canvassed as representative of the divergence of opinions prevailing in this matter with some additional reference to written submissions and other arranged meetings. Please refer to Annexure F for respective positions taken by key organizations. This section of the report deals with the views of those who support regulation while the contrary opinions are canvassed in the section headed "*Should Trading Hours Be Totally Deregulated*".

### Canberra Small Business Council

The case for regulation has in the main been spearheaded by the Canberra Small Business Council (CSBC) through the President, Mr Manuel Xyrakis and the Vice President, Mr Norman Henry. The CSBC was previously involved in organising a petition under the heading of "Save Our Shops" which collected a reported 31,000 signatures.

Mr Henry pointed out that the CSBC had canvassed membership over the preferred trading hours position from their perspective. The majority recommended that Town Centres be closed on Sundays and that the three tiers of retailing hierarchy, Town, Group, and Neighbourhood be recognised by allocating different trading hours Monday through Sunday as follows:

Monday - Thursday	Town Centres, 9 am to 6 pm Group Centres, 7.30 am to 8 pm (Thursday 9pm) Neighbourhood Centres, 7.30 am to 10 pm
Friday	Town Centres, 9 am to 9 pm Group Centres, 7.30 am to 10 pm Neighbourhood Centres 7.30 am to 10 pm
Saturday	Town Centre, 9 am to 5 pm Group Centres, 7.30 am to 8 pm Neighbourhood Centres, 7.30 am to 10 pm
Sunday	Town Centre, Closed Group Centres, 7.30 am to 8 pm Neighbourhood Centres, 7.30 am to 10 pm

The CSBC also recommended an independent inquiry into retail trading in the ACT and the development and implementation of a strategic plan for suburban shopping centres having adopted the view that concentration of retail activity in the four main Centres is bad for the overall economy of the ACT where "the small business world struggles to survive against the multi-nationals".

## Fyshwick Markets

Another standpoint against deregulation came from Mr Joe Guigni of Fyshwick Markets which, as previously stated, is trading better than the other two major fruit and vegetable markets, namely Belconnen and Tuggeranong, but nevertheless is encountering pressure from the extended trading hours being operated by Coles and Woolworths and other major supermarkets which could lead to serious implications in the future. (The point was also made that the retailing of perishables make the sale of all stock at the end of the Sunday trading period critical to the successful operation.) Mr Guigni indicated that this was a worldwide problem and pointed out that in France there is a moratorium on any retail business expansion for the next five years.

## Overall ACT Perspective

An overall ACT perspective was presented by Mr Michael Johnson of Kippax Centre. Mr Johnson strongly put the view that the retention of the small Neighbourhood Centres was good for Canberra in its totality. He saw the objective of the mega-malls of the large national groups as seizing every opportunity to increase market share and the Neighbourhood Centres needed some form of protection. Mr Johnson believed that a scenario where Neighbourhood Centres closed would be followed by Group Centres closing and all shopping would then be done at the mega-malls which would lead to traffic congestion and parking chaos. He stated that there is a need to retain neighbourhood shopping to satisfy a customer base located in the vicinity. As a proponent of staggered closing times Mr Johnson said that if the majority of shopping was forced into the four mega-malls the major shopping centres would then look at cost-effective retailing and restrict their own trading hours.

Mr Johnson also supported the concept of a special tourism zone being created for Civic.

## CARTA

Mr Chris Donohue from the Commercial and Retail Tenants Association supported the concept of reducing trading hours as a means of arresting the decline in suburban shops; however, he saw addressing the trading hour position as being an interim coverage of the problem and suggested the need to obtain total trading figures and demographic data from neighbourhood and major retailers to establish an effective database for analysis of competitive trading purposes. This would enable the Government to assess the shift in retail expenditure from neighbourhood to major retailers. Mr Donohue saw the advantage in upgrading the inquiry to become an Inquiry under the Inquiries Act, if necessary, where there would be power to subpoena the information.

### Queanbeyan Position

Mr Hugh Percy, General Manager of Queanbeyan City Council, expressed the view that small business is the life blood of the local wholesalers and service suppliers and gave out an example of a wholesaler reducing his employees from 23 to 11 because of the decline in business following extended trading hours being practised in the region. Mr Percy said that large national companies do not support local service industries and generally have a head office away from the Canberra region, whereas small businesses buy locally and use local produce supporting the local transport industry and other service entities. He also pointed out that small businesses employed people over 21 years of age and were interested in developing product knowledge and service. He spoke of the burn-out factor of proprietors plus small businesses being unable to negotiate enterprise agreements with staff.

### Ainslie Supermarket History

Mr Manuel Xyrakis (President of the Canberra Small Business Council) gave an outline of his family's history as the proprietors of a neighbourhood supermarket in Ainslie. The reviewer believed that Mr Xyrakis' historical presentation was important from the perspective of understanding the problems being faced by Neighbourhood Centres, particularly supermarkets.

The Ainslie supermarket started off as a small milk bar in 1963 and became an object of further family development until it reached the 700 square metre supermarket it is today. \$1 million was spent in refurbishing the supermarket to reach its present state. He saw the development justified from the extra trade being obtained as a result of the additional hours that the supermarket was working, particularly in the late evenings, after 6 pm and after 4 or 5 pm on a Saturday and on Sundays. However, from 1992 when the major supermarkets had extended their trading hours some to midnight, some to 24 hours, but all for seven days a week, the majority of suburban supermarkets suffered dramatically.

Mr Xyrakis believed that the Ainslie supermarket has been devalued by up to 50 per cent from what it was worth three years ago, with a valuer comment focusing on the aggressive marketing by Woolworths and Coles. Prior to this the value had continued to increase. Supermarkets in Canberra were known as blue chip businesses, highly sought after due to the high cash-flow. Since a change of policy by major supermarkets Coles and Woolworths particularly, he believes decreases in sales between 25 and 40 per cent have been noted in most of the suburban supermarkets. This happened in the first 12 months of Coles and Woolworths undergoing extended trading hours.

Another point that was raised was that the major chains are not only marketing aggressively in groceries, they are moving into other retail products (a recent announcement by a national supermarket chain suggested future products would include seafood, fresh pasta and pizza). Mr Xyrakis understood that national supermarkets were also attempting to have pharmacies installed within their own

premises. The supermarkets already have their own bakeries and butcheries and some of the smaller supermarkets have to look at carrying such lines in order to compete.

Another aspect of local supermarkets and local shopping centres related to the support of the neighbourhood through sporting, church and other charities.

Mr Xyrakis shared the expressed view that once there are only a few major supermarkets left, they themselves would regulate the hours and the prices and there would be no convenience to the consumer.

The point was also made that deregulation was suggested by some to be a plus for the private sector but he is unable to register his car at 10 o'clock at night or complain about his rates at 11 o'clock at night or talk to any government department at night. This sentiment was expressed to the reviewer by several entities on several occasions and is representative of the general frustration being experienced by the industry.

Mr Xyrakis spoke of the requirement to regulate certain industries as is the case with television and radio where the local product is protected and seeks protection for small business in a similar fashion to the practice of other states. He believes that the government benefits financially by having neighbourhood businesses survive and quoted the case of Fadden Shopping Centre which, at the time of closing down, had an unimproved capital value of \$500,000 but when the supermarket closed the value went down to \$250,000.

#### Canberra Property Owners Association

Mr Eric Koundouris spoke on behalf of Canberra Property Owners Association (he is also the proprietor of Supa Barn, the major supermarket in Canberra Centre). He spoke of the oversupply of retail space in Canberra. In NSW the catchment area for a major mall is something like 300,000 and there are four in Canberra for a similar population. He spoke about the problems being encountered by the small property owners in coping with an oversupply of retail space.

Mr Koundouris traced the history of development of Monaro Mall but noted the way that expansion to the present building of Canberra Centre has adversely affected many small businesses in Civic. He also spoke of the extension of purposes clauses in shopping centres quoting the case of card shops and pointing out how many more outlets for cards there were today in the Canberra Centre.

The view was expressed that the expansion of malls should cease immediately until there is a catch-up of general population. Mr Koundouris posed the question as to whether Manuka needed another supermarket in the car park opposite the existing Woolworths. He quotes the case of Dickson where there was a major supermarket extension and all surrounding shops are suffering. He moved onto Tuggeranong where he pointed out that Conder was about to be released into the marketplace and saw the requirement to restrict the size of retail space being offered in Conder. At

this stage Conder allows for a 2500 square metre supermarket with provision for an additional 1000 square metres allowed for after three years. The complex is to include 1000 square metres of other retail plus a service station.

Mr Koundouris stated that in the case of some local centres he believed it was already too late. The use of the area should be converted to something suitable to the community and government should make the transition easy with minimal cost or no cost at all. He said we should try to preserve our suburban shopping centres by putting some order into the trading hours. He stressed the need to find a happy medium.

The Koundouris Group also made a written submission as to what the trading hours should be which is summarised as follows:

Monday - Thursday - Town Centres, 9 am to 6 pm  
Group Centres, 9 am to 6 pm  
Neighbourhood Centres, 7 am to 10 pm  
Fridays - Town Centres, 9 am to 9 pm  
Group Centres, 9 am to 9 pm  
Neighbourhood Centres, 7 am to 10 pm  
Saturdays - Town Centres, 9 am to 5 pm  
Group Centres, 9 am to 5 pm  
Neighbourhood Centres, 7 am to 10 pm  
Sundays - Town Centres, 9 am to 5 pm  
Group Centres, 9 am to 5 pm  
Neighbourhood Centres, 7 am to 10 pm

There was also a suggestion that supermarkets with a gross leasable area in excess of 1000 metres should be treated in the following fashion:

Monday - Thursday, 8 am to 7 pm  
Friday, 8 am to 9 pm  
Saturday, 9 am to 6 pm  
Sunday, 9 am to 4 pm  
Supermarkets under 1000m<sup>2</sup>, 7 am to 10 pm, seven days

### ATCOSS

Mr Ian De Landelles from ATCOSS (The ACT Council of Social Services) based a case on the retention for Neighbourhood Shopping Centres as being of greater assistance to the people he represents, namely those with specialised needs who benefit from the personal relationship created in a local shopping centre. These are the elderly, the disabled, the unemployed, single parents plus those with some form of mental or physical handicap who do not have equal access to transport and the loss of the local centre and loss of community identity would have serious implications for them. He expressed the view that local identity was something

which national chains, some owned by overseas organisations, could not replace. He also said that the depth of unemployment and disadvantage is greater in Canberra than many people believe because it was well hidden but he was quite sure that people from St Vincent de Paul and Salvation Army would support him in this context.

### BOMA/ACSC

The BOMA/ACSC position, as presented by Mr Ben Rayner, was not one of deregulation but proposed trading hours over a seven day period i.e. from 8 am to 6 pm Monday through Thursday and Saturday, 8 am - 9 pm for Friday and 10 am to 4 pm for Sunday. However, these fairly tightly regulated hours were qualified by a suggestion that supermarkets be permitted to trade seven days a week between 7 am and 10 pm regardless of location. BOMA was against any legislation that created an artificial redistribution of a market which did not satisfy consumer demand and they also expressed the view that the Government should permit members to amend lease purposes clause without the impost of betterment to allow structural changes to permit users in Neighbourhood Centres to enable these centres to become a community focus once more. BOMA/ACSC also supported the requirement for special consideration for cinemas and leisure orientated retailing.

### QIC

Queensland Investment Corporation (QIC) as owners of Canberra Centre provided a written submission modifying the BOMA position in the areas of supermarkets and specialty food retailers - 6 am - 10 pm daily with eat-in and take-away restaurants and entertainment and leisure retailers de-regulated. QIC also looked to some form of recognition of the CBD as a tourism zone with the possibility of further extension of trading hours being applicable and also supported a need to recognise special event days as well as extra provision for Christmas and Public Holidays.

### Meat and Allied Trades Federation

A strong case for regulation was also put by Mr Chris Burlo on behalf of the Meat and Allied Trades Federation. It is reported that over the past 4 to 5 years, 45 meat retailers out of the pre-existing 100 have closed their doors and a large number of butchers who are still in business are waiting for their leases to expire. Lack of trading hour regulation is seen as the main reason for the problem.

### CONFACT

CONFACT, as represented by Mr Paul Monagle, were also not in favour of deregulation and there was no support among membership for 24 hour trading. There was extensive support among membership for the major malls closing on Sunday and restricting trading hours from 9 am to 6 pm Monday to Thursday, closing 9 pm Friday and 4 pm Saturday. There was also an expressed sentiment of

the need to preserve the suburban shops, particularly the supermarkets, pharmacies, newsagents and other businesses. A requirement to pay penalty rates was also seen as a problem among CONFACT members.

### SDAEA

From the perspective of the Shop Distributive and Allied Employees Association (representing some 4,000 members in the ACT) as presented by Mr Athol Williams, the union took the view that Sunday trading would be supported (albeit reluctantly) between 8 am and 6 pm subject to appropriate negotiations being concluded to settle the matter of penalty rates. The union saw a requirement for a 4 months period to be allowed to settle all industrial relations aspects. He also saw the exempt stores category needing adjusting and believed that for the following days, Christmas Day, Boxing Day and New Year's Day, Australia Day, Good Friday, Anzac Day, Canberra Day and Trades and Labour Day, all stores should be prohibited for trading as these days should be set aside for family and leisure activities. He also saw a need for the Government to enforce any regulatory laws, make fines for breaches realistic and provide resources for this activity to be carried out.

### Belconnen Community Council

The Belconnen Community Council was represented at the meeting by Mr Graeme Evans who spoke of the disadvantages of small traders in terms of rentals paid for retail premises and also the disadvantages faced in terms of the prices they must pay for the purchase of goods. He saw rent and purchase power as an impediment to fair competition. He also made the point that whilst regulations may be unfashionable they are required on occasions in relation to the marketplace and quoted from the Garibaldi meat scandal. He also stated that the well-being of small businesses and the survival of neighbourhoods provided the sense of community spirit which was required for this generation.

### General Business View

Mr Con Poulos spoke of his business background spanning 37 years in Canberra and his concerns at the Exhibition Park in Canberra (EPIC) where selling activities were taking dollars out of Canberra and the merchants there were not paying a reasonable rental for the space. He stated that this was unfair competition to existing retailers and they are not competing on equal terms.

Mr Poulos also made the point that the Coles/Myer Supermarkets employed very few people late at night. Mr Poulos stated that the extended trading hours by the major nationals was causing existing tenants of Westfield Belconnen to lose business.

### Pharmacist - Neighbourhood Centre

Ms Kath Ridley, pharmacist from Macquarie Shopping Centre, spoke from the perspective of being a retailer in a centre where the supermarket has closed. She has converted the pharmacy so that part of the space is dedicated to the supply of milk, bread, newspapers etc. This was in response to the demand from residents. Ms Ridley has also adjusted the health care aspects of her pharmacy to suit local requirements. She saw a need to maintain local services particularly in the light of an ageing population who were encouraged to remain at home rather than moving to some form of institutional care.

### Property Owner View

Mr Trevor Vizovitas, General Manager of Canberra Meat, also a property owner, spoke of the unfairness of markets such as the market in Kingston and pointed out the broad band of Canberra residents investing in Canberra which did not include multi-nationals. He rejected arguments that people should re-educate themselves and also spoke of similar problems being encountered in Europe. There was also reference to the problem of illegal trading from residences.

### Publisher - City News

Mr Michael Hall, Owner and Publisher of City News spoke of the requirement to support local business. He also spoke of the need of landlords to help promote areas such as Kingston. He canvassed the need to go back to the bureaucrats and politicians to fix up the problem and provide a more even playing field. He saw the planning arrangements in the past as being a major cause of the problem.

### Real Estate

Mr Peter Jansen, Real Estate Agent, focused on planning errors in the past and cited that Canberra has far too much retail shopping space. He also pointed out examples of extension of Woolworths in Dickson and the lack of public consultation over that development.

### Town Centre Retailer

Mr Harold Ganter of Ganters Fabrics Canberra Centre made a case for regulation of trading hours to the extent of having the centre closed on Sundays. He stated that it is not viable for him to open his shop on Sunday. He also pointed out that as a local business person he supported local charities, local schools, local service companies and other suppliers and this was not the case with national chains. He was not supportive of a special tourism zone for the Canberra CBD based on overall design deficiencies.

### Hughes Shops Precinct Community Group

Ms Desiree Campbell presented the Hughes Shops Precinct Community Group which was formed to provide input to city management concerning the refurbishment and maintenance of the Hughes shops and surrounding public areas. From a trading hours perspective they saw extended trading i.e. up to 10 hours for 7 days a week as being here to stay but fell short of supporting total deregulation. She saw the need for the shopping centre to remain a focal point of community activity and also saw a need to restructure local shopping centres where necessary. This, she said, would require cooperation from the ACT Planning Authority who would need to review the Territory Plan and combine and broaden the current lease purpose descriptions applying to suburban shopping centres into a single classification.

### ACT Community Safety Committee

Mr Ken Begg, the Chair of the ACT Community Safety Committee indicated that whilst community safety was not directly involved with concepts of extended retail trading hours it was certainly focused on extended hours being applied to the licensed trading industry. Whilst coming from a neutral position in relation to trading hours he made the point that he shopped locally because he got service and it was convenient. He also saw added community costs of 24 hr retail trading in that people living around major malls would not welcome being disturbed at all hours of the night if the position relating to the liquor trade is any indication.

### COSBOA

The Council of Small Business Organisation of Australia (COSBOA) provided a written submission which summarised the speech made to the National Press Club on 23 August 1995 by the Chief Executive Robert Bastian entitled "A Message to the Australian Government." COSBOA sees grave danger in the concentration of ownership of business (particularly retail) in Australia and perceives a threat that this will ultimately destroy any meaningful form of competition. COSBOA was in favour of competition but saw the need to protect the smaller operators as a means of ensuring that the basis of real competition was maintained. Mr Bastian spoke of the need for a National Small Business Act as a means of controlling major

operators. COSBOA also expressed concerns at the flow-on effect of the loss of jobs from the smaller elements of the private sector. The reviewer also attended a COSBOA meeting where the opinion was expressed that control of trading hours was critical to the survival of the small business elements of the retail industry.

### Calwell Group Centre

Calwell Group Centre lodged a submission in support of regulation which recognise the three tiered retail hierarchy in Canberra. The submission recommended as follows:

#### Town Centre Trading

Monday to Thursday 9 am to 6 pm

Friday 9 am to 9 pm

Saturday 9 am to 6 pm

Sunday 10 am to 4 pm

#### Group Centre Trading

Monday to Thursday 7.30 am to 8 pm

Friday 7.30 am to 9 pm

Saturday 7.30 am to 8 pm

Sunday 7.30 am to 8 pm

#### Neighbourhood Centre Trading

Monday to Sunday - unrestricted

### Lend Lease

By way of written submission, Lend Lease, owners of Woden Plaza, proposed an extension of weekly trading hours for all goods from 7 am to 7.30 pm Mondays to Thursdays, 7 am to 10 pm Fridays, 7 am to 5 pm Saturdays and Sundays with special provisions for supermarket/food outlets. Lend Lease saw the role of the Neighbourhood Centre as no longer satisfying community requirements and questioned the need for maintenance of the concept. This view was presented on the basis of consumer demand and saw the protection of local centres through trading hour constraints as not remedying the problems of those local centres.

### Neighbourhood Shopping Centre

On behalf of the tenants of Spence Shopping Centre the reviewer was reminded of the historical aspects of shopping centre hierarchical development as determined by the National Capital Development Commission (NCDC) in 1961 which developed planning strategies embracing the requirement for suburb development to include Neighbourhood Centres. The submission urged that steps be taken to ensure

preservation of the NCDC system and also saw the need to protect the smaller operations in terms of numbers of personnel involved as is the case in Queensland and Victoria.

### Religious Organisation

On behalf of the Social Justice Committee of Careforce and the Anglican Diocese of Canberra and Goulburn the reviewer was urged to take note of the human costs of current trends in that equity and fairness required some moderation to be applied to the current policy of deregulation. The point was made that the decline in local shopping centres disadvantages all the less mobile in the community and saw the need to support small business. The submission stressed the important social role of local centres, particularly for the elderly and young children.

## **EFFECT ON CONSUMERS IF TRADING HOURS WERE TO BE REGULATED**

The following comments are qualified to the extent that the results of the Social Impact Study could lead to some variation.

### Consumer Well Served by Current System

At this stage the Canberra consumer is probably better catered for than any other consumer in Australia, with the exception of the Northern Territory, in relation to availability of shopping hours. On that basis alone it cannot be denied that restriction of trading hours would lessen the range of choice to the consumer from the point of view of when he or she wanted to shop. There would also be some personal economic sacrifice due to the requirement to pay more for groceries on occasions.

Whilst a restriction of trading hours would have some detrimental effect on the mobile population of any given suburb, it is possible that if the restrictions lead, (in time) to an improved performance of the neighbourhood supermarket which in turn facilitated better service/presentation this would be of benefit to all residents of that neighbourhood.

### Benefits For Disadvantaged

Elderly, disabled, unemployed and single parents and those with some form of mental or physical handicap, children and those without transport would be the main beneficiaries of improved performance/presentation of the neighbourhood supermarket. There is also the sense of identity and bonding that a popular Neighbourhood Centre creates for these less mobile persons. In terms of economy it would be difficult for the Government to provide a public transport system which would satisfy convenience shopper requirements.

Children particularly benefit from being able to be given the responsibility for simple shopping errands as a means of developing inter-personal skills plus being able to gather in a public place in reasonable safety.

Local church, charity, school and sporting groups also benefit from a strong Neighbourhood Shopping Centre as a source of direct and community focal support.

It becomes a question of whether the intervention and lessening of convenience for some consumers is justified in the context of potential additional benefit to other members of the community if the regulation leads to the saving of the local centre.

### Consumer Benefit In Maintaining Asset

Naturally enough, the operators of businesses located in Neighbourhood Centres, particular supermarkets, along with their families would also benefit from some form of regulation. This aspect is considered to be positive in terms of support of small business but is not strictly relevant in the context of effect on consumers. However, there is consumer benefit in the context of maintenance of assets located in the ACT. To this end the decline of centres would bring about a loss of revenue to the ACT Government which would have a flow-on effect to all consumers. In addition, the money made from local operations is mainly spent locally which has a flow-on effect on the entire ACT economy.

## **SHOULD TRADING HOURS BE TOTALLY DEREGULATED**

In considering the case for deregulation, areas of retail subject to special legislation (e.g. liquor) are excluded.

Proponents for deregulation base their case on the continuation of the status quo with consumer convenience the prime advantage. Creation of additional employment opportunities is also put forward as a reason in support of deregulation as well as investment by major operators.

### Canberra Consumers Association

Consumer Group submissions as represented by Mr Nigel Patterson, from the Canberra Consumers Association, saw extended trading hours from the viewpoint that market forces rather than inflexible regulations should determine the shopping facilities for Canberra citizens. The view is expressed that regulatory powers should only be invoked when the position was failed by market forces and refuted the argument that extended trading hours forced prices up. Whilst Canberra consumer groups supported deregulation they also stressed that they were not anti small business, pointing out that small businesses were essential to a healthy and competitive marketplace. The group also expressed concern at the growth of Town Centre malls and indicated that there may be discriminatory lease conditions favouring national chains over independent small business owners and if this was proven to be the case, regulation was appropriate as the market had failed to provide an equitable or even playing field. The decline of the suburban shopping Centre and the rise of the Town Centre mall represented a natural evolution of the marketplace and consumers were, in fact, voting with their feet. Regulation of trading hours was also seen as a means of leading to a loss of valuable tourist dollars.

### ACT Consumer Affairs Advisory Committee

Mr Gary Dellar of the ACT Consumer Affairs Advisory Committee canvassed the legal position as applicable in the ACT expressing the view that the enforcement of trading hours regulation was grossly unpopular and secondly very difficult for governments to undertake. He saw people who were prosecuted for breaches of trading hours were always basically honest people and saw consumer demands as being a reason to support deregulation.

### Coles/Myer Group

Mr Chris Mara of Coles/Myer commenced with the maxim that "the customer is always right". Today's consumer habits was also seen as the reason for some of the market phenomenon such as the closure of butcher shops which can be attributed in part to the decline in meat consumption. There is also a massive increase in the amount of meals being eaten out. He suggested that by the Year 2000 every second meal will be eaten out whereas in the 1950s 1 in 50 meals was

eaten out. The point was also made that a third of all retail sales are now made outside of what were the traditional 9 to 5 trading hour weeks. He refuted any allegation of monopolistic practices and also pointed out that Coles/Myer was not calling for 24 hour trading around the country but rather wished that the market could determine its own opening hours. The point was also made that Coles/Myer employs over 1800 people in Canberra and a third of these are also employed outside conventional hours.

#### ACT Chamber of Commerce and Industry

Mr Mark Baker representing the ACT Chamber of Commerce and Industry was against any propping up of businesses by artificial restrictions indicating quite clearly that Internet was around the corner and all retailers must adjust to the changing world. He indicated certain activities where small traders could compete on stronger terms with big traders i.e. being prepared to change, develop and provide better service to customers. Whilst being against trading hours restrictions the Chamber saw a need to protect small retailers from being obliged to trade 24 hours a day which placed some qualification on the Chamber's support for deregulation.

#### Westfield Developments

The Westfield Developments position was put by Mr Tony Dimasi from Jebb Holland Dimasi, a Melbourne based consultant to the retail industry. The Westfield view is that the interests of consumers, merchants and investors is served by a coherent and rational approach to the retailing trading hours and invited attention to the Hilmer Report on National Competition Policy. He stated that any move to reintroduce a more regulated trading hours regime would discourage competition and fly in the face of agreed objectives set by Commonwealth and State Governments. In noting that the health and well-being of Neighbourhood Centres in Canberra was a desirable goal, the Westfield view was that trading hours legislation is an entirely inappropriate instrument for the stated purpose of keeping local centres alive. Regulation of shopping hours favouring one set of retail centres over another would not guarantee the well-being of local centres or retail businesses located in those centres. To ask Canberra consumers to forego choice and convenience at selected times of the week in the hope that this may somehow improve the retail offer existing in local centres would be wrong.

The Westfield view is that the overwhelming majority of Canberra residents may have a more liberal approach to retail trading hours and any move to reintroduce regulation would run counter to the public interest. The point was made that at Westfield Shopping Town, the Woolworths supermarket records almost a third of its sales after 5 pm as does the Coles Supermarket. The focus on small business in local centres neglects to pay any regard to the interests of small businesses involved in larger or major centres.

Mr Dimasi said that the consumers should be directly asked whether they are prepared to forego flexibility and choice of shopping location and environment in an attempt to protect selected shopping areas in this manner. If Canberra residents want flexible trading hours then those centres that do not provide them will not be better serving the Canberra population and hence would not be able to improve their performance. He pointed out that flexible trading hours generate increases in retail employment and many studies have shown this to be the case at a broad level. He also quoted from an editorial comment published in The Canberra Times on 28 September 1995 which stated:

"Perhaps a lesson for Canberra is that heavy government intervention through planning and regulation may have worked for a brief time two decades ago but it has left an unfortunate legacy. It would be a folly to repeat past mistakes with too much government regulation and better to allow traders and shoppers to make their own judgments about present and future needs and opportunities in an environment that allows easy adaptation and therefore survival."

By way of written submission Westfield also saw a need for special treatment for the cinema and leisure industry plus related retailing activity.

#### Australian Supermarket Institute

In a series of meetings the Australian Supermarket Institute put a strong case for continued deregulation based on consumer needs as well as creation of employment opportunities. In the particular cases of Coles and Woolworths supermarkets the consumer utilisation of extended trading was seen as complete justification of extending trading hours. (Both Coles and Woolworths denied any suggestion that they had ever opened stores on Sundays and then closed them when their strategy of gaining market share from opposition was complete. This allegation was made in relation to both NSW and Victoria.)

#### Australian Institute of Petroleum

The Australian Institute of Petroleum Limited lodged a written submission followed up by personal visits relating to the requirement for service stations involved in non fuel retailing to be allowed unrestricted trading at all hours. The Institute also saw the need to extend the limit of 50 square metres applying to non fuel retail space.

#### Franklins

Franklins also lodged a written submission supporting deregulation based on consumer needs, particularly in the case of families where both husbands and wives work. Franklins made particular reference to the popularity of Sunday trading.

### Jewel Food Stores

Jewel Food Stores wrote in support of extended trading citing customer convenience as the main reason for this.

### Tourism Council of Australia

The Tourism Council of Australia saw the requirement for flexible hours which would satisfy the tourists' requirement to be able to shop after completing tourism type activities during the day. This appears to be of particular relevance in the case of Japanese visitors.

### Private Consumers

Submissions have also been received from private individuals who support deregulation from a consumer convenience perspective.

### ACT Bank

Whilst not strictly relevant to the question of trading hours St George Bank suggested that if ACT Government employees were paid in the alternate week to Commonwealth Government employees that would assist in a smoothing of retail expenditure.

### Other States

During general conversation with the proponents of deregulation there have been several references to the trends in other States which should be viewed as a precedent for less government intervention in the area of trading hours. These trends suggest that government reviews generally lead to more liberal trading hours which currently favour extended hours for CBD's and other tourist precinct areas.

## EMPLOYMENT ISSUES

The retailing industry is a major basis of employment in the ACT with 10,700 full-time and 11,100 part-time jobs involved, making of total of 21,800 according to the Australian Bureau of Statistics. As such these people represent major stakeholders in the retail industry.

### Ratio of Increased Opportunities

Employment opportunities may be enhanced by the application of extended trading hours although it is difficult to determine the level of increase. For example, there is a claim by Coles/Myer that 600 out of 1800 employees are involved in out of normal hours activities but it has been established that the out of hours activities simply extend through into Sundays and late evening with part of the time worked being during core hours and part outside those hours. It is also a fact that apart from Sunday trading and special events by operators such as Target, it is only the supermarkets in the Coles Myer portfolio who are engaged in extended trading to 24 hours. Nevertheless the reviewer believes that there are added employment opportunities created by extended trading at the same time noting the possible decline of such opportunities in the area of neighbourhood supermarkets.

### 24 Hour Trading Observations

The reviewer has visited Coles supermarkets during the course of his review at all sorts of hours in the late evening and early morning and does not see great employment opportunities springing from this activity, particularly when shelf restacking, cleaning and other maintenance is done out of hours in any case. (Although the reviewer observed that in the 24 hour operation Coles supermarkets were at times reduced to a minimum staff, he was nevertheless impressed by the positive and cheerful attitude presented by those staff.)

### Question of Curtailment of Hours - Shift of Employment Opportunities

Woolworths are another major supermarket operator with seven stores trading until midnight and see extended trading as creating more employment opportunities. Major ACT supermarket groups are also trading up to midnight in some cases and there are significant employment opportunities in this area. It is uncertain whether curtailment of trading hours would result in job losses or whether there would be a rescheduling of staff activities to respond to the increased workload from the restricted trading envelope. In addition there remains the possibility of increased employment in the Neighbourhood Centres following the possible increase in evening trade if some form of regulation was to be applied.

From the aspect of the Neighbourhood Centres the work force generally revolves around family members although there are some full time and part time employment opportunities in that area as well. Therefore the majority of family

business operators are classed as joint proprietors of those businesses rather than employees. Nevertheless in the case of a business being forced to close those people become another unemployment and welfare statistic. In the case of the better performing local supermarkets, they are significant employers of permanent and part-time workers.

The Shop Distributive and Allied Employees Association which represents 4000 members in the ACT is guardedly supportive of extending trading hours to allow Sunday trading in non-exempt goods from 8 am to 6 pm on Sundays. The Association believed that all trading should cease on Christmas Day, Boxing Day, New Year's Day, Australia Day, Good Friday, Anzac Day, Canberra Day and Trades and Labour Picnic Day i.e. the aforementioned eight public holidays should be treated as special days.

It is difficult to reach a conclusion on the overall effect of employment or the regulation/de-regulation issue. There would certainly be readjustment of employment opportunities in the event of retail outlets being obliged to close when they were previously open. However, there is also the possibility of staff re-scheduling to meet the greater demand which would arise during the restricted trading envelope. There is also the possibility of increased employment opportunities at the local supermarkets if there is a consumer trend to return to the Neighbourhood Shopping Centres.

### Penalty Rates

The question of penalty rates is a problem for the smaller retailers who have not been in a position to negotiate enterprise agreements with employees. The fact that the selling of non-exempt goods on Sunday breaches the Trading Hours Act has also created difficulties for all retailers where in the majority of cases double-time is paid. According to information provided to the reviewer this would reduce to ordinary time plus one/half for Sundays if Sunday trading in all commodities were to be permitted under the Trading Hours Act.

In the case of the major retailers, if regulation were to be introduced which included Sunday trading there would be extensive negotiations required between unions and management in order that enterprise agreements could be finalised.

## ALTERNATIVE REGULATION APPROACHES

If some form of regulated trading hours is to be introduced the question arises as to how to define the focus of the regulation. Possibilities include:

- . Classification of goods sold as 'exempt' from regulation and 'non-exempt' from regulation;
- . classification of shopping centres into hierarchical components (Town, Group and Neighbourhood) and other retail entities as major thrust of regulation with some exceptions;
- . classification of retail outlets by size;
- . classification of retail outlets by numbers of stores owned by one entity;
- . classification of retail outlets by numbers of directors or numbers of employees or numbers of stores owned;
- . classification of retail outlets as associated with certain activities, eg tourism and leisure, cinemas, etc.

### Classification of exempt and non-exempt goods

This has formed the basis of previous ACT Governments' approaches to regulation and exempt and non-exempt goods classification is the key to the Trading Hours Act. However, as has been the case in the past, modern retailing techniques often include such a mix of merchandise that it is possible to have a store retailing both exempt goods and non-exempt goods in a variety of presentations and percentages. For example, most supermarkets primarily selling food (exempt) on occasions carry significant stocks of apparel albeit generally lower priced (but nevertheless non-exempt) goods. There is little problem in recognising a store that trades in only non-exempt goods, eg clothing shops, however, some clothing shops now include an element of gourmet style foods as an attractive marketing tool. The reviewer believes that this form of classification is no longer applicable in today's modern retailing world.

### Classification by shopping Centre - Town, Group, Neighbourhood

In general terms the ACT has four Town Centres, 16 Centres described as Group, Core (Commercial Retail), STA (Service Trade Area), described herein as "Group", generally comprising one or two major supermarkets and upwards of 20 other retail/business activities and 72 Neighbourhood Centres. There is also the occasional small free-standing supermarket which will be included in the Neighbourhood Centre classification. The reviewer believes that this form of classification, when viewed in the light of regulatory controls provides the best

form of definition from the viewpoint of certainty of building owners, retailers and consumers.

#### Classification of retail outlets by size

There have been suggestions that special forms of regulation should apply to outlets of certain dimensions. For example, in the case of supermarkets it had been suggested that there should be special regulation applied to those of a gross leasable area above 1000 square metres. This would certainly provide some focus for the regulation, however the reviewer believes that there could be confusion in the eyes of the public particularly in relation to Group Centre trading hours where the majority of supermarkets are in excess of 1000 square meters. In the case of "stand alone" supermarkets, however, those above 1000 square meters (if any were to be approved) should be regulated as Group Centres and those below 1000 square meters should be deregulated.

#### Classification of retail outlets by numbers of stores owned by one entity

This form of regulation is pitched at the national chains; however, the reviewer is unimpressed with this form of control particularly when applied to Town Centres as the sizes of some of the national operating outlets are often quite small and are trading alongside local operators of the same dimensions.

#### Classification of retail outlets by numbers of owners/directors or employees

This form of classification is practised in other States and is generally pitched at protection of the smaller operations. Although if such protection forms part of government policy it is one avenue of achieving this aim. However, the reviewer observed, during his visits to other States, the fictitious manner by which this form of classification can be applied to entities with dubious entitlement. Even so, it is an approach that the Government may care to consider if some certainty could be introduced in the focus of the classification. The Victorian experience is that there is often great difficulty in ascertaining the factual position as to the numbers operating the outlet.

#### Classification by activities

Cinemas, tourism and leisure activities tend to warrant special treatment but are generally treated as exemptions to designated regulation.

## CONCLUSION

It is difficult to reach a complete conclusion on this matter while the IBECON Report remains subject to further scrutiny and in addition the Social Impact Study, which would particularly examine the detriment to residents of suburbs if the Neighbourhood Shopping Centres were to close, has not yet been completed. The absence of any complete answer to the question as to what should be the space allocated to supermarkets and allied food entities in the ACT on a suburb by suburb basis inhibits capacity for complete analysis and defined conclusions. However, notwithstanding the requirement for clarification/completion of these matters, the reviewer is of the opinion that:

- . The more mobile consumers are advantaged by the existing trading hours regime in that in terms of price and product they are able to take advantage of the best possible terms at any hour. The less mobile are disadvantaged to the extent that in the suburbs where supermarket viability is marginal the range of choice is limited and the prices relatively high although the extra cost is partially justified from a convenience perspective. Where supermarkets have been obliged to close the loss of amenity and social focus on the less mobile is extreme.
- . In terms of revenue the ACT economy stands to gain from the continued development of new retail areas by major operators. However, if this continued redevelopment leads to closures of retail outlets in Neighbourhood Centres there is a potential devaluing of the overall asset and a potential loss of revenue as businesses fold. There is also the point that money made by local operators is spent in Canberra thereby adding to the overall economy.
- . The sense of neighbourhood identity as generated by the local shopping centre is pivotal to the lifestyle and well-being of the less mobile and disadvantaged. The withdrawal of such an entity would have severe social consequences for these people. The position is not so acute for the more mobile.
- . From the planning perspective the Neighbourhood Shopping Centre concept has been central to Canberra's development since 1961 and these centres have made a major contribution to lifestyle of residents as well as being strong contributors to the ACT economy. There is, therefore, in the opinion of the reviewer, a residual government responsibility to attempt to pursue options on how to keep local centres alive or develop strategies for rationalisation or restructure.
- . The current de facto deregulated trading hours climate, as applied in the 1990's particularly from 1992 onwards, is a major factor

contributing to the demise of the viability of certain Neighbourhood Shopping Centres.

- . If nothing is done the failure rate of Neighbourhood Centres will continue.
- . It is not the selling of apparel and other non exempt goods outside regulated trading hours which is causing the problem. It originally stems from the extended trading by major national supermarkets (perfectly legal under the Trading Hours Act) which have initially drawn custom from the group and neighbourhood supermarkets.
- . Group Centres have responded reasonably well to the challenge from the Town Centres by extending their own trading particularly in the area of supermarket operations but this has added to the pressure of competition placed on local supermarkets. Group Centres which include the major supermarket operations are strategically located from the consumer perspective and represent strong competition in their own right.
- . The local supermarket is the anchor of the Neighbourhood Centre and downturn in custom affects all other retailers in the centre. If the trend continues, more local supermarkets will fail with flow-on effects to adjacent retailers.
- . Extended trading hours are not the only reason for the downturn in viability of local supermarkets. The patent competitive edge factor of national and major ACT operators comes from superior stock range, superior buying power and capacity to offer a superior range of goods at lower prices with consumers shifting their buying habits in order to take advantage of the market. In addition, from the aspect of efficient use of retail space, many neighbourhood supermarkets are too large in terms of sales output as against area occupied.
- . Demographic shifts resulting in a reduction in customer base also contribute to downturns in supermarket performance.
- . A poorly performing supermarket usually presents poorly as a downturn in income leaves less money to spend on stock replenishment and store presentation. This also contributes to customer downturn.
- . Those neighbourhood supermarkets which remain viable are, in the opinion of the reviewer, nevertheless in a declining profitable

situation and are experiencing a lowering of asset valuation when compared with the period prior to the major supermarkets indulging in extended trading hours.

- . If regulation was applied particularly to Town and Group Centres there would be some detriment to major operators while there would be benefits flowing to the smaller tenants in those centres because of the concentration of custom during core hours.
- . In the event that some form of regulation was applied to the trading hours of Town and Group Centres there would be a benefit to Neighbourhood Shopping Centres particularly those whose business is affected by proximity to Town and Group Centres, by at least having the opportunity of providing the consumers with something more than emergency requirements during those hours when the Town and Group Centres are closed.
- . The return of consumers to Neighbourhood Centres cannot be guaranteed by application of regulated trading hours to the Town and Group Centres. What regulation will do will be to create an opportunity for the Neighbourhood Centres, particularly supermarkets to attract that lost custom back by introducing a degree of certainty into the trading hour environment. As previously indicated improved presentation and stock quality is required in the cases of some neighbourhood supermarkets where the business has been allowed to run down. If the level of business increases there will be scope for some reduction in prices which will benefit the less mobile residents of the suburb
- . A run down Neighbourhood Centre produces adverse economic results for retailers as well as the possibility of causing economic hardship for less mobile residents in the event of closure by creating added travel requirements.
- . From the viewpoint of Neighbourhood Centre viability it is a matter for determination by the Government whether interference with market forces is justified on the basis of providing a means for potentially increasing the viability and continuation of the businesses located in the local areas. On balance the reviewer believes, that in the light of the Government's stated policy of supporting small businesses, that such regulation is justified provided there is also sufficient public benefit in supporting neighbourhood assets which produce revenue for the ACT Government and provide a positive economic return to ACT residents in the overall sense.

- . In addition, in the event that the Social Impact Study confirms the reviewer's preliminary opinion that the closure of Neighbourhood Centres will cause extensive distress to those less mobile and disadvantaged persons then this is a major element in support of regulation.
- . Whilst supportive of assistance through regulation of trading hours the reviewer does not propose any form of direct financial support to failing supermarkets and other struggling retail outlets apart from continuing and extending the Precinct Management Strategy program and a general examination of and upgrading of common use facilities. Any form of restructuring or rationalization will, of itself, involve ACT government activity, but this aspect will require extensive examination in the future.
- . Introduction of regulated trading hours would lead to some rationalisation of penalty rates, particularly for the smaller operators involved in Sunday trading. For the larger retailers regulation would prompt re-assessment of enterprise agreements.
- . If regulation is introduced there will be some inconvenience encountered by consumers in that they will be denied extended trading hour access to the Town and Group Centres. It becomes a question as to whether this denial of total convenience is justified by a corresponding benefit to the small businesses located in the Neighbourhood Centres, maintenance of the asset and attendant revenue to the ACT Government, as well as providing an important social and economic facility for the less mobile residents of the relevant suburbs.
- . Whilst a return to regulation may not be in line with the position in other States, the reviewer believes that there is a certain uniqueness in the way that Canberra has been planned, particularly in the approach to neighbourhood services located in suburbs which qualifies any requirement to necessarily do what the other States do.
- . If regulation is deemed to be appropriate it becomes a question to consider what days/hours should be regulated. The opinion strongly expressed by the Canberra Small Business Council and others that the Town Centres should close on Sunday has been carefully considered by the reviewer but on balance it is believed to be, under all the circumstances, an unjustified intrusion into consumer options particularly in view of the assessed 60,000 customers frequenting the Town Centres on Sundays, at the same time noting that such action would certainly increase the potential of improving the performance

of Group and Neighbourhood Centres by added potential custom to the supermarkets and related food stores.

The reviewer does not believe that the trading by major non food stores on Sundays, eg David Jones, Grace Bros, Target, Big W, fashion retailers etc is a major contributor to the difficulties being faced in Neighbourhood Centres. There is also a sense of unfairness in targeting the Town Centres for Sunday closure when from a competition viewpoint the supermarkets in Group Centres are also contributing to the problems being faced by Neighbourhood Centres and any suggestion to the contrary fails to acknowledge the style and value of those supermarkets contained in Group Centres.

The reviewer believes that regulation should recognise the historical retail planning hierarchy which exists in the ACT and there should be a balancing of the requirement to control trading hours at the same time recognising the importance of consumer convenience. Therefore the restrictions recommended for the Town Centres should be eased slightly in the case of Group Centres due to their strategic geographic placement and potential consumer benefit. It should however be accepted that the tighter the controls placed on Town and Group Centres, the greater the potential benefit to local centres.

The reviewer is of the opinion that some centres will not be saved by the introduction of regulated trading hours. After considering the recommendations of the Social Impact Study and incorporating these with the reviewer's findings, candidates for restructure and/or rationalization should be assessed and a strategy developed on possible alternative uses. The possibility of Neighbourhood Centres having to service the needs of more than one suburb must also be acknowledged. Whether there is any scope for corner store development from strategically placed residences is another area which requires consideration. This aspect will be canvassed further by the ACT Government as part of overall consideration of the retailing position.

The question of the impact of "weekend market" trading by retailers mainly located outside the ACT needs further assessment. In particular, the reviewer believes that there should be some rationalisation of fees paid by those retailers particularly in government controlled establishments in order to even up the competitive advantage. There should also be a reappraisal across all relevant Government agencies of the conditions under which those traders should be allowed to operate and in particular the type of goods they should be permitted to sell. A uniform approach is necessary to alleviate the concerns of small business.

- . The possibility of unfair competition caused by trading out of private houses should also be investigated.
- . The possibility of ACT and Commonwealth government employees being paid in alternate weeks would assist in smoothing retail expenditure patterns and should be examined.

**ANNEXURE A**

***TRANSCRIPT OF PROCEEDINGS***

***PUBLIC MEETING***

***14 NOVEMBER 1995***

***ACT Trading Hours Review - John Hyndes***

TRANSCRIPT  
OF PROCEEDINGS  
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ACT GOVERNMENT BUSINESS AND REGIONAL  
DEVELOPMENT BUREAU

TRADING HOURS REVIEW

MR JOHN HYNDES, Chairman

RECORD OF PUBLIC MEETING

CANBERRA

7.59 PM, TUESDAY, 14 NOVEMBER 1995

**THE CHAIRMAN:** Ladies and gentlemen, welcome to this public forum. It is my pleasure to introduce Mr Tony De Domenico, Deputy Chief Minister and Minister for Business, Employment and Tourism who unfortunately this evening has another function to attend. Welcome, Mr De Domenico.

**MR DE DOMENICO:** Thanks, John, and distinguished guests, ladies and gentlemen. Can you hear me? Then I usually say can you see me because the day they make a good rostrum is the day I am going to be delighted, I think. They are always too high. It keeps me on my toes anyway. I think Mayor Pangallo is here too from Queanbeyan. Is Frank here? Apologies. Hugh Percy I note from Queanbeyan. Thanks for coming, Hugh. So welcome to the public discussion on the trading hours review.

I am delighted to be here even for a brief few minutes to open this meeting. Unfortunately other commitments preclude me from staying on for the proceedings, but I look forward with great interest to learning of the views and discussions that will be presented tonight. You are all aware that the government, as part of its pre-election commitments, undertook to establish an independent inquiry into ACT retail trade industry and to develop a long-term strategic plan for the future development of retail centres in the ACT. This review of trading hours is one of three elements that will provide the government with input for this retail strategy.

We have, of course, already received the Ibecon study into the structure of the retail hierarchy and the planning authority is currently undertaking a social impact assessment of retail changes which will be finished in mid-December. What we inherited in coming to government was a de facto deregulated trading hours environment. Unlike our predecessors, however, we have chosen to listen to the many business and community concerns about local, group and town centres, to hear the differing views on what trading hours regimes should apply in the ACT and to take action that best meets the needs of the whole community.

To get the ball rolling on this very important issue I appointed John Hyndes to undertake a review with terms of reference that will enable him to report to government on the nature and extent of the problems and the available options for trading hour arrangements and other initiatives. Since his appointment John has personally undertaken an extensive consultation process. Many of you may not be aware that he has visited more than 100 shopping centres and spoken to upwards of 500 people including key industry groups and interstate regulatory officials and industry representatives.

At the present time he is evaluating approximately 160 submissions received from a diverse range of local and interstate organisations and

individuals. Submissions which I understand highlight most of the many complex issues associated with this matter. Let me say that there are difficult decisions to be made when this report and the future retail strategy is considered by the government. This issue is not only about trading hours. It is about the unique nature of our Canberra retail hierarchy and the way in which we will need to deal with an ever changing retail market place.

In order to take proper account of this relationship the government will need to consider not only John's report, but also the findings of both the Ibecon and social impact studies. I expect the government to have all these reports for its consideration by mid-December. Ladies and gentlemen, many of you have already contributed your views on trading hours through submissions to the inquiry. Tonight is an opportunity for you to hear, and through later discussion, respond to the views of others. Now, before I finish, can I say this. No matter what decision this government makes not all of you will be happy. However, this government will make decisions.

It is a hard issue. There is no doubt about that. It is a very difficult issue. Unlike our predecessors we will not sit on our hand for five years and do nothing. So half of you may dislike me once the decision is made, half of you may not, but a decision will be made because I think people in the ACT elect governments to make decisions and governments should stand and fall on the decisions that they make. So we will do something about it and we will not please everybody in the community, but we will not sit on our hands and do nothing. However, I wish you all an enjoyable and productive meeting. I look forward to seeing the deliberations that come out of tonight's meeting and, please, a round of applause for John Hyndes because of the work he has done so far and the work that he is going to do in the future and thank you very much for listening.

THE CHAIRMAN: Thank you, Deputy Chief Minister. As the Deputy Chief Minister has just said I have visited over 100 retail areas and spoken to upwards of 500 people involved in the retail industry in the ACT. This course of action was taken after preliminary discussions with the Deputy Chief Minister when it was agreed that the review should make an initial focus on what is happening in our retail areas and what the position is and I was to seek information rather than simply waiting for submissions to come to me.

My initial observations have indicated the existence of a real problem in some of the neighbourhood centres particularly in the area of groceries, supermarkets, etcetera. It is not appropriate to canvass these issues at this stage save to say from what I have seen the government's decision to initiate this review has been well and truly justified. In relation to the submissions received I congratulate all of you on the standard of

presentations. In the main, they were both comprehensive and informative and provided a variety of perspectives on this important issue.

Based on the submissions received and on my own inquiries, we decided to set the scenario for this public forum by nominating representatives from a variety of interest groups to address the meeting for five, repeat, five minutes. At the conclusion of the nominated speakers, I believe the meeting will have an appreciation of the diversity of views prevailing on this matter. There are plenty of those, I can assure you. Question time will apply at the conclusion of these total presentations as nominated by me and there will be no cross-debate. Those people wishing to raise matters not previously covered at the meeting may also speak for five minutes, and would you please identify yourself and organisation if appropriate. Please note that the written submissions will receive close scrutiny during the review process and will be considered along with matters raised here this evening.

If any of you are concerned that there is information appearing in the written submissions which needs some further clarification following tonight's oral presentations, or the written submissions are lacking and there is information not presented tonight and would be of assistance to the inquiry, would you please contact Angelo Zorbas or myself within seven days on 205 0604 or 205 0229. I now call on Mr Norman Henry from the Canberra Small Business Council to address the meeting.

MR HENRY: I hope I have got this adjusted correctly. It is a change, perhaps to open the batting and the bowling all at the same time. I only hope that rain does not stop play. Mr Minister, Mr Hyndes, ladies and gentlemen. While not in itself giving full protection to small business or the prospects of them. The disciplined and controlled trading hours regime is an essential for their future because they are under serious threat. Many traders wish they could sell up and go home. Canberra accommodates 13,000 businesses and over 50 per cent employ less than 5 people.

Shopfront retailing together with automotive retailing employees 21,000 people and notably in the 1991/92 statistics, shopfront retailing had a turnover of \$1.8 billion. Clearly, just from these few statistics, Canberra small business sector is not only important but crucial. But, how important is this importance regarded? By all accounts, very highly, or not very highly because verbal totalisms are aplenty and repeated at nauseam. How often are we told that small business is the engine room of our economy?

The review's terms of reference imply that this exercise is not just about trading hours, it is also about keeping the local centres alive and about how to save the suburbs. The review must have received ample evidence confirming the urgent and almost impossible task of keeping the local

centres alive so long as expansion and extension of retail space in the town centres by corporate property developers is allowed to continue. Some of our local captains of industry have said, "Concentrating a large component of retail business in four large centres was bad for the overall economy."

And they said, "Independent small retailers are being squeezed out of business by the corporate sector, multi-nationals, large shopping centre managers and suppliers." Small businesses are not equipped to match the powerful and wealthy marketing forces of the corporate sector. It is an uneven contest and an economic nonsense for Canberra small business goose - for the Canberra small business to be killed for the golden egg. Who says the small business is the local economies engine room? Is this just a myth?

Why would corporate moguls sink millions of dollars building large malls to house big retail monopolies just to service a small community market in the bush? It is not compatible with a special designed bush capital. Canberra is not a metropolis. These developers have the capacity to destroy the majority of small family businesses and the investments of hundreds of local property owners and landlords both in the suburbs and town centres. Local business tenants in the malls complain of 60 to 80 per cent rises in rent.

They talk about impositions of high relocation costs and many other problems. Most are large mortgages capital over their shops. So if they reject lease renewals on management terms or these are denied on grounds of a fall in turnover, they stand to lose everything. We are told that small businesses are a greater risk than big business and banks are reluctant to support them. Is big business not a bigger risk? The code of the business world is profit. The corporate world is profit driven because it is a monopolistically - because it is monopolistically greedy.

The small business world is profit driven because of the need to survive. Small businesses are in a struggle to survive against corporate pie and they cannot do this by themselves. Urgent collaborative action is needed and small business has the significant potential if given the incentive and the opportunity to stand tall against fair competition. It is highly regarded, for its entrepreneurship and excellent customer orientation, well over that of big business in fact. With support and co-operation it is capable of initiating remedies for survival.

The Canberra Small Business Council has put several strong recommendations to the Review which if accepted, will help to put small business on a more even and steadier course. In addition, the Council has requested that a moratorium be placed on any further retail development in town centres, the Review's attention be drawn to the ACT Government's commitment to the independent inquiry into retail trading in Canberra, and the development and implementation of a strategic plan for the local suburban shopping centres.

The ACT Government's new CAN Trade Unit in the Business, Employment and Tourism Bureau does not seem to have any specific focus on small business. It appears lost somewhere, with big business considerations. The council will now represent, for a special small business component within the bureau, with direct access to the Minister. In closing, I would emphasise that it is not just local retailers that are at risk, but small family businesses are under threat. No one wishes Canberra to be lost in the quagmire of corporate greed. Action is urgently needed. So, if your business is not dead, do not let it die. Thank you very much.

THE CHAIRMAN: I will call on Nigel Patterson from the Canberra Consumers Incorporated.

MR PATTERSON: Mr Hyndes, ladies and gentlemen, good evening. Thank you for inviting Canberra Consumers to participate in such an important forum. I hope it is not symbolic that I am the only one sitting on this side, about to give the consumer views. It is Canberra Consumers primary contention that market forces, rather than inflexible regulations should determine shopping hours in Canberra. We consider that a reserve power is necessary to be invoked, only when there is a failure of market forces. Our rationale for this is that traders enter business to provide goods and services to consumers.

It logically follows that consumer demand therefore, should determine when and where these goods and services are made available. Businesses would not continue to open extended hours if it was not economically attractive. There has been a general trend in

the past 20 years, to seven days a week, extended trading hours, both here in Australia and overseas. The popularity of this is illustrated by the patronage of our town centre shopping malls, particularly on weekends, but notably not at nights. Canberra Consumers notes that there is a quantum difference in consumer demand for weekend and night time trading. However, this patronage signifies that there is a strong social demand for town centre malls and seven days a week trading.

It is important to recognise that town centre malls provide five things sought by a majority of consumers. These are, convenient access, that is extended trading hours; a broader range of products; customer service; a competitive or lower price and recreational facilities for children. We must also not lose sight of the fact that seven days a week trading and extended trading hours facilitate important benefits for the ACT economy, from a tourism perspective. A contra argument that seven days and 24 hours trading forces prices up is not sustainable. Increased market share and/or competition has maintained a competitive price stability; a price competitiveness usually superior to many small businesses some of which, but not all, open on a nine to five basis.

In some cases prices have actually fallen, due to the combined effects of the buying power of national chains and competition. There is no doubt that many small business owners are hurting and many cannot compete. It must be noted however, that this is not a new phenomenon, although its effects may be more pronounced now. It is perhaps an inevitable outcome of the city's growth that the advent of town centre malls is accelerating the demise of small shopping centres and many small businesses. However, it is not extended trading hours and/or town centre malls per se, which result in the demise of those small businesses.

The fate of many small businesses can be affected by many factors, including shopping centre management pressure and increasing rents; demographic movements in or out of an area; over capitalisation and high debt servicing; consumer demand for the particular good or service and competition via market trend to large variety and specialist chain stores. It is Canberra Consumers contention that regulation should not be introduced without first stringently investigating all, not just a manifest select few, of the reasons why businesses are failing.

Moreover, as has always been the case, the majority of small businesses fail during their first few years. Canberra Consumers suggest that the closure of most small businesses continued to be as a result of effective market forces, exacerbated by the trend to market domination by large chains of specialist and variety discount stores. As already mentioned, these stores, by their very nature, offer consumers enhanced customer service via competitive or lower prices, a broader range of products and extended trading hours. With respect to the closure of shops and suburban shopping centres, a significant factor in their failure is that their role as convenient stores has been supplanted by the chain supermarkets.

Progress, unfortunately, means people have to adapt to changing circumstances. Small businesses which were made competitive will continue to survive. However, it is not only small businesses which disappear. Over the years, national attrition, natural

attrition and market mergers have also claimed major retailers in Canberra, including Waltons, Rogers and Youngs and major grocery chains such as Shop-Rite. I would like to briefly mention one red herring which has been raised during the trading hours debate; this is service station closures in the suburbs. Such closures have little to do with extended trading hours. The service station is one where historically, seven days a week has been the norm rather than the exception. It is evident therefore, that reasons other than extended trading hours are the reason for service station closures.

Canberra Consumers of not anti-small business. We strongly believe that small businesses are essential to a healthy and competitive market place. However, we also consider that market forces, not artificial constraints are the most efficient way of protecting the interests of both consumers and business owners. The effective market forces will always be the best symbol of a naturally growing, efficient market place. Having said this, there is a definite role for regulation and in this respect we are most concerned that with the growth of town centre malls, there may be the real issue of unequal or discriminatory lease conditions favouring national chains over independent small business owners. If so proven, it is in this area that we suggest regulation is appropriate, as the market has failed to provide an equitable or level playing field.

Uncompetitive conduct arising from the exploitation of small business operators cannot be justified and we note the role of the Trade Practises Act in this area. Restricting trading hours is not the panacea for this problem related to the closure of small business, we suggest that the inquiry look closely at employment trends in the private sector; particularly retail. In particular, the relationship between retailing employment growth and retail sales growth. We contend that despite the fears expressed by many small business owners, employment, retail sales, and profitability are all, as a general rule, increasing.

We note that the August '95 Small Business Index indicated that both sales and employment for the August quarter has strengthened around Australia with a 7 percent net increase in sales and a 2 percent net increase in employment. The New South Wales, ACT region showed the strongest growth overall with sales rising from a net 8 percent in the previous quarter to a net 24 percent in the August quarter. There was also a five per cent net increase in employment numbers and a 10 per cent net increase in profitability. There have been various inquiries over the years into ACT trading hours. Two of the most prominent being trading hours in the ACT in 1991 and another one in 1982.

Just, one - given that I am running out of time - just one quick comment I think that I should mention from those. This is from the 1991 report. If the overriding concern is to maximise the economic welfare of the ACT community, option B, which was full deregulation of trading hours, would be the automatic choice. To conclude. Canberra's consumer position is that consumer demands should decide trading hours. It be recognised that the decline of the suburban shopping centre and the rise of the town centre mall represents a natural, structural evolution of the market place. Canberra consumers notes recent media reports suggesting moves to restrict trading hours.

To regulate the issue in this way would be a regressive step flying in the face of how consumers are voting with their feet, their dollars and their time of day. Moreover, it would inevitably result in higher prices as businesses without the support of strong consumer demand are artificially kept in business. Politically, any Government which so regulated it would face a very strong consumer backlash and even more importantly, a loss of important tourism dollars. As I said earlier, we believe there should be a flexible, control ordinance but it should only be invoked when there is a clear evidence that market and other forces have failed. If it were not for consumers, businesses could not exist. Accordingly, I commend our views to the Review and all of the parties present here tonight. Thank you.

**THE CHAIRMAN:** Thank you very much. I now call on Kath Ridley, pharmacist from Macquarie Shopping Centre. And just before Kath starts, I do point out that there are microphones which can be used out in the centre of the floor there and vehicle YSH-575, Mercedes Benz has lights on.

**MS RIDLEY:** Mr Hyndes, ladies and gentlemen. I guessed that tonight I probably - cannot hear me, is that better? Okay. I guess tonight that I hope I am representing a number of local pharmacists. Certainly our numbers have decreased over the last few years. I just hope that we are not doomed to extinction. My situation at Macquarie Pharmacy which is a small neighbourhood strip, has changed, certainly over the last ten years of ownership. Our centre at the moment has a medical centre which is privately owned with two doctors practicing family medicine.

There is also a very large physiotherapy practice in that centre. We have the Macquarie Child Minding Centre which caters for 80 to 90 children, we have a Vietnamese restaurant, a hairdresser, a beautician, a dog-grooming parlour and a building consultancy. So, I guess, that is about a normal spectrum of a local shopping centre. In May of this year we had the closure of our supermarket, mainly due to pressures of rent which were unsustainable after Coles New World at Jamison opened 24 hours.

In September, we had the closure of our service station. Caltex's lease was not renewed. Whether that was due to the merger with Ampol, I am not a hundred per cent certain. The fact remains that there is a community need and at the moment, I have converted an area of my pharmacy into an American style drug store supplying milk, newspapers, bread, drinks and ice-cream for the people's local needs. There was an outcry by our locals, and so I am supplying those. However, my main identity is in offering primary health care. And over the last ten years I have developed a home health care section in my pharmacy which has catered for the needs of ageing people, supplying surgical equipment for those who need to maintain their independence in their own home. Also for post-operative patients offering sale, hire of this sort of equipment. However, recently, I have extended my services in that direction. I have installed a couple of consultation rooms which are to be used on a sessional basis by allied health professionals such as dietitian, paediatrist, acupuncturist, naturopath and a couple of different types of therapeutic massage.

Now, if times are changing and consumers demands are looking at - for extended shopping hours I think that small business has to find a market niche, some sort of speciality. Local centres need an identity or some individual image which can set them apart and also enable them to compete with the larger centres. The fact is that we do need the small centres. Perhaps we have too many in Canberra. That is something for this committee to look at. But if you consider what the demographics trends are, our population is ageing. There are reduced government funded health services due to the enormous cost.

On the one hand the government is encouraging people, aged people, to stay in their home and maintain independence for as long as possible. On the other hand, we are losing our smaller centres and the infrastructure whereby they are able to maintain their independence. The city was planned, and it was a number of years ago that our city's plan was put into place. However, it did have foresight for those times, and that was to have local shops within walking distance for the suburban people. Also those suburbs each contained a school.

Now, if we are going to change this plan I think another one has to be in place which has vision towards the future ageing of our population and its needs. Almost every one of us here today who was 40 is certainly likely to be alive and relatively healthy at the age of 80 or perhaps even 90. I think that quite a lot of emphasis has to be put on that. Are we creating an infrastructure which is not going to be sustainable when you consider what is happening to the population out there. If you do not have the correct structures in place, we are going to end up with a social and economic disaster, not only for our people of this city, but also for the government. Thank you.

**THE CHAIRMAN:** Our next speaker is Jeremy Pyner from the Trades and Labour Council. It looks like Jeremy is delayed. We will move straight on to Joe Guigni from Fyshwick Markets.

**MR GUIGNI:** Good evening. How many people here know why the Fyshwick Markets are there or why they were established? Nobody. It was a Federal Senate inquiry into the prices of fruit and vegetables that established the Fyshwick Retail Market Trust. That happened in early 1960. Canberra was at the mercy of teams of suppliers pricing of fruit and vegetables and limited numbers of commercial outlets. The resulting high prices for staple items led to a few independent individuals purchasing supplies from regional areas and the Sydney markets were literally selling off the back of a truck.

Public pressure led the establishment of a Senate inquiry into the Fyshwick Markets - under the Commonwealth Government established a Market Trust. The Fyshwick Market and later the Belconnen Markets were controlled by this Trust until the Commonwealth sold them at auction in early 1988, the establishment of self-government in the ACT. Since that time the Fyshwick Market traders, many of the shareholders of which are the same people who established the original markets in the early 1970s, has owned and operated the Fyshwick markets.

The success of the establishment of these markets is an attempt to provide competition in the marketplace and thus provide the people of Canberra with reasonably priced

stable items can be gauged by reference to the Australian Bureau of Statistics reports which indicate that Canberra fruit and vegetable prices are on a par with those in Sydney and often much cheaper. This has been achieved in no small measure by the market purchasing as many quality produce as is available direct from growers with the Canberra region, including Batlow, Griffith, Araluen, MIA and small local growers, thus reducing cartage and handling costs and wastage involved in the growers otherwise having to send their produce to the Sydney markets and having them carted back to Canberra.

It is submitted that the utilisation of 24 hour trading has demonstrably been a retrograde step for small business in the ACT. Not only have many local family owned shops been put out of business through inability to match the prices and trading hours of the large national chains, but businesses such as ours have also felt the pinch and even some of the larger wholesalers have gone out of business. There is now no more wholesalers in Canberra basically on a big scale.

The national buying power of the large chains is such that they have the capacity virtually to dictate the prices of perishables by for example purchasing a large grocer type crop at an agreed price, thus ensuring a guaranteed income and reducing cartage costs, but more importantly reducing the flow of that particular produce on the central market and ensuring that the market forces will push the prices higher than they been to pay. They also have the capacity, should they so desire, to sell at a loss in selected areas, eventually forcing competition from the marketplace and leaving the consumer at the mercy. The ACT experience with the multi-national petrol companies and the inflated petrol prices in Canberra is a classic example of what happens in the absence of healthy competition. In these circumstances, the smaller retailers have had difficulty in surviving and the introduction of 24 hours has intolerably exacerbated the situation. The small traders depend on a substantial degree upon his or her ability to the consumer, as a convenience provider. This main advantage turns into substantial disadvantage with the availability of 24 hours cut price outlets, considering that the Fyshwick and Belconnen markets are only open 36 hours a week.

These markets welcome the existence of healthy and fair competition indeed. Over the years, we have ensured a good for the Canberra consumer by providing this health competition. Should the presence of substantial extended trading hours situation continue, however, we foresee a time in the not too distant future where not only the smaller fruit and vegetable outlets, but also those of the similar markets in the ACT, will simply be forced out of business, leaving the local consumer with only the large chain stores, to which to purchase their staple items. And returning to the Territory the situation of the 1960s, when the government of the day was concerned enough to address the problem through the Senate Inquiry.

The Fyshwick market traders earnestly request that the review of trading hours commence equitably, amended to the extended trading hours currently applying in the ACT, in the interests of pursuing the viability of small suburban and group shopping centres, such as ours. It is submitted that to do otherwise will, in the longer term, adversely affect employment in the Territory, and reduce the shopping alternative of local consumer.

We also request that the ACT Government introduce a moratorium on existing, or building new retail outlets for the next five years. Thank you.

**THE CHAIRMAN:** Thank you, Joe. The next speaker is Ben Rayner from Building Owners and Managers Association.

**MR RAYNER:** Mr Chairman, ladies and gentlemen. My name is Ben Rayner, and I represent BOMA and its affiliate, the Australian Council of Shopping Centres. BOMA and the ACSC made a submission to the ACT Government on the issue of retail trading hours. I will say, at the outset, BOMA does not support total deregulation, but recognises that there are and will be changes in consumer demand, and business needs to recognise those demands, and cater for them as best it can.

The Building Owners and Managers Association, BOMA, and the Australian Council of Shopping Centres, the ACSC, made its submission on behalf of the majority of members of both organisations. There is

unanimity amongst members on four key issues. That there be a level playing field for retailers in each of the merchandising classifications. And that late night trading be limited to one or two nights per week, and that there is support for Sunday trading of all types of merchandise, and finally, there is no support for a total deregulation of retail trading hours.

Some BOMA and ACSC members do have differing opinions on the issue of trading hours for supermarkets, and the establishment of special tourism and CBD zones. We understand that those members have made submissions in their own right. BOMA believes that it is necessary to strike a correct balance between the current over-regulation of retail trading hours and complete deregulation.

Changing demographics, work patterns and family structures are all leading towards increasing consumer demands for more flexible retail trading hours. However, some retailers, particularly small owners and operators, have legitimate concerns about the impact of extended trading hours on their businesses and lifestyles. An important issue for the ACT Government to address is the issue of awards, penalty rates and more flexible workplace enterprise agreements.

BOMA believes that the regulation of trading hours for general retailing in the Territory should be limited to the hours between 8.00 am and 6.00 pm, Monday through Saturday. Late night trading should be limited to one or two designated nights per week, with the exception of the Christmas, New Year trading period, public holidays and special events trading, where the hours may be extended by Government prescription.

Sunday trading should be permitted for all types of merchandise, between the hours of 10.00 am and 4.00 pm. Supermarkets should be permitted to trade seven days a week, between 7.00 am and 10.00 pm. BOMA will support changes to the legislation which lead to a level playing field in the retail industry within the Territory, but will not support any artificial redistribution of trading hours to underpin a market that does not satisfy consumer demand.

Nor do we support differing trading hours for differing types of retailers within the same shopping centres, although we do seek exceptions to this overall statement for retail associated with entertainment and leisure precincts. BOMA recognises that there is a growing trend towards entertainment and leisure, as an integral part of the total shopping experience, which is being supported by increasing numbers of consumers in Australia.

Indeed, we believe that the future for a viable shopping centre industry will increasingly revolve around entertainment and leisure, as other forms of shopping for basic commodity items becomes more widespread, with greater accessibility to interactive technology.

In much of the argument that we have heard to date there has been very little real reference to the retail consumer in Canberra and on the preferences, behaviour and requirements of those consumers. Proper customer attitudinal research into the trading hours in the ACT will demonstrate that the consumer looks for price, product, service

and convenience and from a convenience perspective, a high degree of flexibility in retail trading hours. 31.9 per cent of Canberra's population state that their normal grocery shopping is conducted between the hours of 5 pm and 11 pm. 37 per cent of that group indicate that they do their grocery shopping after 7 pm which is indicative of the demands from today's consumer.

On the issue of late night trading 61 per cent of respondents felt that it was either a good idea or a great to open major shopping centres on Thursday, Friday and/or Saturday nights and the primary reasons given were flexibility for convenience of people and those people who work full time need after hours to shop. 44.6 per cent of the surveyed population would visit a major shopping complex at least one night per week. The research indicates that in relation to Sunday shopping 71.8 per cent of the population believe that it is a good idea that the major shopping complexes are open on Sunday.

The primary reason why 37.6 per cent of Canberrans will shop on Sunday is flexibility and convenience. BOMA recognises the consumer spending patterns and habits influence the economic successes of any retail business and that the planning objectives of the territory planners has in some degree contributed to the successes and failures within the retail hierarchy of Canberra. The issue of artificially regulating trading hours as is being proposed by some members of the business community does not recognise realistic community sentiment, their current demands nor the changes in lifestyle which have occurred in the past 20 years.

The demise of the neighbourhood centres is one of ageing building stock tenanted by retailers who are unable to compete for a variety of reasons and are, in the main, unattractive to the consumer leading to a diminishing level of market share. BOMA contends that the ACT government should permit amendments to the lease purposes clauses without the impost of betterment to allow structural change to block sizes and permitted usages for mixed use developments within neighbourhood centres so that these areas can become a community focus once more. Thank you.

THE CHAIRMAN: I call of Mike Johnson from Kippax Group Centre.

MR JOHNSON: Mr Chairman, ladies and gentlemen. A lot of you people here know me, a lot of you trust me so listen to what I have to say, please. For every meeting prior to tonight that I have attended on this subject I have come away with a clear feeling that the speakers have only peddled their own personal views and in many instances what they have said and meant is that they are not prepared to give one inch. In other words, "I'm all right, Jack, you fix your own problem." Nobody really is speaking as to what is good for Canberra and I dedicate my speech tonight in what is good for Canberra.

In the past there has been a trend for no protection whatsoever for the small neighbourhood shopping centres and I firmly believe that all of us sat back on our Pat Malone not realising that there was a need to protect these shopping centres. In recent years large national groups have seized this opportunity to increase their market share and that is exactly what this whole exercise is about, namely to put into position a

mechanism that will protect these neighbourhood shopping centres. If we do not protect them many of them will simply disappear. Many will say, "So what, it's bound to happen?" Well, I will show you shortly the pitfalls of such closures. There is also a very real threat that if we do not put into position a protection strategy that some group centres will follow the neighbourhood shopping centres that have closed. Now, let us imagine the scenario where, because of this non-protection policy, when a greater proportion of the neighbourhood shopping centres have closed and where a group centre or two have closed, where Canberra has to go to the mega shopping centres, imagine the parking chaos. These major centres, even at this stage, are having parking problems, maybe not for the centre manager, but certainly for the customer in the core hours and what is more, parking is getting worse and worse.

I have experienced lately a move by these large centres to try and purchase large portions of their car parking areas and it would be remiss for anybody or any of you to think that this purchase is for the purpose of retaining these car parking areas as car parks. What I am saying is without a customer base being situated in the neighbourhood shopping centres and the group centres, shopping will be most unpleasant if it was confined to the town centres. Governments of the day in the past, and even today when you look at the Gungahlin plan have planned for neighbourhood shopping centres and neighbourhood schools. The public and the investors believed the various government strategies and it would be most unfair if this nexus was broken.

If the government makes a mistake and it has to off-load public servants then it does the right thing and it pays the public servants a golden handshake. On the other hand, if small business people opened businesses or built buildings believing that the government strategy was sound then these small business people and investors will receive no golden handshake if they are forced to go out of the business because the government of the day was not flexible enough to keep abreast of the times. This is the task of the government of the day, to protect what exists. Closing hours. I have listened to a lot of emotive and often greedy arguments that to close earlier will mean that shoppers will not have enough time to buy. These arguments have always come from the large centres. Let me point out one fact of truth, and that is the housewife and the househusband in this modern world, and especially here in Canberra, is not stupid, nor are they morons. If the closing times are set for specific times, they will manage to obtain their requirements.

Stagger closing. Staggered closing times provides the government with a vehicle which allows for the public to have a chance to re-visit their group and neighbourhood shopping centres, and recreate a bonding with these centres. This is again what the whole exercise is about; that is, fairness and a chance for small business people to compete in the large market scene. If this inquiry does not produce sound business strategy, there is another scenario that we must take notice of and that could emerge, and that could be if the majority of the shopping is forced into the four mega shopping centres, these shopping centres could, and will eventually say, as it has proven in some New South Wales country towns, "Sorry, late night shopping is not cost-effective, from now on we will close at 6 o'clock."

If the group and neighbourhood centres in the main are gone, what then? Finally, I was saddened to read the jealousies that obviously appear to be rampant amongst these same large shopping centres, and their supporting associations, who say, "We will not support a tourism area in Canberra if the Canberra Centre and adjacent shops can stay open longer than us." Now, come on. Tourists have every right to expect to be able to buy those items put forward by a city as suitable as items representing the culture of this area. The tourist has a limited time frame to make his purchases, and in the main he will be residing in the Canberra business district.

For Woden, Tuggeranong, Belconnen, or any other suburbs to think that they will get this trade is foolhardy. We must recognise that the Canberra central business district is the centre point for our tourists, and we must allow this inquiry to recommend this area have some concessions to achieve the aim of encouraging tourists to Canberra. If you do not agree then I would say it is most un-Canberran of you. To the hard working group tasked with this whole exercise, I wish you every success in finding the right answer for Canberra.

**THE CHAIRMAN:** I call on Chris Donoghue from the Commercial and Retail Tenants Association.

**MR DONOGHUE:** Thank you, Mr Hyndes. We appreciate the work that has already been done by John Hyndes, and particular appreciate the making public of his views to date that, "Life is horrible for those caught in some of the retail outlets," and quote again from this morning, "Supermarkets are the lynch pin to the successful operation of a shopping centre." They are the sort of views that CARTA has been following for some time.

So, who is suffering and who will suffer in the future? We believe these include obviously the proprietors of the respective small businesses that have either lost trade or have gone out of business all together; their staff, who have had to accept reduced hours or have lost their jobs entirely; their families; customers of the suburban shops, who have lost the local availability and the diversity of services and goods for sale; building owners of suburban and group centres, who have seen the capital value of their investment slashed and transferred to the town centres; suburban communities, who have had their centres diminished and, as a result, face further risks with things like school closures and other facility closures; and then all those people who depend on the ACT economy have seen, and will see in the future, an increasing percentage of retail profits and retail rental profits going out of Canberra.

Finally, despite what Mr Patterson from Canberra Consumers says, we believe that the consumers who now are set on a path of supporting greater retail concentration will face, in the future, the possibility of monopolistic practices emerging, higher prices, lower customer service not greater customer service, and a reduction in the range and quality of goods available, because the fact is you do not increase competition by killing off one of the competitors, and one of the main competitors in retail food shopping is the small suburban supermarket.

Now, the view of the CARTA association are generally well known and have been stated continuously for about five years; that is, it has been the expansion of trading hours since the early 1990s of the major supermarkets, and by the four major shopping centres, that has been the prime cause of a large number of the suburban shopping centres becoming moribund and otherwise declining. Group centres are also affected, as we just heard. It is also our view that there is a lot more to come; that is, there will be more closed shops and more bankruptcies.

So, what can we do about this report that John Hyndes is working on to make it convincing, and to convince bureaucrats, politicians and the general public? Well, we believe that the recommendations are going to depend on what is determined by Mr Hyndes in his report to be the cause and extent of the decline in the suburban shops,

As mentioned, our view is that it is trading hours, but it depends very much on what the inquiry says. So, we would like to see the inquiry follow at the following process. Firstly, that there be an interim report before attempting to come up with a solution to the problem, and that the recommendations as to a solution be made only after publicising the interim report, and after a further period of public consultation.

So, the step-by-step process would be this. For the period commencing January 1990, and up to now, obtain a wide sample of the gross monthly trading figures from all suburban and group centre supermarkets, shops and service stations that exist now, or which were in business over that period of time, even if they are now closed, or especially if they are now closed. And then obtain the same figures from the major supermarkets.

Then secondly, extrapolate this information to enable a reasonable estimate of the gross sales by all these separate outlets in the ACT over that period of time. Then compare these changes in gross sales with the changes of the trading hours of the major supermarkets. I think you will see a big shift, but we would like to know to what extent. Then publicise these findings, particularly the findings in relation to the extent of the shift in sales from suburban and group centres to major supermarkets.

Then publicise the observations by Mr Hyndes and whoever else he wants to quote as to the reasons for the decline in retail sales from suburbs and group centres, and then publicise the views as to the likely effect in the immediate and more distant future of this decline in these suburban centres. Then finally, seek public input on the methods of dealing with the problem, before going ahead and producing a final report.

It is quite possible, of course, that in the process of following this arrangement, some traders, particularly the major supermarkets, will not provide the necessary information, and therefore they will prevent the obtaining of reasonable, statistical, a reasonable, statistical base. Now, if this is so, we believe this inquiry ought to be upgraded to an inquiry under the Inquiries Act, where there would be the power to require the information about - the statistical information, under subpoena, if necessary. Thank you very much.

THE CHAIRMAN: I call on Chris Mara from Coles Myer.

MR MARA: Thank you, Mr Hyndes, ladies and gentlemen. I would like to start with the maxim of retailers, and that is, the customer is always right. And I endorse Nigel's consumer views, because really, we are here to serve the consumer, the customer - yours and my customers. Can I just maybe state our case fairly simply. One is that we want to see the hours codified as exists in practice today and as demanded by consumers. The main reasons I guess we support that are because of change - changing retail markets, changing consumer behaviour and habits and changes in the retail market place, not just in Canberra but as being observed around Australia, and indeed internationally.

Can I first of all just go to some of the arguments that are proposed why trading hours should be stopped. Most of the arguments centre on the little cost jobs, raised prices, cause a monopolistic practices and put small businesses out of work - or out of business. I will obviously only be able to briefly try and rebut those sort of arguments, but I am happy to go into any questions later on. Can I first of all talk about the changes? The changing retail environment. Consumer tastes. You would be aware everything from, sort of consumption, whether it is the fish we eat.

We have had a fish spokesman here tonight or whether it is red meat consumption. And a lot of butchers have gone out of business according New South Wales Meat and Allied Trades Federation. Some 15 per cent of them have gone out of business and I will tell you one of the reasons they have gone out of business, probably the primary one, is that red meat consumption has declined by 20 per cent since the 1940s. Now, you cannot tell me that trading hours has a more significant impact on that than 20 per cent decline in your basic product. Another major reason is change in consumer habits.

In the 1950s as consumers, one in 50 meals was eaten out. In 1960 it was one in 38, in 1970 it was one in 19, 1980 one in 11 and it is estimated that by the year 2000 - and this is Bivan - it will be one in two. The implications for groceries, particularly fresh food groceries is fairly obvious. It is of significant consumer change. We as retailers have to try and meet that change. Now, it is not going to suit all of us, obviously. But, it has a far more significant impact on us than trading hours ever will. Obviously, trading hours has an impact. We do know - and Bivan has obviously had research this year which confirmed it again that some - a third of all retail sales are now made outside what were traditional 9 to 5 trading weeks.

Now, if you were going to be closed because you want to open only when it suits you rather than your customers, well, then, you are potentially obviously missing out on a lot of sales. So, clearly, there is indications for you as retailers as there is for us and that is why we support the codification of existing practice because not only is the legislation being ignored, it is clearly out of date. And if I can just mention the shopping precincts as a significant change impacting on all retailers. Since the 50's and 60's, we have seen a proliferation of shopping centres, and we have four or five centres in Canberra, depending on how you classify them. Now, that is consumers marching with their feet or more precisely, driving their cars, to those centres.

Now, developers, and we are not a developer as such in Canberra, but I have obviously got to try and meet those demands and invest in those properties and retailers like ourselves go in as anchor tenants and attract the smaller tenants like yourselves. We support that. Whether it is a matter of there are too many, or there is too much floor space is a matter, I think, for the planning study that is presently going on to try and determine whether there is too much of it and how that impacts on you. But I would say this, that their impact is far more significant than any trading hours ever will be.

Can I just maybe pick up a couple of points made by some of the previous speakers before I conclude. There was a mention of monopolistic practices and prices going up through the roof. Now, I cannot obviously go through all the details here but I am happy to, if you want later, just to give you an idea on prices and this monopolistic practices of so-called. I mean, John has been through 100 shopping centres, 100, in this study and it seems to me, I do not know how many have gone out of business, have any? It seems to me that 100 provides a fair bit of competition in a city the size of Canberra.

In terms of prices we have various studies conducted by the ABS on consumer prices over the whole of the 1980s, and up to - sorry, up to 1992 I believe it was, where it compared the prices in Adelaide with the prices in Sydney when Sydney was totally deregulated. Now, the CPI for the two cities was very much the same. Whereas obviously trading hours was introduced almost fully deregulated in Sydney the prices for goods in the groceries, particularly, actually declined. So, to make the connection that - - -

MR ..... (indistinct)...

MR MARA: Yes, I have and I am happy to provide those via John to members but what that says to me is that the practice of trading hours has a very limited, if any, impact on prices. Can I just conclude and say the number of small businesses in Australia in terms of - per population of 1000 people has been fairly static since about 1980. Between the end of the war and 1980 it was on a gradual decline in that whole period, but from about 1980 to the present day the number of shops per 1000 people in Australia has been fairly static at around 10 shops per 1000 people.

I am happy to provide those figures via John as well. Now, that is during a period when trading hours is being deregulated around the country. Now, I am not calling for 24 hour trading around the country. For some businesses, indeed some of our own, and in Canberra you would know that we have Myer and Target and they do not open 24 hours a day. They basically - they open about 70 hours a week to meet the consumer demands that - to satisfy their particular market. Obviously, supermarkets is a very different market.

In terms of employment Coles/Myer employs over 1800 people in this city and about a third of those are directly employed outside the conventional trading hours, that is some 600 jobs. A very significant detriment would occur, I believe, to a proportion of those people if it was a regressive move to restrict the hours available. In terms of demand I can only reiterate and support what the consumer spokesman said and

highlight, if I could in the time, that the inquiries to date have all called for a further easing of hours rather than restriction of it. Thank you.

**THE CHAIRMAN:** I call on Hugh Percy, Chief Executive, Queanbeyan City Council.

**MR PERCY:** Mr Chairman, ladies and gentlemen, Hugh Percy, Queanbeyan City Council, General Manager. For the statistically minded, Queanbeyan has a population of 27,000 people. It has approximately 1200 plus small businesses, a mixture of retail, commercial, innovation and general service. And I tell you that, I was talking to a bureaucrat on the phone some time ago and I asked her to call me back and she said, "Would that be an STD call?" We are only five to seven minutes from the airport, we are only 10 kilometres from Parliament House.

We have a main street, Canberra does not have a main street. None of the areas in Canberra have a main street. We have a main street co-ordinator recently appointed to look after the promotion and the marketing of our small business in Queanbeyan. I would remind everybody here tonight that the terms of reference require the review to identify options on how to keep local centres alive and to encourage public discussion on these options.

That has been handled by one of the earlier speakers who suggested that very thing, that there are options that are created and put into place and they are set in place so that these - you people here tonight and the other people in the community can discuss them. Trading hours are the real issue here. They have been extended and they are virtually unlimited. In some form they are going to be here to stay for some time, if not forever and they copy what happens overseas in the USA and the Asian capitals.

I might remind you all that this is Australia and it is not overseas and we are in a unique situation in this region and it does not necessarily mean that we have to copy what everybody else in the world does. Those long and extended hours do suit the big organisations because they have a large pool of workers. The major shopping malls in this particular area and in the other areas in Australia, they have become a social centre for many and they have done that because they are free, they are air conditioned, they are open for long hours, they attract a wide cross-section of the community, they provide an element of excitement and colour and they have large food halls which add to the lustre of those particular centres.

But large centres are no place for the standard family owned small business outlets. We have got small businesses in Queanbeyan who have got one operator. We have got your Kevin O'Connor Menswear, Bill Gadd Menswear, single person operators. Nouveau Riche, there are only two ladies there. Hills Music, there is usually one or two people there. How do they do their banking? How do they do their accounts? How do they do their purchasing? How do they have holidays and sick leave? The major supermarkets, the superstores, they have got large staff to cover extended hours. They have got a buying power, often they sell goods cheaper than small business can buy them. They have ability to negotiate cheaper rents due to their size, cheaper advertising rates due to their buying power. They have got the ability to sustain initial losses and they have got cheaper access to finance.

So, if they can do all of that then what is the point? The point is that with small business profits stay in the region. Small business supports local industry. Small business is the life blood of the local wholesalers and distributors. I have got one of my constituents here tonight who tells me that he is a wholesaler and as a result of the extended trading hours and the bite on his industry he has gone from 23 employees to 11. That is a fairly significant decline and I would say that it is not going to stop there. Large companies do not support local service industries. They have a head office, it is usually not in Canberra and they organise their mechanics, their refrigeration, their electrical, their shopfitters and they may do that with other multinationals.

Small business buys locally, they buy from the local producers of fruit, meat, vegetables, packing, materials. Small business supports the local transport industry. The big companies do not necessarily support the smaller transport operators, they have one operator who monopolises the situation and does not give anyone else a look in. Small business provides something that the large business cannot give, they provide a personal and quality customer service. Have you ever tried taking something back to a large store? If you take it back to the single owner or the small family owned business you will usually get good service, good follow up service.

Small business employs people over 21 years of age. Those people are able to develop a customer focused culture. And I am not denigrating the younger people who work in the supermarkets, they have to put up with a lot of complaints and a lot of unfriendly customers, but when they get to 21 those big companies do not want them any more, they want somebody who is younger. So they are on the scrap heap and somebody younger comes along and everybody is having kids these days so there is always going to be somebody younger. Small business is restricted by awards, they are not like the larger organisations where they can enter into enterprise bargaining, individually they are not strong enough to do that so they are stuck with the awards and they are paying time and a half and double time.

And that is what kills the tourist industry and I think if you listen to the ACT Government you will find that they are telling you that the tourist industry is a big industry around here. It is usually operated by small operators. Small business and large business can employ more people if hours are restricted. And they will do that because if you restrict the hours it means that people have to go shopping more at the same time so that you need more people to serve them. They will still get their business because people will still have the same amount of money to spend.

There is a burnout in small business operators. We have got a small shopping centre in Queanbeyan, it has two brothers that operate it. They are there from 6 o'clock in the morning until 10 o'clock at night. There is only one of them here tonight because the other bloke cannot get away, somebody has got to close the place down, somebody has got to look after it. Who is going to do that when you have only got two people there operating it? So the burnout factor is tremendous. People who are in small business are only able to stay in it for a short time unless they have got a terrific constitution.

What will happen then? You will have a monopoly and it will result in higher prices and there will be a dramatic decrease in customer service. There has been a lot said here tonight from the other side of the argument about customer service and I am afraid you are not, customers are not, going to get the service that they are looking for unless they get it from the small business because the general managers all go home early. I do not. I arrive early and I try to go home a little bit later than normal because you try to lead by example. But, in these bigger companies I am sure that they are not all there all of the time when there are other people there. They have managers who fill in and do those things. So, I would like to encourage the ACT Government to assist the survival of small business by ensuring that decisions and trading hours in the ACT do not adversely affect Queanbeyan and Canberra small business and small business in the region generally. The Government needs to create a healthy, a fair and an equitable business environment. Thank you, ladies and gentlemen.

THE CHAIRMAN: I now call Mark Baker, the Chair of the ACT Chamber of Commerce and Industry.

MR BAKER: Thank you, John. Ladies and Gentlemen, when you are the eleventh speaker out of 21 you hope that all of the fresh produce purchased from the Fyshwick Markets would have been thrown by now. I am dismayed that it has not. You are also faced with a situation that everything that could have been said from all points of view really has been said. There have been some gems of wisdom come out amongst all of our speakers tonight. I suppose from our view, our view would be that if you protect yourself by artificial restrictions, whatever they may be, you are doomed to fight battle, after battle, after battle.

What happens in 10 years when we are here arguing against Internet traders where people are not even going to the shops, when they are just buying purchases through their PCs. It is happening now, in America you can order a pizza over the Internet and those of you who listen to John Laws the number of Internet queries or comments he now gets when you listen are just amazing. It is a changing world. So, our view is that to rely on artificial restrictions of any kind is just dooming yourself to fight time after time and you ultimately lose. Even with totally restricted trading hours can you beat the big stores in terms of their buying power?

Many of the arguments tonight did not centre on trading hours, they centred on the advantages that big stores have over small traders. So even with the most restricted of trading hours can you win against those sort of factors? I would argue not. What you can win in and where you can beat the big traders and win customers is with serviced. Kath Ridley, excellent example; her business is changing, developing, providing better service to customers in order for her to compete. There is a real place for small traders, they are the only people who can provide that excellent service. And as the world gets more depersonalised and quicker and we rely more on technology, people will yearn personal service. So, I think you are all doing yourselves, those of you that are small business people, a great disservice by trying to say, your salvation lies in the absolute restriction of trading hours. You are better than that, absolutely. Each of you, if you just sit here for a moment and think about a small trader you go to, not because he is cheaper, because he is probably not; not because he is open longer than some one else, because he is probably not; not because he is more convenient to

where you live, because he is probably not. You go to him or her because they give excellent service or they provide a niche market, they provide what you want. That is protection, that is the only protection that small traders have, developing innovative ways to attract customers. Calwell Shopping Centre, the face painting for kids on Saturday, to make families come and shop there, to attract them to that centre rather than Tuggers and that is innovation.

There is plenty of examples. And probably what has been missing over the last years is assistance to small traders, to educate themselves about new service standards and how they can develop their niche markets. You are all too busy. You are working, what, 16, 17 hours a day, not able to take holidays, I think you said, ever. On that basis, when do you get a chance to develop your skills. When do you get a chance to learn about new ways you can attract customers or even have time, when you are not dog tired, to think about new ways to attract customers. I would say that maybe as a community, as a business community, as a Government, what we should look at is helping small traders develop ways and educate them that they can attract customers. That is your only protection.

In summary, I suppose the Chamber's view, or the Chamber's view is that we would support some easing of restriction of trading hours, because that is what consumers want, and they do, in addition to service, but we would seek to embody core trading hours so that small retailers within those centres are protected against having to trade 24 hours a day. That will, in essence, cap, it will cap the potential for those town centre malls to trade unlimited. So, in fact, there is some protection built in, but I stress again, your protection does not lie in a Government inflicting restricting trading hours, because as I said, in five years time it will be another battle you are going to have to win.

Protection lies in providing better service and niche products and as a Chamber we would call upon the business community certainly and the Government to provide opportunities to enhance the quality of our small business, not simply protect it behind restrictive walls. Thank you.

THE CHAIRMAN: I would now call on Ken Begg, the Chair of the ACT Community Safety Committee.

MR BEGG: Thank you, Mr Chairman. I am from the media and I am here to help you. I am also Chairman of the Community Safety Committee which, for the last two years, has looked at the issue of safety, in specific terms, Civic and Manuka. Our role was to examine the level or the perceptions of crime in both those areas. We came up with a series of solutions if you like, we hope solutions, which were meant to address the view of some people, the perception of some people that these areas were not as safe as they should be. Perceptions tend to change behaviour, change habits.

So, I want to share with you some of the thoughts that we have gathered over the process of two years. We have done a lot of listening, which I find is a pretty rare thing today. We actually listened to people, what they had to say about their shopping centres, about what they wanted. You know, there is a perception out there that Canberra is not the safe place it used to be. We lost our innocence a long time ago.

There is a perception that Civic is not as safe as it should be. There is a perception that our car parks are not well lit. There is a perception that our street signs are inadequate. There is a perception that in terms of design, malls are not as safe as they should be.

There are some concerns out there among our citizens, and I think Kath mentioned tonight, our older citizens; we are, indeed, all getting older. There are some real fears out there among our older citizens about what is happening to this community. I live here because I choose to live in Canberra, I like Canberra. So, I speak tonight, not on the basis of exhaustive study, on a lot of anecdotal evidence, if you like, from people who have come to the committee. We have looked at Manuka. Manuka is a beautiful place, unless you live close to it. If you are a resident and you live close to Manuka, what has happened for Manuka is, for some people, they have lost amenity; they have lost car parking spaces; they have lost footpath space; they feel a little threatened by what is happening; they are not entirely happy with the changes; they feel they have lost a local village.

In Civic, there are parts of Civic where people do not want to go at night, do not want to go after dark; they do not feel comfortable about it because the signage is not very good. So, one of our briefs has been to commission what was called a designing out crime study and we looked at aspects of the street scape, aspects of architecture in our cities and in some of our suburbs and we discovered that malls are not viewed as particularly safe places; they are not seen to be very friendly at dark.

So, for the local shopping centre, let me tell you, I shop locally because I get service, because it is convenient, but most of all because I get service. Now, in respect of the trading hours issue, I am a bit of an imposter here because I do not have a position, but as chairman of a committee that has been looking into some of the social consequences of 24 hour trading, and I am talking about licensed trading, we have had to ask ourselves several times, can we afford 24 hour trading in economic and social terms? Twenty-four hour trading has meant increased police presence.

Can we, as a community, afford it? The social costs, in some respects, of 24 hour trading can be seen by our problems with drugs, our problems that we have with our young. But tonight I guess I want to leave you and I want to leave you particularly, Mr Hyndes, with the view that take into account what is happening to our local suburbs. Take into account what is happening to the people who live around these shops, who live around these big malls because what we are finding is that people are unsettled, they are not entirely happy about what they see. They are a bit fearful about what they see and feel. We need to communicate these changes to them.

Our report on Manuka has just gone to the government and will probably take a few months to deal with but I suspect that what will happen is we will come down with a code of conduct which would apply to the licensees. We will continue with the responsible serving of alcohol. We will give police extra powers. But that will only go part of the way I suspect to answering some of the concerns of the residents. The residents are your customers. The residents need to be considered can they get a parking space; is it safe; do they feel comfortable, particularly, our elderly. And that has been our main preoccupation.

So, Mr Hyndes, I do not envy you in your task one bit but I live here, I like this town, we are changing dramatically. I think that forums like this discussions like this are very important. If there is one thing that we have learnt from the Community Safety Committee is that consultation, fair dinkum consultation and listening pays dividends because the community provides the answers. I have great faith in the community. Thank you.

**THE CHAIRMAN:** Thank you, Ken. I now call on Athol Williams from the Shop Distributive and Allied Employees Association.

**MR WILLIAMS:** Thank you, Mr Hyndes, ladies and gentlemen. I represent the Shop Distributive and Allied Employees Association which is the union represents employees in the industry and covers and exceeds - the employees in the industry exceeds 4000 in the ACT. The union has been a major player in the ACT both in the determination of the wages and the work conditions of the employees in the industry and on matters effecting the retail industry in general and including in particular the matter of trading hours.

The union sees that there are three fundamental problems with existing law on trading hours in the Australian Capital Territory. One, the non-exempt stores, whose trading hours are regulated by ordinance in the ACT are flagrantly violating these laws by trading on Sundays, which the law does not permit. All the major retail stores which are in the non-exempt category, including David Jones, Grace Bros, Big W, K-Mart, Target and many other small stores are trading illegally on Sundays. Although these companies observe the law and trading hours on the other six days of the week and negotiate with the union for special trading during the week in the period leading up to Christmas, which is then ratified by a change in the Act by the Minister.

The breach of trading hours on Sundays is a fundamental problem which is to be overcome as part of the review of trading hours and the consequential action is taken by the ACT Government. The second major problem with trading hours in the ACT is that exempt stores can trade without any restriction whatsoever. Although the statute has permitted this for over 20 years, it is only in recent years the exempt stores, particularly supermarkets, have taken advantage of the law in order to trade up to 24 hours a day, seven days a week. No day of the year is sacred, not even Christmas Day or Good Friday.

I just pause to mention, take this opportunity to mention, that it has been happening as I mention for 20 years. There has been a number of comments in the media over the last few months about previous governments whatever political persuasion bring this in. But it was brought in by a Liberal Federal Government in 1972 and that is important. So the right for the supermarkets to trade 24 hours a day, seven days a week has been there in the Act or the ordinance prior to that since then.

The review should address the question as to whether there should be limited restriction on exempt stores to take into account the special circumstances of certain public holidays that apply within the ACT. It is important in the view of the union that

recommendations of the inquiry have the general support of the retail industry so they will be applied and observed. It is also vital that the government of the ACT declare that it will enforce the amended trading hours regulations in future in order to provide fair competition and equality before the law for the whole retail industry.

This leads to the third issue which should be addressed by the inquiry and that is that the level of penalties for breaches of the law was in trading hours. It has been an experience in the ACT that efforts to prosecute retailers who break the law are slow in being dealt with by the judiciary and the fines are incredibly small and therefore do not have any real impact on the illegal trader. It is clear that the level of fines for breaches of the trading hours laws should be increased so that they become real penalties for any employee who is found by a court to have broken the law. The union believes that exempt stores should be prohibited from trading on certain public holidays during the year, such as Christmas Day, Boxing Day, New Years Day, Australia Day, Good Friday, Anzac Day, Canberra Day and Trades and Labour Picnic Day. These days have special significance throughout Australia and within the ACT and it is the union's submission that those days should be non-trading days. It cannot be argued that the stores which can trade without restriction 24 hours a days, seven days a week must be able to provide a service to the public on the public holidays mentioned above. It seems to the union employees who work in exempt stores should have the ability to enjoy the eight public holidays named above with their families, friends in the same way as other people do in the Territory.

If the law was changed to provide that, the exempt stores could not trade on each of the eight public holidays I have named, then the trading hours laws in the Territory would be aligned much closely with applying those laws that apply across the boarder in Queanbeyan. The reality of life in the ACT is that non-exempt stores are trading illegally on Sundays. The union is opposed to trading on Sundays and its view on this has been published regularly over the years. The union believes that it is unnecessary for stores to trade on Sundays if there are adequate trading hours on the other six days of the week.

It believes that Sunday is a day of religious significance and a day on which people enjoy time with their family and friends, away from the work place. Accordingly, should employees should not be required to work on those days and stores should close. However, with Sunday trading now universally applied in the ACT, with exempt stores permitted to open and with non-exempt stores breaching the law, the union believes it is impossible to turn back the clock and accordingly are prepared to accept a change in the law to allow non-exempt stores to open on Sundays between 8.00 am and 6.00 pm.

It is, however, absolutely vital that if this submission is successful, the union be given time to negotiate with the retailers on two major issues of concern to employees in these non-exempt stores. All existing employees and non-exempt stores must be given the right to refuse to work ordinary hours on Sunday at the time when the change in the law is introduced. This is vital to protect the interests and welfare of existing employees and particularly their right to enjoy their Sundays with family and friends. The experience of the union elsewhere is that retailers do not have any fundamental

objection to providing this right of refusal to work on Sundays to their employees, at the time when trading on Sunday becomes legal.

The non-exempt stores trading on Sundays are required under existing awards and agreements to pay employees at an overtime rate for a Sunday.

This overtime rate is normally double time. Under the terms of these existing awards and agreements, if the trading on Sunday becomes legal the appropriate rate of pay becomes time and a half. In other words, the effect of the decision of the Government to change the law on trading hours would have an immediate and automatic impact on the hourly rate of employees of reducing this rate by 25 per cent. This would be intolerable. The union, therefore, needs to negotiate with employers to protect existing overtime rates for existing employees so there is no drastic loss of income arising from the legislation of trading on Sundays by non-exempt stores.

The time that would be required by the union to deal with these matters, with the retailers, would be approximately four months from the date of any announcement by the Minister of the intention of the Government to change the law and the time period is not in any sense intended to delay the rationalisation of the trading hours law in the ACT, but merely to ensure that time exists to protect the vital interests, industrial interests and welfare of the employees in the industry. The union does not believe that there should be any change to laws and trading hours for non-exempt stores during the week Monday to Saturday. There is presently no demand made to us by the retailers for any change in existing law accordingly and the particular special need for extra trading at Christmas should be continued to be handled by special negotiations at the end of each year.

We feel it is absolutely vital that the Minister announces the determination of the Government to enforce any new laws which arise out of this review and the enforcement is necessary because the existing law has fallen into disrepute and retailers need to know that new laws which may arise from the inquiry will be enforced by Government in a determined way, in order to ensure equity and fairness to all concerned. In order to ensure the declaration of a Government to enforce any new laws on trading hours is seriously. The level of penalties provided for breaches of the Trading Hours Ordinance or Act must be increased to levels which exert a real penalty to the offending retailer.

Just to sum up the issues, the union is also opposed to any discrimination issues or any laws that bring in discrimination against different retailers. Various ways in which a family business might be protected in exempt store areas include prohibiting larger stores from trading on certain nights of the week or on Sundays, prohibiting stores employing more than certain numbers of employees from trading at certain times. The union is opposed to any discriminatory laws. Just in conclusion, the union is prepared to see retail trading hours in the ACT rationalised in the following ways; 1, non-exempt stores be permitted to open on Sundays between 8.00 am and 6.00 pm, with a four month period to enable industrial relations to be settled; the exempt stores to be prohibited from opening on eight important ACT public holidays and the penalties for breaches of the trading hours be increased. The Government should announce its

intention to enforce the new laws and provide a resource to enable this to be carried out. Thank you.

**THE CHAIRMAN:** I now call on Manuel Xyrakis, who is a neighbourhood supermarket proprietor.

**MR XYRAKIS:** Thank you, John. Mr Chairman, ladies and gentlemen, let me tell you that regulation is not the only issue, but is one of the major major issues. I am here to talk on the topic of the neighbourhood supermarket. Our family has owned the Ainslie Festival Supermarket, or the supermarket there for 32 years. My parents went to Ainslie in 1963; it was a little milk bar at the time. Since then, as business increased, we kept on reinvesting our money into Ainslie and the Ainslie Shopping Centre and therefore, enlarged the supermarket.

In 1988 we underwent major refurbishment, where we increased the retail space of our supermarket to over 700 square metres. The supermarket is the anchor tenant in the suburban shopping centres. It is one of the major tenants and is really the major tenant, because in 1988 when we closed our supermarket for three months for major refurbishment, the whole shopping centre in Ainslie, or most of the shops in Ainslie and the shopping centre really suffered dramatically. So, that proved to me that the supermarket is an anchor tenant.

Why did we spend over \$1 million in refurbishing our supermarket? I will tell you why. Because we are local; we had our business then for 25 years in Ainslie; we loved Ainslie and we wanted to invest locally. We borrowed and paid back the money, as we knew the extensions and refurbishment would have potential. We knew that with the turnover of our shop, by trading after 6.00 pm and after 4.00 pm or 5.00 pm on Saturday and Sunday, that would give us enough money to pay off our loans and make a profit on top. Well, that has all eroded.

Since April 1992 when major supermarkets extended their trading hours until midnight, seven days a week or 24 hours. All the suburban supermarkets and their owners have suffered and suffered dramatically. Most of the owners work 60, 70, 80 hours a week. Why? This is crazy? But, because we cannot afford to employ anybody else and most of the shops - a lot of the partners or their husbands and wives have actually gone out to get a second job to earn extra income just to make ends meet. A recent valuation done this year on our supermarket devalued our supermarket by 50 per cent to what it was worth three years ago. And I just quote very briefly what the valuer wrote, and it is a very reputable valuer in Canberra. It says:

Another factor adversely affecting the viability of supermarkets within Canberra has been the aggressive marketing over the past three years by Woolworths and Coles whom now trade seven days a week with extended hours. Prior to this period, supermarkets in Canberra were known as blue chip businesses, highly sought after due to the high cashflow potential.

Well, of course that does not exist today.

Since April 1992, sales have decreased between 25 and 40 per cent in most of the suburban supermarkets within the first 12 months.

You cannot tell me that this is not because of extended trading hours, because it happened 12 months - within the first 12 months after extended trading hours happened and we still have - our local supermarkets are still closing. In the areas where supermarkets have closed, they will never re-open because it costs a minimum \$300,000 to refit out a supermarket and at least another \$200,000 to refit it out. And for what reason would somebody invest that money for somebody to go and buy an ice-cream, maybe?

Our supermarket, and I am sure many others, have donated - and do donate more than \$2000 per year to the local charities. Schools, churches, scouts, sporting organisations. The Ainslie Softball team very recently organised a raffle to raise money and 9 out of their 12 prizes were from traders from the local Ainslie shopping centre. How many of your children - how many of you, sorry, or your children got your very first job in a local suburban supermarket. Were not you or your parents glad to be relieved with the help of the extra income?

A fact is that for every four people who lose their jobs in a local suburban supermarkets, only one of them is taken up by a national chain, and that is a fact. Our supermarkets are getting too big and sending all the other businesses broke. Independent local supermarkets are forced to have butchery departments, bakery departments, fruit and vegetables, liquor, newsagencies, take-aways, and that is only just to compete with a national change so we can stay in business. What next, the pharmacies?

Well, do not worry, because the chains have applied for it and they trying very hard to get the pharmacies in their own supermarkets. Then when all other individual businesses are wiped out, will the chains continue to discount the magazines, the cooked chickens, the fruit and vegetables and so on. I do not think so. Then, when we are forced to shop in the four mega malls of Canberra or the four or five maybe group town centres - the ones that might survive because they have a large capital behind them - then, we will realise and say, "Wow, I should have really supported my local suburban shop."

I congratulate the Minister for Business, Tony De Domenico and John Hyndes for realising the problems within the local suburban centres and holding this inquiry. Regulated hours must start now and as my daughter says, "Now, now, now", not three or six months time. The longer we wait, the more shops will close. Last week a supermarket in Chifley closed down. Two weeks before that, Farrar, a week before that, Aranda, Macquarie, Fadden. You know, how can we keep on going? And it is estimated that six to maybe ten more local suburban supermarkets will close by Christmas or the end of this year.

Choices, sure, we all want choices. We all want to have the choice to shop whenever we want and wherever we want. But, will there be a choice, in two or three years time

when we only have a few malls to go and shop with. I do not think we will have the choice then because as somebody else mentioned, there will be a problem with parking, there will be hassles of getting in and out of there. So, we will not have a choice. When there is only a few of them left, they themselves will regulate the hours, the prices, and there will be no convenience to you, let me assure you of that. That will be your choice. Retail World in February this year - it is a magazine for supermarkets - quoted about Franklins Big Fresh where it is sucking out of the state of Queensland, one and a half - sorry, \$150 million per annum from the total grocery market. And that is what these national chains are doing. They are sucking out the money out of our Territory. If we talk deregulation, why do not we deregulate all the way? Why cannot I go and register my car at 10 o'clock at night? Why cannot I go and complain about my rates at 11 o'clock at night? Every time we try to go and register our car, we have to be there before 3.45 pm. You try and talk to a Government department that closes at 4.51 pm. Regulation is required. The TV industry is regulated so they can - because they have to show - have at least 60 per cent of Australian content to protect their industry. There is so many regulations to protect our local industry in Australia, well, we need it for our small businesses as well. Most other states have regulation to protect the small traders. Why do not we have some? In South Australia, and I will read very quickly. In April, Westfield wanted to open a shopping centre on a Sunday to raise money for a charity. But the South Australian Industrial Affairs Minister told Westfield it could not be granted an exemption to trade on Sunday because the State's laws were designed to protect the weekend trade of small businesses. Well why cannot we have it in the ACT as well?

Local Canberra supermarkets are owned and run by Canberrans, employing Canberrans and returning profits to their neighbourhoods. When the local supermarket goes the whole economy of the ACT is affected. Staff is laid off, suppliers sell less goods, delivery drivers are put off, advertisers, even the ACT revenue and our tax offices lose out, because a good example is when the Fadden shopping centre closed down its land rates - the unimproved capital value was \$500,000, so rates and land tax was paid on \$500,000. But after the building went broke and the supermarket went out, it was devalued to \$250,000. Well, you know, is not our local government and our local budget economy suffering if all the local shopping centres were to be devalued in dollars? So the people in Canberra will lose out. Therefore, to balance the budget guess who will have to pay the higher taxes? Every one of us here.

Why are we letting Woolworths, Coles, Lend Lease and Westfield and so on get so big and control our Territory? They may have the dollars but the dollars do not stay here in Canberra. Yet we are scared of them and let them control our economy, yet they do not even vote here in Canberra. Sure, many suburban supermarkets look tired and need cleaning up and this will happen when the property owners and business people have confidence in their investment - have confidence and they know that their investment will pay off when hours are regulated. Most of the supermarkets in Canberra have been going and the owners have been in existence for more than five years, so it is not a matter of just new people starting up a business and going broke. Thank you very much.

**THE CHAIRMAN:** Our next speaker is Eric Koundouris from the Property Owners Association.

MR KOUNDOURIS: Mr Hyndes, ladies and gentlemen, I am speaker number 15 and it has not left much of the topic for me to discuss or offer any new suggestions. However, I will attempt to disregard my notes as much as possible and give you examples of what I call the unfair playing field. In a very short period of time I will try and summarise the problems facing retailers - and everybody has forgotten the small property owners that I represent - and make some recommendations to rectify or reduce the problem. The fact that we are having the inquiry is proof that we have a problem. It is a fact that Canberra has a substantial oversupply of retail space and an oversupply of malls or original centres, two to three in excess of what is required. In Sydney the catchment area for one of these malls is something like 300,000 people. That is the whole of Canberra, one regional centre. Here we have four. These centres or malls were built to service the town centres like Belconnen, Tuggeranong, Woden and the city. If you go back to the original leasehold, or original Crown lease, I should say, you will find over a period of time that the area in some cases has doubled, in fact might have gone even higher than that. Our Association has attempted to obtain details of this area and has been so far very unsuccessful. In the early days these malls served a purpose. It was a concept that the marketplace wanted, that the consumer wanted, it was cleverly marketed. Those of you who recall the original Monaro Mall in the city, in that mall there were two department stores, of memory, and a few specialty stores and between them they catered well for the community. Today, that same centre has grown and the planners totally ignored the surrounding shops of Civic. Instead of growing, let us say, north towards Garema Place, it grew south at the peril of the people in Garema Place because there are shops that are also suffering, not only the suburbs.

The inventors of the concept of what is now known as the regional or the mall are very clever. They employ high expertise and they are able to put their cases well to politicians, planners, etcetera, etcetera. And the concept I do not object to, but I object to it when it starts to grow and get out of control. If we visit today's mall, you will find that not only the products have increased substantially, but they have been duplicated and in some cases they have come up in triplicate. I will give you an example of a card shop years ago was in the Monaro Mall. There was also cards in David Jones, of memory. Today David Jones has cards, Grace Bros has cards, there is a card shop, Target has cards, the supermarket has cards. I think the consumer is well served.

But when it gets to a stage where those three or four malls alone equal more than one square metre per person, you have got to ask yourselves where are we going? I am not suggesting for a moment that these malls should close or be reduced in their trading hours. But I think the happy medium for the consumer and the community and the economy, etcetera, is the happy combination of the suburbs and these malls. You cannot keep going the way we are. It is just too much space for the population that we have. We seem to have lost all reason and have thrown our calculators away when we have 300,000 and we have four regional centres and I do not know how many group centres, etcetera, etcetera. The single main reason, in my view and my Association's view, is that we have too much retail space and we should first try to address that problem.

We all know that these malls have not really changed but, as I said earlier, they are able to sell their concept very well at the expense of the smaller centres. It is time - and my five minutes are probably up, but I will make some suggestions and give some examples of what I said earlier are inequities in the system. The expansion of the malls should cease immediately until the catch up of genuine population. The proper authority should cease to make dramatic changes to planning to accommodate the needs of large chains and corporations who move in and out of this city. I give you an example of Manuka. It is mooted by the planners that the car park opposite Woolworths be converted into another supermarket. Tell me why does Manuka need another supermarket? It is well served by Griffith, Red Hill, Deakin, Yarralumla. The population in the area is not growing and Manuka has been called by some the Double Bay of Canberra and has some special character about it, and here we are trying to seek a way to destroy it; to convert it to another Dickson perhaps, where there is one huge operator - national operator - and empty shops all around it.

Secondly, if we go to Tuggeranong, Condor is soon to be released on the market place. Condor should be no different to the centres that exist in Chisholm, Wanniasa and those groups centres. They have the same population, and give or take a few metres should be no different. This does not preclude Woolworths or Big Fresh or anybody else to go along and bid for that site. But why should we change the size of a centre to accommodate a particular chain. If the site does not suit, then they should move to the ones that suit them.

For some small local centres I believe it is already too late. We should assist them by converting their use to something suitable to the community, and the department and the government should make that transition easy, with minimal cost, if no cost at all. We should try to preserve our suburban shopping centres by putting some order into the trading hours. I am not suggesting for one moment that some should trade and others none at all; but I think in the end we have got to find the happy medium between the two and address the over-supply problem.

Try to correct the imbalance in the market place, because that is what is happening at the moment, by adjusting the trading hours to save small centres because they provide a very valuable service to the community, they keep the big boys, so to speak, honest, they avoid monopolies emerging in our community and, above all, they provide a service to the under-privileged, the elderly and to the public a very real choice. Thank you.

**THE CHAIRMAN:** I now call on Eric De Landelles from ACTCOSS.

**MR DE LANDELLES:** Thanks, John. I guess it is of little surprise to me, looking at the crowd that is still here this evening, for anyone who is prepared to sit and listen to 15 or 16 people go on, then obviously you people reckon there is something worth fighting for and I think that in itself says a lot about your fortitude. But I am reminded, having listened to the 15 or 16 people who preceded me, of the J.T. Lang quote - I do not know whether many people in this room were aware of J.T. Lang, but he was the premier of New South Wales during the depression - and J.T. Lang said, "In the race of human life, always back self interest because you know you are on a goer."

Quite frankly, the 15 or 16 people who preceded me this evening in their own way of course were looking after their own self interest, and that is what human nature is all about. So, I am not in the process of denigrating them; in fact, I am here to push the barrow for the people who I represent. For those of you who do not know what ACTCOSS is, it is the ACT Council of Social Services, and that is the organisation - it is the peak body which looks after welfare groups in this town and, as a consequence of that, the major areas of emphasis that we look to is to the social justice perspective.

Particularly, that is the access and equity viewpoint for those in our community who are disadvantaged, and we all know that there are a lot of those. Obviously in the time that is allotted I cannot go through all the terms of reference, I am not going to try to. Instead I will concentrate on the main social aspects of neighbourhood shopping centres as ACTCOSS sees them. What I have to say is therefore primarily focused on the first and second terms of reference, but I will touch on some other matters. Obviously the impact of existing trading hours has been great.

Extended trading hours, while offering convenience of access to those who are able to utilise the extended shopping hours - but there has also been a reduced viability of the smaller centres, and the impact of this includes reducing the access for those who are forced to travel greater distances for essential goods and services, reducing choice and diversity of products and services available through the monopolistic effects of large, dominant retailers, forcing people with specialised needs into greater inconvenience where previously personal contact with small shop owners would have been sufficient to access their specific needs.

I think probably there is no greater example of that than the closure of our pharmacies that have taken place throughout the smaller shopping centres in the last five years, although one must admit that that was largely due to a federal government initiative. The economic impact also needs some close analysis. Whilst larger retailers are visibly large employers, there is a need for a comparative analysis as to whether the employment levels are higher in decentralised or centralised retail systems. Presumably economies of scale will also mean fewer employees per dollar of profit.

Larger retailers are not necessarily interested in providing the same level of service as smaller retailers. such as might be measured, for example - and I am sure we have all seen it from time to time - by the queues that exist in these larger shops, and the staffing models are based often on the minimal level of service, not the maximum level of service. The benefits of profits being made locally by locally-owned businesses are of great community importance and, indeed, the profits gleaned by multi-nationals and nationals who have no real commitment to the members of the local community, their profits are not kept locally. Other speakers - in fact, the gentleman from Ainslie - mentioned about five minutes ago the sponsorships that local community groups receive from core locally owned businesses. They do not receive sponsorships that are owned in Sydney or Melbourne or, in the case of Franklins, in Hong Kong.

I mean how many people realise that Franklins is owned by the Hong Kong Dairy Company, not an Australian company, the Hong Kong Dairy Company. The social importance of local centres. Local centres have the potential to provide a source of community identity, a sense of belonging. For example, they are a local focus for non

retail activities such as community arts, fairs, stalls, information centres, etcetera. They provide an informal meeting place for establishing personal relationships with small retailers and those personal relationships just are not possible for people to have in these larger malls.

It is not the fault of the mall per se or the people that work there per se, it is just that the way the system works that personal relationship just cannot take place. Local centres perform an integrative role for the more marginalised in society, the sort of people that my organisation represents. The sort of people I am talking about are the low income, the elderly, the disabled, the unemployed single parents and they are out there in society. People from outside Canberra often do not realise the depth of unemployment and disadvantage that there is in this town because it is very well hidden. Because we do not have the main streets like we have in Queanbeyan, but it is out there, believe me, it is out there. You ask the people from St Vincent de Paul's or from the Salvation Army or from very similar organisations and it is out there.

So, these people do not have equal access to transport resources and they also may have disabilities which prevent them from getting to these sorts of facilities. The loss of the local centre and the consequent loss of community identity has serious implications for the future of that locality. A sense of identity sustains a community through a range of circumstances and pressures. To lose that identity threatens more than just the local economy. It has a lasting impact on the people's whose lives are inextricably linked with that local area.

Whilst I am not suggesting that what I am now about to say is a total panacea to the problems associated with small centres may I suggest that there is a need to redevelop many of the very small centres and to incorporate into that redevelopment a modern convenience store which would be able to service the requirements of the people who neither have the ability nor the inclination to travel to those big malls. Canberra has changed since the days our town planners designed our neighbourhood schools and our neighbourhood shopping centres. Maybe we need to change the way we are looking at this problem. I thank you for your time.

**THE CHAIRMAN:** I now call on Gary Dellar from the ACT Community Advisory Council.

**MR DELLAR:** Thank you, Mr Hyndes. The ACT Consumer Affairs Advisory Committee is a group of people appointed by the Minister for Consumer Affairs to advise him, recently it is Gary Humphries, on matters of relevance to consumers and what the attitude of consumers might be to various things that governments might be doing. I am very pleased to have this opportunity to speak to you all tonight. I think I am probably the last person on the list to put a consumer's perspective to you. Broadly, it has already been put by others, but the consumer's interests that the committee represents and certainly it would be the advice that I think our committee would be giving to the government is that we would not support any trading hours legislation in the Territory that was out of line with consumer demand.

We believe - I believe that having - looking at the history of the present legislation which was introduced in 1962 that effectively that legislation became enforceable in the

early 1970s and has been unenforceable ever since. I remember in the 1970s and others might also their attempts, I believe, promoted by the union, Mr William's union I believe, to have stores prosecuted at that time. I might just remind people what trading hours legislation means, it means that while at the 10 minutes to the hour to sell a loaf of bread or a washing machine or anything is a perfectly legitimate, honest, commercial activity at 10 minutes past the hour it is a crime. The attempts to enforce this in the 1970s lead to a couple of results - - -

MR RAYNER: Early 80s.

MR DELLAR: Well, I would dispute but anyway I do not think the time period is critical, I think the principle is sound, that is there was considerable sympathy in the courts for people who were prosecuted because these people were essentially honest people, they were not criminals. The penalties were low and indeed the prosecution were often unsuccessful. It did not happen here but interstate where prosecutions were successful some people, again honest traders, martyred themselves by simply refusing to pay the fines and went to prison for non-payment.

That engendered a tremendous public sympathy for them because it was clear and the media immediately focused on it that these were people doing no more than selling ordinary household goods to people who wanted to buy them. You only have to have a certain amount of that before governments give up and the governments gave up and the government has given up - and again governments of all persuasions have given up in this Territory for a considerable time.

So if you think that somehow - I am not sure whether you believe the figures or the statistics about changing consumer demand. But if you believe that restricted trading hours legislation will work to change the pattern of consumer demand to your advantage - and I think that some people seem to think that consumers would readily accept this. They might initially but the pressure eventually builds up and all it requires is someone to defy it. And traditionally the ...(indistinct)... trading hours legislation have been small business because they can see a dollar in opening a bit longer. Eventually the pattern recurs and it just is given up and so we end up back where we are. I am just putting that forward to suggest that trading hours legislation may not be the panacea that you think it is.

I do not think you can change the pattern of consumer demand. Life is very different in 1995 than it was in 1962 when this legislation came in. I think that anything that is done about trading hours - and I think that there is trading hours legislation that the community would accept but it must be carefully done so that it is not out of line with present patterns so that consumer resentment does not build up and the incentive is then given to people to break it in order to meet a demand. It must also not stifle changing patterns of consumer demand. The world is changing so quickly and people - their pattern of what they want to buy, how they want to spend their dollar is changing so quickly that if you try and stop it all and set it in concrete now I think that within a much shorter time frame than the present legislation it is doomed to fail.

People who spend money or invest in reliance on that legislation working I think are likely to be very disappointed. So I think that there is some - in my belief some

community support for perhaps modifications to the legislation but I do not think it is such support that - a support that would lead to any dramatic modification of it and I do not think it is a support that would lead to such a modification as many people here would want. Having said that, that is just my view of trading hours. I am not disputing the vital place and the vital function of community shopping centres in this town. I think they are terribly important and the previous speaker has put it very well. I would hate to see them gone and I think many consumers would hate to see them gone because, I think, many consumers are loyal to their local shopping centres and would prefer to shop their many times and even pay a little more. But I do not think that loyalty is likely to be, if you like, strengthened by having legislation which is going to inconvenience consumers or cause them any great degree of resentment. Thank you.

**THE CHAIRMAN:** I now call on Harold Ganter, Mall tenant, Canberra Centre.

**HAROLD GANTER:** "And on the seventh day God ended his work which he had made and he rested on the seventh day from all his work. And God blessed the seventh day and sanctified it." It was obvious that God was not a small businessman in retailing or he would have been doing his accounts and trying to share some quality time with his family friends and planning the next weeks agenda. I am Harold Ganter and my family have been involved in retailing in Canberra since 1941. I started in our family business 34 years ago at the age of 16 in our Kingston Store and then the Monaro Mall which is now the Canberra Centre.

In all these years I have seen many small traders come and go, many squeezed out by the extended trading hours, larger department stores and high rents, and landlords, and the changing of purposes clauses in the shopping centres like Kingston, Manuka, Southlands etcetera by allowing banking, real estate agents, credit unions, to take up prime retail space when there was plenty of office accommodation vacant in areas that were planned to accommodate these types of businesses. These small operators added character and a variety in shopping that the chain stores cannot match. Because of the constraints of time I would like to just list some of the disadvantages in extended trading hours. This does not include the products that are exempt from trading such as essential goods, hardware, gardening, plants, ..... , newsagents and the likes, so that the public are not disadvantaged.

I have observed that Sunday trading is done mostly in department stores and chain stores in the shopping complexes that can afford to stay open because of the size of their staff that can be fairly rostered. Small retailers cannot afford extra costs and the quality of casual staff cannot give the normal service that small stores pride themselves on. It is not self-service take it to the cash register have a nice day sort of service but product and customer knowledge and a genuine interest in your customers needs.

It is not viable for me to come in and open my shop on Sunday when we do not get a return for our efforts. The costs involved with opening the shop far exceed the returns and these costs had to be passed on to the customer and in these economic times the customers cannot afford it. This increased financial burden will be passed onto my customers that shop through the week and for an individual trader like myself it makes it harder to compete against the chains who do not have the high ratio of staff for goods and services offered or the high rents.

We have been trading as a small business for almost 40 years and as the money is generated in my store it stays in our community, helping local charity, local business, local industry, local schools, local employment, local fetes, local arts and the Canberra community as a whole. I am proud to say that I have been recognised by the Australian Wool Secretariat as being one of the few traders that support the local and Australian wool industry. Most of the profits that department stores and chains generate leave Canberra, and even Australia, not helping our community at all.

Shopping complexes are hell bent on destroying local suburban centres. The larger centres are introducing leases that include Sunday trading as core trading hours and because of this the small retailer in complexes are forced to pay operating expenses for the Sunday, even though it is illegal for shops to sell that are not exempt goods for sale. This is an example of the malls and the department stores exploiting the smaller trader who has to foot the bill for their greed. Now, the local area for a tourist zone, the validity of developing a special tourism zone in the city is ludicrous. I read last week that Canberra is likened to the design of a horse by a committee. It has turned out to be a camel, not a horse.

If a tourism zone is to be generated it should be done in the Kingston foreshores area that can be properly planned for the purpose and policed for all to enjoy and let run wild like we are experiencing in Civic and Manuka at the present time. I would like to thank the committee for giving me the opportunity to speak, and in conclusion I would like to say that when it is all boiled down, I hope the Government has the political will to prosecute companies and businesses that break the trading laws. Conclusion: I love retailing in Canberra and relish the opportunity to give my customers service.

**THE CHAIRMAN:** Chris Burlo, Meat and Allied Trades Federation of Australia.

**MR BURLO:** Good evening. Good evening, Mr Hyndes and good evening, ladies and gentlemen. My name is Chris Burlo. I am from the Meat and Allied Trades Federation and I represent the meat retailers in Canberra. I spend the majority of my day actually in discussion with my members trying to keep them - or give them some form of incentive to stay in business. One of the things that I get from the members is that there is certainly a fair degree of uncertainty in the market at the moment.

If we look at - funny enough, I was actually looking at a magazine called - well, BRW, and it talks about the top 50 hot spots for business investment through Australia. And they list - they give the top 50 hot spots and what is interesting is not one of those hot spots comes from the ACT area. And I think that is probably because of this uncertainty which is brought about by the lack of retail trading hours in Canberra. The biggest problem confronting the small business retailer in the ACT is that they are confronted with the situation where, on the one hand they have a highly deregulatory environment in which to operate, and that is lack of trading hours.

While, on the other hand, they have a highly regulated regime which is the industrial relations side of things. Now, basically what that does for the small business retailer is that it puts him in a straight jacket because they are obviously forced to pay overtime penalty rates, and the only losers really are, with no trading hours, or no regulation in

the trading hours, is the actual - the retailers themselves, their staff. They are working long hours. But they are not the only ones suffering. Their families are suffering as well, and the petition that was recently signed with 35,000 votes shows you just how big that side of the community is.

The other thing that I would also like to say is although total deregulation of trading hours may be appropriate in an economy like the US with 250 million people, one has to ask themselves is the same type of deregulation appropriate in an area like the ACT with only 303,000 people. So, in Canberra at the moment there is little incentive for the business man to invest in his business. Without any regulation there is no certainty about future direction of the industry. I think one of the main reasons that we are all here tonight is that we are asking government to put that certainty back into the equation.

With more certainty we will immediately start to see retailers, and for that matter, business both big and small starting to reinvest and you will see employment levels starting to rise, particularly in youth employment. At first we may believe that extended trading hours would lead to greater consumption, while I cannot for other sectors of the economy, this is clearly not the case with the meat retailing industry. No more meat is sold today than was sold five years ago, but what is certain however, in the meat retailing industry, is that the meat that is sold today is sold at a far greater cost than it was five years ago. And that higher cost is borne by the society.

Retailers are closing shops, staff are being laid off, social security queues are getting longer. Over the last decade the number of meat retailers that have declined in Canberra - our membership has declined by 46 per cent. Five years ago there were 100 meat retailers, independent meat retailers, in the ACT. Over the last five to four years, 45 have closed doors. But the actual small retailers that you see out there in the market at the moment that is an illusion. I can tell you right now that there is probably a wide, a large number of people or small retailers out there sitting in the audience tonight who are just waiting for their leases to expire, they are not going to renew them. They are just sitting in and waiting it out.

One of my roles is to visit members and I would say that 95 per cent of the time it is the lack of trading hours which is cited as the main reason for having no objection but to lay off staff or for being too scared and uncertain to reinvest in their businesses or to take on new staff when needed. What concerns me is the fact that once these leases expire we are going to suddenly see the whole retail or the small business retail sector in the ACT starting to collapse like a house of cards, only time will tell.

When we also look at the rate of the decline and when I talk about this decline I have been speaking to other associations, it seems like the rate of decline in those associations is similar. I shudder to think what it is going to be like in another five years from now. But let us surmise quickly on what the scenario could be like. First of all there is a good probability that you could have a geopolistic or oligopolistic situation developing where everyone would only be able to buy at a few major stores only with little choice of range of product. Without any commission or without any competition, whose is going to keep the big buys in check?

What incentive is there going to be to keep prices low? Who is going to eventually pay for that? It will be the ACT consumer. All ACT residents will have to commute to these larger centres. Who is going then pay for the additional infrastructure required? The ACT taxpayer. Longer unemployment queues, who is going to pay for that? The ACT taxpayer. But probably the most worrying thing of all is the oligopolistic situation that is actually happening today. Can the economy, can the community actually afford such a situation arising?

I think it is also important though to add that when I was at the meeting of the Canberra and Small Business it was really interesting to note that the small business retailer is not scared of competition. And they are prepared to work long and hard hours. What they want is they want more certainty. Without certainty they are not going to invest in their businesses and they see, and they are looking at the government to give them that certainty. That is one of their major roles.

You probably find that even some of the larger places, even the large supermarkets would love to only be operating 10, 12 hours a day. But as long as there is no rules there, there will always be the incentive of somebody to go over and try and try and trade and go to the ridiculous, which is 24 hours trading. So this is the situation that, and this is what the meat retailers are asking the government, is to seriously look at the situation. If you can bring more certainty back into the public, into the whole retail environment you are going to get a lot of the small business retailers actually prepared to invest in their actual businesses. But until there is certainty there none of the small retailers are going to invest. Thank you.

**THE CHAIRMAN:** Can I call on Desiree Campbell from the Hughes Community Precinct?

**MS CAMPBELL:** Thank you, Mr Hyndes, ladies and gentlemen. I am here to talk to you on behalf of the Hughes Shops Precinct Community Group. The group was established in December 1994 by city management in the Department of Urban Services as part of a pilot scheme to upgrade local shopping centres. The aim of the precinct group is to provide community input to city management concerning the refurbishment and maintenance of the Hughes shops and surrounding public areas under the control of the Department of Urban Services. O'Connor and Narrabundah are also participants in the scheme.

The essential task of our precinct group was to make recommendations to city management regarding renovation of the Hughes shops. In the event we drew up a master plan for refurbishing and landscaping not only to Hughes shops but the adjacent Hughes Park which is often confused for a rather large round about. What I would particularly like to draw to the attention of this review of trading hours is the key considerations which underpinned our master plan. A major consideration deciding how the shops should be renovated was what we expected the shopping centre's role to be in 10 to 15 years time.

The group took as given that extended trading hours were here to stay. That is, seven days a week, 10 hours per day or longer and that suburban shopping centres had to evolve to accommodate this change. The group also concluded that the shopping

centre was still a focal point within the local community and had a valuable role to play in establishing and maintaining a sense of community spirit. So starting from the position that change in the retail sector was inevitable and being driven by strong economic pressures, we tried to anticipate what changes were most likely to occur and how we could best position our local shopping centre to take maximum advantage of them.

Hughes is a small, poorly designed and badly positioned shopping centre. It has four retail shops, a fast food take-away, a chemist, a baker and food town and four service outlets, post office, a hairdresser, video shop and real estate office. Its decor is 1960s, drab, dull and boring. Dark brown brick, flat metal roof, black and concrete pavements and an amazing high maintenance fountain with an electric fascination for dogs and children. Its two minutes from Woden town centre and the Curtin shops which has a 24 hour Coles supermarket. Garra and Deakin Shopping Centres are just up the road. Its catchment area is small and its competition considerable.

We determine that if our shopping centre was to survive and prosper it would need to be renovated so that it attracted a more flexible and vital range of business to the area over the coming years. We saw the Food Town shop as something of a dinosaur. Its too expensive, its too big, it takes up four potential shop fronts and is patronaged largely for its convenience, bread, milk, confectionary and such like rather than for the weekly shop. Quite frankly, we did not see its surviving in its present form for much longer. The real draw card and life saver for the shopping centre was the establishment some two years ago of a baker-cum-coffee shop. The baker attracts not only local business but draws a large clientele from all over Canberra including from the Woden Valley Hospital.

More importantly, his presence engage his local residents to stop, sit and socialise. In response to demand, he changed his trading hours from five days a week to seven day trading. And this was how the precinct group saw the future of the Hughes shops evolving into a largely recreational venue which would still be the focus of the local community. A mini Manuka or Yarralumla shopping centre with a number of specialty or niche shops underpinned by restaurants or cafes. Accordingly, our master plan, which has the support of both local traders and the community, renovates the public areas of the shopping centre to encourage a more outdoor eating, cafe and entertainment type developments while not detracting from any of the current retail activities.

But creating an environment which facilitates change will not guarantee the survival of local shopping centres. A major obstacle to the successful restructuring of shopping centres is the current lease purpose classification system which distinguishes between retail and personal services. Half of the Hughes shopping centre is classified as personal services and is therefore excluded from retail activities. Our grand vision of the future is hindered unless a potential lessee is prepared to take the time and effort to seek a variation to the lease purpose.

Accordingly, we ask this review to note the detrimental effect that the current lease purpose arrangements have on the economic viability of shopping centres and seek your assistance in having ACT Planning Authority review the ACT Territory Plan with

a view to combining and broadening the current lease purpose descriptions applying to suburban shopping centres into a single classification. Thank you for your time.

THE CHAIRMAN. Next is Paul Monagle from CONFACT.

MR MONAGLE: Thank you, Mr Chairman. The Confederation of ACT Industry, if many of you are not aware, represents employers and businesses across all industries in the ACT. We represent many of the pharmacies, many of the hairdressers, many of the bakeries, the fast food outlets, David Jones, Woolworths and many, many others. So, we have a very broad spectrum of membership. Therefore, we thought the best thing for us to do was to facilitate the opportunities for our members to have input into this review.

We provided them all with a copy of the terms of reference. We then surveyed them all, over 300 members. And I will just share with you the outcome of those surveys, and I think you will find these 300 odd businesses came out with the sort of views that many of you have put forward tonight. Most of them were aware of the review. Most of them, however, said that - 93 per cent actually said that the present trading arrangements suit them. They were then asked, did they support deregulation and 54 per cent said no.

They were then asked, what changes would they like to see. And in relation to 24 hours trading, 15 per cent they did not want that, 22 per cent said they did not want any Sunday trading. Restricted trading hours for large centres, 24 per cent. Flexibility opening hours, only 5, changes to late night shopping to Thursday night, 3 per cent. Delay opening times to 9.30 am. Other suggestions included late night trading on Thursday for suburban areas and Friday for the town centres. Trading on Thursday and Friday until 7 pm only, centres open Monday until Friday until 7 pm, Saturday to 4 pm and closed on Sundays.

If I was a betting man, I think that as their registered organisation representing employers in this town, I think I will be having some negotiations with Mr Williams from the union at the conclusion of this report and recommendations to Government. Of course, we should bear in mind that whatever the Government may wish to do and whatever the Committee may recommend, has to find its way through a Assembly in which the Government does not have the numbers. So, the views of the Greens and the Labor Party and independents are important and should not be forgotten in this process.

We say that small business contributes significantly to the economy and that some assistance should be provided to small business people and some assistance from Government. Certainly, the workforce is very well regulated and its rights are recognised and have been recognised for many, many years. We think that many small businesses are not much stronger than the employees that they employ and therefore they should also attract some tension and some assistance from Government. But, we do recognise that businesses have to be attractive to the consumer to survive, and it is great to hear some of the suggestions from some of the small centres about the things they are doing. And those initiatives will ensure that those businesses would survive, and obviously we need more of those sort of approaches. A large number of

respondents suggested that the centres, the shopping malls, should be restricted to closing at 6 pm Monday to Thursday and 9 pm Friday, 4 pm Saturday and closed on Sunday. There was a lot of support for closing on Sundays.

As I said earlier, there was no support for 24 hour trading. Many argued that the long hours are long enough as it is and a lot of owners were obliged to work seven days with little rest. We care about our workers, but I think we need to care about the many entrepreneurial small businesses in this town that are also entitled to their rest. This situation was exacerbated by the economic conditions, they said, with lower trading figures preventing the employment of staff to cover the hours. Many owners take home less income than their employees. That might say something about the future of their business. That may be a temporary arrangement in some businesses. Surely they cannot survive for long like that, but it is a fact that does occur.

There was strong sentiment about the need to preserve suburban shops; particularly the chemist, the mini-mart, the newsagent and other businesses. Respondents felt that small businesses in suburban locations should be helped to remain viable, resulting in job security and more employment opportunities. There are figures out there that show that small business is the biggest employer in the country and has the most capacity to employ increasing numbers of people if they are given some support and some recognition of their needs by governments.

There was almost a unanimous view that the demise of the suburban centres would be a loss to the community, as other speakers have mentioned. The consequence of having four big centres would focus retail activity in the hands of a chosen few. Perhaps some of these problems come back to our planning laws. More significantly, the control of retail space would be vested in national landlords, with potential for cartel-like practices. In conclusion, there was only nominal support for total deregulation of trading hours. Someone mentioned enterprise bargaining. Enterprise bargaining, in my view, is largely irrelevant to small business.

Certainly penalty rates are a problem, but enterprise bargaining is for those who can afford it, and most small business in Canberra cannot afford enterprise bargaining; it costs you money to get an agreement, it costs you money to encourage your employees and their union to agree to it, and many are flexible enough already. There was general consensus that retail trading hours should be varied as between the major centres and the suburban shops so that the viability was less threatened. And that is a summation of the views of the members that we have surveyed. Thank you very much.

**THE CHAIR:** I now call on Tony Dimasi from Jebb Holland Dimasi, Melbourne.

**MR DIMASI:** Mr Hyndes, members of the committee, ladies and gentlemen, my name is Tony Dimasi. I am a consultant to the retail industry, and I would like to put a brief submission on behalf of Westfield Limited. Westfield believes that the interests of consumers, merchants and investors are best served by a coherent and rational approach to retail trading hours. I would like to draw the committee's attention to the Hilmer report on national competition policy. Any move to reintroduce a more regulated trading hours regime would discourage competition and fly in the face of agreed objectives set by Commonwealth and state governments.

The economic health and well being of local centres in Canberra is certainly a desirable goal, and anybody involved in any way with the retail industry likes to see a vibrant industry across the board. However, Westfield strongly submits that trading hours legislation is an entirely inappropriate instrument for the stated purpose of keeping local centres alive. Regulation of shopping hours favouring one particular set of retail centres over another, apart from causing unnecessary inconvenience to consumers by restricting choice and location of available shopping, would not guarantee the well being of local centres or the retail businesses within them.

It would be asking Canberra consumers to forego choice and convenience at selected times of the week in the hope that this may somehow improve the retail offer of existing local centres. Such a move, far from assisting local centres, in the long term could further assist in their long term decline since it would help to camouflage what may be the real issues in the long term performance of Canberra's local centres; namely, the total retail amenity which they are able to offer in competition with the larger centres to Canberra's residents.

Westfield believes the overwhelming majority of Canberra residents favour a more liberal approach to retail trading hours, and that any move to reintroduce greater regulation would run counter to the public interest. Surveys and spending patterns show there is strong consumer demand for flexible shopping hours, due mainly to the societal changes and changing consumer habits of Australians. There is now a high percentage of double income dependent families and an increasing number of working single parent families, as well as greater mobility through increasing ownership of motor vehicles.

Time is often a limited commodity for many consumers, hence the move by many Australian governments and state governments to introduce more flexible trading hours and by retailers who have met this consumer demand is simply a reflection of what should always be uppermost in the minds of any planned changes to government regulations; namely, that any such changes should be in the public interest and that they should seek to benefit the consumers at large, rather than any particular sectional interests.

At Westfield Shopping Town, Belconnen, for example, the Woolworths supermarket now records almost one third of its sales after 5 pm, as does the Coles store. These figures confirm the experience in most other states which indicate that today's consumers require, and indeed demand, flexible trading hours from their retail stores. The focus on small business in local centres neglects to pay any regard to the interests of small business involved in larger or major centres. This applies, for example, to the ownership of small centres versus large centres. The owners of Belconnen Centre are Westfield Trust and Commonwealth Funds Management, both of whom represent thousands of small investors.

The Westfield Trust, for example, has over 32,000 unit holders; while the Canberra-based CFM manages the superannuation funds of members of the Commonwealth Public Service. Within the constraints of an overall planning strategy for the ACT, competition between different shopping centres fosters diversity and success for those

business that adapt to changing market conditions. Juggling retail trading hours in preferential or discriminatory ways is untenable. Ultimately it creates artificially imposed and unnecessary inconvenience to the consumer, but, most importantly, it is not enough to guarantee the success of small business which it seeks to protect in this manner.

The consumers should be directly asked whether they are prepared to forego flexibility in choice of shopping location and environment in an attempt to protect selected shopping areas in this manner. If Canberra residents do not want flexible trading hours then those centres which seek to provide them will not be better serving the Canberra population and, hence, will not be able to prove their performance. If Canberra residents do want extended trading hours then the question which must be asked is, who has the right and for what reason to dictate in which particular retail stores people can or cannot spend their retail dollars during different times of the week?

Flexible trading hours generate increases in retail employment. Many studies have shown that at a broad level there is no argument that extended or flexible retail hours reduce retail employment, rather, they tend to increase it. The following editorial comment published in the Canberra Times on 28 September 1995, just a month or two ago, is a salutary reminder to those who would impose ever increasing amounts of government intervention on the manner in which Canberra consumers can organise their daily lives:

Perhaps a lesson for Canberra is that heavy government intervention through planning and regulation might have worked for a brief time two decades ago, but it has left an unfortunate legacy. It would be folly to repeat past mistakes with too much government regulation and better to allow traders and shoppers to make their own judgments about present and future needs and opportunities in an environment that allows easy adaptation and therefore survival.

Thank you.

THE CHAIRMAN: I now call on Graeme Evans from the Belconnen Community Council.

MR EVANS: Thank you, Mr Hyndes. My name is Graeme Evans. I am President of the Belconnen Community Council. For many months Belconnen Community Council has been thinking about retailing in the ACT and about what might be done. We have arrived at conclusions we believe are highly useful although because of their difficulty they have not yet been part of mainstream discussion. They are genuinely difficult to handle. We recognise that. We know that. We accept that. But we respond by saying that if implementation is difficult that is grounds for trying harder and for trying earlier. It is not grounds for backing off or for putting things in the too hard tray as the community has done to this point.

The Belconnen Community Council is deeply concerned by what is happening within retailing in the ACT and by what is, as a result, happening to the notion of the neighbourhood and the local community. We are also highly conscious of the role of

small business in a local economy without large industry. We do not want to get too deeply involved in issues of retail trading hours because we believe they are not the only and possibly not the major factor involved. We are concerned instead with two factors that we believe are far more central and far more important than trading hours. Unfortunately, as I have said, they are also more difficult to address and we acknowledge this.

These factors are: first, the disadvantages small traders are at in terms of the rentals paid for retail premises and, second, the disadvantages small traders are at in terms of the prices at which they purchase the goods they sell. We believe a way must be found by which small traders and large traders pay comparable amounts per square metre for the space they rent. How else can there be fair competition? We also believe that small traders and large traders should pay comparable prices when they purchase the goods they sell. We do not pretend that the process of doing this will be easy. It is, though, of fundamental importance and must be tackled.

Both of these would require new expectations and new patterns of thought on the part of suppliers, traders and governments and they would require new regulations also and that is pretty unfashionable nowadays. The question is not one of whether to have laws relating to the market place. It is one of which laws and of how they are to be framed in order to be effective. We must remember the "Garibaldi" meat scandal which reminded us that laws in the market place are very necessary things. There are ways and times when government intervention and supervision is required. This is already the case so we are not asking for anything new in substance.

What we are saying is that these two issues are further areas where well established general government roles in ensuring fair play and fair fight need to be applied. The well-being of small business and nothing less than the very survival of our neighbourhoods and sense of community depend on it. As we have said, the task will not be easy, but it must be tackled. Thank you.

**THE CHAIRMAN:** Ladies and gentlemen, that concludes the designated speakers and we now turn to question time if there is anything that you believe needs raising that has not been raised so far tonight. Would those asking questions please identify themselves and the organisation, if any, they represent and could they please name the person or organisation to whom they are directing the question.

**MR LOPAZ:** Thanks, Mr Hyndes. Paul Lopaz from Westfield. Just a quick question, John, what is the time frame for the review? I have had a lot of people ask me and I am not too sure myself.

**THE CHAIRMAN:** Yes. Thank you for that good question, Paul. You probably heard the minister speaking this morning, or this evening, sorry, about concurrent reviews being undertaken by the ACT government. One is this one, the other one is Ibecon which they are actively considering. Another one is a social impact survey which is being undertaken by the ACT Planning Authority. So, in essence, as the minister says, he is hopeful to have at least some form of interim report on each of those authorities to consider by mid-December and from then the government will proceed to undertake those deliberations. As you are aware, the social impact study

was part of my terms of reference, but there are specialists who have been appointed by ACT Planning Authority to carry out that task. Yes, Con.

**MR KOUNNAS:** My name is Costas Kounnas. I am a small businessman that owns a shall-shop here in Canberra. A little question to Tony Dimasi - I apologise if I did not catch his full name - he suggested that let the consumer demand dictate. That is great, the consumers are very important, we know that and we have got to satisfy their demands. But when the big multi-nationals end up destroying your little shops and your small businessman and your small centres, will they turn around and consider the small or the consumer demand when they have to answer to their shareholders? All they are interested in is making profits.

Once they have destroyed their opposition, they will do exactly like some of the big boys, and if you read down the bottom of some of their advertising, their specials, "Not open Sunday at Armidale, Cootamundra, Cowra, Dubbo" and so on. They will dictate the days they trade. They will not consider the consumer demand then, will they. They are only going to consider their shareholder's demand; forget the consumer. And that is why if the review does not put a submission controlling the trading hours, guess what - if the Government does not put down those trading hours, then your big multi-nationals will anyway. They will dictate the trading hours when they have got control.

**THE CHAIRMAN:** Con, thank you for that question, which appeared to be more of a statement of your opinion. I will throw it open to Mr Dimasi if he cares to answer, bearing in mind that Mr Dimasi was here to speak about Westfield Belconnen, not those organisations you were talking about.

**MR KOUNNAS:** They do house those organisations.

**MR DIMASI:** Mr Hyndes, Mr Kounnas, I think you said. Yes, you did get my name right, thanks and I think we will leave it as your statement. There is not much I can add to that.

**THE CHAIRMAN:** Norman.

**MR HENRY:** I wonder if I could ask a question, I think, of Mr Chris Mara, Coles/Myer. I think you can all hear me at the back, can you? The trouble with this thing, it starts to have hiccups or heart attacks. Mr Mara, you talked about consumer demand. This is something that has been bugging me, I think, ever since I entered the business fraternity some 60 years ago. I have never been able to determine what it is, but I wonder whether you really are on the right track here, because do you require 24 hour trading at low prices, to make up a \$33 million loss in the toy retailing industry which, of course, was probably done through consumer demand?

**MR MARA:** Thank you. Well, World 4 Kids is what you are referring to. I will answer the World 4 Kids one for your first if you like. Clearly, it is to compete against one of the deadly foreign nationals that you talk about.

MR HENRY: Yes, they are not dirty.

MR MARA: Well, you had your say, can you just let me answer your question. They have come to Australia and this is the first country in the world where a national body has actually competed and beaten a foreign, if you like, invader, if you want to call it that, at their own game. Now, the \$33 million loss that you are talking about is a capital loss. Clearly, if you are going to try and compete against a large foreign investor who is setting up a national chain around the country and you are trying to do it on the same terms, it does not come cheap, but we expect that capital investment to be breaking even over five years.

These things are not - as Manuel talked before, he invested \$1 million in his local supermarket. He did not expect to have that return in a year. He expected it to be returned over a long period of time.

MR .....: Have you been told to say that?

MR MARA: I have not been to lunch with him lately, I am sorry. In relation to consumer demand, your first point, can I just say this. As I mentioned, and other speakers have mentioned, a third of consumers are now shopping outside what are traditional or what were traditional shopping hours. That tells me that their demand has gone from the hours you are talking about, whether that is a Sunday or in the evening, depending on the sort of business it is, to another time of the day. Clearly, they are marching with their feet.

THE CHAIRMAN: We have just got a quick question from Chris Donoghue.

MR DONOGHUE: I just wanted to ask Coles why they were up here, would they be prepared to provide to the inquiry, on a public basis, their trading figures from each of their outlets since January 1990 in the ACT? Just to help the inquiry along, so we know what has happened to the sales from the suburban supermarkets.

MR .....: You want just Coles?

MR DONOGHUE: Well, Coles was up here speaking, that is why I am addressing the question to them. I do not know whether Woolworths are here. Is there anybody here from Woolworths tonight?

MR .....: Are you talking about just the supermarket?

MR DONOGHUE: Talking about supermarkets, yes.

THE CHAIRMAN: That gentleman there.

MR C. POULOS: Mr Hyndes, ladies and gentlemen, my name is Con Poulos, a small businessman, with a small "s" and a small "b". I have been in Canberra for 37 years operating. I bend my fingers, my arms and my legs, but I am not - I did not come here to speak for myself. Something which hurts me tonight, I hear a lot of speakers talking

about it tonight, but nobody is talking about Canberra. In here, it is a big sea, we call in Canberra, and that is what we are aiming at, not a small pettiness.

Now, the gentleman from the Chamber of Commerce is talking about how to operate. Now, I remember a few years ago, about 20 years ago actually, I had a fight with the Chamber of Commerce and I withdrew my membership, because the then secretary of the Chamber was the chairman of the Showground Trust, and he wanted to make money out of it. So he brought people from outside, getting the money from Canberra, and go away. What they spent, \$10 or \$20 a day, to hire a little hall out, take thousands of dollars and away they go.

They do not compete with us. If they compete with us they can have the same. I am not suggesting that we stop the consumers from shopping there, but what we need from them is to compete with us on equal levels. Let them pay the same thing. Let them have the sewerage and the grease traps and everything when they sell the hotdogs and everything there like we have to do it. They do not have to do it at all those things, they just take their money and away they go.

If the consumer demand, as we are all claiming here, the big shops, people talking about, yes, let them have it, but let the local produce have their markets there and sell them to the people. Or put a higher fee on them, so that the government can get something instead of trying to cut from schools and from buses and everything else, to get the economy. Second one, Mr Mara says, Mr Mara says there that has he ever checked one of his supermarkets late in the night to see how it is operating?

I have, I have seen in the Belconnen Mall in the early days, two youngsters both operate the checkouts, they have got no product knowledge, they do not know what is happening in the place, and customers waiting in the queue. It is five or ten of them who happen to work late, or something. He has not checked that because he is home, sleeping, but I have wept. My friends, and I call that sincerely, at Westfield, they know that up to 33 or 40 per cent of Coles and Woolworths takings are outside hours.

When that shopping centre was put there, it was put to benefit all the shops inside. The small shopkeepers, like myself who was there, we are losing that 33 or 40 per cent of the customers, because they do it in outside shopping hours, but we are not expected to trade 24 hours a day. Now, as my friend from the union, he suggested a few things. So what if it is a fine, it is \$200, if he gets \$20,000 or \$30,000 for the day for his trading, illegal trading, he has paid \$200. So what? I would do that any day.

But he does not tell us how many of their secret deals have been conducted behind closed doors, for shop opening at other times, perhaps not want to trade some other day, no, they will not open that day, they promised. They can open New Years Day and everything else, and I know for a fact that big concerns have done that behind closed doors. Those things, nobody discussed them tonight. We are talking about Canberra.

We are losing money from Canberra, it goes outside. Let us keep it in here. I am not suggesting that we close the Belconnen Mall because Westfield takes the money away. That is right. As for Coles Myer, K-Mart, USA Incorporated, yes, they can afford to

open extra hours because they said they employ a couple of youngsters and then just the money goes overseas again. Let us think about Canberra for once again, and that is what - only a submission; you have got to think about it, more closely about our city, our town here. It will attract people from around and keep them on in here rather than send them out.

**MR T. VIZOVITAS:** Good evening everybody. My name is Trevor Vizovitas. I am the General Manager of Canberra Meat, and I am also representing the Vizovitas Group Property Owners in Canberra. I am addressing my question to the Committee and Mr De Domenico. Generally, I have several questions and I do not believe any one of you gentlemen can answer them directly. There are questions of unfair practices, being, as Mr Paulus indicated, markets. I have \$50, I come with an idea, we will have markets in Kingston. Very good initiative, fine.

In the meantime we have Manuel investing \$1 million, we have Michael over there investing \$2 million, we have Tim over there investing \$10 million; we have a broad range of Canberra people investing in Canberra, right? Not multinationals. I am not saying we do not want multinationals, but I have not heard the word "compromise". Not once have I heard the word "compromise". I have been in the grocery business, I am in the meat business, I have been in the bakery business, I have been in dry cleaning business. I am a young man, I have done a lot of things.

I came to Canberra in the early 60s. I watched my parents work very hard. I have watched a lot of people - I know a lot of people in this room, right? But the word "compromise" has yet to be found. I have not seen the word "compromise" tonight. Whether you are big or you are small, this city is called "Canberra". Now, I do not know how you are going address this problem, but I do not see an issue here tonight. I see lots of questions, instructions; we should re-educate ourselves, you know. "You've got a 65 year old man there; teach him how to start business again, from the beginning. Let's, you know, send - to technical college".

These are not answers for this type of industry. There is a general problem, a big problem, and you gentlemen have the hardest task and I do not know how you are going to address it. Recently I was in Germany and in Europe. The same problem exists there, but Canberra has 300,000 people, not 4 million people, not 2 million people. Gentlemen, I do not know how, but I think your terms of reference are very shallow and I think you need a lot more flexibility than what has been shown here tonight. Thank you very much.

**MR M. HALL:** Ladies and gentlemen, my name is Michael Hall. I am the owner and publisher of the "City News" and the "Canberra Trading Post". I just wanted to make a comment which is a little bit different to the program this evening. That is that like you, my business is my home, and my family is committed to the business 100 per cent, and the failure of the business will see the failure of my livelihood. The only we are going to survive as a business is we are going to work harder and we are going to be a little bit - show a bit more initiative than the other newspapers that exist in Canberra. Our industry is not regulated. We have got to get out there and fight for what we get.

The market in Canberra has reduced dramatically. There is only one independently owned newspaper in Canberra and that is us. The Canberra Times now owns the Valley View, the Canberra Chronicle etcetera. It is important that you as retailers whether you are in Hughes or Garran or wherever consider the media whether it is radio or TV to bring customers to your shops. I spend every day talking to business people about how to promote their business. I am not there to get your money, that is not the issue.

We are there to promote your business and we are there to get customers who read our paper to come to your business. And I think every media is in the same boat. The local representative from a radio station wants to help you. The biggest thing I find, and I notice the President of the Kingston Traders Association is here tonight, and I heard one of the small property owners talk about the need to protect their investments. But I do not think one of the owners of property in Kingston is on the Kingston Traders Association. The members of the association are the retailers, the small people that are paying the rents. And today I had my hair cut done in Kingston.

And they said, "I wish the landlords would do something to help us promote Kingston." And I think, you know, we hear this every day from retailers. It does not matter where you are in Canberra. I think that if the retailers get together, if you are in a small shopping centre, if you all pool a few dollars together and promote a point of difference about your shopping centre then you can be competitive in your own way. Thank you very much.

THE CHAIRMAN: Yes, the lady on my right.

MS MIHAILAKIS: Hello, my name is Irene Mihailakis and I am from the Ainslie Festival. I would like to speak to Mr Dimasi please. I believe you are here from Melbourne to represent Westfield. I believe that in Melbourne the bigger shopping centres have to shut at 5 o'clock on a Saturday and are not allowed to open until Monday morning at 7.00 am, is that correct? Until 7.00 am Monday morning.

MR DIMASI: They do not have 24 hour trading.

MS MIHILAKIS: So you have come to Canberra to suggest what we have to - what hours we are supposed to have deregulation yet in Melbourne there is not.

MR MARA: I think Westfield are from Sydney but I am based in Melbourne and just say this. The trading hours regime in Melbourne operates from 7.30 am on a Monday morning right through 24 hours to 5.00 pm on a Saturday. There are 10 Sunday trading days in the year plus Christmas.

THE CHAIRMAN: And just to add to that, the Melbourne CBD has special tourism zone classification and they trade on Sundays.

MS PEAD: I am Jill Pead, I am a retailer just like everybody else. I just wanted to cover the question of level playing fields in relation to rent levels that small retailers pay in relation to the large retailers. I am a newsagent. I pay \$500 a metre out in the

suburbs, I wonder if Grace Bros pay \$500 a metre for their card section in Westfields and Woden Plaza.

MR XYRAKIS: Smaller shops pay up to \$2000 a square metre.

MS PEAD: Why? My cards sell for the same price.

MR .....: Are you not going to answer this question?

MR .....: Will not answer that.

THE CHAIRMAN: Are there any other formal questions?

MR TOTOS: Good evening ladies and gentlemen, my name is George Totos, I am a university student from Canberra Uni. I would like to address my question to Chris from Coles Meyer. Can you explain to me if the prime reason that the local butcher has gone out of business is because meat, consumption of red meat, has gone down 20 per cent over 55 years. Why has the Coles supermarket posted growth in their supermarkets of 14.4 per cent? The figures in your meat section, pal, have gone up.

MR MARA: I said 15 years not 50. But yes, the - I think you will find it is 1980.

MR .....: 1940 to - - -

MR MARA: No, that was the actual eating habits not the red meat consumption.

MR .....: Well, that is the way you said it.

MR MARA: No, I said, "Red meat consumption has gone down 20 per cent.

MR .....: That is the way everyone else understood it, you ask them.

MR MARA: Well, do you want me to repeat it for you? Since 1980 red meat consumption has gone down 20 per cent.

MR .....: Either way you said it was the primary reason why - - -

MR MARA: Well, I think it is a primary reason. You take 20 per cent of red meat consumption - well, Coles supermarkets will sell, if you let me at least finish - sell not just red meat. They sell chicken, they sell fish, everything and they are open for longer hours because that is when the customers want them to be there.

MR BURLO: I would also just like to add to that question that you asked and just to give the view point from the Meat and Allied Trade Federation. But over the last five years the consumption of the meat has actually remained level. One of the reasons why Coles is in favour of total deregulation of trading hours is because it does give them an advantage, a competitive advantage. For them to operate overtime all it costs them is an extra youngster who handles the tills. If you go into Coles after hours you usually spend a lot of time climbing over boxes.

But the bottom line really is, and the reason why Coles will always, in my opinion, will always be for total deregulation of trading hours is because they have young - they have an unfair advantage and they are going to exploit that. They are business persons and as one of the gentlemen over there said, "They have to answer to their shareholders." So that is the situation. What you are finding in the meat industry is you are finding that the consumption level is the same, it is just the market share is being moved over and shifted over very, very quickly in favour of the larger players and that does not go for the meat retailers only. It is for all industries, all retail industries.

MR .....: I just wanted to mention to the man who has asked us to compromise - I think he might have gone - you are still there, some of our big members did indicate in our survey that there is room for compromise that short - smaller people should get a go. But, lest we should blame the big national chains for everything I think the people who have caused this problem have been our politicians and bureaucrats in the past particularly in relation to our planning arrangements. I think we have to go back to the bureaucrats and the politicians to help us fix this mess and put in a more even playing field for all of our small business operators, for the good of the ACT economy and the ACT community.

THE CHAIRMAN: Has anyone got anything to say that has not already been said in whole or in part? Well, in that case. I do apologise, Peter Jansen.

MR JANSEN: It is by way of addition to the previous speaker if I can just for a moment. This is probably one of the very few forums I have been to where we do not have a politician or a bureaucrat from the Land Planning Office attending. I think really what they are doing is they are ducking for cover. This town has more shop space per head of population than anywhere else in Australia. We are over shopped to blazes and the main reason we are having the problems we are having is that we just have far too many - far too much shop space. Now, if you take an example, for instance, and one that I know many people would find close to heart and that is the extension of the Woolworths in Dickson. There was very little public consultation on that. The Government said it would go ahead, provide the extra space and, basically, too hell with the small operators. I really do not think that is good enough and I would support what was said earlier on this evening by someone and that is that there be a moratorium on additional building and on further development until we have a better ratio in this town. Thank you.

THE CHAIRMAN: Thank you, Peter, the representatives from Planning will report back to the ACT Planning Authority. Manuel Xyrakis.

MR XYRAKIS: Just in relation to the Ibecon report. It was a retail survey study which the previous Government started and this Local Government has finished. The report came out in March this year. For instance it says very nicely that, for instance, Belconnen Mall should be extended and that the Hyperdome should be extended. You should also know that Ibecon have done a lot of other work for Leader and Westfield previously. Also, things we should know that are in that report which have heaps of errors in it, do not get me wrong, I am not in favour of it at all. But it says, I think,

that Westfield Shopping has about 73,000 square metres of space and therefore, yes, that should increase by another 14,000 square metres. Yet I know of tenants in Belconnen Mall who have received a letter asking if they approve or if they disapprove of 2850 square metres extra in Westfield which would take their retail space up to just over 100,000 square metres. So we have to really seriously look at just those reports alone that are put out. Thank you.

**THE CHAIRMAN:** I believe that just about wraps it up, ladies and gentlemen, unless there is anything else? I thank you all for coming.

**MR VIZOVITAS:** Sorry, I do not mean to take the stage but one question the Minister who is not present tonight, can answer and it should be addressed is to the illegal business activity from residential in the ACT. I think that an inquiry should be made into that and you will find the figures are alarming. I just want to point that out to the Minister that something should be done about that also. Thank you.

**THE CHAIRMAN:** Thank you for that. Thank you very much for coming, ladies and gentlemen.

**AT 11.13 PM THE MEETING WAS CONCLUDED**

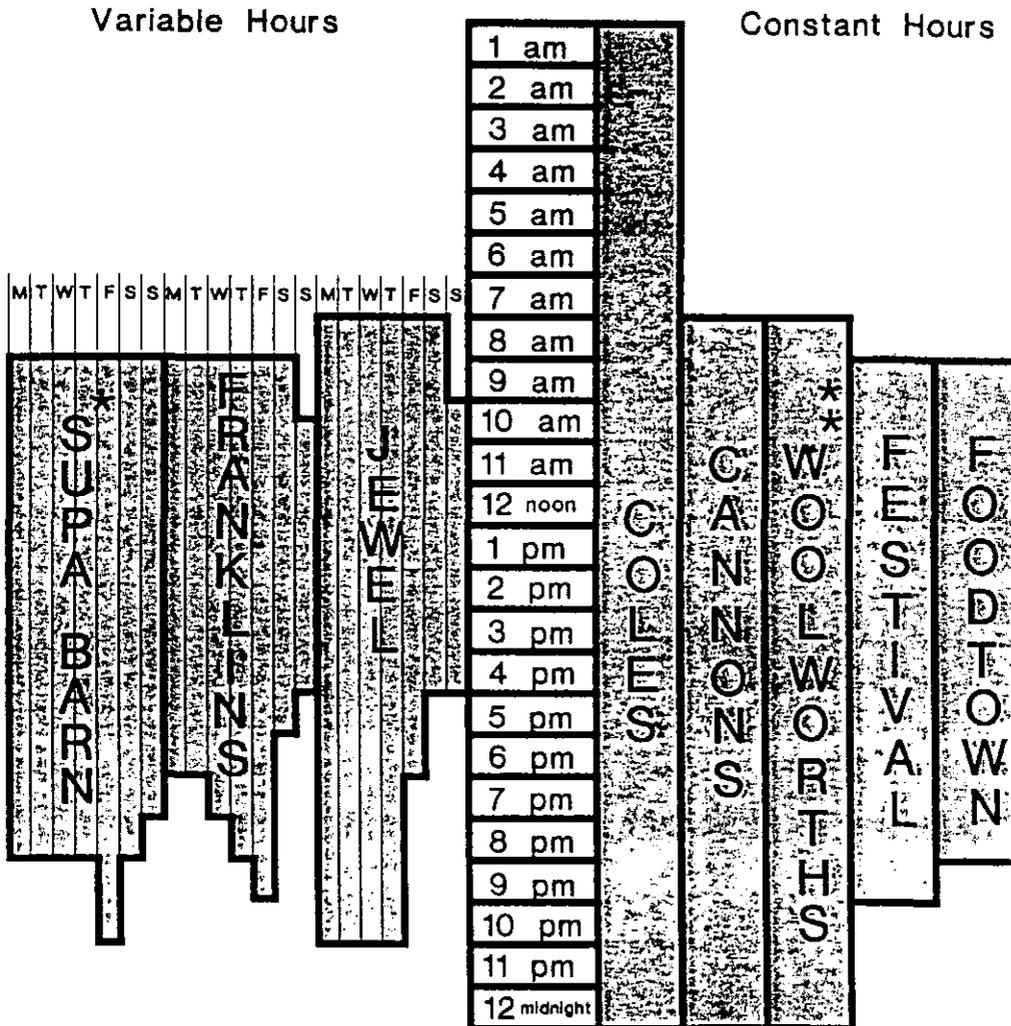
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**A.C.T & QUEANBEYAN  
SUPERMARKET CHAIN  
TRADING HOURS**

# ACT and Queanbeyan 'Supermarket Chain' Current Trading Hours (Weekly)



- Trading Hour range - City, Kippax and Karabar stores  
Chisholm operates 7am - 10pm, 7 days a week
- \*\* Queanbeyan Central 8am - 8pm Sundays

**ANNEXURE C**

**SUMMARY OF STATE/TERRITORY  
TRADING HOURS**

***ACT Trading Hours Review - John Hyndes***

## GENERAL SUMMARY

### STATE & TERRITORY TRADING HOURS

#### *New South Wales*

##### **Classifications**

*Small Shops* are owner operated. *Scheduled Shops* are specifically described shops e.g. newsagencies, bakeries, fruit & vegetable etc. *General Shops* are large retailers including grocery supermarkets).

##### **General Hours**

*Small and Scheduled Shops* have unrestricted hours. *General Shops* have restricted hours. Unrestricted hours apply to all shops from Monday to Saturday

**Late Night Shopping** - see above

##### **Sunday Trading**

*General Shops* may apply for exemptions, under s.78A from all restrictive trading hours under the Act including Sundays. Provision is also made for automatic approvals for Sunday exemptions for Furniture, Electrical and Hardware shops.

Exemptions apply for "*tourist/visitor and significant public demand*" purposes, allowing shops in the Sydney CBD and Holiday Resort areas (s.89B) to open.

The specified Sunday hours of trade being 10am -4pm [and 8am - 4pm for hardware stores]. Shops in the Sydney CBD, Newcastle tourist precinct and Cabramatta have been granted unrestricted hours.

#### *Victoria*

##### **Classifications**

*Exempt Shops* are specified shops such as newsagencies, bakeries, fruit & vegetable etc.

##### **General Hours**

*Exempt Shops* have unrestricted hours. In general there is no restriction on shops from Monday to 1pm Saturday, with exception of specified Public Holidays. Some restrictions apply to shops engaged in the sale of motor vehicles.

**Victoria  
(Cont..)**

**Other Shops**

Metropolitan shops including major supermarkets can trade to 5pm Saturday while non-metropolitan can trade to 1pm. Saturday but are closed on Sunday. Melbourne CBD & Southbank as well as tourist precincts (e.g. St Kilda) can open all year with exception of some Public Holidays. Municipal Councils can seek extended hours for special events.

**Late Night Shopping** - see above

**Sunday Trading**

Sunday trading hours (general) are:

Metropolitan area: 10am - 5pm on 6 specified Sundays per annum with 4 additional Sundays for special events (subject to approval)

Non-Metropolitan area: 10am - 5pm (same Sundays as metro. area but application by Municipal Council and subject to approval by Minister).

**Queensland**

**Classifications**

*Exempt Shops* are specified shops such as newsagencies, bakeries, fruit & vegetable etc.

*Independent Retail Shops* are restricted by ownership and employment criteria

**General Hours**

*Exempt Shops* - Totally unrestricted trading hours

*Independent Retail Shops* -very few restrictions (mainly confined to Public Holidays)

**Other Shops**

8am - 9pm Weekdays

8am - 5pm Saturday

Closed - Sunday & Public Holidays

**Late Night Shopping** - as above

**Sunday Trading**

Applies in such areas as CBD's in Brisbane, Cairns and Townsville (trial basis) as well as Gold Coast and Sunshine Coast areas. Certain Public Holidays also apply.

**South Australia**

**Classifications**

*Exempt Shops* must have a predominance of sales in the goods under which they are classified but generally fall into various categories i.e by floor space and employment number; specified by name; by retail food activity/floor space/employment numbers/locality/space; and by location within recreational areas which involves the sale of appropriate goods. They also include service stations, hairdressers, hardware, furniture etc. *Special Areas* provision exists for the declaration of Proclaimed Shopping Districts which place restrictions on designated areas - the reverse may also apply.

**South Australia  
(Cont..)**

**General Hours**

12 Midnight - 6pm Weekdays

12 Midnight - 5pm Saturday

(exceptions include. motor or non-motor vehicle sales up to 9pm Thursday, and Friday & Saturday to 5pm.)

**Late Night Shopping**

Thursday to 9pm (Metropolitan & proclaimed areas)

**Sunday Trading**

*Exempt Shops* (include: licencees and certain specialty stores and stores in the Adelaide City Centre shops from 11am - 5pm

Other specialty shops (e.g. hardware, furniture) can trade from 9am - 5pm and most Public Holidays

**Western Australia**

**Classifications**

*Small Retail Shops* are limited by ownership and number of retail sites.

*Special Retail Shops* sell specified goods.

*General Retail Shops* are any shops other than Small Retail, Special Retail or Service Stations.

**General Hours**

No restrictions above 26th parallel South Latitude (Carnarvon).

Other trading hours are classified according to category of shop:

**Small Retail Shops**

Unrestricted hours

**Special Retail Shops**

6am - 11.30pm - Any day

**General Retail**

8am - 6pm Mon - Wed & Friday

8am - 5pm Saturday

**Service Stations**

Any time in Metropolitan & major Regional centres and unzoned areas

**Late Night Shopping**

*General Retail* - 6pm - 9pm Thursday

*Special Retail* - see above

**Sunday Trading**

General retail precincts in:

Perth CBD 12noon - 6pm

Fremantle CBD 10am - 4pm

**Tasmania**

**Classifications**

Act generally applies to shops with more than 250 employees (effectively the major department stores). Fairs, markets, trade exhibitions etc. and other specified activities or trading premises are excluded from Act.

**General Hours**

8am - 6pm Mon - Sat

**Late Night Shopping**

6pm - 9pm Thur & Fri

**Sunday Trading**

Nil

**Australian Capital Territory**

**Classifications**

*Exempt Goods* as specified are not subject to the Act

*Note: As at November 1995 a defacto deregulated trading hours environment exists in the ACT.*

**General Hours (goods other than exempt)**

6am -6pm Mon-Fri

6am - 5pm Sat

**Late Night Shopping**

6pm - 9pm Fri

**Sunday Trading**

Nil

**Northern Territory**

**No trading hours legislation**

**Note: This is a general summary only and is based on data provided from June 1995 to August 1995.**

**ANNEXURE D**

**LIST OF INVITED SPEAKERS**

**PUBLIC MEETING**

**14 NOVEMBER 1995**

**ACT Trading Hours Review - John Hyndes**

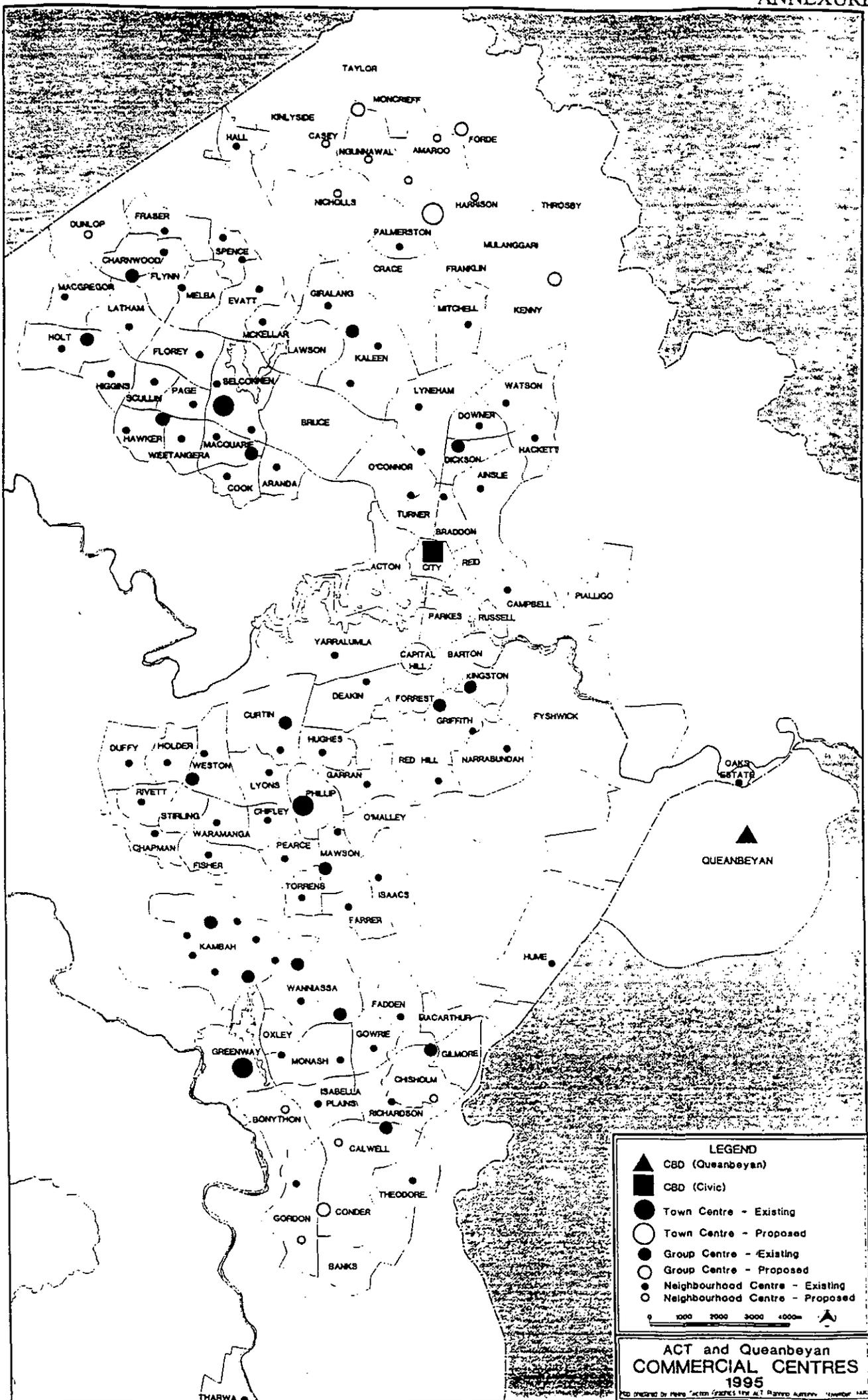
## TRADING HOURS REVIEW - PUBLIC MEETING - 14 NOVEMBER 1995

## - INVITED SPEAKERS -

ORGANISATION	SPEAKER
1. Canberra Small Business Council	Norm Henry
2. Canberra Consumers Incorporated.	Nigel Patterson
3. Neighbourhood Centre Tenant (Macquarie.) -	Kath Ridley
4. Trades & Labour Council of the ACT	Jeremy Pyner (unable to attend)
5. Fyshwick Markets	Joe Guigni
6. Building Owners & Managers Association	Ben Rayner
7. Group Centre Representative	Mike Johnson
8. Commercial & Retail Tenants' Association.	Chris Donoghue
9. Coles / Myer	Chris Mara
10. Queanbeyan City Council	Hugh Percy
11. ACT Chamber of Commerce & Industry	Mark Baker
12. ACT Community Safety Committee	Ken Begg
13. Shop Distributive & Allied Employees' Assoc.	Athol Williams
14. Neighbourhood Supermarket Owner (Ainslie)	Manuel Xyrakis
15. Canberra Property Owners' Association	Eric Koundouris
16. ACT Council of Social Services	Ian De Landelles
17. ACT Consumer Affairs Advisory Committee	Gary Dellar
18. Mall Tenant (Canberra Centre)	Harold Ganter
19. Meat & Allied Trades' Federation of Australia	Chris Burlo
20. Hughes Community Precinct	Desiree Campbell
21. Confederation of ACT Industry	Paul Monagle

**ANNEXURE E**

**A.C.T. & QUEANBEYAN  
COMMERCIAL CENTRES  
CBD, TOWN, GROUP, NEIGHBOURHOOD etc.-**



**LEGEND**

- ▲ CBD (Queanbeyan)
- CBD (Civic)
- Town Centre - Existing
- Town Centre - Proposed
- Group Centre - Existing
- Group Centre - Proposed
- Neighbourhood Centre - Existing
- Neighbourhood Centre - Proposed

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**ACT and Queanbeyan  
COMMERCIAL CENTRES  
1995**

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**ANNEXURE F**

**POSITION  
OF  
KEY ORGANIZATIONS**

**ACT Trading Hours Review - John Hyndes**

## TRADING HOURS REVIEW

## GENERAL POSITION OF KEY ORGANISATIONS

REGIME / PROPONENTS	COMMENTS
<b>TOTAL DEREGULATION</b> Jewel Food Stores Pty Ltd Franklins Ltd Canberra Consumers Incorporated Coles/Myer Group Westfield Developments Retail Traders Association of NSW*	* Allowance for Public Holidays qualified
<b>REGULATION ( with Sunday trading ** )</b> Queanbeyan City Council Lend Lease Property Shop Distributive & Allied Employees' Association. # BOMA Hyperdome Centre Management Queensland Investment Corporation. Canberra Property Owners' Association	** General Application to National Chain Supermarkets and Department Stores and/or Town Centres  # Qualified status
<b>REGULATION ( without Sunday trading ** )</b> Meat & Allied Traders' Federation (incl ACT & District Butchers) Canberra Small Business Council CONFACT Festival Supermarkets, Canberra CARTA Careforce (Anglican Diocese)	** General Application to National Chain Supermarkets and Department Stores and/or Town Centres
<b>TOURISM ZONE FOR CBD</b> Queensland Investment Corporation Tourism Council of Australia ^^	^^ Generally in favour of tourism precincts
<b>AGAINST TOURISM ZONE FOR CBD</b> Westfield Developments Retail Traders' Association of NSW.	