

QUEENSLAND INDUSTRIAL RELATIONS COMMISSION

CITATION: *National Retail Association, Union of Employers (Mount Isa Agricultural Show)*
[2024] QIRC 147

PARTIES: **National Retail Association, Union of Employers**
Applicant

CASE NO: TH/2024/1

PROCEEDING: Application for Declaration of Special Event

DELIVERED ON: 14 June 2024

HEARING DATE: 13 June 2024

MEMBER: Pratt IC

HEARD AT: Brisbane

ORDERS:

- 1. The Mount Isa Show 2024 is declared to be special event for the purposes of s 5(1)(c) of the *Trading (Allowable Hours) Act 1990*;**
- 2. Section 36BA of the *Trading (Allowable Hours) Act 1990* applies in relation to any employee of particular shops located in the area to which this declaration applies;**
- 3. This declaration applies from the period commencing Friday, 21 June 2024 up to and including Sunday, 23 June 2024;**
- 4. This declaration applies to the geographic area described as:**

**Starting at Abel Smith Parade
turning south onto Sunset Drive**

through to Camooweal Street; then onto Patricia Street and West Street travelling south through to Isa Street; then onto Pamela Street; then to East Street, turning east onto Barkly Highway; then onto Abel Smith Parade to the starting point at Sunset Drive.

CATCHWORDS:

TRADING HOURS – DECLARATION OF SPECIAL EVENT – INFREQUENT AND UNIQUE EVENT OF MAINLY LOCAL SIGNIFICANCE – EVENT OF CULTURAL AND SPORTING SIGNIFICANCE – EVENT SIGNIFICANT TO THE ECONOMY AND THE TOURISM INDUSTRY – NEED FOR EXTENDED TRADE HOURS FOR NON-EXEMPT SHOPS – application for extended trading hours for relevant non-exempt shops within Mount Isa during the Mount Isa Show 2024 pursuant to section 31A of the *Trading (Allowable Hours) Act 1990* – whether the Commission should grant this application – consideration of sections 31A and 31B of the *Trading (Allowable Hours) Act* – consideration of meaning of "cultural" in context of section 31B(1)(b) of the *Trading (Allowable Hours) Act 1990* - whether the Mount Isa Show 2024 is a unique or infrequent event of local, State or national significance – where there is an infrequent and unique event of mainly local significance – whether the Mount Isa Show 2024 is of cultural, religious or sporting significance – where the Mount Isa Show 2024 is of cultural and sporting significance – whether the Mount Isa Show 2024 is a significant event to the economy and the tourism industry – where the Mount Isa show is a significant event to the economy and the tourism industry – whether there is the need for non-exempt shops to trade for

extended hours during the period of the Mount Isa Show 2024 and the Sunday immediately after – where there is a need for non-exempt shops to trade for the extended hours during the period of the Mount Isa Show 2024 and the Sunday immediately after, 23 June 2024 – whether there are concerns around employees working additional hours – where section 36BA of the *Trading (Allowable Hours) Act 1990* provides sufficient protections to mitigate concerns around employees working additional hours – application granted.

LEGISLATION:

Trading (Allowable Hours) Act 1990 (Qld)
s 5, s 31A, s 31B.

Industrial Relations Act 2016 (Qld), s 531(3).

CASES:

National Retail Association Limited, Union of Employers [2019] QIRC 112.

National Retail Association Limited, Union of Employers [2021] QIRC 199.

National Retail Association Limited, Union of Employers [2022] QIRC 206.

National Retail Association Limited, Union of Employers (the Mount Isa Mines Rodeo)
[2021] QIRC 254.

Re: National Retail Association Limited, Union of Employers [2018] QIRC 118.

APPEARANCES:

Mr D Stout and Ms L Charlton for the applicant

Mrs L Leo for the Shop Distributive & Allied Employees Association (Queensland Branch)

Mr R Thinee for the Mount Isa City Council

Reasons for Decision

- [1] This is an application by the National Retail Association Limited, Union of Employers ('NRA'), seeking a declaration pursuant to s 31A(1) of the *Trading (Allowable Hours) Act 1990* ('Act'). The declaration sought pertains to the Mount Isa Show 2024, which is scheduled to take place on Friday, 21 June 2024 and Saturday, 22 June 2024. The declaration that the NRA seeks would provide for extended trading hours for relevant non-exempt shops within a defined area of Mount Isa from Friday 21 June 2024 up to and including Sunday, 23 June 2024. This would cover the period of the Mount Isa Show 2024 itself and the Sunday immediately after the Show closes.
- [2] The vehicle by which this declaration would facilitate the extended trading is by declaring the Mount Isa Show 2024 to be a "special event" pursuant to s 5(1)(c) of the Act. Part 4 of the Act provides various restrictions on the trading hours of "non-exempt shops" as defined within the Act. The effect of making a declaration for a special event pertaining to a specified area is the removal of those restrictions only during the term of the event and only within the specified area. Hence, in this case, non-exempt shops operating within the relevant area of the application would be treated as though they were "exempt shops". That would mean that those non-exempt shops would be able to trade without restriction over the three days in the specified area as they see fit.
- [3] As time was quickly running out when this matter was heard on 13 June 2023, I considered the matter and, at the conclusion of the hearing, ordered that the application be granted, with reasons to follow shortly after. These are those reasons.

Relevant area

- [4] The area that is proposed to be the subject of the declaration is described as:

Starting at Abel Smith Parade, turning south onto Sunset Drive through to Camooweal Street; then onto Patricia Street and West Street travelling south through to Isa Street; then onto Pamela Street; then to East Street, turning east onto Barkly Highway; then onto Abel Smith Parade to the starting point at Sunset Drive.

Proceedings

- [5] The application was filed on 13 May 2024. On 16 May 2024, I issued directions requiring the application and the directions order itself to be served on the following:
- (a) the Australian Workers' Union of employees, Queensland ('AWU');
 - (b) the Shop Distributive and Allied Employees Association (Queensland Branch) Union of Employees ('SDA');

- (c) the Executive Director, Industrial Relations, Office of Industrial Relations, Department of Education;
- (d) the Chief Industrial Inspector, Office of Industrial Relations, Department of Education;
- (e) the Local Government Association of Queensland Limited; and
- (f) the Mount Isa City Council.

- [6] The above-mentioned directions order included provision for any party who might be affected by the application to apply for leave to be heard, including by way of any outline of submissions to be filed by 23 May 2024. The application and relevant directions order were published on the Queensland Industrial Relations Commission website.
- [7] The SDA made an application to be heard and filed written submissions on 30 May 2024. Whilst no evidence was filed in support of the SDA's submissions, s 31B(2)(f) of the Act requires the Commission, when deciding an application for a special event declaration, to have regard to a submission made by an industrial organisation in relation to the likely impact of the special event declaration on employees.

Issue to be determined

- [8] The issue to be determined is whether the Mount Isa Show 2024 should be the subject of a "special event declaration" as defined in the Act.

Relevant law

Relevant legislation

- [9] As noted above, the Act regulates the hours of trade for differently defined types of shops. Most relevant to this matter are the "exempt shops", "non-exempt shops" and "independent retail shops". For present purposes, it is appropriate to simply note that non-exempt shops have substantial regulation around their trading hours pursuant to both the Act and any order that the Commission has made in relation to that class of shop.
- [10] As alluded to above, the effect of granting a "special event declaration" is that, pursuant to s 5(1)(c) of the Act, a non-exempt shop operating in an area to which the special event declaration applies is deemed to be "an exempt shop". That means that the restrictions to trading hours would be lifted for any non-exempt shop within the defined area over the days stated in the special event declaration.
- [11] Sections 31A and 31B of the Act are relevant. Section 31A confers jurisdiction on the Commission to declare an event to be a special event, upon application by a chief

executive, local government, organisation or any other person. It also provides that a special event declaration must be published on the Commission's website and sets out what a special event declaration must state, namely:

- (a) details of the event the subject of the declaration;
- (b) the period for which the declaration applies;
- (c) the area to which the declaration applies; and
- (d) that section 36BA applies in relation to an employee of particular shops in the area to which the declaration applies.

[12] Subsection 31B(1) prescribes a range of factors that the Commission must consider when deciding whether to declare that an event is a special event. Pursuant to that section, the Commission must consider whether the event is a unique or infrequent event of local, State or national significance. The Commission must also consider the cultural, religious or sporting significance of the event as well as the significance of the event to the economy and tourism industry. Furthermore, the Commission must consider whether there is a need for a non-exempt shop, or a class of non-exempt shops, to trade for hours greater than the core trading hours for the shop or class of shops under the Act for the period of the event.

[13] Subsection 31B(2) of the Act requires the Commission to also have regard to the following matters when considering the abovementioned subsection 31B(1) matters:

- (a) the size of a place where the event will be held;
- (b) whether the event will be held at multiple places;
- (c) the predicted attendance numbers;
- (d) any expected media coverage;
- (e) any contribution the event may make to Queensland's national or international reputation; and
- (f) submissions made by
 - (i) a local government from an area where a special event declaration is likely to have an impact; or
 - (ii) an industrial organisation in relation to the likely impact of the special event declaration on employees.

Relevant case law

- [14] The NRA has referred me to four relevant cases. The first two relate to a similar application to this one but in respect of the Mount Isa Mines Rotary Rodeo. They are cited in the NRA submissions as matter numbers TH/2021/9 and TH/2019/3. The first resulted in the decision *National Retail Association Limited, Union of Employers (the Mount Isa Mines Rodeo)* ('2021 Rodeo Decision').¹ The second resulted in decision *National Retail Association Limited, Union of Employers* ('2019 Rodeo Decision').² These decisions were handed down by Industrial Commissioner Pidgeon and his Honour, Vice President O'Connor, respectively.
- [15] Each of those cases focused on the Mount Isa Mines Rodeo. His Honour's decision in the *2019 Rodeo Decision* described this event as having particular sporting, as opposed to religious or cultural, significance.³ In that decision, at his Honour cited his observations in the earlier decision of *National Retail Association Limited, Union of Employers* ('2018 Rodeo Decision'),⁴ where he expounded on the meaning of "cultural" significance under the former equivalent to s 31B(1)(b):⁵
- There are two approaches in determining the meaning to be given to the adjective "cultural" in s 5 of the Act. The first, is to give the word "cultural" a meaning which relates to the ideas, customs, and social behaviour of a society. The second approach relates to use of the word "cultural" in the sense of the arts and to intellectual achievement. In my view, the context of "cultural" within s 5 of the Act reflects and sits more comfortably with the latter interpretation. The example being, for the purposes of s 5(3)(a)(i), a "cultural festival".
- [16] In the *2018 Rodeo Decision*, the applicant did not contend that the Rodeo was of cultural significance and so his Honour did not ultimately consider whether the 2018 Mount Isa Rodeo was of any cultural significance. The sporting significance of the event was the obvious and primary focus of that application and decision.
- [17] Two years later, in the *2021 Rodeo Decision*, Industrial Commissioner Pidgeon relevantly held that the Rodeo included a range of accompanying cultural and social events and that it was of both cultural and sporting significance.⁶
- [18] The other two cases I am referred to relate to the Mount Isa Show. They were cited in the NRA's application as carrying the matter numbers TH/2021/5 and TH/2022/3. The first matter resulted in *National Retail Association Limited, Union of Employers* ('2021 Show Decision').⁷ The second resulted in the decision of Industrial Commissioner Power in

¹ [2021] QIRC 254 ('2021 Rodeo Decision').

² [2019] QIRC 112 ('2019 Rodeo Decision').

³ *2019 Rodeo Decision* (n 2) [15]-[17].

⁴ [2018] QIRC 118 ('2018 Rodeo Decision').

⁵ *2019 Rodeo Decision* (n 2) [15], citing *2018 Rodeo Decision* (n 4) [23].

⁶ *2021 Rodeo Decision* (n 1) [37].

⁷ [2021] QIRC 199 ('2021 Show Decision').

National Retail Association Limited, Union of Employers ('2022 Show Decision').⁸ They were handed down by Industrial Commissioner Knight and Industrial Commissioner Power respectively.

- [19] In both the *2021 Show Decision* and the *2022 Show Decision*, the Industrial Commissioner had before them evidence and submissions that the Mount Isa Show had special sporting significance in the form of the "Professional Bull Ride" ('PBR').⁹ The PBR was part of the Touring Pro-Division for the sport of bull riding. The evidence was that the PBR offered a pathway for Australian competitive bull riders to compete in the professional international bull riding circuit.
- [20] The PBR event will not take place in the 2024 Mount Isa Show, which I discuss below. However, in each of those cases, the Mount Isa Show was also assessed against the other considerations within section 31B(1) of the Act. Namely, whether the event was a unique or infrequent one of local, State or national significance, the significance of the event to the economy and the tourism industry, and also whether there was a need for non-exempt shops to trade for greater hours during the event.

Submissions and evidence

NRA submissions and evidence

- [21] Along with the application filed on 13 May 2024, the NRA filed a supporting affidavit of Mr David Stout, who is the NRA's Director of Policy. That affidavit contained some errors that were corrected by an affidavit filed on 12 June 2023. That amended application was published on the Commission's website prior to the hearing.
- [22] Mr Stout deposes that the Mount Isa Show 2024 holds historical and cultural significance for the region. Mr Stout cited the Mount Isa Agricultural Show Society Committee President, Ms Anne Pittis, as saying that the Show is about "taking everything great about the Mount Isa region and celebrating it with the whole community."
- [23] Mr Stout deposes that the Mount Isa Show 2024 will feature horse riding competitions and section competitions across handicraft, art, poultry, photography, woodwork, scarecrows, cooking and horticulture. This year, the Mount Isa show will also include a "Bronco Branding Competition", demolition derby, steam and vintage engine display and car show. In 2024, the rodeo competition will be open to local, non-professional competitors, which is deliberately being done to provide more access for local emerging athletes to compete. Mr Stout deposes that these events provide popular sporting entertainment and highlight local talent as well as showcasing local art, agriculture and industry.

⁸ [2022] QIRC 206 (*2022 Show Decision*).

⁹ *2021 Show Decision* (n 7) [33]; *2022 Show Decision* (n 8) [28].

- [24] Mr Stout also deposed that the "Mount Isa Tourism Strategy 2020 to 2025" sets out a plan to establish the region as an outback tourism destination with its mission statement being "to be more than mining, rodeo, and a stop on the road". Mr Stout's evidence is that the Mount Isa Show 2024 is a significant supporting part of that strategy and will attract visitors to the region thus diversifying regional tourism for the region.
- [25] Mr Stout's evidence is that the Mount Isa Show 2024 has been promoted extensively across several forms of media including newspaper, radio and Internet.
- [26] It is Mr Stout's evidence also that Mount Isa has a population of approximately 23,000 people, which swells during key events such as the Mount Isa Show. According to Mr Stout's unchallenged evidence, in 2021, the Mount Isa Show welcomed around 8,000 attendees through its gates over two days, including visitors from other parts of Queensland and Australia. Mr Stout deposes that the NRA predicts that the Mount Isa Show 2024 will have higher attendance than in previous years following the recent 2023 centenary celebrations for Mount Isa.
- [27] Mr Stout's evidence is also that the Mount Isa region shares its show holiday with remote indigenous communities like Doomadgee and Mornington Island. The evidence is that the NRA understands that residents also use this weekend at the start of the school holidays to come to Mount Isa for the Show and also shop for essential supplies for winter that are not available in remote areas and are difficult to reach by freight.
- [28] Mr Stout further deposes that the Mount Isa Show 2024 will positively contribute to the reputation of Queensland both nationally and internationally as an "authentic representation and celebration of the Queensland agricultural community". Mr Stout's evidence is that the 2024 Show will be an event which celebrates Queensland produce, livestock, skills and talents that are a source of pride and economic benefit to the local community. That evidence is not challenged.
- [29] At the hearing of this matter, Mr Stout made further submissions addressing concerns raised by the SDA about whether there exists a need for extended trading hours for non-exempt shops such as has been applied for. Mr Stout submitted that the area in question will experience a substantial influx of people over a very short space of time. Mr Stout's submissions at the hearing commended smaller independent retailers, who did a very good job, however, whilst they might be able to support their own regular customer base, they would have great difficulty in meeting the demands associated with such an enormous spike in numbers over such a short period.

Mount Isa City Council submissions

- [30] Mr Ross Thinee sought leave and was allowed to appear at the hearing of this matter to make submissions on behalf of the Mount Isa City Council ('Council'). Mr Thinee submitted that the Council supported the application.

- [31] In response to inquiries from the Commission, Mr Thinee submitted that unlike in previous applications for extended trading due to the Mount Isa Show, the Mount Isa Show 2024 did not include the PBR event. Mr Thinee submitted that the PBR was a very expensive event and feedback had been that it was generally considered to be a competition for elite and professional athletes. The effect being that potential local talent would not be inclined to compete in it. Mr Thinee advised the Commission that the Council had made a deliberate decision to depart from the PBR this year and go to a more locally focused rodeo event. Mr Thinee's submissions were that this was a deliberate decision to engage local men and women who wish to compete in these events in front of their families, friends and local as well as visiting spectators. Whilst there was a commercial element to the decision, that was only part of why the PBR was dropped in favour of a much more locally focused rodeo style event. Mr Thinee advised the Commission that the event in this year's offering would include bull riding, bronco riding and barrel racing on quarter horses.
- [32] Mr Thinee also made submissions as to the quality of retail offering in the relevant area over the relevant period of time. The effect of those submissions was that the smaller retailers in and around the relevant area do not have the buying power to provide quality to a significantly enlarged customer base, that would spike dramatically over a short span of time. The submission was that this intense spike in need is what is expected to occur over the weekend in question.
- [33] Mr Thinee also made submissions that there are people who live in housing commission accommodation in Mount Isa who, when Coles and Woolworths are closed, cannot get groceries because they are effectively priced out of buying from the local independent grocers. He also made submissions that Mount Isa is a hub for many nearby areas and towns, such as Boulia, Mornington Island, Camooweal, and Hughenden, who also have large indigenous populations. For these communities, Mr Thinee submitted, the Mount Isa Show weekend is usually around the time they come to Mount Isa to stock up on winter clothing, and so having the extended trading hours on Sunday allows them to stock up on these items.

SDA submission and evidence

- [34] The SDA filed written submission on 30 May 2024 and Mrs Leo appeared at the hearing of the application on behalf of the SDA. The SDA questions the NRA's assertions that exempt and independent retail shops in the area would be unlikely to service the needs of customers over the relevant period. The SDA submitted that visitors and customers can access several retailers that operate on Sundays in the Mount Isa area, including:
- (a) Food Works (6 AM – 9 PM);
 - (b) Colonial Conveniences (5:30 AM – 9 PM);

- (c) Jonesy Asia Supermarket (10 AM – 1 PM);
- (d) Happy Valley General Store (4:30 AM – 9 PM);
- (e) First and Last Supermarket (4:30 AM – 9 PM).

[35] Mrs Leo assisted the Commission with clarifying that all bar one of those retailers listed above was within a 10-minute drive from the area that is the subject of the application. However, I am not provided with any evidence as to exactly how convenient, or otherwise, any of those locations are to the locations that visitors to the Mount Isa Show will be, or are likely to be, staying or travelling. Nor am I able to rely on any submission or evidence as to the ability of each of those, indeed all of those, retailers to service the needs of an expected sharp but brief increase in demand across the weekend in question.

[36] The SDA questioned, therefore, whether the NRA application has adequately demonstrated a genuine need for non-exempt shops to be reclassified by virtue of a declaration such as that which is being sought in this application.

[37] The SDA also raises concerns that employees in the area may be subject to "relational pressures to work extended hours" if the application is granted. The SDA submits that "this often occurs where there is an insufficient pool of staff to accommodate the extended hours". However, I do not have the benefit of any evidence proving whether in this case that will be something that is likely to occur.

AWU submissions and evidence

[38] Whilst the AWU sought leave to be heard, which was granted, it did not attend the hearing of the application. No submissions were filed by the AWU.

Consideration

[39] As noted above, section 31B of the Act requires me to consider a number of factors before deciding whether to exercise the relevant discretionary power. Whilst the factors must be considered, I construe the discretion is a broad one. Like all decisions of the Commission, an exercise of this discretion must be guided by equity, good conscience and the substantial merits of the case, having regard to the interests of those immediately concerned and the community as a whole.¹⁰

Unique or infrequent event of local, State or national significance

¹⁰ *Industrial Relations Act 2016* (Qld), s 531(3).

- [40] The first of the factors to be considered is provided for in section 31B(1)(a) of the Act – whether the event, in this case the Mount Isa Show 2024, is a "unique or infrequent event of local, State or national significance". The subsection gives some guidance as to the exercise of the above-mentioned discretionary power by way of two examples which are "the 2032 Olympic and Paralympic Games" and "the Weipa Fishing Classic event."
- [41] The first example needs no explanation. The frequency or infrequency of those events, particularly in relation their coming to Queensland, indicates what I construed to be the high-water mark of how unique and infrequent an event of local, State or national significance might be.
- [42] Perhaps to demonstrate the other end of the scale of uniqueness or infrequency, there is the example that the legislative drafters have provided in the form of the Weipa Fishing Classic event. That is an event that occurs annually in or around June each year in North Queensland. It is a sporting event open to all comers providing a prize pool and other associated events and attractions. Whilst it tends to occur every year, and is not particularly unique in the sense that it is a fishing competition, it is obviously unique to that area and may very well have its own unique aspect to it. Because it occurs only once yearly, I construe that the drafters of that subsection have indicated by using it as an example that such a frequency qualifies as sufficiently "infrequent" for the purposes of construing section 31B(1)(a).
- [43] No party has argued that the Mount Isa Show 2024 is not such an event. There are other agricultural shows held annually in many cities around Queensland and Australia. It might be said that on that basis, the Mount Isa Show 2024 is not particularly unique. But it is, I find, unique in the sense that it is a showcase of that area; its agriculture, the work and art produced by those who live in the area, sporting prowess with a focus on local talent competing for either prizes, or simply just for entertainment and the spectacle of doing so. Whilst the Mount Isa Show occurs generally each year, that is not what I would call "frequent" as I construe the relevant subsection. It is no different in that regard to the Weipa Fishing Classic event example used by the drafters of section 31B(1)(a).
- [44] Mr Thinee's submissions and Mr Stout's evidence and submissions persuade me to find that the Mount Isa Show 2024 will be a very unique event. Indeed, the change from running the PBR event to one much more focused on encouraging local talent to compete indicates clearly to me that there is a risk associated with concluding that all such shows are the same, or even the same from year to year. Even this show changes its offering and substantial other elements each year.
- [45] The evidence is not challenged. The Mount Isa Show 2024 will present, for example, competitive photography and art displayed in the same location as the spectacles of competitive bronco branding, bull and bronco riding and quarter horse barrel racing as well as a demolition derby, just to name a few. I accept the evidence in relation to this event being a celebration of local produce, livestock, skills and artistic and other talents

that are a source of pride and economic benefit to the local community. Accordingly, I find that the Mount Isa Show 2024 is a unique and infrequent event of mainly local significance.

- [46] I accept also, although to a lesser degree, that the event is of some State or national significance. Whilst I accept the unchallenged evidence that some visitors to the Mount Isa Show come from other parts of Queensland or interstate, that evidence is imprecise and general in nature.

Cultural, religious or sporting significance

- [47] As to whether the Mount Isa Show 2024 is of cultural, religious or sporting significance, I am mindful of his Honour's observations in the *2018 Rodeo Decision* where his Honour considered the meanings of the word "cultural" in subsection 31B(1)(b) of the Act.¹¹ His Honour found the meaning to be more akin to "the arts and to intellectual achievement", as opposed to an alternative meaning, which relates to the "ideas, customs, and social behaviour of a society".
- [48] It is clear to me, based on the unchallenged evidence from Mr Stout, that the Mount Isa Show 2024 will be an event that showcases the arts of the local area, including photography and woodworking and the general reference to 'art' as its own category. Whilst there are many other events, I am of the view that the display of art, handicraft and photography do fall within the meaning his Honour attributed to the word "culture" as it appears in subsection 31B(1)(b) of the Act.
- [49] There are several sporting events that will take place at the Mount Isa Show 2024 as well. This year, the PBR will not be held at the Show. Even so, the requirement under in subsection 31B(1)(b) of the Act is to have regard to, in this case, the sporting significance, of the event. It is not a requirement that an event surpass a prescribed level of significance or importance. Rather, the task of the Commission is to consider, in each case, the cultural, religious or sporting significance of a particular event that is the subject of an application like this one.
- [50] Based on the evidence and submissions of the NRA and the Council, I am of the view that the Mount Isa Show 2024 will be an event that has cultural and sporting significance. It clearly has significance in the sense that the artistic and sporting displays and events are important to both locals and visitors to the area. According to Mr Stout's evidence, the rodeo competition in the Mount Isa Show 2024 will be open to, and deliberately encourages engagement of, local, non-professional competitors. In my opinion that is a significant opportunity for local non-professional athletes to compete. I find that these events will be of importance to those persons competing in them, their families and friends, as well as visitors to the area who have come to watch those competitions and

¹¹ *2018 Rodeo Decision* (n 4) [23].

view the displays of artistic and other endeavours. I conclude therefore that the Mount Isa Show 2024 is an event of cultural and sporting significance.

Significance of the event to the economy and the tourism industry

- [51] Subsection 31B(1)(c) of the Act requires the Commission to give consideration to the significance of the relevant event to the economy and the tourism industry. I accept Mr Stout's unchallenged evidence that the Mount Isa Show 2024 will contribute substantially to the local economy. Ticket sales alone will be substantial, as will the spend by visitors to the area with local businesses. I also accept Mr Stout's evidence that the Show supports the "Mount Isa Tourism Strategy 2020 to 2025" in attracting visitors to the region and diversifying the regional tourism offering. On that evidence, I find that the Mount Isa Show 2024 has significance to the economy and the tourism industry of the region.

Need for non-exempt shops to trade for the extended period

- [52] Subsection 31B(1)(d) of the Act requires the Commission to consider whether there is a need for non-exempt shops to trade during the relevant period. As noted above, the SDA questions the assertion that there is a need for additional trading hours for non-exempt shops during the relevant period.
- [53] I accept Mr Stout's evidence and Mr Thinee's submissions that Mount Isa Show 2024 will likely attract a substantial spike in the area's population over a single weekend. I also accept Mr Thinee's submissions that many residents in the area and from the surrounding areas, such of Boulia, Mornington Island, Camooweal, and Hughenden, will use this weekend to start school holidays and come to Mount Isa for the Show and also to shop for essential supplies for winter which are not available in their remote areas or are difficult to reach by freight.
- [54] I accept Mr Stout's evidence in relation to Mount Isa being "an extremely remote town, 121 km from Cloncurry, 1823 km north-west of Brisbane on 904 km west of Townsville". I therefore also accept the submission that it is quite unlikely that out-of-town visitors to the Show in 2024, who may stay until the close of events at 11:45 PM, will likely drive home. I accept that those visitors will likely have need for retail offerings on the Sunday in particular, and during the other extended hours proposed around the Show itself.
- [55] I am influenced also by Industrial Commission Knight's observations in the *2021 Show Decision*. That case also considered the additional trade for non-exempt shops over a single Sunday on the Mount Isa Show weekend. The evidence in that case was very similar to the evidence in this one including as to the remote location of the event and the number of out-of-town visitors expected. In that matter, Industrial Commissioner Knight found that:¹²

¹² *2021 Show Decision* (n 7) [51].

... given the remoteness of Mount Isa and the large distances out-of-town visitors, competitors and exhibitors will no doubt be required to travel in order to attend the show, I am satisfied on this occasion, there is some merit to the NRA's submission as to the value in extending the period for which the declaration applies to include [Sunday] 20 June 2021, such that both visitors and locals more broadly can take advantage of extended trading hours over what will no doubt be a particularly busy period.

- [56] I note the SDA's submissions about the offering of the abovementioned retailers, most of whom are located within a 10-minute drive of the area in question. However, Mr Stout's submissions as to the quality of supply to those smaller retailers is not without force. And there is no solid submission or evidence to contradict it. On balance, I accept that there is very likely to be a substantial increase in the population of Mount Isa over the relevant period, including the relevant Sunday. I also accept that existing independent retail shops and exempt shops will struggle to meet the needs of those visitors. On that basis, I conclude that there does exist a genuine need for non-exempt shops to trade for hours greater than the core trading hours for such shops as provided for in the Act for the period of the Mount Isa Show 2024. I find that need to be in the form of servicing the demand that smaller retailers will not be able to meet for the period in question in the relevant area.

Other matters

- [57] I have carefully considered the submissions made as to potential concerns around employees being compelled to, or feeling obliged to, work additional shifts that they do not want to work. However, the Act relevantly provides in section 36BA protections for employees against being required to work extended hours of trade such as those sought in this application unless the employee has freely "elected" (as defined) to do so. I am not satisfied that those protections are inadequate. Nor am I satisfied that granting the application sought would likely give rise to employees being improperly, or unlawfully, required to work additional hours.

Conclusion

- [58] On balance, I find that the Mount Isa Show 2024 is an event that warrants being the subject of a special event declaration and I order accordingly.

Orders

1. **The Mount Isa Show 2024 is declared to be special event for the purposes of s 5(1)(c) of the *Trading (Allowable Hours) Act 1990*;**
2. **Section 36BA of the *Trading (Allowable Hours) Act 1990* applies in relation to any employee of particular shops located in the area to which these declaration applies;**

3. **This declaration applies from the period commencing Friday, 21 June 2024 up to and including Sunday, 23 June 2024;**
4. **This declaration applies to the geographic area described as:**

Starting at Abel Smith Parade turning south onto Sunset Drive through to Camooweal Street; then onto Patricia Street and West Street travelling south through to Isa Street; then onto Pamela Street; then to East Street, turning east onto Barkly Highway; then onto Abel Smith Parade to the starting point at Sunset Drive.