

Mr Eric Ripper; Mr Fran Logan; Speaker; Mr Tony O'Gorman; Mr Ben Wyatt; Mr Brendon Grylls; Mr Mark McGowan; Deputy Speaker; Mr Joe Francis; Mr Terry Redman; Mr Troy Buswell; Mr Vincent Catania

RETAIL TRADING HOURS AMENDMENT (ARMADALE TOURISM PRECINCT) BILL 2010

Second Reading

Resumed from 17 June.

MR E.S. RIPPER (Belmont — Leader of the Opposition) [12.19 pm]: Labor will support this legislation, in part because we promised a similar precinct in Armadale at the previous state election. We will also support this legislation because it is consistent with the discussions that have occurred between the Premier and me—between the Liberal Party and the Labor Party.

Trading hours has been a vexed issue in Western Australia. In 2003, we supported nine o'clock weeknight trading. We were not able to get that through the Parliament. We were defeated on nine o'clock weeknight trading in the upper house by the Liberals and the Greens. It was because we were unable to get a proposal for nine o'clock weeknight trading through Parliament in 2004 that we put up the proposition for a referendum on trading hours. That is not a usual approach, but it was a necessary one because so far as we could see there was no prospect—even if we won the 2005 election as we did—of us gaining a majority in our own right in the upper house and consequently, if the Liberals and the Greens maintained their approach, we would not have had the chance to achieve nine o'clock weeknight trading. We went to the referendum confident that the community supported nine o'clock weeknight trading and indeed Sunday trading. The referendum result was therefore a surprise to us. It has made me and other Labor politicians much more cautious about the trading hours issue. Let us not forget the referendum result. The referendum result showed people voting almost 60 per cent to 40 per cent against extended trading hours on weeknights and on Sundays in Western Australia.

I recognise the significant differences of view in our community—the passionate supporters and passionate opponents of extended trading hours within our community. Nevertheless, we should proceed cautiously because of that referendum result. Since that result, I have favoured staged measures to change trading hours. We went to the previous election with a policy for seven o'clock weeknight trading, for trading precincts in Joondalup, Midland and Armadale, and for changing the regulations to free up shopping for consumer durables—that is, large bulky goods—on Sundays. We did not win the election and so we have not been in a position to implement that policy.

The Premier then suggested nine o'clock weeknight trading and we responded with our policy, which is what we went to the election with—that is, seven o'clock, the trading precincts and the changing of the regulations for Sunday. Quite frankly, I thought that there would be further negotiations between the government and the opposition at that time. Instead, the debate was conducted via megaphone, via the media, and the private discussions that I had thought would be productive did not occur.

We raised one other set of issues that was not part of our election policy; nevertheless, it is one that I think has to be considered. Those issues relate to the position of small business. There is no doubt that small businesses feel that their bargaining position with commercial landlords is far too weak. Small businesses feel that they will be disadvantaged as trading hours are extended by the demands that will be placed on them by their commercial landlords. No-one can provide a full answer for small businesses, via law, to deal with this matter. There is no absolute or bullet-proof solution that we can offer to small businesses. We can offer measures to improve their bargaining power and improve their access to information so that the results they achieve in negotiations with commercial landlords are more satisfactory for them.

Labor stood on its election policy and on the need for more protection for small business and I hoped that there would be other than megaphone diplomacy and some negotiations with the government. In the end, those negotiations did occur. We raised the issue with the Premier and the negotiations did occur. It took some time for the matters to be resolved, but there is now an agreement between the Liberal Party and the Labor Party on how we will approach trading hours reform. It is my expectation that this agreement will stabilise this issue at least until the next election and possibly for a period beyond that. In short, the agreement has the following elements: we will vote for nine o'clock weeknight trading when the government chooses to bring that legislation on for debate, and we will vote for trading precincts in Joondalup, which we have already done, and in Armadale and Midland, which we propose to do today.

The Labor Party also suggested to the government, as part of the stabilisation of the trading hours issue, that families should be given the opportunity to purchase whitegoods and other consumer durables on Sundays. Now this has led to some mischief in the debate and to some silly allegations that there is confusion; that this is a shambles. The answer is really quite simple. When the agreement is implemented, stores that predominantly deal in these consumer durables will be able to trade on Sundays. Of course, there is work to be done on the detail. Every time a line is drawn on trading hours, work is needed to define where that line is to be. I expect that the government, with its access to public service advice, will conduct that work on the detail to get a sensible and

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pragmatic outcome. The government has told us it believes it is possible to get such a sensible and pragmatic outcome, so I do not give any credence to the shrill cries of shemozzle or shambles, or of confusion. People are manufacturing a sense of confusion to advance their own cause. It is true—that is, I acknowledge—that for a person who supports full deregulation or full Sunday trading, any compromise short of that will be attacked. Some people are on the wrong side of the line because the line is always, in some senses, arbitrary. Nevertheless, we have to operate as politicians in a context in which people voted 60 per cent to 40 per cent against Sunday trading and in which some people passionately want extended trading hours.

I always remember the former Premier, Geoff Gallop, making a speech after he had finished being Premier, in which he said politicians always deal in half-measures. I think that that was a very wise piece of advice. Only those people who have the luxury of being outside politics and who do not have to take responsibility for implementing decisions have the luxury of absolutely crystal clear positions uncontaminated by any sense of compromise.

Part of the arrangement between the Liberal Party and the Labor Party is that we will jointly support a small business commissioner and the holding by shopping centres of lease registers. I commend these measures to people interested in protecting the interests of small business. The detail is still to be worked out, but I hope that the government will model the small business commissioner on the Victorian Small Business Commissioner. What we need is a circumstance in which small businesses have access to a relatively cheap and easy means of resolving disputes, particularly disputes with commercial landlords. Businesses have told me that although they have rights under the legislation, their remedy is to spend a lot of money on a lawyer and to go through an expensive court procedure, which is all too hard. A mediation service that is informal and cheap is likely to enhance the bargaining position of small businesses when dealing with commercial landlords.

The other issue that has been the subject of agreement between the Liberal and Labor Parties is the question of shopping centres holding lease registers and making them available to prospective tenants and their representatives. Fair access to information about the commercial rental tenancy market is important. Small businesses have told us that they have not had fair access to that information. Giving them access to that information will be a modest way of improving their bargaining position. Having reached agreement with the Premier and the Liberal Party, it is my hope we get on with it and get these measures implemented as soon as possible.

Mr C.J. Barnett: It will be a walk in the park, as it always has been!

Mr E.S. RIPPER: The issue of trading hours has never been a walk in the park for anyone! Unusually, on this occasion there is cooperation between most members of the government and the entire opposition on the question of trading hours.

Mr C.J. Barnett: I do not propose to speak on this bill, but I would like to publicly acknowledge and thank you for the concessions you've made. It is not perfect, but it is a significant move to further deregulation.

Mr E.S. RIPPER: I appreciate those remarks. We have reached a good agreement.

I note that not a single member of the National Party is present in the chamber as we debate this bill.

Mr C.J. Barnett: At this point I will leave the chamber!

Mr E.S. RIPPER: I would not want to disturb the spirit of agreement that has been reached with the Premier; however, now that he has left the chamber I can have a go at the National Party! The government is comprised of three National Party ministers. If three cabinet ministers in any other government were not prepared to support government policy, that would be a major political issue. Such a situation would have political commentators talking about splits, about the sustainability of the government and about the Premier's leadership of the government being under threat. It is a remarkable aspect of current political analysis that such an event will not have any of those political consequences. The National Party has adopted an interesting position on extended retail trading hours with its members being opposed to extended trading hours. It will be interesting to see whether they participate in the debate, vote no and then call a division. In the past National Party members have not backed up their public statements on this issue in Parliament. If they are genuinely opposed to extended trading hours, they should have the courage of their convictions. They should speak on the debate in the chamber, advocate their policy, vote no and call a division so that people will be able to see exactly where they stand. They do not have the courage of their convictions. They prefer to massage this issue by simply absenting themselves from the debate. I am of the view that there are two serious adult political parties in this Parliament; namely, the Liberal Party and the Labor Party. The National Party is not a serious adult political party. Regrettably, it is not held to account for the position it adopts in the way that real political parties are held to account for the positions they adopt.

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Having said that, I return to the bill before the house. Labor is pleased to support the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill for two reasons. First, it implements our election policy; and, second, it is consistent with the agreement that the Premier and I have reached on behalf of our respective parties, the Liberal and Labor Parties.

MR F.M. LOGAN (Cockburn) [12.35 pm]: I ask the Minister for Commerce—he can respond by way of interjection—whether we can debate the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010 and the Retail Trading Hours Amendment (Midland Tourism Precinct) Bill 2010 concurrently.

Mr W.R. Marmion: No; we are dealing with the Armadale bill and then the Midland bill straight afterwards.

Mr F.M. LOGAN: Mr Speaker, I seek your advice. At this stage of proceedings, is it possible for those two bills to be dealt with concurrently?

The SPEAKER: Given that it has already commenced, we need to pursue the second reading stage of the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill. I will not prevent you from making remarks about the Midland tourism precinct. However, essentially we are dealing with the Armadale bill.

Mr F.M. LOGAN: I thank you, Mr Speaker, for your advice. I asked that question of both you, Mr Speaker, and the minister because I do not want to repeat myself during the second reading debate on the Midland bill. I will talk in general about the Armadale bill, which is the bill before the house, but my comments will also apply to the Midland bill.

Mr W.R. Marmion: Likewise, I will not repeat my comments on the Armadale bill during my summing up of the Midland bill.

Mr F.M. LOGAN: I thank the minister for the briefing that I received this morning from Mr Ben O’Rourke, who is the minister’s principal policy adviser in this area. The briefing did not go exactly to plan in terms of timing, but we managed to catch up. He briefed me and answered my questions. I will put on the record the questions that I have about these bills.

I acknowledge the work that was done by the Premier and the Leader of the Opposition in reaching an agreement on the way in which Western Australia can move forward with respect to the retail trading hours as they will apply as a result of the Armadale and Midland trading hours bills.

I remind the house, as the Leader of the Opposition did, that in the argy-bargy of the debate during the initial bills that sought to amend the retail trading hours in Perth and Joondalup—particularly the political argy-bargy and debate that related to the amendments to the trading boundaries for the tourism precinct of Perth—people would have thought if they had read the paper or heard the comments made by members of the Liberal Party that the Labor Party was absolutely opposed to a change in retail trading hours. That is how the Labor Party was portrayed. That has never been true. That is incorrect. During the Gallop administration the Labor Party moved a bill in this house that sought to amend retail trading hours. It was defeated by the joint forces of the Liberal and National Parties in the upper house. If people look at the *Hansard* to read the comments that were made by members who currently occupy the government benches about how retail trading hours should not be changed, they would scratch their heads and wonder why they criticised Labor now that it is their turn on the government benches and their turn to attempt to change the retail trading hours. I put that on the record to remind people that the Labor Party is not responsible for preventing a change in Western Australia’s retail shopping hours. We attempted to meet that demand when we were in government, but we failed. We tried to ensure that we had an honest and open approach by government, not a tricky approach by government, to the very complex issue of retail trading hours in Western Australia. Passing these pieces of legislation and amending the opening hours of shops in the precincts designated for Armadale and Midland to allow shopping on Sundays will not be completely embraced by the whole community. I can assure members that there will be small business owners in both precincts who will be very upset about the passing of this legislation. Some owners of larger shops, which are mainly corporations, will be very happy about it, but a lot of small business owners will not be so happy because they will have to work longer hours. Small business owners already see themselves under extreme commercial pressure. They would believe that extended trading hours, if it is required of them or they feel they have to keep their shops open on Sundays, would not necessarily be of commercial benefit and in fact might be a financial drain on their businesses.

Why do I know that? During the original debate on retail trading hours, which culminated in the change of boundaries for Sunday shopping in the Perth region, as the member for Cockburn I spoke to all shopkeepers who occupied tenancies at Gateway Shopping City in my electorate, at Phoenix Shopping Centre in Spearwood and also at Stargate Shopping Centre in Munster. I asked the shopkeepers to fill in an evaluation as to their views of what would happen to their trading should there be extended trading hours both to nine o’clock and also on Sundays. The overwhelming view from the shopkeepers was they believed it would send their businesses

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backwards—they certainly did not want extended trading hours. With respect to the questionnaire and the review I undertook within the shopping centres of people who were shopping—I spoke to over 400 people—the majority, but albeit slight majority, were against extended trading hours. There might be some truth to the fact that if I had done that at a different time, I might have got a different result.

Mr J.M. Francis: Did the member do that during a weekday?

Mr F.M. LOGAN: Yes. I did it on Thursday nights and during the week as well.

Mr J.M. Francis: There is a difference between people who go shopping during the weekdays and people who —

Mr F.M. LOGAN: There may or may not be; I acknowledge there could be.

Mr C.C. Porter: Some very interesting research was done by the City of Melville, which is on their website. It is similar research to what the member undertook—albeit slightly more sophisticated because it has the resources to do it—which revealed that amongst different cohorts there was something close to an approximation of views.

Mr F.M. LOGAN: I make the point that there is demand out there in the general community for different shopping hours but the actual shopkeepers themselves, particularly small owner–occupier businesses, are very concerned about this.

Mr C.C. Porter: What the City of Melville found was that when they polled retail shop owners they were about 50–50 for and against, but when they polled non–retail shop owners they were overwhelmingly in favour of it because of course they also shopped but cannot because of the hours they keep.

Mr F.M. LOGAN: There is agreement to pass these bills but I think none of us in the house should be unaware that they will not be overwhelmingly embraced by small businesses in these precincts because there will be a kickback against us. That is the history of my involvement leading up to what we have before us today. It is a history of the debate surrounding what has culminated in the agreement that the Leader of the Opposition referred to earlier.

As part of the briefing Mr O’Rourke explained to me how the boundaries for the tourism precincts—which are not contained in this legislation or in the explanatory notes—have been drafted so far. I will call them “tourism precincts” at this point in time but I will come back to that in a minute. They were drafted on the basis of discussions with local government in both Midland and Armadale. They have been drawn up and will be promulgated as part of the regulations that will be part of these pieces of legislation. The boundaries are set by regulations but I would like to hear from the minister during his second reading response what safeguards are in place to ensure that boundaries will not be changed on a whim or through lobbying by interested parties later on after the passing of this legislation and the setting of those boundaries. The boundaries are there by way of regulation; in reality the minister could change them at any stage he sees fit without bringing it back before Parliament. What safeguards will the minister provide to small business—not to people like the member for Jandakot who is a crazy deregulationist in all matters —

Mr J.M. Francis: I am a proud deregulationist!

Mr F.M. LOGAN: No, no—crazy deregulationist in all matters.

Mr J.M. Francis: There is nothing crazy about deregulation.

Mr F.M. LOGAN: There is a lot to be said about deregulation full stop.

Mr W.R. Marmion: As the minister, I would go through a similar process—consultation with the local authorities before anything like that happened, and indeed with the opposition.

Mr F.M. LOGAN: I imagine that the minister would, but we want to get something in *Hansard* to ensure, for the general community and particularly the small business community, that there are safeguards in place to ensure that an interested party or parties does not get their way by way of lobbying this minister, or whoever is the minister of the day, to change those boundaries. There are clear commercial interests with respect to those boundaries because, as the minister knows, with planning changes, the nature of those precincts will change in the future. As towns and cities grow, and as planning guidelines change and adapt, there may be pressure brought on the minister or whoever occupies the role of minister. The pressure may well be for a particular group’s own financial interest to change the boundaries. Those changes may not be in the interests of companies that already occupy positions within the precincts. It is a question of what safeguards will be in place. I would like to hear a comprehensive response to that rather than what we sometimes get out of the Minister for Police—“Trust me”! It needs to be more than that because people invest their livelihoods into their businesses.

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Coming back to the issue of tourism precincts, I believe the minister will be moving an amendment to this bill and the next bill to ensure that the name of the bill and any reference to “tourism precincts” within the bill changes to “special trading precincts”.

Mr W.R. Marmion: I will; correct.

Mr F.M. LOGAN: Another issue arose not only from my briefing this morning but also as a result of the outcome of the agreement between the Liberal and Labor Parties; that is, the deregulation of the sale of consumer durables outside the special trading precincts but within the metropolitan area on Sundays. I understand the difficulty the department has with defining what exactly is meant by a “consumer durable”. I will not put the minister on the spot by asking for a definition.

Mr W.R. Marmion: Thanks!

Mr F.M. LOGAN: I know that would be too unfair! However, I think it would probably be in the interests of both parties, but particularly the government, to explain it to the media. The media are having some fun and games listing what one can and cannot buy on Sundays. It would be good to be able to explain to the media that the Retail Trading Hours Act is very complex in respect of those matters, and to provide a clear definition of what is deemed to be a “consumer durable” for the purposes of the deregulation of those products for sale on Sundays. I think the minister needs to explain to the media how difficult it is to reach a clear definition of “consumer durable”, but ultimately I believe his department will arrive at such a definition and he can then announce it. In the meantime, I recommend that the minister explain to the media that it is not as simple as just providing a list of what can and cannot be bought at particular shops.

The other outcomes from the agreement that has been reached are the introduction of a small business commissioner and the tenancy list. Those proposals were originally initiated by the Labor Party during the time of the Carpenter government.

[Member’s time extended.]

Mr F.M. LOGAN: That came out of a review of retail trading that had been undertaken by, I think, the then Minister for Small Business. A series of recommendations were made, some of which were picked up by the then minister. Obviously, however, there was a change of government, and those recommendations have since dropped away. I introduced a bill that is still on the notice paper under private members’ business, the Commercial Tenancy (Retail Shops) Amendment Bill 2009. I introduced it on 14 October 2009, and in the detail of that proposed bill there are a number of propositions, only two of which have been picked up as part of this agreement. One is for the establishment of a small business commissioner and the other is for the proposed holding of a tenancy list. What has come out of the negotiations is not the type of tenancy list that is proposed under the Commercial Tenancy (Retail Shops) Amendment Bill 2009; it is a modified version of that list. Even though I do not personally agree with the proposition that has been put forward by the government, which the opposition has accepted—I think it should be a far more detailed list, and held by the department—the agreement is that the act will be amended to compel shopping centres to hold a tenancy list, shopping centre by shopping centre. I am advised that the department is looking at making such a tenancy list accessible to tenants, proposed tenants and valuers. As a compromise, I think that is a good compromise. The whole point of proposing the tenancy list was to ensure that the market for tenancies within retail shops is as open and fluid as it can possibly be. People should have market information. Market information is available in the residential real estate market; one can find out exactly how much a house has been sold for and one has an idea of how much houses are selling for in particular suburbs; however, that information is not available in the retail real estate market, and I think that that is inappropriate. It means that shopping centres hold all the cards, so that they can say, “If you want to come here, this is what you pay”. Retailers will not know how much the shopping centre down the road is charging unless they actually go in and negotiate for a lease there, and that is not appropriate. That should be open and available information so that one can have a proper, functioning and workable market for retail tenancies in Western Australia. This is, I think, one step towards that, minister, and one that we have agreed to, whereby tenants and prospective tenants will at least have access to information. Most importantly, valuers will be able to get access to information so that at least some information will be getting out into the marketplace to allow the marketplace to function normally and to allow prospective tenants to be able to go to a valuer and ask how much it will cost to get a tenancy in a particular region. Valuers will then be able to guide them to the shopping centre that will provide the best value to their business. That is one good outcome that was put up by the Labor Party, and the government has now agreed to it. It is a big win for small business and a good step forward.

The second big win for small business, and another very big step forward for Western Australia, is the establishment of a small business commissioner. I have spoken to the minister’s adviser and asked whether it was modelled on the example of the Victorian small business commissioner, which was the model that I

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proposed under the Commercial Tenancy (Retail Shops) Amendment Bill last year. The Victorian model works very well indeed. If we can stick as closely as we possibly can to that model while updating it for Western Australia, as the department appears to be doing, it will be a very big win for small business. At the moment, if small business tenants—whether in large or small shopping centres—have a problem with their landlord, and the landlord gives them an answer they do not want, their only opportunity to redress the problem is to go to court, and that is a very expensive way of redressing the problem. Most small businesses will not take that route because they simply cannot afford it. The Shopping Centre Council of Australia and other big organisations that pretend to represent small business argue that tenants can always go to the State Administrative Tribunal; that is what has been put to me. They say that if small businesses feel so aggrieved about something, they can always go to the State Administrative Tribunal. However, they cannot go to the State Administrative Tribunal for all issues. There are a certain number of issues that can be resolved by the State Administrative Tribunal, particularly regulatory issues or issues under the act, but even those are fairly limited and there are costs involved in going to the State Administrative Tribunal as well. We are looking for a no-cost environment, or a very low-cost environment, that would encourage small businesses that have problems with their tenancy agreements or problems generally with their landlord, to access a conciliation and arbitration system at minimal cost. We are looking for something that will function easily and is accessible to small businesses in Western Australia. If we get that in the way in which was proposed under the Commercial Tenancy (Retail Shops) Amendment Bill 2009, which is the way I believe the minister’s department is thinking about, it will be a very big day for small business in Western Australia. Despite all the argy-bargy about retail trading hours, this one thing that is coming out of the agreement is very good for small business in Western Australia and a very positive outcome.

With those comments, I indicate that we support the bill, as the minister knows. We will support the amendments that the minister is seeking to move to change the nomenclature of the act and any reference to the words “tourism precinct”. I have given an indication to Mr O’Rourke, and I will also give it to the minister, that when the minister comes back with his definition of consumer durables, assuming it is a clear and logical definition, the opposition will also support the minister on that proposal.

MR A.P. O’GORMAN (Joondalup) [1.00 pm]: I also support the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. As members have heard, an agreement has been reached between the Labor opposition and the Liberal Party, and we are quite happy to support this bill, partly because it reflects the policy we took to the last election. However, for me, it represents a logical approach to deregulation. I do not think any of us in this place are so naive as to think that in the long term we will not have deregulation across the whole sector. This is a way of bringing it in whereby we do the least harm to small business, and we try to make small business feel as comfortable as possible in the transition.

The Retail Trading Hours Act has been around, and retail trading has been regulated, for well over 100 years, and based on that information, many of these people went into small business thinking that that would go on for another 100 years. That is why I agree with the approach that we are taking whereby we deregulate trading hours in special trading precincts, such as the one we have done for Joondalup and the ones we are now doing for Midland and Armadale. We are deregulating trading hours midweek until nine o’clock, and that provides for a staged deregulation to allow these small businesses to set their plans for the future, and hopefully to set them up so that they can cope.

The notion of a commissioner for small business is one that was floated by this side of the house. The previous Minister for Commerce took it up. He visited Victoria and came back with the notion that it is a reasonable model and one on which we should model our small business commissioner. I am going to travel to Victoria in the next parliamentary break to visit that commissioner and get a personal understanding of how the small business commissioner works. Hopefully, when I come back we can have a debate about the small business commissioner and the further points in the agreement, such as durable goods.

Also, in previous debates in this place the notion has been that there is no pressure on small business to remain open for the deregulated hours. In a previous debate in this place I produced a lease agreement that contained clauses that stipulated the way in which the extra rent would be calculated should there be deregulation. That caused me great concern. I have been reassured time and again that, no, that cannot happen, but no more than two weeks ago I received information from a national retailer—a national store that trades right across Australia—that has small shops in many of our shopping centres around Western Australia. The gentleman who contacted me is that store’s national retail leasing manager, and he does all the negotiations for this chain. He did ask that I not disclose which chain it is or who he is, and I will honour that. However, he has also provided me with a schedule from a proposed lease that has come to him for another store that the chain is opening, or a future expansion of a store in a shopping centre. He is greatly concerned and very angry that the provisions in the

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lease and the provisions in the schedule indicate that there is pressure for stores to open because the lease payments are going up. This schedule, which is part of a lease, states —

If there is an increase in the Centre Trading Hours beyond the Current Trading Hours of:

- (a) equal to or more than 10 hours but less than 20 hours—the percentage increase in the Base Rent will be 2.5%;

Part (b) of that section reads —

- (b) equal to or more than 20 hours but less than 30 hours—the percentage increase in the Base Rent will be a further 2.5%;

So, cumulatively, it is five per cent. There is a part (c), which states —

- (c) equal to or more than 30 hours—the percentage increase in the Base Rent will be a further 2.5%.

So, cumulatively, it is a seven per cent increase purely because we are extending trading hours. I do not have a problem with the fact that we are extending trading hours. We have already agreed that we are going to do it in Joondalup, Midland and Armadale until nine o’clock, and we are putting in those protections for small business. However, landlords out there are already building in increases that penalise all the small businesses that are in those shopping centres. It puts them under extreme pressure to try to remain open for those extra hours to try to get in extra income to pay that seven per cent increase.

I say to the minister that I would love to see in one of the bills that come before this house a provision under which we outlaw this practice; we forbid it. In the Commercial Tenancy (Retail Shops) Agreements Act and the Retail Trading Hours Act, there is no protection to prevent that. We need to have it in there. I can give this schedule to the minister. I can lay it on the table or do whatever the minister wants me to do with it to make sure he has a copy of it. This schedule is from a lease that is being negotiated currently. The thing that really aggravates me about this lease is that it is not a renegade landlord out there and it is not some landlord who thinks that he will squeeze a bit extra; it is the minister; it is the minister’s government. This relates to the Ellenbrook shopping centre, which is owned by the Insurance Commission of Western Australia. The commission is a state government entity. It is the one that is putting this provision in the leases. When that gentleman from the eastern states rang me, he said that in all the deregulation he has been through across the country, he has never seen anything as blatant as that to squeeze more money out of a small retailer, as well as large retailers, because, as I said, this retail chain is right across the nation. He has never seen it in any deregulation that has taken place across the country. His concern is that the state government is involved—or the state government through the Insurance Commission of WA. I admit that it is not the government as such, but it is the Insurance Commission of WA that is putting that sort of provision out there as a model for all other landlords to follow. His concern with this is that he leases shops all around the country. When he is paying for the lease, he is not paying for the lease for the period that a store is open; he is paying for the lease for 24 hours a day, seven days a week, 52 weeks of the year. Just because we are going to have extra trading hours, the managing agents and the Insurance Commission of WA—because I am sure the managing agents would have gone back to the commission and had approval to do this—are putting upward pressure on prices and more and more pressure on the retailers. They are putting pressure on them to open and to do more turnover. Of course, we all know that in this state we have a base rent plus a percentage, and once a retailer goes above a certain level of sales—in some leases it is \$750 000, in other leases it is a lot less, and in some leases it is quite a lot more—a percentage is added to the rent.

I ask the minister to include in his remarks in reply how he proposes to prevent this sort of extortion from happening. That is the term that has been used when people have spoken to me. It is extortion, and it should not happen. I am sure that the government, in extending trading hours, did not have in the back of its mind that small retailers and businesses across this state would be forced into paying more rent for floor space that they already rent. If it is all right, Mr Deputy Speaker, I will lay this on the table so that all members of the house can see it and understand what it is about.

[The paper was tabled for the information of members.]

Mr A.P. O’GORMAN: The member for Jandakot keeps saying that businesses do not have to open. There is no direct pressure, but there is an indirect pressure on businesses to open. That is just one example, minister.

Another issue that I would like to address is the need for a lease register. I have long been an advocate for the establishment of a lease register. I am glad the government has come to an agreement with the Labor Opposition for the establishment of such a register. Unfortunately, I am not so happy that such a register will be held by the owners of the shopping centres, because that will give them, again, a level of control that is not experienced in

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some of the other states that have established a lease register. I have viewed the lease register in New South Wales. That register is held by a private company. Retailers subscribe to that company, and that enables them to get web access to the leasing information on that register. Unfortunately, I was not expecting this matter to come on for debate quite so quickly today, so I do not have all the information about that register with me. People can search that lease register by shop type, shop size, socioeconomic area, and a range of other things. That helps people to understand what they are getting into when they enter into a commercial lease. A commercial lease is not as simple as leasing a house or something like that. It is a lot more involved. A lot of costs come into leasing a business. The ideal situation would be that the lease register was held externally from the shopping centre owners. Preferably, it should be held in one of the minister’s departments. One particular department has been mentioned to me. That department is the Department of the Valuer General. I believe that department already has access to some of this lease information. That information can then be accessed by tenants and would-be tenants of shopping centres, and even of strip shops, so that they can see what rent is being paid by other tenants in the shopping centre, what rent is being paid in similar shopping centres, what the outgoings are, what the terms of the leases are, and that sort of thing. That would be a far better way of running such a register, because it would not give control to the shopping centre owners.

It is of great concern to small businesses that some of the major shopping centres seem to do deals with the majors that enable those majors to get a much better rate than is being paid by many small businesses. When I looked at the lease register in New South Wales, it confirmed to me something that I have been saying in this place for a number of years—that is, that some of the majors are paying as little as between \$180 and \$200 a square metre for their lease. The highest price per square metre that I saw on that register was \$2 300. I know that when a tenant purchases more space, obviously the price will come down a bit. However, there is a huge discrepancy between a rent of \$180 a square metre and a rent of \$2 300 a square metre. It appears to me, from looking at that information, that small businesses are carrying some of the costs of the majors. That will have an effect in the long term, because if all the small guys fall over because they cannot afford these exorbitant rents, the majors will need to pick up the slack. So there needs to be some balance there as well.

I urge the minister to look at how lease information can be held on a register in a way that is fair and transparent. That will enable people to know what the true situation is before they enter into a lease. A lot of people in the community do not understand how difficult it is for small businesses. The report that appeared in *The Sunday Times* on the weekend indicates that journalists also do not really understand the true situation. Many journalists and other people are pushing for the deregulation of trading hours. However, they are not asking the appropriate questions to see what damage that may cause behind the scenes to small businesses.

I have been talking to a number of small business owners at Lakeside Joondalup Shopping City. Those owners are under extreme financial pressure, because they are not getting the turnover and making the profit that they had expected to get. Some of that pressure is because they did not realise that the rent per square metre that they would have to pay, plus the outgoings, would be so hard to achieve as a percentage of their turnover. They are struggling to pay their rent. My guess is that at the moment, between 18 and 20 of the shops in Lakeside Joondalup are under severe pressure. I will not say they are at breaking point, but they are not far from that. I did put in a request to the minister’s office for the minister to come and talk to some of those people, whether at my office or somewhere else. I know that the minister may have thought that I was trying to ambush him. My aim is to get these small business people to talk to the minister directly, so that the minister will understand their particular position and their particular pressures. I want the minister to understand that when he brings legislation into this Parliament, or when he has legislation drafted to bring into this Parliament, he needs to ensure that that legislation is addressing their issues. I still extend that invitation to the minister to come and talk to these people. Some of them want to talk to the minister about the pressures they are under at the moment and what can be done to relieve those pressures. I know that these people can talk to the owner of Lakeside Joondalup, which is Lend Lease. Lend Lease operates many shopping centres around the world, I believe, and is well experienced. However, an organisation such as Lend Lease cannot bail out all of its tenants who may be experiencing difficulty. There is also a fear about negotiating and making arrangements with all of the tenants who are experiencing problems, because that might have a flow-on effect, and the shopping centre owner might lose money. The aim of the shopping centre owner is to continue to make money so that it can return a good dividend to its shareholders, many of whom are superannuation funds and things like that. Therefore, we need to take some action legislatively to address some of the problems that these small retailers are facing.

What many people do not recognise is that small business owners who enter into a lease arrangement have to provide to the owners of the shopping centre, or whatever the premise may be, a bank guarantee that is secured against their home. If they are unable to make their lease payments, that bank guarantee will come into play, and the bank may take their house from them. Some people in this place laughed at me—at least that is the impression that I got—and thought I was over-reacting when I said that we will drive some people to the wall if

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we continue to do what we are doing. We will drive some people to commit suicide, because that is what happens when people lose their income and lose their house and lose their self-esteem and cannot see any way out. That will drive some people to resort to that extreme. That is a sad thing to have to say, but I know it is happening, and I have details of how that has happened to certain people.

Therefore, I say to the minister that this is not an issue to be taken lightly. It is great that the minister is now coming out with a staged approach to deregulation so that hopefully we will reduce some of the risks for small businesses and will continue to have small businesses in our shopping centres for a long time into the future. I commend the minister and the government for negotiating with the opposition and for moving this legislation along. We are now all getting belted by the media. It is not just our side or the minister’s side. We are all being put in the one pot and being accused of confusing the issue. I believe that we are actually moving forward with a staged approach and a good approach. I am not naive enough to think that I am going to stop deregulation in any form. I therefore commend the bill to the house.

MR B.S. WYATT (Victoria Park) [1.17 pm]: I will not speak for long on the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. I just want to raise one or two points in respect of this issue. I note the comments already made by the Leader of the Opposition, the member for Cockburn and the member for Joondalup, and the interjections from the minister concerning the change in name from “tourism precinct” to “special trading precinct”. I thank the minister for his cooperation on that matter. Before Parliament rose for the winter recess, there was some discussion on this point, as the minister may recall, that thankfully resolved this issue in the upper house, and that is now being dealt with by way of an amendment from the minister today.

The member for Cockburn is not here, but, if he was, he would probably call me a crazy deregulator, judging from his comments earlier. However, it does perplex me somewhat that retail trading hours is still the political issue that it is today. I appreciate that the referendum result in 2005 was fairly overwhelming. I am on the public record as making the point that I voted “Yes” and “Yes” in the referendum of 2005. I was in the minority of Western Australians who voted in that way. When I look at the breakdown, I see that the electorate of Victoria Park voted against my wishes as well. As an elected member of Parliament, I am obliged to consider —

Mr W.R. Marmion: They might change their mind now if they were given a vote!

Mr B.S. WYATT: Minister, that may indeed be the case, and I will come to that in a moment.

However, in 2005 we had a referendum result both at a state level and in my electorate. My constituents voted no and no on extended trading on weeknights and on Sunday trading. Unfortunately, this whole matter has become infected with politics. Before the now disgraced former minister, the member for Vasse, lost his position and was sent to the back bench and the member for Nedlands became the Minister for Commerce, he dealt with this issue by way of extending the tourism precincts, particularly in Fremantle and the CBD. That had an impact on my electorate. It is unfortunate that the former minister did not ask me about trading in Victoria Park, because I could have provided him with a little advice about whether trading took place in Victoria Park so that he did not create the problems that he has created in my area.

I will give an example. My electorate basically has two large shopping centres—one owned and managed by Centro Properties Group in Victoria Park and the other by Hawaiian in East Victoria Park about two kilometres up the road. The Centro shopping centre is effectively known as the Woolies shopping centre, and the Hawaiian shopping centre is known as the Coles shopping centre. The extension of the tourism precinct—shortly to be called the special trading precinct—went out to Duncan Street in Victoria Park to capture the Centro Woolies shopping centre. The former minister, the member for Vasse, came into Parliament and said how wonderful his decision was for the people of East Victoria Park. The problem is that the people of East Victoria Park are not captured at all by the extension of the tourism precinct, or special trading precinct, because they are cut off. The Hawaiian Coles shopping centre, The Park Centre, is excluded from that extension. The member for Vasse did this purely for political reasons, otherwise he would have had a bit of consultation and got a bit more knowledge about trading precincts in the area. This decision has done two things. I think the minister is right. The Centro Woolies shopping centre is packed on a Sunday. There is no doubt about that. I think the people of Victoria Park have embraced the opportunity to shop on Sundays at Centro. Regardless of the 2005 referendum, I think the minister is right; people are now experiencing the convenience of shopping on Sundays. However, it has distorted the local market quite dramatically. It is not so much Coles that I am particularly worried about; Coles is not going to disappear overnight. The other small business owners in The Park Centre are feeling the drop-off in clientele as people head down to Centro because those small business owners do not have the right to open on Sundays. Am I arguing that perhaps it should have been extended to capture the lot? I think that would have been a fairer market outcome if we are to apply market principles, because the local market is being distorted. As I have said, as a person who voted “yes” and “yes” at the referendum in 2005, I am also aware that I was

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comprehensively defeated. The point I making is simply this: I dare say that this issue will be resolved once and for all at the next election because both major political parties—the Nationals might even come up with a policy of their own; who knows, because stranger things have happened —

Mr B.J. Grylls: You’re assuming that you’ll still be a major party!

Mr B.S. WYATT: I know that we will be a major party. Who knows; the Nationals may have a Sunday trading policy at the next election. But I dare say that both major political parties—Labor and Liberal—will have at the next election a comprehensive policy on trading hours that will hopefully resolve the issue in Victoria Park. I dare say that the problem is playing out in other areas. The minister can let the house know whether that is the case, but certainly in Victoria Park it is playing out that way.

I will conclude my comments in the same way that I began them. I voted “yes” and “yes” in 2005. I was defeated. The people of Victoria Park also defeated me on that point. Therefore, I am very aware of the responsibility of members to listen to referendum results. The reason I make that point is that the people of Victoria Park more broadly made the importance of referendum results crystal clear to me when we spoke about daylight saving a very short time ago. Considering that the last referendum on that issue was, from memory, in 1990, some 15 years prior to the recent debate, and people were still passionate that we follow that result, it seems to me that a 2005 referendum needs to be, at the very least, overturned by a mandate gained at a general election. I have no doubt that all three parties in this house will have a policy of one form or another, and whoever wins the next election will finally then have a mandate to hopefully clear up this issue once and for all.

MR B.J. GRYLLS (Central Wheatbelt — Leader of the National Party) [1.25 pm]: I want to make a few brief comments on the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. I state the National Party’s continuing opposition to the deregulation of trading hours. The member for Victoria Park pretty much explained why we hold that position; that is, at the referendum in 2005, the good people of Western Australia were asked whether they wanted to shop on weeknights and on Sundays and they said no. Yet in the next few minutes in this Parliament, we will have a vote whereby every member of Parliament who was voted by their electorates to represent the views of their electorates will make the decision to do the exact opposite of that, because allegedly things have changed. I put it to the Parliament that things have not changed. The view of the people was made very clear in 2005, and that view continues today. I for one am not prepared to say that that view has changed, and that is why our view on the deregulation of trading hours is that the status quo should remain. That has resulted in an enormous amount of conjecture, discussion, media comment and newspaper column space. It has been thought that it is destabilising government and creating all these problems. That is all wrong. All that has happened is that my Nationals colleagues and I, who took a very clear position to the last state election that we did not support the deregulation of trading hours, have stuck to our guns. We have said that we told the people who supported us to take our seats in Parliament that we would not support the deregulation of trading hours. We have held that line. It has been tricky at times, but the alternative was basically to have lied to them prior to the last election. That is not in my DNA; I will not do that.

The sad part about our political system is that I know that members on both sides of this chamber also hold the same position that I do. That is why the referendum position should be supported. Due to the way that our party system works in government, members do not have that ability. When this issue comes to a vote in a few minutes, they will be forced, I presume, to vote with their parties and their party room decision. That is quite sad. I know why it has happened. There are a lot more people in politics who follow that view of the world.

Mrs M.H. Roberts: Liberal Party members always say that they have a free vote in here, but I’m yet to see them exercise it.

Mr B.J. GRYLLS: But the member for Midland does not have a free vote, does she? Even though she may fundamentally disagree with this legislation, she is forced to vote for it. The great thing about democracy is that the member does not get to represent her electorate when she comes to this Parliament. I will leave that for her to reconcile in her mind.

Mrs M.H. Roberts: We’re not hypocrites, though; that’s the difference.

Mr B.J. GRYLLS: I make absolutely no apologies for the position that we hold. I believe that on this issue we have shown that a Liberal–National partnership in government allows for dissenting opinions on issues such as this.

Mr P. Papalia: That shows just how stupid the concept is. Three ministers in a cabinet cannot agree with the government’s position and you think that’s a good thing.

Mr B.J. GRYLLS: No, because we are not forced to do what members opposite do. Maybe we are changing that, mate.

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Mr W.J. Johnston: Why should you be paid not to do your job?

Mr B.J. GRYLLS: I know that the member does not like it, but I am actually very proud of the fact that the three Nationals ministers —

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington!

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington!

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington, you are quite at liberty to have your say when your time comes! Leader of the National Party.

Mr B.J. GRYLLS: Thank you, Mr Deputy Speaker. The Labor Party members hate —

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington, I call you for the first time! Leader of the National Party.

Mr B.J. GRYLLS: Mr Deputy Speaker, the Labor Party hates this because the decision that we are making at the moment —

Mr W.J. Johnston interjected.

Mr B.J. GRYLLS: The decision that we are making at the moment lays bare —

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington, I call you for the second time!

Point of Order

Mr M. McGOWAN: Mr Deputy Speaker, when the minister is baiting members of this side of the house and members respond, it is the minister who should perhaps curb his remarks, and perhaps you should remind him of that.

The DEPUTY SPEAKER: Right. I did not understand he was baiting the member for Cannington the second time. I told the member for Cannington to moderate his terms but will the Leader of the National Party please keep to the point and not bait the opposition?

Debate Resumed

Mr B.J. GRYLLS: Thank you, Mr Deputy Speaker. I make the point that the member of the opposition is claiming that we have no principles by the position that we have taken on this decision.

Mr W.J. Johnston interjected.

Mr B.J. GRYLLS: I put that if we are comparing our principles with the principles of members of his side, the members of his side are forced to vote in a way that they would not agree with, as opposed to the position that my colleagues have taken.

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington!

Mr W.J. Johnston interjected.

Mr B.J. GRYLLS: I am very happy for those two points to be judged.

Mr W.J. Johnston interjected.

The DEPUTY SPEAKER: Member for Cannington!

Mr B.J. GRYLLS: We know that we have had very strong support from small businesses. We think on this particular issue that businesses have shown in precincts such as Subiaco that although this decision might be good for the big national retail chains, it is not that good for small family businesses and they have decided not to open.

Mrs M.H. Roberts: You’re playing up to the good people of Subiaco now, are you?

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Mr B.J. GRYLLS: No, I am just saying that the small businesses in Subiaco have not opened off the back of this decision. The majority of them are shut and the newspaper articles are a justification of that position; that is the point. I also say that to many it is seen that to make Perth more vibrant —

Mrs M.H. Roberts: The government of which you are a part is wrong; is that what you are saying?

Mr B.J. GRYLLS: Yes.

Mrs M.H. Roberts: The government of which you are a part is wrong?

Mr B.J. GRYLLS: Yes; I do not agree.

Mrs M.H. Roberts: And you are going to remain as part of that government?

Mr B.J. GRYLLS: Yes.

Mrs M.H. Roberts: And you think that is logical?

Mr B.J. GRYLLS: Ha, ha! That is exactly right.

Several members interjected.

The DEPUTY SPEAKER: Members!

Mr B.J. GRYLLS: I also say that it has been put by a lot of people that this decision on retail trading is what will improve the vibrancy, the liveability and the amenity of the local community. I will use Subiaco as an example again. I find it very hard to justify the letters written to me by the City of Subiaco council—I think Tindale. Is Tindale the CEO?

Mr J.M. Francis: Yes.

Mr B.J. GRYLLS: Tindale has written to me saying that he wants the Nationals to adopt a different position because trading hours is a very important thing to grow Subiaco and its community. I compare that with the decision of the City of Subiaco to oppose the density in the China Green development, which would actually bring people into their city-centre area and would provide the numbers that might encourage those small businesses to open. The councillors of the City of Subiaco need to work out their understanding of what is going on, because this is not about trading hours. It is not about whether Coles or Woolworths can open. To get the amenity that centres such as Subiaco need, there needs to be more people and more density. Every time governments of both persuasions go to put more density into those areas, it is vigorously opposed. If people on the City of Subiaco council and other areas really want to see that small business sector open and vibrant and offering opportunities, then those decisions they make on planning and density will have a much greater impact on those outcomes than this decision that is about to be made in the Parliament. I compare centres such as Subiaco with Cullen Bay in Darwin, from where I have just come back. Cullen Bay is a very exciting —

Mr J.M. Francis: Woolies and Coles are open at 8.30 am on Sunday morning in Darwin.

Mr B.J. GRYLLS: I do not think that is what has improved the amenity, liveability or viability of Darwin.

I just say that at the marina precinct in Cullen Bay the small businesses were open after 9.00 pm on Saturday evening. It was really interesting. The reasons they were open are that they had a good amenity in a restaurant precinct; very good views out over the water; and, most importantly, high-density living with high rises surrounding the precinct. That is what got the businesses open. If this were a debate about giving the major supermarket chains more market share, people can make their vote. But if we really want to improve the liveability and amenity and we want to support the small business sector in these areas such as Subiaco, Victoria Park, Midland and Armadale, it is population density that will drive those decisions. They are the decisions that government ministers, such as the Minister for Planning, the Minister for Housing and others, need to make so that we can achieve the outcome that every member of this Parliament would agree to. That is really what will improve what I think all of this debate has been about. We have managed to use trading hours as the reason why we have not got that vibrancy such as there is in Melbourne or Sydney, but I think the answer lies in population and density. Perhaps as time goes on and we get better precincts such as East Perth, which is already showing that, there will be more opportunities in that space as we move forward.

That is my contribution to the debate. I thank the Liberal Party for its understanding of our differing views on this issue. It shows a mature approach to government. It shows that we can participate in a functioning government that delivers good outcomes for Western Australia. But every now and then when our small part of the government disagrees on something, we reserve the opportunity to absent ourselves from the cabinet decision and use our vote on the floor of the Parliament to reflect the wishes of the people who elected us. We are very

Mr Eric Ripper; Mr Fran Logan; Speaker; Mr Tony O'Gorman; Mr Ben Wyatt; Mr Brendon Grylls; Mr Mark McGowan; Deputy Speaker; Mr Joe Francis; Mr Terry Redman; Mr Troy Buswell; Mr Vincent Catania

proud of the fact that not only do we talk about doing it, but also when push comes to shove, we actually do it; and members will see Nationals MPs on the other side of the chamber when this issue comes to a vote.

MR J.M. FRANCIS (Jandakot) [1.36 pm]: I just want to make a few quick points in this debate on the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. Although I respect the right of National Party members to have a different position from Liberal Party members, I heartily do not agree with it, and I do not agree with it for a number of reasons; firstly, the geographical boundary issues. When we look at the whole state of Western Australia, there is a parallel line that cuts the state up north near Carnarvon. Generally businesses north of that line can open basically whenever they want. Businesses and local communities south of that line and outside metropolitan Perth can ask the minister whether or not they can open, and generally—I am pretty sure the minister can confirm this—the minister always says yes.

The Retail Trading Hours Act as it stands and the bill we are debating applies to metropolitan Perth. My problem with people outside metropolitan Perth—although I do not deny them a voice in Parliament, obviously—is that they basically try to deny people in Perth the same right they already have in regional Western Australia. I do not think that is a fair way of looking at it. That right is the choice of when they can and when they cannot shop.

This issue comes down to a philosophical principle for me. The member for Cockburn called me a crazy deregulator. If what I believe in makes me crazy, so be it. But what I believe in on this issue is that it is not really the right of any government to tell any legitimate business entity when it can and when it cannot trade. This is just absolute madness. I would say to members that the best form of referendum they can have on the issue of business trading hours is to let people vote with their wallet and vote with their money. If they want to go shopping on Sunday, they will go shopping; if they do not want to go shopping, they can stay at home; and businesses will determine their trading hours by when they are profitable. They are open when they make money and they are shut when they do not make money. The current bizarre rule that says 13 or more people on a payroll on the floor of a business on a certain day makes the business “big general retail” instead of “little general retail” is absolutely ridiculous. There is a business in the member for Cockburn’s electorate that I visit—Tony Ale, which I have mentioned before—which is a booming little business. I pay a little more for food but it is much better quality than the quality of the food I can buy from either the bigger or smaller guys in the industry when it comes to fresh food and groceries. This guy wants to grow his business and he is in a situation where if he puts one more person on the payroll, employs people and creates his business, he will not be able to open. All the current rule does is keep small business from becoming bigger business. It is an absolutely ludicrous situation and something we need to address.

I want to make a quick point on the referendum. The referendum was held five years ago. I suspect that even five years ago if the question had been asked differently in the referendum, there would have been a very different result. If the question was, “Do you think the government should tell a business when it can and cannot trade”, the answer would probably have been an overwhelming no, that governments should not be dictating these kinds of things. It is not the job of government to interfere in legitimate activities of a business. I am not talking about pubs in Northbridge if they trade late and there are issues with alcohol. There is no law and order issue when it comes to whether IKEA can trade on a Sunday. This is a ludicrous situation. If people drive along the freeway north on Saturday and look at the off-ramp to IKEA, the queue of people wanting to get there and the car parks that are overflowing, they will see overwhelming demand for a store like IKEA to be able to trade on a Sunday. I have been to see IKEA. It employs about 520 people in Western Australia alone. If it is allowed to trade on a Sunday, it will create the equivalent of 80 extra full-time jobs. No-one really competes against IKEA. The only food it sells is specialist Swedish food. It is a mad situation that these kinds of businesses cannot grow.

I make this point about the referendum: I think that the question was fatally flawed. Also, the electoral roll in Western Australia grows by about six per cent a year, so for the past five years we have seen a roughly six per cent growth every single year. I ask members where they think that this six per cent comes from. They are the younger people who want deregulated trading hours, and who want the choice, going onto the electoral roll as they turn 18. They are people who have moved to the state from the eastern states and from other economies around the world, such as South East Asia or wherever. They have come from areas that already have deregulated trading hours. They have come to Western Australia and they think that the situation at the moment is absolutely ludicrous. I would therefore say that if the same referendum was held again today, the result would be very different, simply because the mix of Western Australians has changed, and it has changed because people have come here from areas that have experienced deregulated trading hours and they know that it is a good thing, because they know that competition gives greater choice to the consumer.

I will make another point about the referendum and the general question of people saying yes or no to extended trading hours. The member for Cockburn did make the point that when he conducted a survey of people in the Cockburn Gateway Shopping City he did it in the middle of a weekday. If members were to go into any

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shopping centre in Perth right now—I am talking about quarter to two on a Wednesday afternoon—and ask people, “Do you want extended trading hours or don’t you?” generally they would get a larger negative response than if they went there on a Thursday night or Saturday afternoon. That is because the people who have time to go shopping in the middle of the weekday are not the working mums and dads—the soccer mums or whatever one wants to call them—the ones who rush madly to get their kids to sporting events on weeknights and Saturdays. The people who say no are generally the people who do not need extended trading hours.

Mr J.E. McGrath: Why does the Chadstone Shopping Centre in Melbourne, which is the biggest in the whole of the Southern Hemisphere, shut at 5.00 or 5.30 pm Monday to Friday?

Mr J.M. FRANCIS: That is great. If there is no demand to stay open, it does not have to stay open, because deregulation is not about telling people that they have to trade; it is about giving them the choice to open if they want. If there is enough consumer sentiment, they can open their business when they make money and shut it when they do not. It should be their choice as a business operator, driven by the will of the consumers, who are the 98 per cent of people who do not work in retail in this state or this country. That is how it should be. That is what freedom of choice is about. It should not be a decision of government to dictate legitimate trading hours of businesses.

The people who generally say no are the stay-at-home mums and dads, retirees, pensioners or the unemployed. I am not having a go at anyone.

Mr B.J. Grylls: Apart from them!

Mr J.M. FRANCIS: No, I am not. I am just saying that these are examples of people who have the choice during the day because they are not chained to a desk, as it were, in an office job and they have the ability to go shopping. The people who say yes to extended trading hours are actually the people who need extended trading hours. They are the people who like to go shopping on a Sunday for the big-ticket item or durable consumer good, go to IKEA, or even have greater freedom of choice for groceries. There is therefore a big difference between people who are saying that they want extended trading hours, who are actually people who need them, and the people who say they do not want them, who are actually people who do not need them. I think it is worth drawing that distinction when it comes to polling or referendum results.

Another point I would just quickly like to make is that I do not accept, and this state is living proof, as are other states such as the Northern Territory, that a certain-sized population is needed to support extended trading hours. It is a philosophical principle of whether governments should dictate trading hours to businesses or not. I was in Darwin where I was on a patrol boat earlier this year. I went into a shopping centre at 8.30 am on a Sunday, and Coles and Woolworths were open at 8.30 am in Darwin.

Mr W.J. Johnston: So are you voting in favour of or against this bill? This is a bill about regulated trading hours.

Mr J.M. FRANCIS: I am voting in favour of it. Crazy as though I may be, according to the member for Cockburn, I will take whatever deregulated trading hours I can get.

Mr W.J. Johnston: This is not deregulation.

Mr J.M. FRANCIS: No. What it is doing is allowing more businesses in more geographical areas —

Mr W.J. Johnston: It is about a fresh set of regulations.

Mr J.M. FRANCIS: Yes, but what it does is to allow more deregulation in these areas.

Mr W.J. Johnston: It does not.

Mr J.M. FRANCIS: It does. If it allows Coles and Woolworths, or whatever it might be, in Victoria Park or Joondalup that could not trade before on a Sunday to now trade, then we will have essentially extended trading hours, so we will have deregulated some trading hours in some areas of Perth. Although it is not perfect by any means, it is a step in the right direction because it is part deregulation in those areas.

Mr D.A. Templeman: You are tripping over yourself.

Mr J.M. FRANCIS: I am not. I will support whatever deregulation I can get.

Mr D.A. Templeman: I reckon you would make a good trolley boy.

Mr W.J. Johnston: I do not think he would.

Mr D.A. Templeman: There will be too much talk. He will be tripping over the trolley.

Mr J.M. FRANCIS: I thank the member for Mandurah! Deregulation in these situations allows more people in more areas of Perth to have greater choice as to when they go shopping and increases competition. I think this is

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a good thing, and that is why I support it. But I do make this point, and I warn all members of this: the member for Victoria Park hinted at one of the downsides of this when he said that there are parts of Victoria Park where one supermarket can open and one cannot. What deregulation has done is to push the line in the sand to a different geographical border where there was a different situation before. For example, in my local area the extension of the Fremantle precinct has now allowed Harvey Norman and The Good Guys in Stock Road, O’Connor, to trade on Sunday, which is a good thing because the people in my electorate can now go to O’Connor instead of having to go all the way to City West, for example, if they want to go shopping for those kinds of goods on a Sunday. However, The Good Guys in Cockburn cannot open. The geographical border that dictates that one can open and one cannot because of what side of the street it is on has just moved. The good thing about it is that it has moved to make the geographical footprint bigger in a number of areas of Perth. That is why I support it. But for every move there is also a downside. At the end of the day, I hope that the member for Victoria Park and all sides of politics will wake up sooner or later and say that this is still not as good as it can be. At the end of the day, what we need is total deregulation of retail trading hours.

MR D.T. REDMAN (Blackwood–Stirling — Minister for Agriculture and Food) [1.48 pm]: I just want to add a couple of comments to those made by the Leader of the National Party in support of our position on the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. The National Party, if nothing else, has been very consistent on this matter. I guess it highlights some of the views that we hold and have historically held. I want to add one point that the Minister for Regional Development did not pick up in the debate. Some of the members who have been in this house for a while will recall, I think in 2005, when Action supermarkets fell over in Western Australia. I think Woolworths made a move at the time to take over a number of Action supermarkets. That triggered a debate in this house, in which members from both sides expressed their concern about the impact that would have on market competition in Western Australia and the impact the dominance of the major two supermarket chains in particular would have on the marketplace here. A range of points were debated, which extended to issues relating to food and the impact on producers. It resulted in a motion being put to the house by me and Hon Paul Omodei, which was supported by the Labor government at the time, to hold an inquiry. The inquiry’s terms of reference covered a range of factors, including the health and safety of imported foodstuffs, market dominance and the impact of some of these decisions that had been taken. It was a very good inquiry. It was led by Jaye Radisich, the former member for Swan Hills, who did a very good job leading that inquiry. That inquiry’s report is a really good read for any members; they can go back and see the research that went into it and some of its outcomes. I was co-opted onto that inquiry, being one of the members who raised the motion in the house. We talked to a range of groups, small business producers and a range of people who had concerns about this issue. It highlighted to me even more so than I fully appreciated at the time the strength of the major supermarkets in Western Australia.

We can measure market dominance by a range of measures depending on what products are in the mix. Of the two major supermarket chains, I think it is about 80–20 across Australia. Again, it depends upon what measures are used. There is still a strong independent sector in Western Australia. One of the factors that has contributed to that is the regulation relating to our retail trading hours. Clearly, that could be a debatable point. I remember the strong views put by members from both sides of the house about their concerns of that market dominance. Through that inquiry—some of it was borne out through the reporting of that inquiry—it was very, very evident when I was part of the discussions that we had with a range of people that the monopsony powers, or the powers of supply, over producers in this state came from some dominant players. Although it could be viewed as a blunt instrument for Western Australia to use to exercise to maintain a strong independent sector, it is one of the few tools that we do have to do exactly that.

I still hold the view that we do not have a strong enough Trade Practices Act in Australia to respond to the issue of predatory pricing, unconscionable conduct and creeping acquisitions—three key issues that have been taken up in a very strong sense by our federal National Party colleagues. We have very few opportunities at a state level to put in place legislative support for those small businesses and for the producers in our state to maintain a strong independent sector and, hence, a level of competition that allows us to keep a level of balance in WA. This is one of those measures. I have been criticised by some quarters for using it as a tool. I know it is a blunt instrument but it is one of the few tools that we have available. That is another reason, on top of the matters that the Leader of the National Party has mentioned, why I will oppose this legislation as one step towards deregulating trading hours in Western Australia and one step towards a significant market shift and determining who has control of that grocery sector, in particular, and the impact that it has on small business in Western Australia.

MR T.R. BUSWELL (Vasse) [1.53 pm]: I rise to make a very brief contribution to the debate on the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010. I am always interested in the views of our country cousins on deregulated trading hours, given that most of our electorates, like mine, enjoy extended

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trading hours. During my time as the minister with responsibility for this area, I recall that I received three applications for extended trading hours and I did not receive any applications from any regional areas to have extended trading hours removed. Those three places were Bunbury, Australind, which is in the Shire of Harvey, and Mt Barker, in the middle of the member for Blackwood–Stirling's electorate. I was happy to sign off on those applications for extended trading hours.

We have this anomaly in Western Australia. I would not deny the people of Blackwood–Stirling the right to shop with a bit more flexibility than they might otherwise enjoy; however, I have a couple of points to make. It does highlight the anomalies of a state in which in many areas of regional Western Australia people enjoy quite flexible shopping hours—my home town of Busselton being one. That is not the case in the metropolitan area. I support the legislation. As the member for Cannington said, it is a change to a regulatory framework, notwithstanding that it does give extended hours to some areas—eventually to Joondalup, Armadale and Midland. If we reflect on what happened when we extended the trading precincts in Perth and Fremantle, we will remember that people voted with their feet. I know the member for South Perth is a recent convert to extended and flexible trading hours because he has seen the wonderful response of the people of South Perth, who troop down en masse to the Coles supermarket on Angelo Street on a Sunday to shop. I think there is a Woolies in Subiaco—I cannot afford to go there—which is full on Sundays. I also believe that the shop in Victoria Park that trades on a Sunday is also very busy.

Mrs M.H. Roberts: Some people reckon you've been shopping in Fremantle.

Mr T.R. BUSWELL: I shop in a number of places. I even shop in Midland. I do not shop where the member for Midland does though—in East Perth. The people of Fremantle enjoy extended trading hours at the Woolies on Douro Road.

We are seeing people voting with their feet but also shop owners voting with a bit of commonsense. Not every shop is open in all of those places. Not every small business in the Woolies complex at Subi Centro in Subiaco opens on a Sunday. Clearly, those business owners are making a decision based on a rational assessment of their clientele and their business as to when they will open and shut. In many ways we are seeing Adam Smith's invisible hand guide businesses and consumers to that wonderful union when people dip into their pockets and cash registers ring.

Like most members of this house, I support this legislation. There are some challenges moving forward. A lot of people will fall outside of these lines. The member for Victoria Park touched on the shop at the top of the hill versus the shop at the bottom of the hill. This week I am meeting with owners of a Supa IGA store in Cambridge Street, Wembley, who ridiculously fall outside of the Perth tourism precinct, whereas the Coles up the road can open. It is a large IGA and it quite simply cannot open. There are a number of other cases. There are winners and losers in this regulatory environment. There are also winners and losers more broadly across Perth. There are winners and losers in the suburb of Belmont, who cannot go to the Belmont Forum to shop on a Sunday even though it is close to their homes. I wonder how the Leader of the Opposition will explain to them that it is acceptable for them to travel to Midland or Victoria Park to go shopping on a Sunday but not acceptable for them to shop in their own locality. I have discussed the anomalies with the country areas, without any disrespect to you, Mr Speaker. There are also the anomalies of small business to expand. A number of small business operators I know who have three stores but would like to have four, five or six stores are unfortunately denied the opportunity to expand because of this legislation. There are also a number of businesses with 15 staff who, heaven forbid, would like to have 16 staff.

The great challenge now in Western Australia is to work out how we can let every shop in the state open with the exception of Coles and Woolies. That is basically the legislative challenge that has been set. That will be difficult. Some would argue that that is ridiculous and that we are attempting to fashion a regulatory regime in Western Australia that says to every shop in this state that they can open unless they are Coles and Woolies. Sure, Coles and Woolies have some issues, but a lot of people choose to shop there. The last time I checked, people did not have their arms bent up behind their backs as they pulled up outside Coles and Woolies.

I think we need to be a bit bold. We need to embrace change and we need to accept that this is only a small step forward in retail trading reform. The force for that change will not come from us in this place. The force for that change will come from consumers across Western Australia who vote with their feet, and it will come from the business sector in Western Australia that only seeks the opportunities to open and trade when it sees fit. I support this legislation as being a small but positive step forward.

MR V.A. CATANIA (North West) [1.59 pm]: Similar to my National Party colleagues, I do not support the Retail Trading Hours Amendment (Armadale Tourism Precinct) Bill 2010 because I think it is —

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Mr T.R. Buswell: You can shop at the Woolies in Carnarvon!

Mr V.A. CATANIA: It is interesting that the former minister raised that.

Several members interjected.

Mr V.A. CATANIA: In Karratha, most businesses close at 5.30 pm.

Debate interrupted, pursuant to standing orders.

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