

**RETAIL TRADING HOURS AMENDMENT
(JOONDALUP SPECIAL TRADING PRECINCT) BILL 2009**

Second Reading

Resumed from 26 November 2009.

HON LJILJANNA RAVLICH (East Metropolitan) [8.18 pm]: I rise to support this fairly small bill. We on this side of the house are pleased to do so. It is very clear that the purpose of the bill is to, firstly, amend the Retail Trading Hours Act 1987 to change the term “tourism precinct” to “special trading precinct”, and, secondly, to establish a new special trading precinct in Joondalup in addition to the existing precincts of Fremantle and Perth. In large part, it is quite a mechanical bill.

I want to put on the public record that Labor went to the last election with a clear policy on trading hours. That included the creation of outer metropolitan shopping districts, which was part of our policy. I want to put on the public record what we said we would do if we were re-elected. There was a five-point policy. Firstly, standard trading hours for general retail shops would be extended until seven o’clock on weeknights. Secondly, domestic goods shops—that is, shops that sell whitegoods, furniture and major electrical items—would be allowed to open on Sundays from 11.00 am to 5.00 pm. Thirdly, new outer metropolitan shopping districts would be created—this is clearly consistent with this bill—to allow for Sunday and public holiday trading from 11.00 am till 5.00 pm. Labor’s policy was to enable major shopping centres to trade on Sundays and public holidays in Midland, Joondalup, Armadale and Rockingham, which currently has special holiday trading hours. They would retain this status and also have the same opportunities to trade on Sundays and public holidays. Fourthly, shopping hours in the Perth and Fremantle tourism precinct would be increased. Fifthly, small businesses and employees would be supported. We have already put out a package that deals with the protection of small businesses; in fact, I understand that as part of an agreement between the government and the opposition, there is support for the introduction of a small business commissioner. I think that is a very positive move.

The local member for Joondalup, Tony O’Gorman, MLA, has put on the public record that he supports the state government’s plan to designate the centre of Joondalup as a special trading precinct. There is no doubt that what Mr O’Gorman has put on the public record—it is being proposed in this bill—is consistent with the policy that Labor took to the last state election. In his view and in our view, it will help Joondalup, which is supposed to be Western Australia’s second biggest city, develop further. To all intents and purposes, this legislation is supported by virtually all parties. I understand—I was hoping that we would not go into committee on the legislation—that Hon Robin Chapple has an amendment to clause 5 of the bill to delete the reference to Joondalup, which would defeat the purpose of the bill; therefore, it is not Labor’s intent to support the amendment. I clearly put that on the record because, in view of our position, the honourable member may want to reconsider his position on this matter.

It is quite a mechanical bill. Wherever there is reference to a tourism precinct in the legislation, there is to be a change in the nomenclature. One thing that I think could be a bit problematic is the question of boundaries. When I looked at the original map that accompanied the bill, I found that the boundaries were not as clearly defined as perhaps they could have been. Certainly, there is no doubt that there could have been some State Solicitor’s advice on these boundaries. I do not know whether the government sought some advice from the State Solicitor on that matter. Perhaps in her reply the parliamentary secretary might advise us on that matter.

We see this as a positive way forward. There has been an agreement between the major parties on retail trading reform. We have sought to negotiate a comprehensive solution to avoid frequent piecemeal and discriminatory changes to trading hours. I think this is a key way forward to achieving that objective. There is no doubt that the Leader of the Opposition and the government have agreed and made public that the implementation of this legislation will settle retail trading hours for the remainder of the parliamentary term and avoid that piecemeal approach. There is agreement on that.

In principle, the major parties have reached agreement on the appointment of a small business commissioner, a shopping centre lease register and Sunday trading for durable consumer goods, including whitegoods, and weeknight trading to 9.00 pm across the Perth metropolitan area. The legislation before us is a very strong, positive step forward. I commend the bill to the house. We are very happy to support the legislation. We will not be supporting the amendment to clause 5.

HON LIZ BEHJAT (North Metropolitan) [8.25 pm]: I rise to speak very briefly on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. It would be remiss of me not to do so, considering that Joondalup is in my electorate. As honourable members know, I am a very strong supporter of the deregulation of trading hours. Members may recall that in September last year I moved an urgency motion on the

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deregulation of trading hours. I am very pleased to see that today we have the support of the opposition for this important piece of legislation. It is a way forward to hopefully see a further deregulation of trading hours across the metropolitan area in months to come. During my speech on the urgency motion, members will recall that I spoke about how I wanted to shop at my favourite shop in Joondalup, Sisters Supa IGA, other than during the day and also on Sundays. Hopefully, in the very near future, maybe even by next Sunday if we can deal with this legislation, we will be able to go shopping at Sisters Supa IGA. Only this morning I was walking down Grand Boulevard with the Mayor of Joondalup, Troy Pickard, and the member for Ocean Reef, Albert Jacob. We happened to be walking past the Jim Kidd Sports store, which had a sign on the window that said it was closed on Sundays. I commented that hopefully next Sunday we can also shop at Jim Kidd Sports.

I am really pleased to be supporting this legislation today. I will sit down now so we can pass it. I commend this legislation to the house.

HON COL HOLT (South West) [8.27 pm]: Obviously, the Nationals have been opposed to this legislation. I quickly want to run through some of the reasons we have stood by our conviction. We have said it before but we will say it again. We had a referendum on this issue in 2005. Nearly 60 per cent of the people in WA voted for the non-introduction of extended trading hours. It was a pretty clear message. If we listen to some talkback radio or debate, or speak to the people who contacted us since we have debated this issue again, it would still be pretty clear that not everyone wants extended trading hours; in fact, the majority do not want extended hours. It is pretty clear that the people of WA have spoken. We listened to that intent.

It is interesting that Hon Liz Behjat talked about a Jim Kidd Sports store. I would be interested to hear the feedback if it is open on Sundays. It would be nice to know people's thoughts. Clearly, this is an issue about market dominance by the large supermarket chains of Coles and Woolworths. All the arguments about vibrancy and getting over Dullsville do not really wash. It is about market dominance and the market share of the big supermarkets.

I want to highlight a couple of things that have come out since this debate started. I have an article that appeared in the *Subiaco Post* dated 21 November last year when we were talking about retail trading. When the regulations were debated, there was a motion to introduce extended trading hours to the special tourist precincts of Perth, Subiaco and Victoria Park. The headline reads "Traders to sink tourist town?", which is really about most of the smaller shops or those shops that support the bigger supermarket chains seeing themselves not opening. Although the legislation was passed to allow many of the shops to open, which members would expect to add to the vibrancy of that area, that article states that it has not. On 23 January —

Hon Jim Chown: How does it work in regional Western Australia where they have the option of extended trading hours—in places like Bunbury and Mandurah? I mean, this is crazy!

Hon COL HOLT: — after the legislation was introduced, the *Subiaco Post* had an article entitled "Coles, Woolies cash in".

Hon Jim Chown: You're not going to answer that question, obviously!

Hon COL HOLT: The member can get on his feet and answer it himself, mate!

THE DEPUTY PRESIDENT (Hon Max Trenorden): Members, there has been an attitude that we need to get on with the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009, and I think having it finished by Thursday night is appealing to some. I suggest members allow the member to give his address, or they can extend the debate—it is up to you! I note that the two previous speakers spoke for a short period of time, so I think we should allow the member to complete his contribution to the debate.

Hon COL HOLT: I will not speak for too long, and every other member can stand and say their piece, as they are allowed to.

The article from the *Subiaco Post* on 23 January is entitled "Coles, Woolies cash in" and it states —

Coles and Woolworths are booming with the government's new late night tourism trading laws, but other shops aren't interested in opening.

Unless members think that vibrancy and having a great family night is going out and selecting your best fruit and vegetables for the week down at Woolworths in Subiaco, I do not think the legislation has added a lot of vibrancy to the town.

There was also an article in *The West Australian* of 9 April 2010 headed "Shops not buying new trading hours plan", which stated that the smaller shops will not open during those extended trading hours.

I do not buy the view that extended trading hours will add vibrancy to our city; it is more about that market share for the bigger shops. It kind of reminds me a bit about the daylight saving debate we had not long ago, when

people talked about Perth being Dullsville and being two hours and 10 years behind the eastern states and said that people would not come to Western Australia because we did not have daylight saving. I remember people saying they were going to leave the state because we did not have daylight saving. It is a bit the same with this debate, because people are saying that because we do not have extended trading hours people will leave the state and that people will not come to WA because we do not have extended trading hours—I do not think so. An article in *The West Australian* of 23 September 2009 was entitled “State’s population grows by 220 a day”, and although some of those people are immigrants, others are from the eastern states. It is not as though not having extended trading hours turns people off the state; people still come. Western Australia has lots of things to offer besides extended trading hours.

I will take the argument about increasing market share a bit further. In other parts of Australia where trading hours have been deregulated, around 80 per cent of the packaged grocery market is dominated by the major supermarket chains—in WA it is about 62 per cent. There is no doubt that independent stores and regulated trading has helped to share that market share around. According to my notes, page 17 of the Chamber of Commerce and Industry of Western Australia’s September 2007 report, entitled “Retail Trading Hours: A Case for Reform”, states —

Independents have a larger market share in WA than in any other state. It is likely that the current trading hours regime has contributed to this result by providing independent retailers with a monopoly on week night and Sunday trading.

Those regulations maintain a level of diversity within our supermarket retail market share. The National Party thinks that is advantageous for Western Australia, the main reason being that small businesses have an opportunity to operate. But I also believe that we should look at it from the viewpoint of the growers in WA who provide fresh produce to the state’s supermarkets.

Let us say I had a bag of carrots to sell. Is it best to have one person in the market or two, three, four or five people in the market to buy those carrots? I have worked a lot with fruit and vegetable growers around the state. If one grows mangoes or bananas in Carnarvon or beef in the south west and there are a number of buyers in the market, they will compete for the produce. Already we have seen that major supermarkets have the ability to offer growers lower prices. If we take more suppliers out of the market by Coles and Woolworths getting a greater share, the poor grower selling his produce has fewer people to sell to. I know that growers are being offered lower prices already. It is not like perishable items can be put on the shelf and growers can wait for the next available market upswing or downswing; growers have to take what they are given. We need more buyers in the market. I do not see how extended retail trading hours will provide more buyers in the market. There are other suppliers besides fruit and vegetable growers who will be affected by this. We have all seen newspaper articles and current affairs programs in which it is reported that the predatory pricing activities of major supermarkets has driven away competition. Having deregulated trading hours will provide more opportunity for those activities.

I want to quickly talk about the effects of extended trading hours on small businesses in shopping centres, including places like Joondalup. Many shopping centre stores have a set lease as per their opening hours or their ability to open and their ability to bring in revenue. Let us say they are open 40 hours a week. They have a set lease rate based on that. If the opening hours increase to 50 or 55, their lease payments can go up as a result of being open for more hours, believing they will get more income. We all know that there is no extra money out there. This is not about spending more money; it is about the convenience of shopping when we like. Small business owners who operate in places like Joondalup, if they decide to open at the same time as major supermarket chains, will probably not earn any extra money. All they are going to do is increase their overheads by paying staff more, and they will probably work longer hours themselves. They will be worse off. If they decide not to open, they will still be charged the increased lease arrangements. Retailers are charged on potential opening hours. They are either put under the pump to open to try to gain more income, or they close down and decrease the margin.

Another debate relates to the convenience of shopping. It has been promoted that mum and dad can go with their kids and browse a shop and have a night out shopping together. We probably do not think enough about families who actually work during those hours. With all those extended hours, what about the poor mum and dad workers who work in those industries—in those supermarkets or the smaller businesses around them?

Hon Donna Faragher: What about those who cannot shop by six o’clock?

Hon COL HOLT: They can.

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Kids with a part-time job will now have to work extended hours because they are needed to work in the shop. I am sure everyone received an email like I did from a bloke who talks about how his daughter works part time in the city and attends university. It poses two problems for him. In his email he writes —

The first she will have to cancel her evening classes thus impacting upon the time it will take her to complete her course. She can not afford to be out of work.

Secondly she catches buses to the city to her place of employment however due to the poor transport service of an evening and safety concerns on buses travelling late in the evening it is not an option I want to expose my daughter to so I go into the city and pick her up. However even if she was to catch buses and managed to get out of work on time there is no direct bus service of an evening after 6:00 pm. At best after 3 buses she could expect to get home by 11:00pm.

Impacts on families are greater than we suspect. When we think of families being able to shop together, we need to consider other impacts such as transport options for people if shops close at 9.00 pm, because perhaps there will be another peak demand for bus and train services. The minister might consider that and monitor the impacts of late-night shopping on those sorts of services.

Hon Simon O'Brien: I am listening closely to your remarks. What happens if somebody's daughter works for IGA, and the shop is open until nine, 10 or 11 o'clock now? Do they have trouble getting home?

Hon COL HOLT: They probably do, but there are not as many IGA stores open as there will be other supermarkets open. Those others will impact on it. We all have different opinions on this. We are allowed to put our opinions as clearly as everybody else.

Hon Donna Faragher: We respect your opinion.

Hon COL HOLT: I thank the minister—as we do hers.

Hon Ken Travers: That is so sweet!

Hon COL HOLT: This is a respectful place, is it not?

Just to reiterate, we will stand by our conviction to oppose extended retail trading hours in any legislation. It is a question of respect for the result of the referendum that the state voted on in 2005. I do not think that too much has changed since then. We want a diversity of supermarkets to ensure that suppliers and people in the regions have more people buying in the market. We think that the effects of this legislation on small business will be far more detrimental than on larger businesses. The impacts on families are not all positive. They will not all shop together, because basically the only shops that will be open will be those of Coles and Woolworths. It is not a case of some families possibly spending time together at home or away from their work schedule.

HON LYNN MacLAREN (South Metropolitan) [8.42 pm]: I rise to support the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. The bill amends the Retail Trading Hours Act 1987. The bill seeks to change the term “tourism precinct” to “special trading precinct”. This is a more accurate description of the areas where the government intends to extend trading hours. The term “holiday resort” remains, which is also appropriate. Clearly, not only tourists shop outside regulated trading hours, to which most of Perth is restricted, so it makes sense that the government has proposed to change the terminology from “tourism precinct” to “special trading precinct”. I support that change wholeheartedly.

Hon Helen Morton: And for Joondalup?

Hon LYNN MacLAREN: I will get to that. I do not want to labour the point about a tourism precinct versus a special trading precinct, but clearly there are residential suburbs included in the proposed extended trading hour zones of Fremantle and Perth, such as Spearwood and Kensington, that are not best known as tourist destinations. As a member of the South Metropolitan Region who lives in Fremantle, I can say that personally I occasionally take advantage of the extended shopping hours that Fremantle enjoys as a designated tourism precinct; in fact, people who live across the city enjoy visiting Fremantle to browse in Fremantle Market or to pop into a supermarket on the weekend. That is often because their local shops are closed. Fremantle also has a strong small business sector as well as major supermarkets and a very thriving local, interstate and international tourist industry. That is interesting now because with the proposed new zones in Joondalup, Midland, Armadale and the extended Perth zone, it is possible that Fremantle visitor numbers will drop. That may be a consequence of these changes, but there are no hard and fast rules about consumer behaviour, which is complex and responsive to a wide range of factors. Some people, for instance, believe that consumerism will rise when we extend retail trading hours. But, having listened very carefully to Hon Col Holt, some believe there is only a certain amount of money that people will spend and they will spread it over a number of hours. The science, therefore, is not exact. In fact, the material that was provided to the Joint Standing Committee on Delegated

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Legislation indicates that in some cases there is very little research to draw upon that identifies visitors per locality. That is evidenced by the fact that the government went to what we would say were extreme lengths in an attempt to justify expanding the Perth zone.

For instance, I will quote from public material that was provided. The public document entitled “Tourism Enquiry Response: Research Team & Experience Perth Regional Manager” has, among its material, tables that list the localities, the estimate of tourists and visitors, and the tourist attractions that might be possible. I will just give a couple of examples. The Town of Victoria Park was not able to estimate the number of tourists and visitors. The tourist attractions identified included things like Burswood Casino, which is a tourist attraction; and also TAFE colleges; clubs and bars; Curtin University of Technology et cetera; and Technology Park, which may actually draw tourists to special events.

The table for the Town of Cambridge listed only data from Tourism WA. Again the town was unable to estimate the number of tourists and visitors; there were no events and/or festivals; and among the tourist attractions was something called “West Leederville and Wembley town centres”, not often visited by tourists I know who come to visit me. The Greens (WA), therefore, felt when examining this material that the case for a tourism region was not well made; however, the case for a special trading zone would be interesting to read.

In this bill we are not considering a city-wide extension of hours, but, rather, the creation of one more special trading zone, which is Joondalup. I therefore have to make some remarks that are in contrast to Hon Col Holt’s assessment in which he made quite a few generalisations about how extended trading hours would impact on consumer behaviour in general. I do not believe that such impact on consumers will be the case as a result of this proposed amendment to the Retail Trading Hours Act. Concerns remain about the impact of extended trading hours on small business; Hon Col Holt mentioned that. In earlier briefings provided by the previous minister, I asked that the impact on small business be carefully monitored to determine whether these new commercial regulations result in negative impacts, such as limited or reduced profitability of small shops. I do not want to see the demise of the small corner shop or the deli, and I believe the City of Joondalup is well placed to gauge these impacts. If it is possible for the Small Business Development Corporation or the Department of Commerce to monitor these changes as they play out, we might be able to learn more about how these extended trading hours impact on small businesses. The Greens are concerned to learn whether large retailers in Joondalup will develop an unfair advantage under the change in conditions. Like Hon Col Holt, I would like to see the small business sector thrive and that big business not be unduly advantaged due to these changes.

The bottom line is that I support the establishment of the Joondalup special trading precinct for several reasons. The first is that the local council and the City of Joondalup support this request. Secondly, the planning strategy for Perth, Directions 2031, identifies Joondalup as an activity centre; so let us give it some activities. Thirdly, the change permits retailers to open for much longer hours but it is not compulsory; people can participate in that as they see fit based on their own business decisions. The extension of shopping hours in Joondalup will benefit working families by increasing the flexibility of shopping outside business hours.

The final point I make is that the Premier made a statement in the other place last week, in which he stated —

This government is dealing with the result of over 100 years of regulation of the retail industry in this state.

He further stated that —

Values and judgements have varied over the past 100 years.

The Greens (WA), reflective of the wider community, have diverse views on deregulation and its potential impacts. My support of this bill takes a principled approach based on grassroots decision making through the support of the locally elected council and sustainable planning policy that identifies activity nodes where commercial activity is concentrated in specific localities.

HON KEN TRAVERS (North Metropolitan) [8.50 pm]: I also want to say a few words about the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. As members who have spoken previously have pointed out, this bill effectively does two things. It changes the terminology used to describe the special areas in the metropolitan area that are allowed to trade outside the standard trading hours that are set for the rest of the metropolitan area, and it adds an additional precinct to that—that being the precinct of Joondalup.

I want to come at it from a completely different angle from the issue that has been talked about tonight as a reason why we should support this bill. In regard to the issues about retail trading, I have some sympathy for the views expressed by Hon Col Holt. Much of the debate that we have had to date about retail trading hours has been about market share. It is not the case that we have had a real debate about a number of underlying issues. It is interesting that on numerous occasions I have asked groups that support the extension of retail trading hours to provide the studies that they keep referring to about the benefits to the economy, and they have never been able

to produce them; they have never delivered them to me. Logic says to me that we cannot expand the dollars in the economy, but we may shift them from one section of the economy to another. There is a question about whether the type of employment that the money is spent on would change the impacts on the economy. However, if we are buying imported goods versus spending on local coffee shops, I suspect the local coffee shops would have a greater economic impact.

Why would people support this legislation if they hold those views, as I do? We are faced with a tide of people such as the Premier pushing for the change to trading hours. If we are to have change, it is important that it be gradual change, so that we do not have the dramatic impacts that were experienced, for instance, when the dairy deregulation legislation went through this house 10 years ago. Overnight, people had their capital assets wiped out completely when, by a stroke of the pen, the government of the day wiped out dairy regulation. That cost people massive amounts of money.

Hon Robin Chapple: Potatoes.

Hon KEN TRAVERS: I did not know that we had deregulated, and I would not encourage members on the other side if I were Hon Robin Chapple.

I also come from a position of saying that we should have regulation only when there is a net benefit to the community from having that regulation. As I said, if it is going to be changed, it needs to be gradual.

The other thing that I wanted to talk about today is Perth, and the structure of Perth, and how this legislation will assist to achieve some of the planning goals that the previous government under Network City was, and the current government under Directions 2031 is, trying to achieve in the way in which the metropolitan area of Perth is structured. I will go back and touch on a bit of the history. If we go back to when the original precincts for Perth and Fremantle were introduced into Western Australia, at that stage the Perth metropolitan retail heart and the Fremantle retail heart were dying. They were in serious decline. At that stage David Jones had moved out of the Perth city centre and Myer was threatening to close down its store at Fremantle. Retail trading hours for those city centres was brought in under the concept of those centres being a tourism precinct, but it actually revived those retail centres. What happened for the city of Perth was a growth in local residential population. Interestingly, although a number of the major traders could have traded for longer than they did, they did not take up that opportunity. Nonetheless, it allowed for a revival of the retail centres in both Perth and Fremantle. What happened was the re-creation of dynamic activity centres, which included a combination of the dynamic activities of employment, and residential, retail and commercial activity. I have outlined the history of what happened as a result of an amendment to retail trading hours in Perth and Fremantle.

I will move now to the northern suburbs. One problem that is most pronounced in the northern corridor, as well as in the eastern corridor and the south-east corridor, is that there are no dynamic centres. The retail component of some rather large shopping centres overperform, but they significantly underperform in the activities that are needed to create a dynamic activity centre. In addition, many of the identified strategic regional centres are significantly underperforming in their role as activity centres—Armadale, Midland and Joondalup fall into that category. For some other activity centres it is probably arguable that the retail component is doing okay.

I know the northern suburbs better than the other areas of the metropolitan area, and that is the reason that I will focus on the northern corridor. Whitford City and Warwick shopping centres are probably overperforming in the volume of retail that they attract, but the city of Joondalup, which is the strategic regional centre for the northern corridor, is actually underperforming in that area.

It is interesting to note that except for the desire to increase the infill, the “Directions 2031” document is not dissimilar to the previous government’s document “Network city”. That document identifies Rockingham and Joondalup as primary centres, with city centres in Armadale, Midland, Cannington, Morley, Fremantle, Stirling, Mandurah and Yanchep. Yanchep is a long-term proposition. The occurrence of the dynamic activity centre in Stirling is growing organically. The retail side of Morley is not the problem. It has a very strong retail centre but it needs to have greater growth in commercial and other activities that go towards making up those retail centres. The retail side of Cannington is performing well. It is arguable that the Armadale and Midland retail centres, like the Joondalup retail centre, is underperforming.

In the northern corridor there is a low level of self-sufficiency in employment. Currently, only 41 per cent of the people who live in the northern corridor do not leave that corridor on a daily basis to go to other parts of the city for employment. There are currently 56 000 jobs in the area. If Joondalup is to become a functioning city, it needs to achieve a figure of about 60 per cent in employment self-sufficiency. To do that, the retail centre of Joondalup must grow significantly. Between now and 2031, in the order of 69 000 jobs must be encouraged for that corridor to have 60 per cent self-sufficiency in employment. A great challenge for any government is to work out how to achieve that growth. If the government allows this bill to sit in place for an extended time,

people will know that they can accrue a benefit from the regulatory framework and will be given the confidence to make long-term investments in those regional centres. That will assist in creating the types of activity centres outlined in the Planning Western Australia discussion paper of June 2009 entitled “Planning Activity Centres for Communities and Economic Growth”. The document details the sorts of things the government wants to achieve in an activity centre. The reality is, however, that we are not achieving all those activities.

Some of the work I did when the Labor Party was last in government suggested that we needed close to 85 000 new jobs in the area by 2031. Of those 85 000 jobs, a number will come about organically. There needs to be a core of driver jobs in the region. At that stage, the required number of driver jobs was somewhere in the order of 17 000. As a result of that there would be construction jobs. If we get those driver jobs, the other jobs will occur as part of the servicing of the driver jobs. How do we attract those knowledge-based jobs and produce service businesses into areas like Joondalup, Midland and Armadale so that we can fulfil the vision outlined in “Directions 2031”? One of the key elements is to have a vibrant, thriving retail heart. How do we do that when dysfunctionality is already built into our city as a result of past planning policies? One way is to provide a benefit. To make that work requires a commitment from all sides of politics to put this process in place in the expectation that it will be left in place for a considerable time; then we will get investment and create dynamic regional centres. As a follow-up, we will then attract those driver jobs that will solve the dysfunctionality in the structure of our metropolitan area. This bill will go a long way towards that.

I actually agree with the Mayor of Joondalup—even though he sits on the opposite side of the political fence—on the need for Sunday trading in Joondalup. He argued for it on the basis of making Joondalup a tourism precinct, and I told him to his face that he would be laughed out of town; people will not take Joondalup seriously as a tourism precinct. The member for Joondalup, Tony O’Gorman, made the same comments when the issue was discussed on radio. We cannot say that Joondalup is a tourism precinct. The boundaries that have been extended by the current government into the outlying areas of Perth are not about tourism; in fact, they will in some ways distort the issue. However, once we have scrambled the egg, it is just about impossible to unscramble it. That decision was made when the boundaries were moved by the government earlier this year. The retail centres need to thrive and Joondalup needs to be given some sort of regulatory head start, for want of a better term, so that it can fulfil its role as the second CBD of Perth, as do Armadale and Midland. We need to provide alternative places for high-level, knowledge-based jobs outside the Perth CBD. If we do not do that, it will come to a grinding halt. When we debate the Railway (Butler to Brighton) Bill 2009, I will talk about some of the problems we will face in trying to shift people out of the northern corridor into the CBD of Perth. When the Labor Party was in government, from time to time I hosted people who were looking to move high-value, knowledge-based jobs into Western Australia. They would come out to Joondalup, and there was no doubt in my mind that they were looking for thriving activity centres in which to base those jobs. They are not going to base them in an area that has nothing more than a shopping centre, and they are not going to base them in an area that does not have a sense of dynamic activity about it. I hope that under the government’s new centres policy we do not see places like Whitfords shopping centre allowed to grow its retail size even further. That will detract from the ability to grow Joondalup to fulfil its potential. It will also not allow us to fix existing problems in the north west corridor of Perth. For those reasons, I support the idea of giving special trading precinct status to Joondalup, and I will also support it in the Armadale and Midland areas for the same reason.

I urge the government to hold back on this constant charge towards deregulation and instead put this legislation in place and allow it to actually work, and work with us to get the functionality that we need. I note that the Minister for Transport is looking at me and we share an interest in transport. I know the minister understands the task of moving people as well as I do. If we do not create activity centres that are employment nodes outside the Perth central business district, Perth will grind to a halt. The freeway system and even the railway system coming in from the northern suburbs will not be able to cart the extra 60 000 or 100 000 people who would want to come down that corridor if all the jobs were based in Perth. Jobs have to be shifted into areas like Joondalup. I really do believe that this bill—if it is allowed to be bedded down and to stay in place for some time, and if the government gives the message and a signal that that is what it will do—will go a long way to assist the Joondalups, the Midlands and the Armadales to grow. Something in the order of every train carrying 1 000 people into and out of the city from the northern suburbs costs the government about \$700 000 a year in subsidies; therefore, there would be a financial benefit to the state if we relocated those jobs into the corridor. However, to do that we have to create that retail heart. Joondalup is now getting a Myer store. I hope that we will also get a David Jones, because when we get David Jones and Myer alongside Sisters Supa IGA, Hon Liz Behjat —

Hon Liz Behjat: Yay!

Hon KEN TRAVERS: — then we will have the ability to attract those knowledge-based jobs that can co-locate around Edith Cowan University. We will see that co-location around Murdoch with the university and we will,

hopefully, see it around Joondalup as a result of that. That is why I support the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill.

I do not think that what the government did in expanding the precincts in and around Perth was a particularly smart idea, but I also accept that once someone has made those decisions it is almost impossible to reverse them. What we also know—I think it was demonstrated last week—is that the government requires this bill to ratify the current precincts that it has put in place. I have no doubt in my mind that if the government were taken to the Supreme Court the current legislation would be ruled ultra vires. It is interesting that the second reading speech did not note that this legislation seeks to ratify those current precincts, but it is very clear. When we got the briefing last week, it became even clearer. When I read this bill, my first reaction was that it is about ratifying the Perth and Fremantle trading precincts because they actually do not meet the test. I think the future Leader of the House, the current Leader of the Opposition, went through and outlined the advice we received from the State Solicitor, which I have to say at best was pretty equivocal. I think the Leader of the Opposition summed it up best, but basically we could argue that it was ultra vires or we could argue it was intra vires. It was not a particularly convincing argument to me coming from the State Solicitor that everything the government had done was correct, but when we got down to it, we said, “Hang on, if we pass this bill will it effectively ratify?” It is like the Australia Acts (Request) Act 1985 that actually ratified a number of previous decisions of this house that were questionable as to whether they had any legal enforcement. However, once the Australia acts were passed it cemented them in place forever and a day into the future. That is what this bill does. I think it is a bit disappointing that the government, prior to last week, was never really honest that that was one function that this bill would perform.

Another thing that I think was very disappointing in dealing with this legislation is that a committee of this house looked into this matter. We were due to deal with the disallowance motion about the issues of the legalities of the Perth and Fremantle precincts that will be effectively ratified by this legislation, but when we came into this place last Wednesday to have that debate, we did not have a report from that committee. That is an absolute disgrace. I know that Hon Ray Halligan, who was a former, very active deputy chair of that committee, would be horrified that a matter of that substance had been investigated by a committee—we know that it had public hearings—without the courtesy of providing a report to this place. I do not know why we ended up in the situation last week where we did not have the benefit of the advice of that committee by way of report to this chamber. The members on that committee should take note of that and think about it into the future. Why did we not get a report? I have no idea why we were not able to get that report, but in the past that joint standing committee would have provided a report to give us the committee’s advice. I suspect it is because when one listens to the advice and looks at the legal opinions, the one conclusion—the only conclusion, in my view—would be that the current precincts for Perth and Fremantle are illegal and are outside the current act. The passage of this bill tonight will finally ratify those precincts, and we will move forward.

In a perfect world, if I had my way, I would take the precincts back to the original heart of Perth, because that would provide benefits to retailers. What we will now get in terms of the issues I was talking about such as dynamic activity centres is a slight distortion into places like Subiaco and Victoria Park and the inner northern suburbs. I also accept that once we have scrambled the egg, it is impossible to unscramble that egg. That is why I think, even if we do not support the deregulation of trading hours, there is still a very solid and sound argument for developing the Perth metropolitan area to be a functioning metropolis that will be assisted by the passage of this bill. It requires one thing: it requires the government to understand that. That is one of the reasons that the Labor government developed the policy in the way that it did prior to the last election. It was not just about picking a couple of areas around Perth and plonking them into the mix and saying, “Let us have special trading in Armadale, Midland and Joondalup.” The policy was underpinned on the basis of building a better city for the Perth metropolitan area. However, for that to be the case, it is a requirement that the government understands that. In order to realise the benefits of that, the government must look back at the history of what happened in 1994 when the tourism precincts were first brought in and what that did for Perth and Fremantle. The government must realise that that can now be done in those other areas, but it requires the government to put the policy in place for an extended period of time so that investment will occur and we can develop those dynamic activity centres. If the government does not do that, we will either end up with a Perth metropolitan area that is completely dysfunctional—that is the simple answer to it—or the government will spend millions and billions of dollars trying to develop transport infrastructure to somehow find another solution to the problem. It is not going to be easy to find those driver jobs into Joondalup that the government needs to do—somewhere in the order of 2 000 a year.

The government has to get on with it. We have all got to get on with it. It is not the easiest thing in the world, and we need to use all of the regulatory arms of government to try to achieve this. My appeal to the government tonight is to try to understand that this bill is broader than a simplistic debate about retail trading hours and that it has a deep and resonating reason for its existence: it will help develop a better functioning Perth and it will set

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Perth up for the next 20 or 30 years. If the government charges ahead and goes out next week and says that after the election it will deregulate everything on a Sunday, then it will have wasted the opportunity for what we are trying to achieve in this legislation from a planning point of view. We have been dealing with the development assessment panels and trying to get that side of it right; this is another part of that package. It is up to the government whether it understands that and whether it wants to pursue it. From a trading point of view, it will provide an opportunity. To call Joondalup a tourism precinct was nonsense. I support 100 per cent the argument that it needs a special trading precinct to allow it to fulfil its potential. That is a reason I think members can still support this bill while acknowledging that we do not want to see wholesale deregulation of retail trading hours in Perth.

HON MAX TRENORDEN (Agricultural) [9.14 pm]: I was not going to speak on this bill. Like everyone else, I am looking forward to Thursday night, after which I can have some normality in my life. However, I want to make a short speech because Hon Ken Travers has motivated me to say a few words. There is an issue here that we skirt around and do not talk about. This whole question of commercial tenancy, which is basically what we are talking about, is something I cut my teeth on many years ago in another chamber. A couple of amendments to previous bills are entitled the “Trenorden amendments”, even though the bill was introduced by a Labor minister.

Before we develop the likes of Joondalup—when it is a patch of bush—we create a planning act and we allow an area to be a shopping centre. But we do not allow anyone else to do the same. The shopping centre is a monopoly from the moment it is put in place. I am not saying we should, but if we had the money and wanted to buy 200 or 300 properties nearby and create a new shopping centre, we could not do so because of planning law. No-one else can own that patch other than the person who has purchased it once it has been established in planning legislation. Then what happens? Along comes a developer who decides to build a shopping centre. What is the first thing the developer does? He finds one or two anchor tenants. What is the benefit of being an anchor tenant? The anchor tenant gets cheap rental space. Those tenants do not pay anywhere near the rental rates that other people in that shopping centre pay. We say that that is private enterprise. Explain to me how that is private enterprise. Explain to me how that is the market. I do not understand that, because it is actually a monopoly.

The core anchor tenants are allocated their area and given a special rate for it. What happens then? Once the core tenants have signed up, the shopping centre is built, and the small businesses—those that many people in this place talk about—come into the shopping centre and rent their space at many times the rate the anchor tenant pays. Why is that? The argument is that Coles, Woollies or whoever is the anchor tenant, is the key store where people are interested in shopping. That is the argument. The rest of the small businesses are hanging around; they are flotsam and jetsam. The anchor stores are the stores where the shoppers wish to shop. In light of that argument, the small businesses have to pay many times the rental rate of the core tenants.

Hon Ken Travers: That is one of the things we tried to deal with as part of the arrangements in terms of the government’s plan.

Hon MAX TRENORDEN: I am making a speech because I heard Hon Travers speak before; I understand that. But I want to make these points: no-one is talking about changing those arrangements. If we were foolish enough to pick up our superannuation cheque, or whatever else enabled us to do so, and we opened a small business, so many of us would not understand that the big tenant at the end of the shopping mall will pay very few of the overheads. It is in the lease. We, the small operator will pay those bills—not Coles, Woolworths, Kmart, Target or whoever it may be. When the place is open for longer hours and the lights and the air conditioning are on for longer, will the anchor tenants be asked to pay more? No, they will not be. The small tenant actually will be made to pay it—and it goes on from there.

I argued in the other place many years ago that in the past shopping centres have looked at the turnover of small shops, and when their leases were up, they doubled or trebled the rent so that other people could take over the lease. The shopping centres would show those other people the turnover of the small shops because they knew that they made money out of those shops. In that way, the shopping centres squeezed the small shops a little harder. There is a whole range of provisions in commercial tenancy that is right on the nose. Despite all the speeches on this topic over the years, I really do not mind who does what. The reality is that we have a responsibility to make this process somewhat fair. Are we doing that? No, we are not. In fact, we are not interested in it. I would suggest that not too many people have given the outline that I have just given. I know that Hon Ken Travers has argued those points before.

Hon Ken Travers: I don’t disagree with a word that you’ve said. I think that some of the things that the Leader of the Opposition has sought to negotiate with the government deal with the very issues that you’re talking about. I don’t for a moment disagree with them.

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Hon Ljiljanna Ravlich: We put up amendments on commercial tenancy, but the government won't accept them. We're ready when you're ready.

Hon MAX TRENORDEN: To use the words of Hon Ken Travers, if we are going to charge ahead into these wild territories, we should look at the waters that we are charting. The reality is that we need to look at the operating conditions and the problems that are put in front of small business. Our job is not to protect them. When I was heavily involved in small business, 80 per cent of all small businesses went bust. Our job is not to protect them, but why do we protect the other end of the process? I repeat: it is a monopoly; we do protect it. When large investors buy shopping centres, they have a guaranteed goldmine. By whom is it guaranteed? It is guaranteed by us; we guarantee them. Do we guarantee anything to the small operators? No, we do not. Where is the fairness in that? I am a market person; I am a free enterprise person. If that is the case, why are we not changing the rules for trading so that they are much more free enterprise inclined? Over the many years that I have been alive, unfortunately—not that it is unfortunate that I have been alive—two places really annoy me, and they are Mandurah and Midland. Both those communities have ruined the CBD. They are just a mess. The other place is poor old Dunsborough. What a mess that is. Whoever designed Dunsborough probably should be marched up against a brick wall and dealt with. It is like someone has used a shotgun in Midland and Mandurah. Retailers are spread over the whole community and the community does not gain too much at all. The motivation that I have received to speak is that if we are to head into these waters, why do we not chart them? Why are we not thinking about what we are doing? The argument is that I think not enough thought has been put into this proposal.

HON HELEN MORTON (East Metropolitan — Parliamentary Secretary) [9.24 pm] — in reply: I thank everybody for their contributions to the debate on the Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009. Obviously, it will be relatively straightforward. Hon Robin Chapple might even consider withdrawing his amendment so we do not have to go to the committee stage.

I want to provide members with some additional information on a couple of areas. I know we have talked about the complications and the potential complications of this bill but it is actually very simple. All it does is re-designate the existing Perth and Fremantle tourism precincts to special trading precincts and adds Joondalup to it. My comments will supplement some of the information that I already provided in the second reading speech. I will also make some comments about some of the issues that have been raised today.

There has been quite a lot of debate recently in the Parliament and in the community about retail trading hours. Unfortunately, this bill has got confused with the regulations that have been considered and discussed. There is some connection but I think we need to understand that those regulations and the issues around them are separate.

Hon Ken Travers: There's a huge connection between this bill and the ratification for Perth and Fremantle.

Hon HELEN MORTON: The member says that, but when I look at the time line of the sequence of events with regard to everything, this bill preceded those regulations by quite a long time.

Hon Ken Travers: Why do you think the disallowance motion was deferred last week?

Hon HELEN MORTON: I can tell the member that this business got underway a long time before the regulations.

The other thing I wish to mention is that the expansion of those zones, whether we call them existing tourist precincts or the new special trading precincts, is done by regulation, and that will be protected in the act. That will not change. They will continue to be able to be amended by regulations. We all seem to recognise that one of the big issues around this—that is, why we do not need to go on and on about these regulations and what came first and what did not—is that there is a much broader use of what will be called special trading precincts than just tourism precincts. These areas are actually being accessed by lots of people who live there and by lots of people who travel there for non-tourist activities. I do not want to see those people denied the opportunity to access the goods and services that they are purchasing through that process. I am sick to death of travelling into the city from Kalamunda on a Sunday just because I want to buy something that is available in Kalamunda but the shop that sells it is not open on a Sunday. The majority of people I talk to say the same thing.

A fair bit of this bill is about a change in terminology. I totally agree with what Hon Ken Travers said about people wanting to move into those areas and the need for extra jobs in those areas, but a lot of people who are moving into those areas and buying houses and units et cetera do not have cars. They are starting to rely on transport.

Hon Ken Travers: That is what I mean about building dynamic activity centres. It is about residential, commercial, retail and employment.

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Hon HELEN MORTON: They do not have the means to travel to the one or two places that are open to purchase those bigger goods if they also work five days a week. They need to be able to access those services in their local areas.

Hon Ljiljanna Ravlich raised the issue about defining the boundaries—in particular, the Joondalup tourism precinct. The first thing to indicate is that those boundaries will continue to be flexible because they can be changed by regulations. The boundaries are fairly clear around Joondalup according to the information I have. I have had a good look at the map—as members know, I do not come from that area—and the boundaries up there seem very clear and quite expansive to me. I cannot imagine that they would want to be any wider at this stage. Does Hon Ljiljanna Ravlich know these areas?

Hon Ljiljanna Ravlich: Yes, I do.

Hon HELEN MORTON: The precinct is bounded by Moore Drive in the north; Lakeside Drive and Joondalup Drive in the east; Ocean Reef Road in the south; and Mitchell Freeway in the west. I do not know how much simpler it would need to be to make those boundaries really easy for people to understand. There are a couple of pictures in there to clarify that.

The Retail Trading Hours Amendment (Joondalup Special Trading Precinct) Bill 2009 will retain the mechanism in the act whereby the area or areas of each of these precincts can continue to be prescribed by regulation. That is, of course, necessary because, as Hon Ken Travers also said, it is expected that these regulations will be in place for a long time and that there will be—what is the matter?

Hon Ljiljanna Ravlich: We will be going into committee.

Hon HELEN MORTON: I do not understand. Hon Ljiljanna Ravlich is trying to tell me something but I do not know what she is saying.

Hon Ljiljanna Ravlich: I'm telling you that if you don't hurry up, you won't be going into Committee of the Whole and you won't get your bill tonight! That's what I'm trying to tell you.

Hon HELEN MORTON: I am hoping we will not have to go into committee.

Hon Ljiljanna Ravlich: Well, you should have withdrawn the amendment.

Hon HELEN MORTON: I know.

The government indicates that the central business district and the shopping district of the City of Joondalup are encompassed within the area that Hon Ljiljanna Ravlich was trying to better understand. We have also talked about the potential changes to Midland and Armadale in the future.

I will take this opportunity to pass on to Hon Col Holt some really good information that came out of the work done by the City of Joondalup in putting its project forward, which is that 82 per cent of all the local shops currently permitted to trade outside of the normal hours support the longer hours and Sunday trading that this legislation will bring, and 97 per cent of local shops not currently permitted to trade outside the normal hours also supported the legislation. There has been quite a reasonable level of support for the change to the Joondalup precinct.

The boundaries of the Fremantle special trading precinct will continue to be largely—but not entirely—based on those of the Fremantle local government area, reflecting that the precinct will serve residents and tourists. The Perth special trading precinct will continue to include portions of localities and local government areas that adjoin either the Perth central business district or the locality of Perth or the City of Perth, to reflect that inner city tourist activity extends beyond the City of Perth and remains an important factor in the composition of the Perth special trading precinct. Tourists visiting the state capital do not confine themselves to the central business district or to a single local government area, but take advantage of a range of entertainment, sporting and shopping facilities. The boundaries of the Perth special trading precinct will reflect that. At the same time, the Perth precinct will support strong existing demand from domestic consumers for a range of shopping requirements.

The robust retail sector was an issue raised by Hon Col Holt and Hon Lynn MacLaren. In every state in Australia that has relaxed its retail sector trading regulations there has been an expansion of the industry. The retail sectors of states that have had a deregulated retail sector for 10 years or more have grown the most.

Hon Ken Travers: What study is that based on?

Hon HELEN MORTON: That is the Chamber of Commerce and Industry of Western Australia study of 2007, which is based on the years 1997 to 2006. States that have had a deregulated retail sector for 10 years or more have experienced the most growth in that sector. In Victoria it grew by 30 per cent; in Queensland by

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25 per cent; in New South Wales by 15 per cent; and in the same time frame Western Australia only grew two per cent. A whole lot of information has been provided about the benefits to the general community, but I will not go into that in the interests of trying to get this bill through.

The other area I want to comment on relates to the level of choice this opens up. I do not understand what people do not understand about the fact that not all shops have to open. Already, when we go into areas that have deregulated shopping, a number of shops are closed and a number are open. People choose—shop owners make decisions about whether their customers are coming to them or not coming to them. They make decisions whether they will open for a full day, a half day, part of a day, or whatever they want to do. That is the way the market determines what is appropriate for that particular shopping area. This is what we are trying to achieve. Some consideration and discussion has revolved around the creation of a small business commissioner or something similar. The government is investigating the creation of an entity similar to a small business commissioner. I am not saying it is or is not to be that; I am just saying that it is being looked at. The role would be similar to a small business commissioner or small business advocate. It will operate in a manner similar to the Victorian model in that the advocate or commissioner could represent the retailer, could seek mediation and could act on behalf of the tenant to take disputes through to the State Administrative Tribunal, for example.

I indicate to Hon Lynn MacLaren that there are many, many different ways that monitoring already takes place in relation to the viability or otherwise of the various shops that decide to open. That information is already captured in a range of different ways. That will not be difficult to monitor. I agree that we have to have it in place for a reasonable length of time to allow people to start to adjust their own lifestyle around the knowledge that shops are now open, or encouraging shops to open that are not yet ready to open et cetera so people feel a sense of reliability about going to a certain place because the shops will be open. That will take a little while, and we should be prepared to see that happen. I would be quite happy to see the bill rushed through.

Question put and a division taken with the following result —

Ayes (24)

Hon Liz Behjat	Hon Phil Edman	Hon Nigel Hallett	Hon Ljiljanna Ravlich
Hon Matt Benson-Lidholm	Hon Sue Ellery	Hon Alyssa Hayden	Hon Linda Savage
Hon Jim Chown	Hon Brian Ellis	Hon Lynn MacLaren	Hon Sally Talbot
Hon Peter Collier	Hon Donna Faragher	Hon Robyn McSweeney	Hon Ken Travers
Hon Ed Dermer	Hon Adele Farina	Hon Helen Morton	Hon Alison Xamon
Hon Kate Doust	Hon Nick Goiran	Hon Simon O'Brien	Hon Ken Baston (<i>Teller</i>)

Noes (5)

Hon Robin Chapple	Hon Philip Gardiner	Hon Col Holt (<i>Teller</i>)
Hon Mia Davies	Hon Max Trenorden	

Question thus passed.

Bill read a second time.

Leave denied to proceed forthwith to third reading.