

Submission for 2022-23 Christmas/New Year Retail Trading Extensions - Perth Metropolitan Area

Submission from: Master Grocers Australia Ltd.
Trading as MGA Independent Retailers

Submission to: Department of Mines, Industry Regulation &
Safety (Consumer Protection Division)

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1. Introduction

- 1.1. The Department of Mines, Industry Regulation and Safety – Consumer Protection Division (**Consumer Protection**) is undertaking provision of advice to the Hon. Roger Cook, Minister for Commerce, on the extension of the 2022-23 Christmas/New Year retail trading hours in the Perth metropolitan area.
- 1.2. Consumer Protection has invited Master Grocers Australia Limited (**MGA**) to provide a submission detailing members’ proposed trading hours preferences for the 2022/2023 Christmas/New Year trading period.
- 1.3. MGA strongly opposes to any changes to trading hours in the Perth metropolitan area during the Christmas/New Year’s period. However, in the event that the Minister grants such extension, MGA submits that any extension of the general retail trading hours in the Perth Metropolitan Area for 2022-23 Christmas/New Year period should be as follows:

Dates	Proposed trading hours
From 16 December 2022 to 24 December 2022	Between 7am to 9pm on weekdays Between 8am to 9pm on Sundays and Public Holidays
Boxing Day (26 December 2022)	Between 8am and 6pm
Tuesday 27 December 2022	Between 8am and 6pm
New Year’s Day (1 & 2 January 2023)	Between 8am and 6pm

Closures would be on Christmas Day 2022.

- 1.4. MGA notes that last year, it provided a submission in respect of the 2021-22 Christmas/New Year retail trading extensions in the Perth metropolitan area. In this submission, MGA continues to reiterate its firm position that any extension of trading hours is a significant issue for many of its WA members as it will substantially lessen the competitive ability of local independent supermarkets and food retailers.

2. About MGA

- 2.1. MGA Independent Retailers and MGA Timber Merchants Australia (**MGA TMA**) is a national registered employer industry association representing independent grocery and liquor supermarkets in all States and Territories of Australia.
- 2.2. MGA TMA represents independent grocery, liquor, and other retail outlets including timber and hardware, in all States and Territories of Australia. These businesses range in size from small, to medium and large, and make a significant contribution to the retail industry, accounting for approximately \$16 billion in retail sales. There are 2,700 branded independent grocery stores, trading under brand names such as: Drakes, Farmer Jacks, FoodWorks, Foodland, Friendly Grocers, IGA, IGA Xpress, Supa IGA and SPAR, with a further approximately 1,300 independent supermarkets trading under their own local brand names.
- 2.3. In addition, there are numerous independent liquor stores operating throughout Australia and trading under names such as: Cellarbrations, The Bottle O, Duncans, and Local Liquor, which are either single or multi-store owners.
- 2.4. Our members also own independent hardware stores that trade under brand names including Mitre 10, Home Timber and Hardware, Thrifty Link and True Value Hardware.
- 2.5. These stores and businesses collectively employ more than 120,000 staff.
- 2.6. In Western Australia alone, there are approximately 491 members which comprises of small family businesses, independent community food and grocery stores, employing over 20,000 staff with a sales turnover of approximately \$2.8B per annum.
- 2.7. In Western Australia, MGA TMA's members trade under a variety of different brand names including, Farmer Jacks, FoodWorks, Supa IGA, IGA, IGA Xpress, Eziway, Cellarbrations, The Bottle O and Mitre 10 Hardware and Home Timber and Hardware.
- 2.8. These stores across WA are independently owned and operated, and generally form the major investment for family or personal enterprises and form a large part of an individual's or group's investment and/or superannuation strategy. Each of the branded stores are small businesses independently owned and operated as sole traders or family-run businesses, and some are partnerships where more than one family has a financial interest in the business. Many member stores are handed down to the next generation as a legacy to continue as a form of family enterprise or asset.
- 2.9. MGA's WA Director is Ross Anile, who together with his family owns and operates the IGA Fresh local community supermarket in Roleystone.
- 2.10. It is evident that the independent grocery sector makes a significant contribution to the WA economy and the communities in which they trade. These stores make a major contribution to the local economy and employment. These stores along with the other non-corporate retailers are part of the fabric of the communities in which they serve, contributing to local clubs, schools, and charities, and supporting local trades, vendors, and services.

2.11. Western Australian MGA members are comparatively much smaller when compared with the large national supermarket chains of Coles, Woolworths, and Aldi, which combined represent approximately 85 per cent of the national retail supermarket and liquor industries.

3. MGA submission in respect of increased trading hours

3.1. MGA, as an advocate for Western Australian independent food and grocery retailers, opposes the extension of Christmas / New Year retail trading hours in the Perth metropolitan area beyond the times currently specified.

3.2. As mentioned, MGA has previously opposed the extension of trading hours on behalf of our members and continues to strongly oppose any further relaxation of trading hours due the detrimental impacts on family and privately owned supermarkets and retail businesses, as well as the general independent grocery sector in Western Australia.

3.3. Members of MGA are an integral part of the community hubs in which they trade. Together, with many other small family-owned food growers, producers and manufacturers, they are a part of a vital commercial ecosystem. Our members make it possible for small local businesses to start-up, acquire distribution, and make their local products available to our WA customers.

3.4. To ensure the ongoing viability, independent community supermarkets and small business grocery retailers heavily rely on limited remaining trading hours in which larger businesses are unable to trade. If trading hours are substantially or even nominally relaxed over the festive period, then this valuable and robust ecosystem of local WA businesses risks becoming unviable.

3.5. Currently, the trading hours for general retail shops in the Perth Metropolitan area are as follows:

Monday to Friday:	8am to 9pm
Saturday:	8am to 5pm
Sundays and public holidays:	11am to 5pm
Christmas Day, Good Friday & ANZAC Day:	Closed

3.6. Understandably, there are exceptions to the above legislated trading hours. We note that this includes the following:

- (a) small retail shops can trade 24 hours a day, every day of the year;
- (b) small retail shops are shops owned by up to six people who operate no more than four retail shops, in which up to 25 people work at any one time (people employed as apprentices are not included in maximum permitted staffing numbers); and

- (c) to be classified as a small retail shop, the store must satisfy the above conditions and apply to the WA government for a certificate confirming the status.

3.7. MGA notes that last year, the Minister has previously granted extensions for the 2021/2022 Christmas/New Year trading period as follows:

Sunday 5 December 2021	8am to 6pm
Saturday 11 December 2021	8am to 6pm
Sunday 12 December 2021	8am to 6pm
Monday 13 December 2021	7am to 9pm
Tuesday 14 December 2021	7am to 9pm
Wednesday 15 December 2021	7am to 9pm
Thursday 16 December 2021	7am to 9pm
Friday 17 December 2021	7am to 9pm
Saturday 18 December 2021	8am to 6pm
Sunday 19 December 2021	8am to 6pm
Monday 20 December 2021	7am to 9pm
Tuesday 21 December 2021	7am to 9pm
Wednesday 22 December 2021	7am to 9pm
Thursday 23 December 2021	7am to 9pm
Friday 24 December 2021	7am to 9pm
Sunday 26 December 2021 (Boxing Day)	8am to 6pm
Monday 27 December 2021 (Christmas Day public holiday)	8am to 6pm
Tuesday 28 December 2021 (Boxing Day public holiday)	8am to 6pm
Saturday 1 January 2022 (New Year's Day)	8am to 6pm
Monday 3 January 2022 (New Year's Day additional)	8am to 6pm
Wednesday 26 January (Australia Day public holiday)	8am to 6pm

3.8. Over recent years, and especially in light of the COVID-19 climate, there have been amendments to trading hours legislation in Western Australia, which have provided general retail shops with greater opportunities to trade and boost retail sales.

3.9. MGA notes that last year's Christmas trading period (as above) was substantial in comparison to the trading hours for the 2020/2021 festive season period. In particular, it is

noted that in October 2021 last year, the Minister had substantially increased the 2021/2022 trading hours by permitting general retail shops in the Perth metropolitan area to trade an additional 44 extra hours for the Christmas and New Year’s period.

- 3.10. The increase of the additional 44 trading hours for general retail shops meant that:
- (a) the extended trading hours commenced at an earlier period from 5 December 2021. This is in contrast to the 2020/2021 festive season period where the extended trading hours commenced at a relatively later period from Wednesday 16 December 2020;
 - (b) the general trading hours on Sundays and public holidays had been extended to an extra four hours a day, from 11am to 5pm, in contrast to the normal trading hours from between 8am to 6pm;
 - (c) the general trading hours on Saturdays had been extended to an additional one hour a day to 8am to 6pm, compared to the normal trading hours from between 8am to 5pm; and
 - (d) from 13 December 2021 to Christmas Eve (inclusive), larger shops were permitted to open one hour earlier on weekdays from 7am until 9pm, compared to the normal trading hours from between 8am to 9pm.
- 3.11. It was explained in a media statement released by the Government of Western Australia that the extra trading hours was designed to “boost retail sales” and encourage WA consumers to “shop early and locally this year to avoid disappointment due to COVID-19 delivery delays”.¹
- 3.12. MGA acknowledges that the additional trading hours extension for the 2021/2022 Christmas/New Year’s period may have potentially assisted in reducing COVID-19 delivery delay for the general community. However, MGA submits that these trading hours extensions, if granted this again year, will continue to have damaging impacts on the profitability and viability of smaller businesses, especially as these small businesses tend to rely on the modest competitive advantage afforded by the limited trading hours of general retail shops in the Perth metropolitan area.
- 3.13. MGA also submits that as the Australian economy transitions to its new COVID-19 “normal”, with associated relaxation in isolation and testing requirements, the previously identified need to assist COVID-19 delivery delays for the general community has abated. It remains that there are no compelling reasons to provide trading hours extension for the 2022/2023 Christmas/New Year’s period.
- 3.14. Given that that family-owned local food and grocery retailers in Western Australia do not operate on a ‘level playing field’, the extension of the trading hours will enable larger supermarkets, such as Coles and Woolworths, an increased opportunity to strengthen their

¹ Government of Western Australia (Cth), “Extra trading hours to encourage shopping locally this Christmas”, (Media Statement, 15 October 2021) 1 <<https://www.mediastatements.wa.gov.au/Pages/McGowan/2021/10/Extra-trading-hours-to-encourage-shopping-locally-this-Christmas.aspx>>.

market power, thereby substantially lessening the competition of local supermarkets in Western Australia.

- 3.15. There is ample evidence to demonstrate that small businesses will fall by the wayside if the extension of trading hours is granted during the 2022/2023 Christmas/New Year period. Permitting all general retail shops in the Perth metropolitan area to have extended trading hours will result in the further expansion of the market power of Coles and Woolworths, as they will be the main beneficiaries of extended trading hours, not family-owned local food and grocery retailers.
- 3.16. Accordingly, it is larger stores such as Coles and Woolworths who will benefit most from the extended trading hours to the detriment of community family-operated businesses in the Perth metropolitan area. As established above, these smaller community businesses often rely on the opportunity to trade on weekends or public holidays when the Coles and Woolworths have restricted trading hours. This opportunity can be described as a competitive edge required by smaller community grocery stores and supermarkets who lack the economies of scale and resources that the larger supermarket chains possess.
- 3.17. It is acknowledged that larger businesses, such as Coles and Woolworths claim that the extension of trading hours during the festive season offers greater “customer convenience”. However, MGA disagrees with this position and submits that this in fact produces the opposite effect in that it will simply remove the few additional hours of trade that smaller retailers currently have, as well as erodes the livelihood of small businesses which will eventually force their prospective removal from the market. Should the market share of Western Australian independent grocery retailers continue to decline, Western Australian consumers will continue to have fewer retailers to select from, hence decreasing consumer choice.
- 3.18. The prospective trading hours extensions over the Christmas /New Year’s period may include an extension of trading hours on certain public holidays. This is far beyond the current allowable trading hours in the Perth Metropolitan area.
- 3.19. If the proposed Christmas/New Year trading extensions proceed, there may be expectations placed on small businesses to be open on public holidays in line with larger retailers, or face pressure from their landlord, or lose local customers or face further erosion of market share. However due to the exorbitant penalty rates, small retail businesses must pay on public holidays (in some cases up to 250%), it is in our members’ experience to not make a profit on these days due to extremely high wage costs to compensate staff for working on these days.
- 3.20. Larger retailers have the ability, resources and economies of scale to engage in enterprise bargaining, resulting in comparatively favourable enterprise agreements and often utilise automated self -serve checkouts and other mechanized technology which reduces their cost of trading on public holidays. In any event their costs can be easily absorbed which is not the case for smaller family and privately owned retailers and businesses.
- 3.21. Further, in the event that the extension of trading hours is continually granted year on year, MGA foresees that this will weaken competition in the independent sector of the grocery

industry in Western Australia to the extent where it may no longer be commercially feasible for new independent supermarket competitors to enter the market or expand the number of stores they own. This will result in the larger stores controlling prices and it will distort the ability of consumers to make choices and destroy any semblance of competition.

- 3.22. The opportunity for community family-operated businesses to trade with limited trading hours is crucial to our members with most stores endeavouring to open before their nearest chain store opens and remain open until after their nearest chain store has closed. Any opportunity to remain open allows small businesses to remain competitive and make up for the lost sales during the hours when larger supermarket chains such as Coles and Woolworths are open. If changes to trading hours are introduced, the difficulties currently faced by the independent small businesses will worsen.
- 3.23. If the WA Government is serious and committed to helping family and private small businesses to survive and compete in the growing food and grocery economy, it must not permit a substantial extension of trading hours in Perth during the Christmas/New Year's period as these businesses are not likely to remain viable, owing to a vital distribution and sales point being closed to them.

MGA continues to commit to the survival of its independent food and grocery stores in Western Australia and submits that the extension of trading hours will result in the ultimate demise of small local food and liquor retailers in the Perth metropolitan area.

For these reasons, MGA strongly opposes to the extension of any trading hours and urges the Minister to resist any changes to trading hours in the Perth metropolitan area during the Christmas/New Year's period.

MGA thanks the Minister and the Department of Commerce for the opportunity to make this submission on behalf of our WA members.

Yours sincerely



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