



**Government
of South Australia**

TRS19D0426

Treasurer

Level 8
State Administration Centre
200 Victoria Square
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Tel 08 8226 1866
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Hon Stephen Mullighan MP
Member for Lee
Unit 1, 62 Semaphore Road
SEMAPHORE SA 5019

lee@parliament.sa.gov.au


Dear Mr Mullighan

APPLICATION UNDER THE *FREEDOM OF INFORMATION ACT 1991*

I refer to your application made under the *Freedom of Information Act 1991* (FOI Act), dated 22 February 2019.

Your application seeks access to:

"All documents, briefings, emails, notes or correspondence provided to the Treasurer or Treasurer's Office, prepared by the Department of Treasury and Finance regarding the economic impacts of shop trading hours reform, between 4 September 2018 and 22 February 2019."

The purpose of this letter is to advise you of my determination. An extensive search was conducted within this office. A total of 5 documents were identified as answering the terms of your application.

I grant you access in part to 4 documents, copies of which are enclosed.
I refuse you access to one document.

Documents released in part

Documents 1, 2, 4 and 5

These are letters written in response to correspondence received by my office about shop trading hours. I have determined to release these documents in part, as they contain information of a personal nature which if released, would be an unreasonable disclosure of personal affairs. I have determined to exempt this information pursuant to clause 6(1).

Documents refused in full

Document 3 is a Parliamentary Briefing Note which was prepared specifically for use in Parliament, the disclosure of which would infringe the privilege of Parliament. I have therefore determined exempt this document in full pursuant to clause 17(c) of Schedule 1 to the FOI Act.

Exemptions

Clause 17 – Documents subject to contempt etc

A document is an exempt document if it contains matter the public disclosure of which would, but for any immunity of the Crown—

(c) infringe the privilege of Parliament

Please note, in compliance with Premier and Cabinet Circular PC045 - *Disclosure Logs for Non-Personal Information Released through Freedom of Information* (PC045), The Department of Treasury and Finance is now required to publish a log of all non-personal information released under the *Freedom of Information Act 1991*.

In accordance with this Circular, any non-personal information determined for release as part of this application, may be published on the DTF website. A copy of PC045 can be found at the following address: <http://dpc.sa.gov.au/what-we-do/services-for-government/premier-and-cabinet-circulars>. Please visit the website for further information.

No fees and charges are payable for this application.

As I am determining this application as Principal Officer, Section 29(6) of the Act does not provide for an internal review. If you are dissatisfied with my determination you are entitled to exercise your rights of external review with the Ombudsman.

Alternatively, you can apply to the South Australian Civil and Administrative Tribunal. If you wish to seek a review, Section 39(3) of the Act states you must do so within 30 calendar days of receiving the determination.

If you require any further information, please contact Vicky Cathro on (08) 8226 9769.

Yours sincerely



Hon Rob Lucas MLC
Principal Officer

11 April 2019

Att.

Schedule of Documents

TRS19D0426

Doc. No.	Date	Description of Document	# of pages	Determination Recommendation	Exemption Clause	Reason
1	6/02/2019	Letter to Mr Sam Duluk, Member for Waite on behalf of a constituent	2	Released in part	6(1) - Unreasonable disclosure of personal affairs	
2	15/01/2019	Letter to a member of the general public	2	Released in part	6(1) - Unreasonable disclosure of personal affairs	
3	22/10/2018	PBN	3	Refused in full	17(c) - Disclosure would infringe the privilege of Parliament	
4	7/10/2018	Letter to a member of the general public	2	Released in part	6(1) - Unreasonable disclosure of personal affairs	
5	7/10/2018	Letter to a member of the general public	1	Released in part	6(1) - Unreasonable disclosure of personal affairs	

RELEASE IN PART

The Hon Rob Lucas MLC



Government
of South Australia

TRS19D0133

Mr Sam Duluk MP
Member for Waite
PO Box 445
BLACKWOOD SA 5051

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Dear Mr Duluk

Thank you for your letter dated 18 January 2019 about the questions raised by your constituent, [REDACTED] in relation to the deregulation of shopping hours.

As you would be aware, a Government Bill to deregulate the majority of the trading restrictions imposed by the *Shop Trading Hours Act 1977* (SA) (the Act) did not receive adequate support to progress through the Parliament. The Bill was an election commitment, however consultation with a range of key retail stakeholders was undertaken prior to its introduction.

The feedback from those stakeholders was largely consistent with previous positions on the topic i.e. the larger retailers and shopping centre groups support deregulation whilst the relevant unions and organisations that represent small independent retailers support the retention of trading regulation. However, most importantly, the majority of South Australians want greater choice as to when they can shop and do not support the continuation of a law that dictates when many shops can and cannot open, particularly when most other types of business are not subject to the same restrictions.

With regard to Boxing Day trading, the decision to allow all shops to open on Boxing Day was part of the annual exemption process that provides retailers with a range of additional trading hours over the busy Christmas shopping period. The Act allows for trading on most public holidays, including Boxing Day, in the city centre and nearly all of regional South Australia. It was my view that all shops should be given the choice to open and enjoy the benefits of Boxing Day trading along with the added convenience for people to shop in their local area.

It should be noted that the exemption carried a special condition that required shopkeepers to only roster staff that volunteered to work during any of the additional hours. To date, I am not aware of any complaint from a worker who was rostered and made to work against their will on Boxing Day or at any other times provided by the exemption.

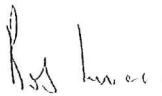
I have been advised that the hours provided by the Act and any additional hours provided by an exemption do not mandate when shops should be open. In fact, most small retailers are exempt from the Act due to their size and/or the goods they sell, therefore their decision to trade or not on Boxing Day in 2018 was no different to previous years.

This is one of the reasons why this Government remains committed to the deregulation of trading hours. All retailers large, medium and small should have the same choices as to when they can trade. Deregulation will not necessarily bring about changes to the trading hours of many retailers but will benefit those where customer demand supports longer or more flexible hours.

In relation to the impact on the South Australian economy, this Government is confident that deregulating trading hours will benefit the retail sector at a time when bricks and mortar retailers are being challenged by the growth of online shopping. The Australian Productivity Commission has previously reported that the total or significant deregulation of trading hours in other Australian states and internationally has had a positive economic impact and increased employment in the retail sector.

Thank you for raising these questions with me and I trust this information will assist in responding to [REDACTED]

Yours sincerely



Hon Rob Lucas MLC
Treasurer

6 February 2019

The Hon Rob Lucas MLC



Government
of South Australia

TRS19D0031

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[REDACTED]
MORPHETT VALE SA 5162

Dear [REDACTED]

Thank you for your letter of 28 December 2018 to the Premier, the Hon Steven Marshall MP, concerning the Liberal Government's mandate to deregulate shop trading hours and the recent exemption granted under the *Shop Trading Hours Act 1977 (SA)* (the Act) for the Christmas period.

As this matter falls within my portfolio responsibility, the Premier has asked that I respond directly to you.

The gradual deregulation of South Australia's shop trading laws since the current Act came into force has left us with a piece of legislation that makes very little sense and provides inequities among the retail industry across the State.

You may be interested to note the Final Report of the 2015 Competition Policy Review, commissioned by the Commonwealth Government, noted the concerns of some independent retailers about their ability to compete in a deregulated environment. However, the Expert Panel noted that independent and small businesses are able to differentiate their offerings to fulfil consumer demands and compete in the face of deregulated trading hours.

That same report provides data from numerous pieces of research into the deregulation of trading hours in other states. Overall, these findings have been very positive and I invite you to refer to pages 156 to 165 of the report from the following link: <http://competitionpolicyreview.gov.au/final-report/>

It is the Government's view that businesses and consumers should be provided with one set of trading rules for all shops covered by the Act, making it clearer and easier for the community to choose when and where to shop.

Whilst the Government's Retail Trading Bill 2018 did not receive adequate support to progress through the Parliament, the Government remains committed to reforming these outdated laws and will continue to advocate for a sensible freedom of choice for all businesses and consumers.

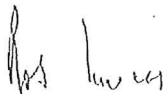
Secondly, you refer to Boxing Day trading. Following strong demand from consumers and retailers, and given the influx of tourists during the festive season, a special exemption under the Act was granted to give all retailers in metropolitan Adelaide the opportunity to trade during the Christmas period, including Boxing Day.

I acknowledge that public holidays are an important time for family, however, I also recognise that there were many people who saw this as an opportunity to work additional hours. Penalty rates for working on a weekend and public holiday under the relevant modern award or enterprise agreement also applied.

Employees working during those extended hours could only be required to do so on a strictly voluntary basis. SafeWork SA will investigate any allegation of a worker being forced to work on Boxing Day or at any other time relating to the Christmas exemption or any future exemption that carries the same condition and I will consider the outcomes of any such investigations.

I appreciate you taking the time to provide the Premier with your views on the matter.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Lucas'.

Hon Rob Lucas MLC
Treasurer

15 January 2019

The Hon Rob Lucas MLC



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TRS18D1829



EVANSTON PARK SA 5116

Dear 

Thank you for your email dated 16 September 2018 to the Hon. Stephan Knoll MP, Minister for Transport, Infrastructure and Local Government regarding shop trading hours. As this matter relates to my area of portfolio responsibility, I am responding to you.

Firstly, I would like to thank you for submitting your views on this important matter and for your support for shop trading reform. This Government is indeed committed to reforming South Australia's outdated trading laws to allow South Australian businesses to determine how best to grow and service customer demand.

I share your views that the current laws are archaic. The gradual deregulation of South Australia's shop trading laws since the current *Shop Trading Hours Act 1977* (SA) came into force has left us with a piece of legislation that makes very little sense and provides inequities among the retail industry across the State. Businesses and consumers should be provided with one set of trading rules for all shops covered by the Act, making it clearer and easier for the community to choose when and where to shop.

You may be pleased to know that the Government recently introduced the Retail Trading Bill 2018, which provides for a contemporary set of trading arrangements for shops in South Australia. The Government believes these changes will boost the retail sector, provide greater choice and flexibility for consumers, and open up more opportunities for South Australians working in retail.

Thank you once again for raising this matter with the Government.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Rob Lucas'.

Hon Rob Lucas MLC
Treasurer

1 October 2018

The Hon Rob Lucas MLC



Government
of South Australia

TRS18D1850

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[REDACTED]
RICHMOND SA 5033

Dear [REDACTED]

Thank you for your email dated 21 September 2018 to the Premier, the Hon Steven Marshall MP, regarding shop trading hours. As this matter relates to my area of portfolio responsibility, I am responding to you.

Firstly, I would like to thank you for submitting your views on this important matter and for your support for shop trading reform. This Government is indeed committed to reforming South Australia's outdated trading laws to allow South Australian businesses to determine how best to grow and service customer demand.

The gradual deregulation of South Australia's shop trading laws since the current *Shop Trading Hours Act 1977* (SA) came into force has left us with a piece of legislation that makes very little sense and provides inequities among the retail industry across the State. Businesses and consumers should be provided with one set of trading rules for all shops covered by the act, making it clearer and easier for the community to choose when and where to shop.

You may be pleased to know that the Government recently introduced the Retail Trading Bill 2018, which provides for a contemporary set of trading arrangements for shops in South Australia. The Government believes these changes will boost the retail sector, provide greater choice and flexibility for consumers, and open up more opportunities for South Australians working in retail.

The proposed reforms would allow shops to trade whenever they choose every day of the year except Good Friday, Christmas Day and not before 12 noon on ANZAC Day (with exempt shops being allowed to trade on those 2.5 days). The decision in relation to trading hours would be left to the business owner – who could decide to open, for example, until 9:00pm on a Saturday and from 9:00am on a Sunday if they so wished.

At this stage, the process is ongoing but I thank you once again for raising this matter with the Government.

Yours sincerely

A handwritten signature in dark ink, appearing to read "Rob Lucas".

Hon Rob Lucas MLC
Treasurer

1 October 2018