

RETAIL TRADING ACT 2008 DECISION**REASON FOR DECISION**

1. I, Melissa Gumm, am an officer holding a delegation from the Secretary under the *Retail Trading Act 2008 (Act)* to exercise the functions prescribed in that Act.
2. On 18 May 2024, Miniso Chatswood Pty Ltd (**Applicant**) made an application under section 10 of the Act as occupier of a shop at 350 Victoria Ave, Chatswood (**Shop**), for the Shop to be exempt from the requirement to be kept closed on Good Friday, Easter Sunday, Christmas Day and before 1pm on ANZAC Day for the years 2024, 2025 and 2026 (**Application**).
3. The Application was placed on public exhibition for a period of no less than 14 days from 11 June 2024 and public comment was sought.
4. I have considered the Application and public comments that were received.
5. On this day I have decided to refuse the application as I am not satisfied that, as required by section 10(2) of the Act, it is in the exceptional circumstances of the case in the public interest to do so, having regard to the following matters:
 - (a) the nature of the Shop and the kinds of goods sold by the Shop.
 - (b) the need for the Shop to be kept open on the days concerned.
 - (c) the likely effect of the proposed exemption on the local economy, tourism and small businesses and other businesses in the area.
 - (d) the likely effect of the proposed exemption on employees of, or persons working in, the Shop.
6. In making this decision I have taken into account the principles enunciated in a decision of the Administrative Decisions Tribunal (**Shop Distributive and Allied Employees Association v Director General of Services Technology and Administration and K-Mart Australia Limited [2010] NSW ADT 312**) that the test under section 10 is a two-step process, there being a need for both exceptional circumstances and for the granting of the exemption to be in the public interest.

7. The Applicant submitted the following as exceptional circumstances:
 - (a) The shop operates as an independent storefront located on a pedestrian street which remains accessible when nearby malls are closed.
 - (b) The shop prominently features products favoured by children and teenagers, serving a significant need during holiday periods.
8. Whilst I acknowledge the circumstances raised by the shop, these do not qualify as exceptional circumstances in accordance with section 10(2) of the Act.
9. The Applicant submitted the following reasons as to why they believed granting an exemption would be in the public interest:
 - (a) The restricted trading days generally coincide with school vacations, during which time there is heightened demand for the products sold by the shop.
 - (b) Remaining open on the restricted trading days will meet the need to provide essential shopping opportunities that support family activities and holiday preparations.
 - (c) Increased foot traffic from the shop being open will benefit surrounding businesses and bolster tourism within the area.
10. I do not consider the reasons provided by the Applicant sufficiently demonstrate that granting the Shop an exemption is in the public interest in accordance with section 10(2) of the Act.

Yours sincerely,

Melissa Gumm
Senior Coordinator
NSW Fair Trading