

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

1. I, Cheryl Grant, 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 11 March 2025, Green March Investments trading as IGA Cameron Park plus Liquor (**Applicant**) made an application under section 10 of the Act as occupier of a shop at 97 Northlakes Drive, Cameron Park NSW 2285 (**Shop**), for the Shop to be exempt from the requirement to be kept closed on Good Friday and Easter Sunday for the year of 2025 (**Application**).
3. I have considered the Application and public comments which were received.
4. 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.
5. 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.
6. The Application was placed on public exhibition for a period of no less than 14 days from 13 March 2025 and public comment was sought. One public submission was received from an employee of the Shop. Two public submissions were received from community members and two public submissions were received from the Shop, Distributive & Allied Employees' Association, New South Wales (SDA NSW) and from the NSW Branch of the Shop, Distributive & Allied Employees' Association (SDA).
7. I have now considered the circumstances raised by the Shop, as well the public submissions received.
8. The Applicant submitted the following as a claim for exceptional circumstances:
  - (a) IGA Cameron Park Plus Liquor is located in Cameron Park which falls in the local government area of Lake Macquarie. The demographic of this suburb are young families, the elderly, people with disabilities and limited mobility.
  - (b) Often, the Shop is the only place where the community can engage with others on a daily basis, especially the elderly and less mobile.
  - (c) The community relies on the Shop to open for small grocery staples such as milk, bread etc.

- (d) The Shop is a local essential service for people with limited access to other facilities and not being able to offer this service will be a disadvantage to the vulnerable of the community.
  - (e) Retaining stock levels consistently based on community feedback, pre purchase stock has been made to maintain consistent stock based on interrupted deliveries from major distribution centres and the increased cost of transportation. With Easter in mind, the Shop has pre purchased stock to allow for trading over these days as per previous years.
9. Whilst I acknowledge the circumstances raised by the Shop, I do not consider these qualify as exceptional circumstances in accordance with section 10(2) of the Act for the following reasons:
- (a) A supermarket in a town with limited retail options, and a shop providing essential goods and services for customers day to day needs could reasonably be considered regular, routine, or normally encountered circumstances across many areas in NSW.
  - (b) A customer base including an aged and vulnerable population or those who may not have means to travel because of limited mobility could also be considered regular, routine or normally encountered circumstances.
  - (c) With regards the Shop contributing to the local economy, providing opportunities for employment and opportunities for increased income through award entitlements, these are all circumstances regularly, routinely, or normally encountered in NSW.
  - (d) Having regard to the rationale of the Act, there should be a general presumption against trading on restricted trading days and there appears to be no exceptional circumstance in place to warrant the granting of an exemption.
10. The Applicant submitted the following reasons as to why they believed granting an exemption would be in the public interest:
- (a) The Shop is a community focused store and sells groceries, essential items, beverages, other convenience items and fast-moving consumer goods.
  - (b) To remain open on the restricted trading days, it allows the local and surrounding suburbs to have access to essential grocery needs while maintaining connection within the local community especially the elderly, those with limited mobility and young families that form most of the customer demographic.
  - (c) Having access to essential goods on restricted trading days would boost customer confidence in the supermarket offerings. It provides service to existing customers and may attract new customers. This would also promote a destination shopping experience and boost the local economy.
  - (d) Maintaining trading hours would support local employment and job opportunity.
  - (e) By providing access to reliable and convenient essential services, it may make the region more attractive to any domestic or international visitors to the local area.
  - (f) Located opposite an aged care facility, customers visiting loved ones and elderly members of their family over the Easter long weekend would attract high level foot traffic from the aged care facility with access to the supermarket.
11. 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 for the following reasons:
- (a) The Application relates to two single days, with unrestricted trading available under the Act on both the day immediately before, and the day immediately after for both Good Friday and Easter Sunday 2025. This does not indicate a significant restriction of access to the essential items sold by the Shop, even having regard to the circumstances raised by the Applicant –access to essential daily items, daily customers including young families, the elderly, people with disabilities and limited mobility and the Shop as the only supermarket available on the standalone restricted trading days in the surrounding area.
  - (b) Similarly, it is unclear from the Application how standalone restricted trading days would have a significant impact on local suppliers, or the economic wellbeing and employment

opportunities for the community overall given the period for which an exemption is requested is 11 hours each restricted trading day.

- (c) There is no evidence provided in the Application that there would be a higher than usual demand in the area over this period if the exemption were granted. No public submissions supported this.
- (d) The Application notes granting an exemption would provide employees volunteering to work on the restricted trading days additional income, however there was only one submission from an employee of the Shop supporting granting of an exemption, despite the notice being published both on the Fair Trading website and instore to raise awareness of the opportunity to support or oppose this Application.
- (e) By contrast, the SDA submission refers to the social welfare of employees, their families and society, and notes the granting of an exemption would be out of step with community expectation, put pressure on retail employees and their families and impact the ability of many employees that celebrate Good Friday and Easter Sunday with their community.
- (f) Notwithstanding the absence of further submissions from direct employees of the Shop, 'public interest' refers to the interest of the general public, not that of individuals, employees, or employers.
- (g) The notion of 'public interest' refers to matters that might affect the public as a whole, which does not appear to be the case in this instance.

Cheryl Grant  
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**NSW Fair Trading**  
07/04/25