

RETAIL TRADING ACT 2008 DECISION

REASON FOR DECISION

1. I, Anita Crow, 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 13 February 2024, Ralph Lauren Australia t/a Polo Ralph Lauren (**Applicant**) made an application under section 10 of the Act as occupier of a shop at Shop G-018/455 and Shop G-008/455 George Street, Sydney (**Shop**), for the Shop to be exempt from the requirement to be kept closed on Easter Sunday 2024 (**Application**).
3. The Application was placed on public exhibition for a period of no less than 14 days from 20 February 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) We would like to trade on Easter Sunday to allow customers who do not celebrate Easter an opportunity to shop our brand & for those who are visiting the city of Sydney to be able to shop our brand.
We also want to give our team members an opportunity to make some extra money to support them with the current cost of living crisis.
We would look to have a max of 3 team members working on this day, with overlapping shifts to ensure they all were given adequate breaks & time to then spend with friends & family as needed.
We pride ourselves on being an inclusive & diverse brand and wish to be able to offer customers an opportunity to have access to our brand on this holiday.
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) To allow customers who may not celebrate Easter of those who are visiting to come and visit the store to explore our brand & pick up things they may need.
An increase in sales, a place for tourists to come & shop.
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,

Anita Crow
Team Leader
NSW Fair Trading