

Ref: SF00657918

RETAIL TRADING ACT 2008 DECISION

REASON FOR DECISION

1. I, Jodie McCracken, am an officer delegated by the Secretary under the *Retail Trading Act 2008* to exercise the functions prescribed in that Act.
2. On this day I have decided to refuse an application, received 7 February 2022, from Coles Group Limited pursuant to section 10 of the *Retail Trading Act 2008*, as I am not satisfied that the applicant has demonstrated the existence of exceptional circumstances as required by the section.
3. The application was placed on public exhibition for a period of no less than 14 days from 8 February 2022 and public comment was sought.
4. I have considered the Application and comments received.
5. On this day I have decided to refuse the Application, as I am not satisfied that it is in the exceptional circumstances of the case in the public interest to grant it, having regard to:
 - (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 having regard to the matters listed above.
7. My reason for this decision is that the circumstances identified in the Applicant's application, including:
 - (a) The Tamworth Country Music Festival event
 - (b) There will not be a single full supermarket open on Easter Sunday

are not exceptional relative to other shops which are required to be closed on Easter Sunday.

Based on the material presented, I have formed the view that it is not in the public interest for the exemption to be granted as it is evident that it is detrimental to the public that the shop is closed on Easter Sunday.

Jodie McCracken
Team Leader
NSW Fair Trading
1 March 2022