

# Statement of Proposal

## Introduction

This statement has been prepared as part of consultation on an Easter Sunday Trading Policy for Napier. In 2016, the government amended the Shop Trading Hours Act 1990 (the Act) to allow territorial authorities to have a policy to permit shops to open on Easter Sundays. The changes do not apply to other holiday dates such as Easter Friday for which current trading restrictions remain.

In accordance with the Act, Napier City Council (Council) is proposing an Easter Sunday Shop Trading Policy and is seeking your views. This Statement of Proposal has been prepared in accordance with section 83 of the Local Government Act 2002. The statement includes:

- The reason for the proposal;
- An overview of the proposed policy and the options available; and
- A description of the consultation process and how to provide your views on the proposal.

## Reason for the proposal

Before the legislation change, most shops had to remain closed on three and a half days of the year – Good Friday, Easter Sunday, Anzac Day (until 1pm) and Christmas Day. There were exemptions to this law for certain types of shops i.e. dairies, cafes, service stations, garden centres, pharmacies, souvenir and duty free shops. Some tourist centres hold an exemption for Easter Sundays, meaning retailers in these centres can already open.

The changes to the Shop Trading Hours Act give local communities the choice of whether or not to allow trading on Easter Sunday. Council voted to adopt a policy that allowed shops in the Napier District to open on Easter Sunday in February 2017. In August 2018, a high court decision ruled the policy invalid on the basis that consultation on the policy was inadequate.

### *What would happen if Council do not pass this policy?*

If Council voted not to adopt a policy allowing all shops to open on Easter Sunday, there would still be some shops open. These will be the shops listed above who hold an exemption under the Shop Trading Hours Act 1990.

### *If Council adopts a policy, do all shops have to open?*

Council recognises the importance of tourism related trade to the Napier retail economy and is therefore re consulting on a policy that allows all shops across the Napier district to trade on Easter Sunday. However, ultimately it is up to individual retailers whether they choose to exercise the right to open (i.e. there is no compulsion to do so).

### *Workers Choice Provision*

The legislation recognises that Easter Sunday is a day of significance across New Zealand and some people would not want to work on this day. An additional change to the Shop Trading Hours Act 1990 is the worker's choice provision. This gives employees and employers the ability to negotiate freely, and gives employees the ability to refuse work on Easter Sunday without any repercussions to the employment relationship.

### *Easter in Napier*

Easter weekend in Napier is a time of high visitor numbers. Our warm temperatures often extend into March/April making Napier a popular Easter weekend destination for both domestic tourists and foreign visitors alike. Easter also falls within the cruise ship season, so there is a high probability of a cruise ship being in Port on Easter Sunday.

### *Religious Beliefs*

Easter Sunday is an important day in the Christian church calendar because it celebrates Jesus Christ's resurrection, according to Christian belief. At the 2013 Census, 26,379 Napier people (46% of the population) reported as having a Christian based religious affiliation. During consultation with the community in 2016 and 2017 on the previous Easter Sunday Trading Policy, Council received feedback from parts of the community that demonstrated concerns with having a policy that removed one of the few remaining days where shops were not legally able to trade. Council is keen to understand the Napier's community views on this aspect of the policy.

## **Overview of Proposed Policy**

Under the amended Shop Trading Hours Act 1990, Council is able to adopt a policy that allows shops to trade on Easter Sunday. Alternatively, Council may decide not to adopt a policy, in which case, shops must remain closed.

The policy needs to define whether trading on Easter Sunday can occur in:

- a) the whole of the district; or
- b) any parts of the district

The policy cannot:

- a) permit shops to open for only some purposes; or
- b) permit only some types of shops to open; or
- c) specify times at which shops may or may not open; or
- d) include any other conditions as to the circumstances in which shops in the area may open;

- e) require shops to open;
- f) limit Council's ability to undertake its duties under any other Act (e.g. the regulation of the sale and supply of alcohol)
- g) address shop employee's rights (which are governed by the requirements of the Shop Trading Hours Act 1990 and which allows shop employees to refuse to work on Easter Sunday)

For the purpose of this policy, the definition of a shop under the Act is as follows:

**shop** means a building, place, or part of a building or place, where goods are kept, sold, or offered for sale, by retail; and includes an auction mart, and a barrow, stall, or other subdivision of a market; but does not include—

- i. a private home where the owner or occupier's effects are being sold (by auction or otherwise); or
- ii. a building or place where the only business carried on is that of selling by auction agricultural products, pastoral products, and livestock, or any of them; or
- iii. a building or place where the only business carried on is that of selling goods to people who are dealers, and buy the goods to sell them again.

## Options

Accordingly, the Council has three options:

1. To adopt a policy and allow shops to open in the whole of the district; or
2. To adopt a policy that allows shops to open in only certain parts of the district; or
3. To not adopt a policy (in which case most shops must remain closed on Easter Sunday).

Having regard to all of the above, the Council is proposing option 1. A policy that allows shops in the whole of the district to be open on Easter Sunday. Considering the small size of our district, and the repercussions that could occur by suggesting some parts can trade while others cannot, (e.g. city centre vs all of Napier) Council are proposing to consult on a policy that allows Easter trading in the whole of the district.

## Have your say

Before making any final decisions, we'd like to have your input. We welcome submissions from any interested person or organisation on any aspect of the proposed policy.

**Submissions need to be received by 12pm Friday 9 November**

You can make an online submission by visiting our website **www.napier.govt.nz** and clicking on the 'submit it' button or by typing in the keyword #EasterSundayTradingPolicy.

Or you can fill out the submission form attached and either:

- email it to: [info@napier.govt.nz](mailto:info@napier.govt.nz)
- Post it to: Freepost 172273 Easter Sunday Trading Policy, Napier City Council, Private Bag 6010, Napier 4142.
- Deliver it in person to the Civic Building Reception, Level 1, 232 Hastings Street, Napier.

If you would like to speak to your submission, please indicate this and provide your contact details on your submission. A Council meeting to hear submissions will be held in late November. We will be in touch to let you know the date and time.

Draft Local Easter Sunday Trading Policy			
Approved by:	Council		
Department:	City Strategy		
Date Approved:		Reviewed:	
Review Cycle:	5 yearly	DOC ID:	
Relevant Legislation:	Shop Trading Hours Act 1990		

## Purpose

The purpose of this policy is to enable shops to trade on Easter Sunday if they wish. This policy is made under Subpart 1 of Part 2 of the Shop Trading Hours Act 1990.

## Scope

This policy applies to the whole of the Napier District. This policy does not apply to the sale and supply of alcohol which is regulated under the Sale and Supply of Alcohol Act 2012.

## Policy

- 1.1 Shop trading is permitted on Easter Sundays though out the whole of the Napier District as defined by the map in Schedule A.
- 1.2 The choice to open rests with each individual retailer. The Policy neither requires shops to open, or individuals to shop on Easter Sunday.
- 1.3 Council recognises that Easter Sunday is a day of significance across New Zealand and some people will choose not to work on this day. Subpart 2 of Part 2 of the Shop Trading Hours Act 1990 includes a workers choice provision that outlines a shop employee's right to refuse to work on Easter Sunday.

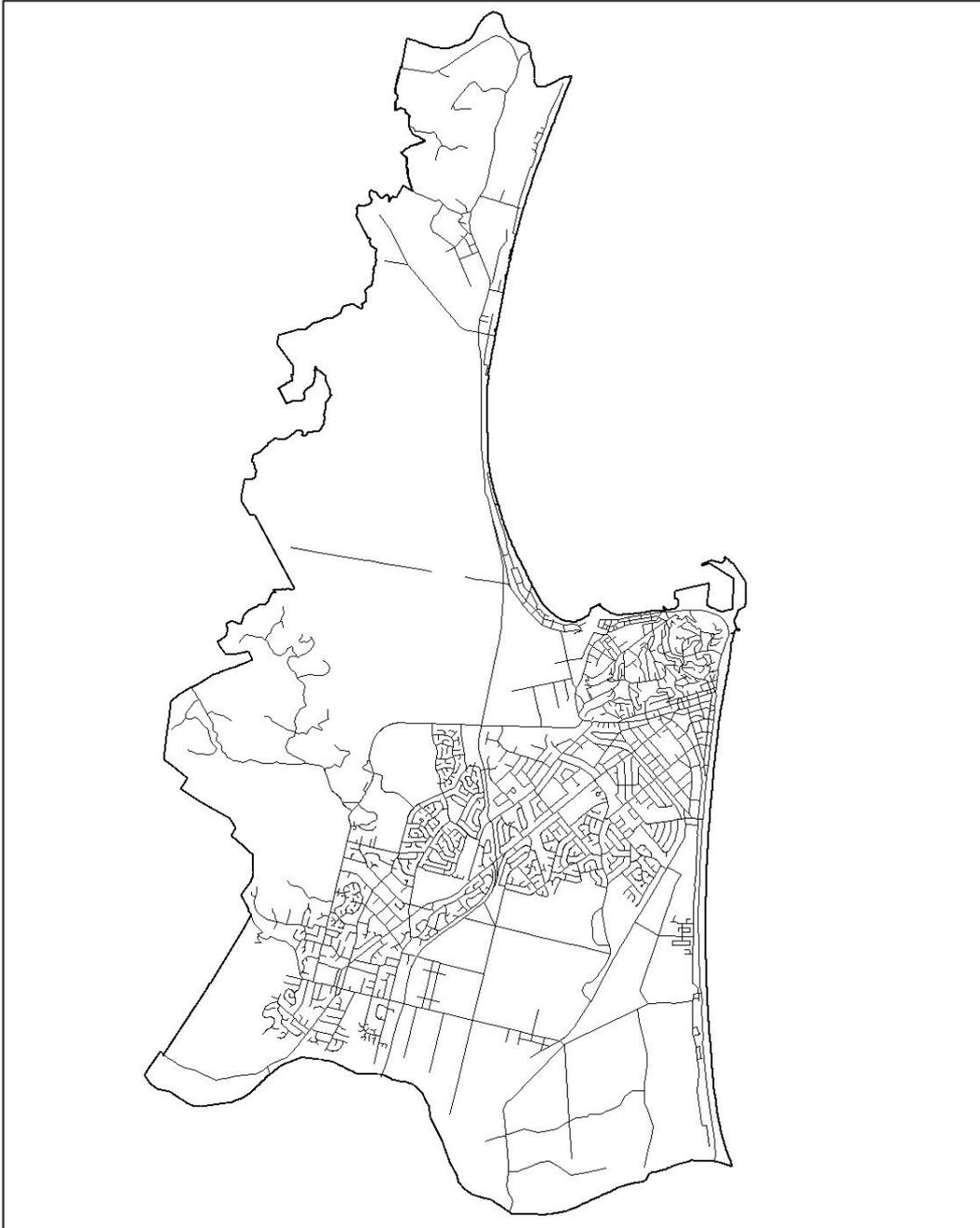
## Definitions

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# Schedule A: Map of the Napier District



 <p><b>NAPIER</b> CITY COUNCIL <i>Te Kōwhiri o Ahuriri</i></p>	<p align="center"><b>Napier District</b> <b>(For the purpose of the Easter Sunday Trading Policy)</b></p> <p align="center"><b>Scale 1: 90000</b></p> <p align="center"><small>Digital map data sourced from Land Information New Zealand CROWN COPYRIGHT RESERVED</small></p> <p align="center"><small>The information displayed in the GIS has been taken from Napier City Council's databases and maps. It is made available in good faith but its accuracy or completeness is not guaranteed. If the information is relied on in support of a resource consent it should be verified independently.</small></p>	<p> <b>PitneyBowes</b> Mapinfo</p> <p>Date: 10/11/2016 Time: 10:28 By: TPGIS</p> <p><small>Aerial Photography Flown 2011 Datum: NZGD2000 Projection: NZTM</small></p> <p><small>ORIGINAL SHEET SIZE</small> <b>A4</b></p>
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