

1. LOCAL EASTER SUNDAY TRADING POLICY - SUMMARY OF SUBMISSIONS

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| <i>Type of Report:</i> | <i>Legal and Operational</i> |
| <i>Legal Reference:</i> | <i>Local Government Act 2002</i> |
| <i>Document ID:</i> | <i>337805</i> |
| <i>Reporting Officer/s & Unit:</i> | <i>Dean Moriarity, Team Leader Policy Planning</i> |

1.1 Purpose of Report

To report on the submissions received on Council's proposed Local Easter Sunday Trading Policy and once having heard and considered those submissions, for Council to make a decision on whether to adopt the Local Easter Sunday Trading Policy.

Officer's Recommendation

- a. Council receive and hear submissions on the Local Easter Sunday Trading Policy.
- b. That Council resolve to adopt the Local Easter Trading Policy that will give all retailers the option to trade on Easter Sunday.

1.2 Background Summary

Recent changes to the Shop Trading Hours Act has given local councils the option to adopt a policy that allows shops to trade on Easter Sunday. The policy can stipulate whether trading on Easter Sunday can occur in the whole of the district or 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 may open

A council can either have a policy that gives shops the option to open, or not have a policy. If a council does not have a policy, retailers would remain bound by the legislation that stipulates shops must be closed on Easter Sunday (unless there is another exemption in place, which allows them to open e.g. garden centres, dairies etc). If a Council does decide to adopt a policy, the policy is required to be reviewed through the special consultative procedure every five years.

At its meeting on November 29, 2016, Council approved by resolution the draft Easter Sunday Trading Policy for public consultation.

1.3 Consultation

Consultation with the community on this policy began with a social media survey in November. Surveys were also conducted through the retailers associations of Taradale, Napier CBD and Ahuriri. Both of these surveys indicated that over half of

the respondents thought that retailers in Napier should be given the choice to open on Easter Sunday. It was on this basis that the Council decided to take the next step and conduct formal consultation on the proposed Easter Sunday Trading Policy.

The formal consultation period ran from December 5th, 2016 to 13th January 2017. This was longer than the statutory timeframe of one month to allow some leeway for the Christmas break. The timing of the legislation change combined with local body elections and a desire to have a decision made for retailers before Easter 2017 meant that the consultation period needed to occur during the Christmas holiday period. If Council do decide to adopt the policy, employers need 6-8 weeks' notice to carry out their responsibilities under the Act. This is informing their employees that they have to work and advising them they have the right to refuse without giving a reason. Employment NZ provide a template letter as a guide.

A public notice informing the community of the consultation was placed in the Napier Courier and HB Today on December 7th. As part of the engagement plan for consulting, emails advising that the policy was open for submissions were also sent to:

- Napier Community Network (an email group made up of 90-100 community organisations that has been established by the Community Services team as a communication channel for community related correspondence)
- Napier, Taradale and Ahuriri Business Associations
- HB Tourism
- Chamber of Commerce
- Hastings District Council
- Iwi/hapu
- New Zealand Council of Trade Unions, Head office and Hawkes Bay branch
First Union, Head office and Napier branch.

1.4 Issues

Council received 42 submissions on the draft Local Easter Trading Policy. Twenty-one oppose the proposed policy and 21 are in support. A copy of the submissions are included in **Attachment A** and a summary of these submissions detailing the issues raised are included in **Attachment B**. The submissions highlight divergent opinions and views that exist in the community on this topic.

Arguments in support of the policy centre around Napier as a tourist destination that should be 'open for business' on one of our busiest tourist weekends. The submissions in support of the policy also highlight the fact that if shops were allowed to open, the choice to open and for people to shop would still be an individual choice. Questions have also been raised as to why as a multicultural society we observe a Christian holiday.

It should be noted that 'open for business' is a foundation principle underpinning 'City Vision' and that in order to facilitate an entrepreneurial culture a stated goal is to make regulation easy.

Arguments in opposition to the policy identify that allowing shops to trade would come at a social cost to families and communities and that these costs outweigh any economic benefits. There are concerns that the effectiveness of the workers choice provision that gives employers the right to refuse to work on Easter Sunday

would be impossible to monitor and that retailers would feel pressured to open, and employees to work.

To put the concerns about the workers choice provisions into context, an additional change to the Shop Trading Hours Act 1990 is the workers choice provision that 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. Whether this provision is effective (or not) is not an issue that Council has any direct influence over. It is legislation that applies nationally and will be administered through the Employment Relations Authority and the Employment Court.

1.5 Implications

Financial

If Council decide to adopt this policy, the costs of maintaining and reviewing the policy every five years would sit within existing operational budgets.

If businesses choose to open, there is the potential for economic benefits to be realised for trading on that day. While the benefits are difficult to quantify at this time, they would be likely to increase over time as tourism and the region grows. The economic benefits of Easter Sunday trading will cement Napier's reputation as a desirable and vibrant tourist destination at this time of the year.

Social & Policy

The feedback received through the various media channels show divergent opinions on permitting shops to open on Easter Sunday. While evenly split in the formal consultation process, when taken overall a slight majority of both residents and retailers favour having the option to open on Easter Sunday.

It should also be noted that Council has previously received a written request from a large supermarket operator for Council to adopt a policy in time for Easter Sunday 2017.

Risk

The risk in not adopting a policy is that Council may be lobbied each year to reconsider its decision.

The risk of adopting a policy is that Council may be viewed unfavourably by the sector of the community that has expressed opposition to this policy.

1.6 Options

The options available to Council are as follows:

1. Adopt the Local Easter Sunday Trading Policy
2. Not adopt the Local Easter Sunday Trading Policy

1.7 Development of Preferred Option

The recommended option is for Council to adopt the Local Easter Sunday Trading Policy. In doing so the decision to open (or not) would be a matter for each business to determine themselves and for each individual to determine whether they wish to frequent the businesses that are open. This approach avoids any perception that Council is making a moral decision on behalf of the whole of the community, some of whom may not place importance on the sanctity of Easter Sunday.

1.8 Attachments

- A Sunday Trading Submissions
- B Submissions Summary

| No. | Submitter | Category | Summary of Reasons |
|----------------------|---|------------------|---|
| Submitters 1 - 21 | Johann Geelen de Kabath John Wuts Donna Jamieson Lynda Otter Donna Crawley Carol Olsen Tiffany Mackenzie Jane Howden Valda Matthews Alan Gorton Jenny Baker Mrs Adrienne Wright Sid McCann Rachel Chong Jurek Wypych Ms R.A. Russell Amanda Blewett Bryan Carey - <i>St Lukes Anglican Church</i> Rev Tony Franklin Ross Mrs Morgan Robin Gwynn | Opposes bylaw | <ul style="list-style-type: none"> • Shops closed on Easter Sunday allows employees and employers time to have with family and friends. • The community benefits from a break from shopping • Shops open on Easter Sunday will impact on family time. Diminished family time will have negative consequences on society • Costs to social and community outweigh any economic benefits • Plenty of other options for tourists in Hawkes Bay. Tourists don't necessarily come to Napier for shopping • Places overseas remain shut so why don't we • Retailers will feel competitive pressure to open, even if not obliged to • The illusion of employer/employee negotiation is false as employers hold all the power. Concern exists on how the workers choice provision would be monitored? • A policy allowing shops to open adheres to commercial interests rather than community • Suggestion that shops may be permitted to only open in the morning. |

| No. | Submitter | Category | Summary of Reasons |
|---------|---|---------------|--|
| 22 - 42 | Ange Marsh Brian Emery Lawrence Blume Christine Heaney – <i>Creative Arts Napier</i> Jodi Dalzell Mary Gregory Matt Woods Judy McKelvie Ashley Coleman Janice Larrington Eunice Brown Graeme Trim Joan Orłowski Carolyn Veen Brian Saunders Zoe Barnes - <i>Napier City Business Inc</i> Gernot Goex Greg Harford - <i>Retail NZ</i> Angela Dimery - <i>Foodstuffs Ltd</i> Anne Milford-Taylor Wayne Church - <i>NZ Secular Society</i> | Support Bylaw | <ul style="list-style-type: none"> • Current policy of closing on Easter Sunday is outdated in our current multicultural environment • Should be left to individual businesses to decide - rent is paid 7 days a week so retailers should be entitled to trade, online trading is 24/7 • Will liven up city for visitors, a vibrant CBD with open shops and cafes is integral for visitor experiences and offering visitors choice. Tourists expect shops to be open. • Allowing trading would provide consistency with other areas who are allowed to trade and provide boost to local trading economy • Choice to open still remains with business owners and shoppers • Napier is a Sunday shopping destination for the region, Sunday shopping is now part of kiwi culture • Why should all be forced to observe the religious holiday of a minority group • Enabling Easter Sunday Trading would allow individuals to exercise personal choices • All days are significant to all residents in different ways and council should be treating all citizens equally • All submissions in support of policy would like to see trading allowed in whole of the district |