

Notice is hereby given that an ordinary meeting of the Hearings Committee will be held on:

Date: Tuesday 28 November 2017
Time: 3.00 pm
Meeting Room: Council Chambers
Venue: 126-148 Oxford Street
Levin

Hearings Committee

OPEN AGENDA

MEMBERSHIP

Chairperson Cr Jo Mason
Members Cr Ross Brannigan
Cr Barry Judd

Reporting Officer Mr Mike Lepper (Customer & Regulatory Services Manager)
Meeting Secretary Mrs Karen Corkill

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and Te Takeretanga o Kura-hau-pō, Bath Street, Levin

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	<u>Speaking</u>	
	3.00 pm Submission 2 Mr Bernie Wanden	
	3.15 pm Submission 19 Mrs Sharon Freebairn - Waitarere Beach Progressive & Ratepayers Association	
	3.30 pm Submission 14 Rev Ian Boddy & Mr Allen Little – Levin Uniting Church	

File No.: 17/581

Draft Local Easter Sunday Shop Trading Policy 2017 - Hearing of Submissions

1. Purpose

To provide the platform for the Hearings Committee (Committee) to hear and consider submissions received on the Draft Local Easter Sunday Shop Trading Policy 2017 and make a subsequent recommendation to Council in respect of the policy.

2. Executive Summary

- 2.1 Council consulted on this draft policy using the Special Consultative Procedure (SCP) under the Local Government Act 2002 (Act) with submissions closing 6 October 2017. Twenty five (25) submissions have been received and these must now be considered by the Committee acting under delegated authority of Council. A summary of those submissions complete with Officer comment is contained in Section 5 of this Report.
- 2.2 The ability to hear and consider submissions is delegated to the Hearings Committee of Council which specifically has – “all functions except the actual adoption, pertaining to the formulation and review of Policy and Bylaws. This delegation entails calling for submissions, consideration and hearing of submissions received, and providing a subsequent recommendation to Council”. This delegation was made by Council at its meeting of 1 February 2017.

3. Recommendation

- 3.1 That Report 17/581 Draft Local Easter Sunday Shop Trading Policy 2017 - Hearing of Submissions be received.
- 3.2 That this decision is recognised as not significant in terms of S76 of the Local Government Act.
- 3.3 That late submissions be received and included in the consultation.
- 3.4 That after the consideration of submissions the committee recommend to Council that the Draft Local Easter Sunday Shop Trading Policy 2017 attached as **Attachment A** be adopted as an operative policy of Council.

4. Background / Previous Council Decisions

- 4.1 The Shop Trading Hours Act 1990 was amended in 2016 to enable territorial authorities to create local policies to allow shop trading across their entire district or in limited areas on Easter Sunday.
- 4.2 The following is the relevant extract from the legislation as it pertains to Easter Sunday Shop Trading Policies as inserted on 30 August 2016 by section 15 of the Shop Trading Amendment Act 2016:
 - (1) A territorial authority may have a local Easter Sunday policy to permit shops to open on Easter Sunday in any areas comprising the whole of its district or any part or parts of its district.
 - (2) A local Easter Sunday shop trading policy may not permit shops to open only for some purpose; permit only some types of shops to open; specify times shops may or may not

- open; include any other conditions as to the circumstances in which shops in the area may open.
- (3) A local Easter Sunday shop trading policy must include either or both, a map of the area and a clear description of the boundaries of the area so they are easily identifiable in practice.
- (4) A territorial authority must review the first local Easter Sunday shop trading policy adopted no later than 5 years after adopting the policy.
- 4.3 The legislation also addresses provisions relating to shop employees' right to refuse to work on Easter Sunday without providing a reason to their employer or any repercussions for their employment relationship.
- 4.4 The current status quo is that certain shops are legally permitted to trade on Easter Sunday, these include dairies, service stations, take away bars, restaurants, cafes, pharmacies, souvenir shops and shop premises where an exhibition or show is taking place.
- 4.5 A pre-consultation engagement survey was carried out in March 2017 to gauge initial thoughts of the community on Easter Sunday Shop Trading. There were 169 responses to the survey with 56.21% of respondents said they did not think that shops should be allowed to trade on Easter Sunday and 43.79% said that they were in favour of shops trading on Easter Sunday.
- 4.6 At the 30 August 2017 meeting of Council it was resolved to consult on the introduction of this policy using the SCP with submissions closing 6 October 2017 – Report 17/160 refers.

5. Discussion

- 5.1 Consultation included a direct mail out to potentially interested parties, public notice being given in "The Chronicle" Newspaper, as well as notification on Council's website and through social media. It also included a drop off to businesses within the central business area of Levin.
- 5.2 A total of 25 submissions have been received, of these, 3 submitters have indicated that they wish to appear before the Committee.
- 5.3 Although the closing date for submissions was 6 October 2017, submissions were accepted until 20 October 2017. A number of submissions that were received after 6 October 2017 have been included in this report.
- 5.3 The submissions have been grouped together by topic and are included with the agenda under separate cover as follows –
1. Group 1; Businesses & Industry Groups
 2. Group 2; Retail workers
 3. Group 3; Churches
 4. Group 4; Community Groups
 5. Group 5; Individuals
- 5.4 A summary of submissions follows:
- (1) Group 1 – Businesses & Industry Groups.
A total of 6 submissions were received from local business owners and operators and one submission was received from industry group, Retail New Zealand, summarized as follows:

- a) Dr Hope Tupara, Mr Bernie Wanden (speaking to submission) and Mr Jason Davy (**submissions 1, 2 & 3 respectively**), submitted in favour of Council introducing the policy to allow businesses to trade on Easter Sunday. Points raised by submitters included the following:
- Businesses should be able to make a choice as to what would suit their business, providing flexibility to meet the individual needs of each business.
 - The substantive system whereby certain types of retail businesses are permitted to trade on Easter Sunday is inconsistent; allowing all businesses to choose whether they wish to trade on Easter Sunday would be more consistent.
 - It would provide some balance with internet sales which are permitted 24 hours a day every day.
- b) Mr Matthew Rollinson and Mrs Lynette Collis (**submissions 4 & 5**) submitted that Council should not allow businesses to choose whether to open on Easter Sunday for the following reasons:
- The majority of shops in Levin do not open on an 'ordinary' Sunday, let alone at Easter.
 - It is good to give staff the opportunity to have a day off to spend with their friends and families.
 - The business does not received deliveries on Easter Sunday, so stock could be low.
- c) A submission was received from Mr Greg Hardford on behalf of Retail New Zealand (**submission 6**), strongly supporting the introduction of the policy. The submitter acknowledged that not all retailers would wish to open on Easter Sunday; however the organisation supported retailers being given the opportunity to choose whether they open. The submission also highlighted inconsistencies with the current legislation, which allows certain types of businesses to open and can create confusion for customers, employers and staff and gives some types of retailers an advantage over others.

Retail NZ also acknowledged that the rights of retail employees not to work on Easter Sunday are protected in legislation.

The submitter also proposed that Horowhenua could benefit from having shops open to cater to tourists visiting the district over Easter.

(2) Group 2 – Retail workers

Seven submissions were received from workers from Levin New World - Miss Kathleen Power, Mr Shane Vazey, Mr Glen Burfield, Mr Damian Crookes, Mrs Deborah Feary, Mrs Diane Kitchener, Mr Gilmar da Costa Freire (**submissions 7 to 13 respectively**).

All submissions received from Group 2 submitters were against Council introducing the policy and allowing retail businesses to choose whether they trade on Easter Sunday. Submitters cited the fact that they didn't want to work on Easter Sunday and the desire to spend Easter Sunday with family among reasons to support their submissions.

(3) Group 3 – Churches

Four local churches made submissions on the policy – Levin Uniting Parish (speaking to submission), Anglican Parish of Shannon Foxton, Reformed Church of Foxton and Lifechangers Church.

- a) Levin Uniting Church (**submission 14**) was opposed to the introduction of the policy and would like the status quo to be maintained. The submitter expressed their opinion that the social benefits of no variation in Easter Sunday trading

outweigh those of commercial interests. The submitter expressed their opposition to any reduction of an employee's loss of personal and family time and noted that people who don't consider Easter to be sacrosanct still enjoy having Easter Sunday as another public holiday. The submitter was also concerned that businesses would feel pressured to open to keep up with the competition.

- b) Mr Ian Bannister made a submission on behalf of the Anglican Parish of Shannon and Foxton (**submission 15**). The submitter was strongly opposed to the introduction of the policy due to Easter being an important time in the Christian calendar and it being time for the church family and people's own families to spend time together and a time for reflection. Mr Bannister also expressed concerns that there will be an expectation from employers that staff work on Easter Sunday and that will provide less family time. Mr Bannister also suggested that should the policy be approved it is possible that parishioners would not support businesses that choose to open on Easter Sunday and would instead support businesses that choose to remain closed.
 - c) The submission from Reformed Church of Foxton (**submission 16**) was opposed to the introduction of the policy as it was considered to be in conflict with the Ten Commandments in the Bible. Other reasons cited by the submitter included that Easter provides families with an opportunity for a short break.
 - d) The submission made by Mr Eric Booth on behalf of Lifechangers Church (**submission 17**) was neutral with regard to taking a stand about whether Council should have a policy but, as the submission was in support of people being able to choose how they spend their Easter Sunday, it has been taken as being in favour of Council having a policy. The submitter acknowledged that people enjoy having a holiday over the Easter period, but that not all people consider the day to be sacrosanct.
- (4) Group 4 - Community Groups
- a) Hokio Beach Progressive Association (**submission 18**) submitted in favour of having a policy that would allow retail businesses to choose whether they want to trade on Easter Sunday.
 - b) Mrs Sharon Freebairn made a submission on behalf of Waitarere Beach Progressive and Ratepayers Association (speaking to submission) (**submission 19**). The submitter noted that they had consulted with local retailers and supported the policy that would allow businesses to trade on Easter Sunday, as Easter is one of the busiest weekends of the year for the area. The submission highlighted the rights of employees to refuse to work on Easter Sunday and supported providing businesses with the right to choose whether they open.
- (5) Group 5 - Individuals
- Six submissions were received from individuals whose submissions did not note any association with a business, church or community group.
- a) Ms Miraz Jordan and Mr John Murphy (**submissions 20 & 21**) were against the adoption of a policy that would allow trading on Easter Sunday.
 - b) Submissions from Ms Rose Boyle, Mr Peter Macdonald and Mrs Margaret Williams (**submissions 22, 23 & 24**) were in favour of businesses being able to choose whether they open on Easter Sunday.
 - c) Mr Walter Crichton (**submission 25**) – did not provide any information about whether he is for or against the policy.

Summary

- a) Submissions have been summarized in Table 1 below. Fifty-six percent (56%) of submissions received were in favour of not having a policy and maintaining the status quo and 40% were in favour of Council introducing a policy that would allow retail businesses to choose whether they trade on Easter Sunday.

Table 1: Summary of submissions

Submission Group	Number of submissions	Number in favour of maintaining status quo	Number in favour of introduction of policy	Number didn't specify opinion
Businesses	6	2	4	0
Retail workers	7	7	0	0
Churches	4	3	1	0
Community Groups	2	0	2	0
Individuals	6	2	3	1
Totals	25	14 (56%)	10 (40%)	1 (4%)

- b) A comparison of the submissions for and against the adoption of the policy are compared to the results of the pre-consultation survey in Table 2 below. The results of the consultation and the survey were very similar with approximately 56% of respondents in favour of maintaining the status quo.

Table 2: Comparison of submissions with pre-consultation survey

	In favour of maintaining status quo (%)	In favour of businesses trading (%)
Policy Consultation	56%	40%
Pre-consultation survey	56.21%	43.79%

6. Options

- 6.1 The Committee needs to hear those submitters who appear in support of their submissions, and then consider all submissions received by Council and this Officer report and recommendations. The Committee then needs to make its decisions and provide a relevant recommendation to Council.
- 6.2 There are two (2) options, namely:
- (1) Decide not to implement a local Easter Sunday shop trading policy and maintain the status quo; or
 - (2) Decide to adopt the policy attached as **Attachment A** to this report – see recommendation 3.4.
- 6.3 The submissions showed that the community is very much divided in their opinions on whether Council should adopt this policy. It is likely that there will be members of the community who do not agree with the decision, which ever decision is made.
- 6.4 The preferred option is Option 2, because if there is an operative policy all shop owners (and their employees) have a choice, rather than being directed by legislation.
- 6.5 If the decision is to adopt the policy (Option 2), the policy will need to be reviewed within 5 years.

7. Consultation

Consultation was undertaken as required during the process for this policy. No further consultation is required.

8. Legal Considerations

There are no legal requirements or statutory obligations affecting the options or proposals.

9. Financial Considerations

There is no financial impact.

10. Other Considerations

There are no other considerations at this point.

11. Next Steps

Following the resolutions of the Committee, a report will be prepared for Council reflective of the Committee's decisions on this matter.

12. Supporting Information

Strategic Fit/Strategic Outcome – Not applicable
Decision Making – Not applicable
Consistency with Existing Policy – Not applicable
Funding – Not applicable
<u>Confirmation of statutory compliance</u> In accordance with section 76 of the Local Government Act 2002, this report is approved as: <ul style="list-style-type: none">a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

Confirmation of statutory compliance


In accordance with section 76 of the Local Government Act 2002, this report is approved as:

- a. containing sufficient information about the options and their benefits and costs, bearing in mind the significance of the decisions; and,
- b. is based on adequate knowledge about, and adequate consideration of, the views and preferences of affected and interested parties bearing in mind the significance of the decision.

13. Appendices

No.	Title	Page
A	Draft Local Easter Sunday Shop Trading Policy 2017	12
B	Submissions received (<i>Under Separate Cover</i>)	

Author(s)	Megan Leyland Compliance Lead	
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Approved by	Mike Lepper Customer and Regulatory Services Manager	
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Local Easter Sunday Shop Trading Policy 2017

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**HOROWHENUA DISTRICT COUNCIL
LOCAL EASTER SUNDAY SHOP TRADING POLICY 2017**

1. INTRODUCTION AND EXPLANATORY MATERIAL

- 1.1 The Shop Trading Hours Act 1990 (the Act) provides for restricted trading days on Anzac Day morning, Good Friday, Easter Sunday and Christmas Day. The Act allows shops selling certain types of goods (for example, dairies, service stations, pharmacies, takeaway bars, restaurants, cafes, souvenir stores and garden centres) to remain open on the restricted trading days.
- 1.2 The Act was amended by the Shop Trading Amendment Act 2016 enabling territorial authorities to create local policies to allow shop trading across their entire district or in limited areas on Easter Sunday.
- 1.3 Horowhenua District Council recognises the importance of the retail trade to our District, and specifically the trade associated with passing traffic on state highways.
- 1.4 This Policy applies to the whole of the Horowhenua District – see map **attached**.

2. SCOPE OF THE POLICY

- 2.1 For the purposes of this policy, the meaning of a shop is the same as defined in section 2 of the Act:
 - *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:*
 - (a) *a private home where the owner or occupier's effects are being sold (by auction or otherwise); or*
 - (b) *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*
 - (c) *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.*
- 2.2 Under the Act, a local Easter Sunday Shop Trading Policy may not –
 - (a) permit shops to open only for some purposes; or
 - (b) permit only some types of shops in the area 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.
- 2.3 This Policy does not apply to the sale or supply of alcohol. Alcohol sale and supply is regulated under the Sale and Supply of Alcohol Act 2012.

3. **SHOP TRADING PERMITTED**

Shop trading is permitted on Easter Sundays throughout the Horowhenua District (see map attached).

4. **SHOP EMPLOYEES' RIGHT TO REFUSE TO WORK**

All shop employees have the ability to refuse to work on Easter Sunday without providing a reason to their employer. There are "right to refuse" provisions in the Act which means that all employees will have the ability to refuse to work on Easter Sunday without any repercussions for their employment relationship.

5. **REVIEW**

This policy will be reviewed within five (5) years of being adopted.

6. **HAVE YOUR SAY**

- Post to : Local Easter Sunday Shop Trading Policy Submission, Horowhenua District Council, Private Bag 4002 Levin 5540;
- Deliver To : Horowhenua District Council, 126 Oxford Street Levin;
- Email to : recordsprocessing@horowhenua.govt.nz;
- Fax to : (06) 366 0983.

Please note that submissions must be received by 5pm on Friday 6 October 2017.

HOROWHENUA DISTRICT BOUNDARIES

