



Council

Meeting of 20 September 2018

Business Unit: Community and Strategy

Date Created: 11 September 2018

Easter Sunday Shop Trading Policy and Statement of Proposal - Adoption for Consultation

Purpose

The purpose of this report is to present the draft Easter Sunday Shop Trading Policy and the Statement of Proposal for consideration and adoption for public consultation.

Significance of Decision

The Council's Significance and Engagement policy is not triggered by matters discussed in this report.

Recommendations

That the Council adopts the draft Easter Sunday Shop Trading Policy for public consultation.

That the Council adopts the Statement of Proposal regarding the Easter Sunday Shop Trading Policy for public consultation.

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1 Contribution to the Council Vision and Council Outcomes

1.1 Relationship to the Council Outcomes that underpin the Council's Vision:

Connected, vibrant and thriving Manawatū District – the best lifestyle in New Zealand

Manawatū District protects the natural environment through stewardship of the District's natural and physical resources.	Manawatū District attracts and retains residents and businesses.	Manawatū District develops a broad economic base from its solid foundation in the primary sector.	Manawatū District is connected via quality infrastructure, services and technology.	Manawatū District's built environment is safe, resilient and attractive.	Manawatū District Council is a customer-focussed and efficient organisation.
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2 Background

- 2.1 The Shop Trading Hours Act 1990 says that shops must stay closed for business on Easter Sunday (exceptions to that rule are garden centres, dairies, service stations, souvenir shops and the like).
- 2.2 The Act was amended in 2016 to allow councils to decide whether retailers in their districts can open on Easter Sunday. In order for local shops to be allowed to open on Easter Sunday, Council must have a policy which permits it.
- 2.3 As part of the consultation document for the Annual Plan 2017/18 Council asked the community the following question: "Do you have a view on Council preparing an Easter Sunday Trading Policy?"
- 2.4 Seven submissions were received – 2 for, 5 against.
- 2.5 On 18 May 2017 Council resolved that a draft policy and consultation document be drawn up and community feedback sought.
- 2.6 On 7 September 2017 the Strategic Planning and Policy Committee resolved that consultation on the Easter Sunday Trading Policy should wait until after the Long Term Plan.
- 2.7 On 6 September 2018 the draft policy was workshopped with the Council.

3 Discussion and Options considered

- 3.1 The Shop Trading Hours Act 1990 gives Council three options:
 - a) Maintain the status quo – businesses must not trade on Easter Sunday; only businesses with exemptions can continue to trade,
 - b) Allow Easter Sunday trading throughout the district,
 - c) Allow Easter Sunday trading in some parts of the district but not others.
- 3.2 If the policy is adopted retailers may choose if they want to open or not.
- 3.3 According to the Shop Trading Hours Act 1990 a policy may not:
 - a) Permit shops to open for only some purposes,
 - b) Permit only some types of shops to open,
 - c) Specify times that shops may or may not open,

- d) Specify other conditions as to the circumstances that shops may open.
- 3.4 The law also protects employees' rights by giving them the choice whether or not to work on Easter Sunday. Shop employees can refuse to work on this day. They must tell the employer of their intention not to work on Easter Sunday but do not need to give a reason.
- 3.5 Rules about the sale and supply of alcohol will not change because local policies cannot override shop trading provisions in other legislation, such as in the Sale and Supply of Alcohol Act 2012. On Easter Sunday the sale or supply of alcohol is prohibited from bottle stores and other places with off licences, and from restaurants and other entertainment venues other than to people dining on the premises.
- 3.6 Some benefits to having a policy which allows shop owners to trade on Easter Sunday may be:
 - a) Businesses and workers may benefit from an extra day's trading,
 - b) Visitors could have access to more amenities and activities during holiday time,
 - c) It would reduce the inequity caused by the current law which allows some shops to open but not others.
- 3.7 Some drawbacks to having a policy which allows shop owners to trade on Easter Sunday may be:
 - a) Pressure on employees to work in spite of the protection provisions in the Act,
 - b) Increasing trading hours may impinge on time for rest, relaxation, family and religious activities

4 Operational Implications

- 4.1 The Act does not name a particular regulator or organisation for the purposes of enforcement. The Labour Inspectorate currently fills this role. There are therefore no operational expenditure implications associated with this paper.

5 Financial implications

- 5.1 There are no financial implications for Council associated with this paper.

6 Statutory Requirements

- 6.1 The statutory requirements that relate to this report are:
 - a) Shop Trading Hours Act 1990
 - Part 1 – Restricted Trading Days, and Part 2 – Trading on Easter Sunday
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 - b) Local Government Act 2002
 - Section 83 – Special Consultative Procedure

7 Delegations

- 7.1 The Shop Trading Hours Act 1990 part 1, section 5D(1) states that the responsibility for creating (or amending, revoking or replacing) an Easter Sunday Trading Policy lies with the Territorial Authority and that it may not delegate this responsibility to any other committee.

8 Consultation

- 8.1 According to part 1, section 5B(1)(a) of the Act, Council must use the Special Consultative Procedure (Local Government Act 2002, section 83) when adopting a Easter Sunday Trading Policy. In order to fulfil the requirements of the Special Consultative Procedure staff plan to use the following methods to seek community feedback to the proposal to adopt a policy:
- a) Have Your Say website
 - b) Facebook
 - c) Newspaper advertisement
 - d) Letters to identified stakeholders
 - e) Hard copies of consultation material at the Council's service desk as well as at the Feilding Farmers' Market
 - f) Staff and Councillors available for questions and discussion at the Farmers' Market on 12 October
- 8.2 The consultation period has been planned for 21 September-23 October 2018 with hearings and deliberations scheduled for 22 November and 6 December respectively. If Council decides to proceed with the policy, adoption is scheduled for 20 December 2018.

9 Cultural Considerations

- 9.1 The issue of shop trading on Easter Sunday is likely to be of interest to the Christian churches of the district. A letter will be sent to each of the churches in the district informing them of Council's proposal and seeking their feedback.
- 9.2 While there is expected to be no cultural impact on local Iwi, a report will be taken to Nga Manu Taiko on 9 October and the proposal will be raised during any hui between Council officers and Iwi representatives or groups during the consultation and decision making period informing them of Council's proposal and seeking their feedback.

10 Conclusion

- 10.1 The default position of the Shop Trading Hours Act 1990 is that shops must not trade on Easter Sunday. If Council wishes to allow retailers to trade on this day, it must have a policy which states this. Such a policy cannot compel shop owners to trade on this day, it simply allows them to choose for themselves. Likewise, the Act expressly states that employees may choose whether or not they would like to work on that day and they cannot be compelled to do so by their employer.
- 10.2 The Special Consultative Procedure must be used when creating an Easter Sunday Trading Policy. This consultation process ensure that the community can have their say on whether or not shop owners should be able to choose to be open or closed for trading on Easter Sunday.

11 Attachments

- Statement of Proposal (includes the draft Manawatū District Council Easter Sunday Shop Trading Policy)