

# SOUTH WAIRARAPA DISTRICT COUNCIL

14 DECEMBER 2016

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## AGENDA ITEM C9

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### EASTER TRADING

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#### **Purpose of Report**

To present findings from a preliminary Easter Trading Survey and seek Council approval of a Statement of Proposal and draft Easter Trading Policy to Council.

#### **Recommendations**

Officers recommend that the Council:

1. *Receive the information.*
2. *To adopt the draft Easter Sunday Trading Policy and the Statement of Proposal for consultation, using the Special Consultative Procedure as specified in Section 83 of the Local Government Act 2002.*

### **1. Executive Summary**

The purpose of this report is to:

- Outline for Council the options regarding an Easter Sunday Shop Trading Policy; and
- Present feedback received from the preliminary survey undertaken to gauge the views of the South Wairarapa community in relation to Easter Sunday trading.
- Recommend the adoption of the draft Easter Trading Policy and Statement of Proposal.

### **2. Background**

The Shop Trading Hours Act 1990 (the Act) restricts trading on specified public holidays, including Easter Sunday. Under the Act only certain types of shops are able to trade on these days eg. dairies, service stations, take away bars, restaurants, cafes, garden centres and duty free stores.

An amendment to the Act earlier this year now enables territorial authorities to decide whether to allow broader shop trading in their District on Easter Sunday via the development of a local Easter Sunday Shop Trading policy. If a Council chooses to develop a policy, it must use the Special

Consultative Procedure (SCP), as specified in the Local Government Act 2002 (s.83), to consult with its community on the proposed policy.

Recognising that Easter Sunday is a day of significance across New Zealand, and that some people would prefer not work on this day, the amendment to the act also includes 'right to refuse' provisions. These provisions allow employees to decline to work on Easter Sunday without having to give a reason and without repercussions for their employment relationship.

South Wairarapa District Council opted to undertake a preliminary survey to gauge community views on whether a local Easter Sunday Shop Trading policy should be developed. Results of that survey are attached in Appendix 1.

### **3. Discussion**

#### **3.1 Other Councils positions**

Councils across the country are currently considering Easter Sunday trading following the amendment to the Act. Some have undertaken this independently while others have been prompted by the retail sector in their community. We are aware of four Councils that are progressing a policy for Easter 2017. Invercargill City undertook a community survey and decided to maintain the status quo.

Carterton and South Wairarapa District Councils are both currently undertaking preliminary surveys, closing on 2nd and 9th December respectively. Several other Councils are also undertaking surveys at present.

#### **3.2 Timelines**

Under the Act, a shop must give its employees at least four weeks' notice of both their intent to trade on Easter Sunday and of the employee's right to decline to work that day.

In 2017, Easter Sunday is on 16th April. If Council intends to have a policy in place to allow trading on Easter Sunday next year, a policy would need to be adopted no later than 17 March, the earlier the better. To meet this deadline given SCP requirements and with the Christmas holiday period ahead, Council would need to adopt a draft policy for consultation at this December 2016 meeting. A Statement of Proposal and draft policy is attached to this report as Appendix 1, should Council wish to proceed.

The consultation period would commence 17 December run through until Monday 13 February allowing for the Christmas/New Year holiday statutory closedown period. Hearings would be scheduled mid February to enable the final policy to be considered for adoption at Council's first meeting of 2017.

## **4. Appendices**

Appendix 1 – Statement of Proposal and Draft Easter Trading Policy

Contact Officer: Paul Crimp, Chief Executive

# **Appendix 1 – Statement of Proposal Draft Easter Trading Policy**

# STATEMENT OF PROPOSAL

## 1. Proposed Local Easter Sunday Trading Policy

This statement of proposal is prepared under section 5B of the Shop Trading Hours Act 1990 and sections 83 of the Local Government Act 2002. This document contains:

- Background
- Policy scope
- Options
- A draft of the proposed Easter Trading Policy

## 2. Background

In August 2016, the Government amended the Shop Trading Hours Act 1990. The amendment allows local Councils to adopt a policy giving retailers the option to trade on Easter Sunday.

Before this 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.

However, there were exemptions to this law for certain types of shops i.e. dairies, service stations, garden centres, cafes and duty free shops. Some tourist centres also hold an exemption for Easter Sundays, meaning retailers in these centres can already open, but South Wairarapa doesn't hold an exemption.

The changes to the Shop Trading Hours Act give local communities the choice of whether or not to allow trading on Easter Sunday. Council recognises the importance of tourism related trade to the South Wairarapa economy and so is proposing to adopt a policy that allows shops across the South Wairarapa district to trade on Easter Sunday, although 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).

Easter Sunday is a day of significance across New Zealand and some people will choose not to work on this day. The changes to the legislation include a workers choice provision which allows employees and employers to negotiate freely, and the ability for employees to refuse work on Easter Sunday without any repercussions to the employment relationship.

## 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 4.30 February 13 2017

You can make an online submission by visiting our website **[www.swdc.govt.nz](http://www.swdc.govt.nz)** and clicking on the 'Easter Trading' button under 'Do it Online' or by viewing our News and Notices article and following the links.

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

- **Email it to:** [enquiries@swdc.govt.nz](mailto:enquiries@swdc.govt.nz)
- **Post it to:** Easter Trading Survey, PO Box 6, Martinborough 5741
- **Deliver it to:** the one of the South Wairarapa libraries or the Council office at 19 Kitchener Street, Martinborough

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 mid February. We will be in touch to let you know the date and time.

## Easter in South Wairarapa

Easter weekend in South Wairarapa is a time of high visitor numbers. Our warm temperatures often extend into March/April making South Wairarapa a popular Easter weekend destination for both domestic tourists and foreign visitors alike. The Wairarapa, and in particular South Wairarapa is a popular weekend destination for visitors from the Wellington region in particular.

Enabling shop trading on Easter Sunday may offer opportunities for local retailers to benefit economically from tourist trade.

At the same time Easter Sunday is a day of significance across New Zealand and some members of our community would prefer that the status quo is maintained. Both views were reflected in the surveys.

Council would like to give retailers the option to provide for these tourists to shop while they are in town for the long weekend. Easter brings an increased demand for food, refreshments and the associated products that are required for entertaining. Visitors, and the residents and businesses who host these visitors, are often inconvenienced when shops are closed on both Easter Friday and Easter Sunday.

## Pre-consultation

To help inform decision making on this policy, Council has conducted informal consultation through an online survey.

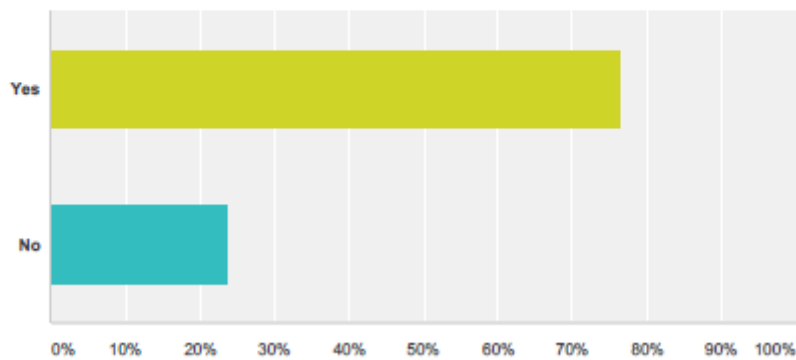
Online surveys are not statistically valid, and their limitations need to be recognised (Not random, sample size and selection not scientifically

calculated barriers to participation). This survey was open for a 2 week period and was advertised on our Facebook page and on our Website and Destination Wairarapa advised their members that the survey was running. In addition, we asked the Mayor, Councillors, and Community Board members to use their networks to advertise the survey. The survey results show that three quarters of those surveyed are either in support to this proposal.

**The results of this survey can be seen here:**

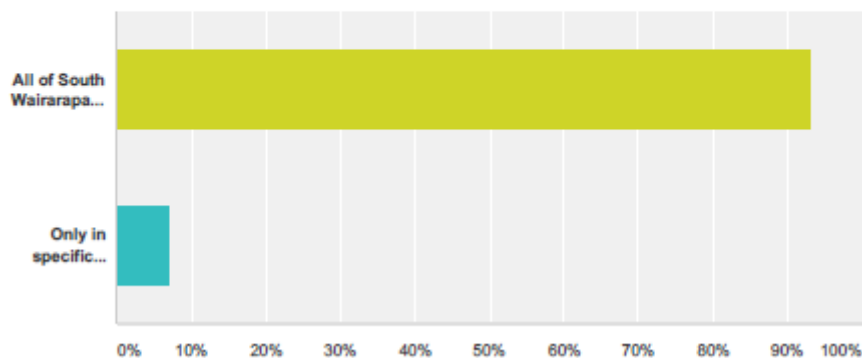
**Q1 Should shops in the South Wairarapa district be allowed to open for business on Easter Sunday?**

Answered: 228 Skipped: 1



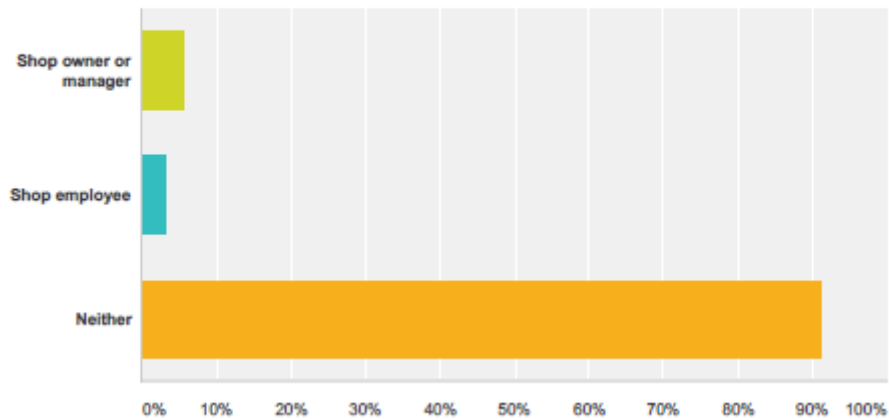
**Q2 If Easter Sunday trading was allowed, should trading be allowed throughout all of the South Wairarapa district or only in specific locations?**

Answered: 218 Skipped: 11



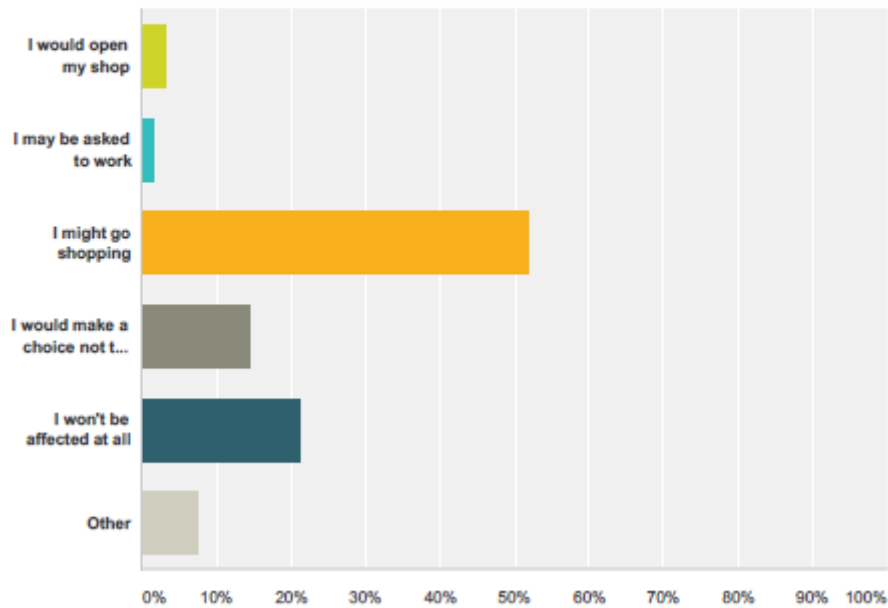
### Q3 Are you a:

Answered: 228 Skipped: 1



### Q4 If Easter Sunday trading was allowed, how would you be affected?

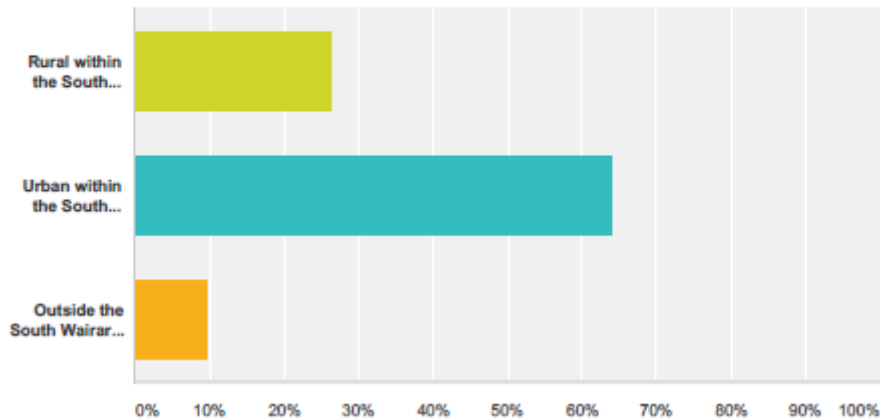
Answered: 229 Skipped: 0





## Q5 Which of the options below best describe where you live?

Answered: 229 Skipped: 0



## Workers Choice Provision

The legislation recognises that Easter Sunday is a day of significance across New Zealand and some people will choose not 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.

### 3. Policy Scope

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

- the whole of the district; or
- any parts of the district

The policy cannot:

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

The policy does not apply to the sale and supply of alcohol as this is regulated under the Sale and Supply of Alcohol Act 2012. For the purpose of this policy, the definition of a shop under the Act is as follows:

For the purpose of this policy:

**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—

- (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.

## **4. Options**

### **4.1 Status quo**

South Wairarapa District could choose not to have a policy. However, Council has decided to be proactive in response to this legislation change and allow people to have their say in whether or not shops should be allowed to open.

### **4.2 Limiting shop trading to part of the South Wairarapa District**

Considering the small size of the South Wairarapa district and the fact that our retailers' areas are spread across three towns, Council considers it appropriate for the policy to cover the whole of the South Wairarapa District. Other options could include limiting the policy to only allow shops in certain shopping districts to open.

### **4.3 Adopt a draft policy for public consultation**

Council has considered the results of the informal public consultation and has decided to take the next step in adopting a draft policy. The next step includes a process of formal consultation through the special consultative procedure.

## **5. Preferred Options**

Of the options above, Council believe that option 3 is the most suitable. This option will give Council a chance to hear community views on the proposal, before making a final decision.



## DRAFT LOCAL EASTER TRADING POLICY

### 1. 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.

### 2. Scope

This policy applies to the whole of the South Wairarapa 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.

### 3. Policy

- 1.1 Shop trading is permitted on Easter Sundays throughout the whole of the South Wairarapa 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 work 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.

### 4. Relevant Legislation

Shop Trading Hours Act 1990.

### 5. Definitions

For the purpose of this policy:

**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—

- (d) a private home where the owner or occupier's effects are being sold (by auction or otherwise); or
- (e) 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
- (f) 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.

## SCHEDULE A



