

# **Statement of Proposal - Proposed Kapiti Coast Easter Sunday Shop Trading Policy**

**An Easter Sunday trading policy for Kāpiti?**

**August 2017**

## Proposed Local Easter Sunday Shop Trading Policy

1. A Draft Local Easter Sunday Shop Trading Policy has been developed for consultation with the Kāpiti Coast community. If adopted, this policy will enable more shops to open on Easter Sunday. If the policy is not adopted, the current situation of a small number of shops being able to open will remain.

### Background

2. The Shop Trading Hours Amendment Act 2016 modified the Shop Trading Hours Act 1990 (the Act), providing an opportunity for the council to consider whether to draft and adopt a Local Easter Sunday Shop Trading Policy to enable more shops to open on Easter Sunday, or whether to retain the status quo.
3. 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. Limited types of shops, such as dairies and service stations, were able to open and some areas, such as Tāupo, which were seen as tourist destinations and had exemptions that allowed trade.
4. The Ministry of Business, Innovation and Employment (MBIE) has responsibility for the implementation of the Act. More information can be accessed from the MBIE website, including:
  - [Legislation – The Shop Trading Hours Act 1990 \(amended 2016\)](#)
  - [Q&A on the Easter Sunday Shop Trading law change](#) (including advice to employers and employees)
  - [Additional information from MBIE](#)

### Community views

5. Across the country, communities have been considering whether to adopt a policy to enable Easter Sunday trading. During consultation on the adoption of an Easter Sunday Shop Trading Policy in other communities a variety of viewpoints have been expressed by businesses, churches, families and workers.
6. Around the region, councils have approached this decision differently. Currently, only the Wairarapa councils have adopted a policy. Earlier this year, Porirua City Council voted against the adoption of a policy after community consultation found that 66% of submitters did not want to see shops open on Easter Sunday. Similarly, Hutt City Council decided to not progress a policy after their pre-consultation found that 64% of submitters were not supportive of such a change. Horowhenua is considering the adoption of a district-wide policy at their 30 August meeting, and Upper Hutt is currently doing some informal consultation. Wellington City Council is likely to consider a policy later this year.
7. Kapiti Coast District Council recognises the important contribution our business community makes to the economy of the District and is responding to requests from that community to explore the development of a local policy. The Chamber of Commerce has asked for a policy to enable Easter Sunday trading and there have also been two requests from national bodies representing retail. Adopting a policy will give certainty to businesses and the public.

8. Easter Sunday is a significant day in the religious calendar for many Kāpiti residents. A significant proportion of District identify as Christian (2013 Census data).
9. Feedback from the community has included other reasons for opposing the adoption of a policy, such as the desire to keep it a family day and/or to retain the day as a holiday.

#### **What a policy can and can't do**

10. There is no legal requirement to have an Easter Sunday Shop Trading Policy, and what can be achieved with a policy is tightly defined. The policy can only enable trading. The Act does not allow a policy to:
  - permit shops to open only for some purposes; or
  - permit only some types of shop to open; or
  - specify times at which shops may or may not open; or
  - include any other conditions as the circumstances in which shops in the area may open.
11. The Council can decide to have a policy which enables Easter Sunday shop trading for the whole or part(s) of the District. The shop trading policy must include a map of the area to which the policy applies and a clear description of the boundaries of the area so that they are easily identifiable in practice.
12. The Council does not have an enforcement role for Easter Sunday trading; this role remains with MBIE. Information on this role is also provided in the above links.
13. If the Council decides not to enable trading, the policy would not be adopted and the status quo would continue; meaning that limited types of shops, such as dairies and service stations are able to open.

#### **Timing**

14. A decision on the adoption of a policy would optimally be made this calendar year if Easter Sunday trading was to be enabled for next year. This would ensure plenty of time for business planning and for discussions with employees. It is possible, however, to adopt a policy early next year and still enable trading for Easter Sunday 2018 given the notice period to employees required under the Act.
15. There are provisions in the Shop Trading Act to support the negotiation between employers and employees about working on Easter Sunday and a provision which seeks to protect the employee should they choose not to work. Under the Act, employers need to provide their employees with a written notice of their right to refuse to work on Easter Sunday. The notice can be provided in the period between eight weeks and four weeks before Easter Sunday (which is on 1 April in 2018). Employees also have this notice period to notify their employers of their refusal to work on Easter Sunday (note – employees do not have to provide a reason for not working on Easter Sunday).

## Should the Kapiti Coast District Easter Sunday Shop Trading Policy cover the whole or part(s) of the District?

16. Whether the policy should cover the whole or part(s) of the District has been considered, and the following options are possible:

### *Option 1 - Keep the status quo*

The Council could choose not to have a policy. There is no legal requirement to have a policy and there are likely to be a range of views in the community. However, the Council has decided to draft a policy to promote community debate and give certainty to businesses and the public. If the decision is made not to have a policy, this decision could be revisited at any time.

### *Option 2 - Limit shop trading to part(s) of Kāpiti*

This option could include limiting the policy to only allow shops to open in particular towns or village centres. One benefit of this approach is that Council could respond to differing community opinions if, for example, one community had a majority in favour of the policy while another community had a majority against the policy. However, considering the small size of the Kāpiti Coast and the spread of beachside and inland retail nodes, this option is not recommended as it could cause confusion and dilute the opportunity to promote the District as an attraction to visitors.

### *Option 3 - Allow trading throughout the District*

This option would allow shops throughout the District to trade on Easter Sunday. It would be up to individual retailers to choose whether to trade.

17. Having considered the three options, Option 3 is recommended as doing so allows the Council to propose a policy for consultation purposes, in line with the Local Government Act 2002.

## Decision process

18. The Council has drafted a policy that covers the whole District and is beginning a formal consultation process to give the community a chance to give their views. The Council must use the special consultative procedure, as detailed in section 83 of the Local Government Act 2002.

19. The key dates in this consultation process are provided below:

### *Key Dates*

Draft policy adopted for consultation	31 August 2017
Submissions period opens	4 September 2017
Submission period closes	8 October 2017
Hearing	9 November 2017
Committee decision	23 November 2017
Potential adoption by Council	7 December 2017

### *Making a submission*

Submissions can be made online (from 8am Monday 4 September) <http://consult.kapiticoast.govt.nz/portal> or written. Submission forms are available from libraries and service centres. Copies of the Statement of Proposal are available online and from Council Libraries and Service Centres, or by request through our Call Centre on (04) 296 4700

Written submissions need to be marked 'Proposed Local Easter Sunday Shop Trading Policy'. Submissions can be lodged via one of the following methods of delivery:

- Emailed to [submissions@kapiticoast.govt.nz](mailto:submissions@kapiticoast.govt.nz) and marked: Proposed Local Easter Sunday Shop Trading Policy
- Dropped into Paraparaumu, Waikanae, or Ōtaki Libraries or any Council service centre
- Sent to Kāpiti Coast District Council, 175 Rimu Road, Private Bag 60601, Paraparaumu 5254

#### ***Submission period***

Submissions open on Monday 4 September and close at 4pm on Sunday 8 October 2017.

#### ***Opportunity to be heard***

There will be an opportunity for the public to speak directly to the Mayor and Councillors at an oral hearing on 9 November 2017. If you indicate that you wish to speak to your submission, you will be advised of a time.

## Summary of Information

### Proposed Kapiti Coast Easter Sunday Shop Trading Policy

#### Summary

1. A Draft Local Easter Sunday Shop Trading Policy has been drafted for consultation with the Kāpiti Coast community. If adopted, this policy will enable more shops to open on Easter Sunday. If the policy is not adopted, the current situation of a small number of shops being able to open will remain.
2. The Council wants to make a decision this year to ensure plenty of time for business planning and for discussions with employees for Easter 2018. If a policy is adopted, then retailers can choose whether to open on Easter Sunday and employees have the right to refuse to work on Easter Sunday.
3. Copies of the Statement of Proposal are available *online* and from Council Libraries and Service Centres, or by request through our Call Centre on (04) 296 4700.
4. The Council wants to hear your views and must follow the statutory consultation process. Here are the key consultation dates:

Draft policy adopted for consultation	31 August 2017
Submissions period opens	4 September 2017
Submission period closes	8 October 2017
Hearing	9 November 2017
Committee decision	23 November 2017
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You are invited to make a submission on the draft **Proposed Local Easter Sunday Shop Trading Policy**.

### ***Making a submission***

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**Proposed Local Easter Shop Trading Policy 2017**

**31 August 2017**

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### **REVISION HISTORY** *Revision*

*Policy Sponsor*

*Approval date and  
date of next  
scheduled review*

*Decision*

Group Manager,  
Strategy &  
Planning

Council

## **1. INTRODUCTION**

The purpose of this policy is to enable shops to trade on Easter Sunday if they wish. This policy is made under Part 2 (subpart 1) of the Shop Trading Hours Act 1990 (the Act). Easter Sunday is a significant day in the religious calendar for many New Zealanders. Some businesses will choose not to open and some workers will choose not to work on this day.

## **2. POLICY OBJECTIVES AND SCOPE**

The objective of this policy is to enable Easter Sunday Trading and support a vibrant, diverse and thriving Kāpiti.

This policy applies to the whole of the Kāpiti Coast District (see Schedule 1 Map) and does not apply to the sale and supply of alcohol, which is regulated under the Sale and Supply of Alcohol Act 2012.

## **3. STRATEGIC ALIGNMENT**

This policy supports the vision for the Kapiti Coast as vibrant, diverse and thriving and contributes to the following Council Outcomes:

- Thriving economy – support the unique character of the various geographic communities and communities of interest while encouraging greater district integration
- Democracy through community participation – create easy opportunities throughout the council decision making process for the community to contribute.

## **4. DEFINITIONS**

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'

## **5. POLICY**

The Policy of the Kapiti Coast District Council is as follows:

**Shop trading is permitted on Easter Sundays throughout the whole of the Kapiti Coast District as defined by the map in Schedule 1**

**Individual retailers will choose whether to open on Easter Sunday. This policy does not require shops to open on Easter Sunday, nor does it require individuals to shop on Easter Sunday or require employees to work on Easter Sunday. The workers choice provision in Part 2 (subpart 2) of the Shop Trading Hours Act 1990 that outlines a shop employee's right to refuse to work on Easter Sunday supports this right.**

## **6. MONITORING**

The Ministry of Business, Innovation and Employment is responsible for enforcement of breaches of shop trading hours on Easter Sundays and the imposition of penalties.

## **7. REVIEW**

This policy is required to be reviewed at least every five years from the date of adoption.

## **8. REFERENCES**

Shop Trading Hours Act 1990

Schedule 1 Kapiti Coast District

