



A G E N D A

Extraordinary Council Meeting

Council Chambers

**Wednesday 15 March 2017
commencing at 12.45 pm**

His Worship the Mayor R.B. Smith
Deputy Mayors Cr H.M. Lash and Cr L.J. Martin
Crs D.L. Carruthers, R.W. Eatwell, D.M.J. Havill ONZM,
J.A. Neale, G.L. Olson, D.C. Routhan.



EXTRAORDINARY COUNCIL MEETING

**EXTRAORDINARY MEETING OF THE WESTLAND DISTRICT COUNCIL,
TO BE HELD IN THE COUNCIL CHAMBERS, 36 WELD STREET, HOKITIKA
ON WEDNESDAY 15 MARCH 2017 COMMENCING AT 12.45 PM**

Tanya Winter
Chief Executive

13 March 2017

COUNCIL VISION

Westland District Council will facilitate the development of communities within its district through delivery of sound infrastructure, policy and regulation.

This will be achieved by:

- Involving the community and stakeholders.
- Delivering core services that meet community expectations and demonstrate value and quality.
- Proudly promoting, protecting and leveraging our historic, environmental, cultural and natural resource base to enhance lifestyle and opportunity for future generations.

Purpose:

The Council is required to give effect to the purpose of local government as prescribed by section 10 of the Local Government Act 2002. That purpose is:

- (a) To enable democratic local decision-making and action, by and on behalf of, communities; and
- (b) To meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses.

1. **MEMBERS PRESENT, APOLOGIES AND INTEREST REGISTER:**

1.1 **Apologies & Leave of Absence**

1.2 **Interest Register**

2. **AGENDA ITEMS FOR DECISION:**

2.1 **Easter Sunday Shop Trading Policy – Consideration of Submissions**

Pages 4-17

Report



DATE: 23 March 2017

TO: Mayor and Councillors

FROM: Group Manager – Planning, Community and Environment

EASTER SUNDAY SHOP TRADING POLICY – CONSIDERATION OF SUBMISSIONS

1 SUMMARY

- 1.1 The purpose of this report is to recommend that Council approve its proposed Easter Sunday Shop Trading Policy, as the special consultative procedure has concluded and all submissions received were in support of the policy without amendment.
- 1.2 This matter arises from legislation change in August 2016 that allows territorial authorities to create local policies to allow shop trading across their shop district or in limited areas on Easter Sunday. Elected Members requested at their December 2016 meeting that a report be brought to this meeting for consideration.
- 1.3 Council seeks to meet its obligations under the Local Government Act 2002 and the achievement of the District Vision adopted by Council as part of the Long Term Plan 2015-25. These are stated on Page 2 of this agenda.
- 1.4 This report concludes by recommending
 - 1.4.1 **THAT** Council receives the submissions received (attached as Appendix 3) on the Statement of Proposal for the draft Easter Sunday Shop Trading Policy; and
 - 1.4.2 **THAT** Council approves the draft Easter Sunday Shop Trading Policy as proposed (attached as Appendix 1).

2 BACKGROUND

- 2.1 Most shops in New Zealand cannot open on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day. Some tourist areas have exemptions to open on Easter Sunday (e.g. Queenstown and central Taupo), but there are currently no exemptions in Westland or on the entire West Coast.
- 2.2 Now, based on legislation passed by Parliament in August 2016, any Council can have a policy that lets shops open on Easter Sunday. Councils must consult their communities on a draft policy using the special consultative procedure (SCP), which allows for submissions and hearings.
- 2.3 A policy can allow shops to trade on Easter Sunday in:
 - (a) the whole of the district; or
 - (b) any part of parts of the district.
- 2.4 A policy cannot:
 - (a) permit shops to open only for 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 in the area may open.
- 2.5 The policy cannot apply to Anzac Day morning, Good Friday or Christmas Day. Dairies, service stations, take away bars, restaurants and cafes, garden centres and duty free stores can already open on the restricted trading days.
- 2.6 The policy cannot apply to the sale of supply of alcohol, which will continue to be regulated on Easter Sunday by the Sale and Supply of Alcohol Act 2012.
- 2.7 Any shop employee will be able to refuse to work on Easter Sunday without any repercussions for their employment relationship. The government allowed this provision as it recognises that Easter Sunday continues to be a day of significance across New Zealand and that some people would rather not work on this day.
- 2.8 No Easter Sunday trading is currently allowed in Westland unless they are dairies, service stations, take away bars, restaurants and cafes, garden centres or duty free stores.
- 2.9 The Council at its January 2017 meeting approved for consultation the draft Easter Sunday Shop Trading Policy attached as Appendix 1 and the associated

Statement of Proposal attached as Appendix 2. The draft Policy allows Easter Sunday trading anywhere in Westland.

2.10 The submission period under the Special Consultative Procedure was from 30 January to 3 March 2017. This was publicised in the Council's Westland Matters newsletter, in the local newspaper, and via e-mails to various community groups including business associations, resident associations, churches and schools. It was not considered necessary or cost-effective for letters to be sent to every business in the District

3 CURRENT SITUATION

3.1 Three submissions were received, and they are all in favour of allowing Easter Sunday trading as proposed. Submissions are attached as Appendix 3.

3.2 The only submitter who indicated that they wished to be heard has since indicated that they are happy not to be heard, in the interest of expediency, if the Council is of a mind to approve the policy in view of all submissions being in favour of the proposed Policy.

3.3 Approving the policy today (as opposed to waiting for the 23 March Council meeting) would allow a media release and other public communication to take place so that employers and employees are aware of the new policy. This allows for the required minimum four-week notice period that employers must give employees if they wish to receive notice from any employees refusing to work Easter Sunday within 14 days of the employer notice. Without the four-week notice period, employees can notify their employer of their refusal to work Easter Sunday at any point between the employer's notice and Easter Sunday itself.

4 OPTIONS

4.1 Option One is to approve the proposed Easter Sunday Trading Policy and allow Easter Sunday Trading.

4.2 Option Two is to not approve the proposed Easter Sunday Trading Policy.

5 SIGNIFICANCE AND ENGAGEMENT

5.1 This matter is considered to be of low to moderate significance. It does not affect any of Council's strategic assets, its levels of service, its debt or rates, and it is a reversible decision. It has a degree of significance because it does affect the community by potentially enabling shopping one more day of the

year, by potentially creating concern among religious groups or persons who are opposed to commercial activities on Easter Sunday, and by potentially giving employers and employees options around employment and income generation on Easter Sunday.

- 5.2 Given the level of significance, some degree of consultation is appropriate. In any case, the legislation specifically requires use of the special consultative procedure under Section 83 of the Local Government Act. This allowed for at least a one month submission period on a Statement of Proposal (which in this case would include the draft Policy on Easter Sunday Shop Trading), followed by hearings before a Policy is adopted. This procedure was followed, with the submission period from 30 January to 3 March 2017.

6 ASSESSMENT OF OPTIONS (INCLUDING FINANCIAL IMPLICATIONS)

- 6.1 Option One (approving the proposed Easter Sunday Trading Policy to allow Easter Sunday trading) has the clear advantage of being supported by all three submissions.
- 6.2 Additional advantages outlined in the January report to Council include potentially generating positive economic benefits from increased retail activity in the District. Easter is still a relatively busy time in Westland, at the tail end of the peak tourism season. With the 'right to refuse' provisions of the legislation, affected workers can choose whether to work and earn an extra day's pay. Consumers will have increased choice over when and where to shop. Grey District Council is considering this option as well, and if Westland does not allow for Easter Sunday trading some Westland residents who might otherwise wait until after Easter Sunday might go to Greymouth for their shopping.
- 6.3 Disadvantages to Option One include potential financial or peer pressure on employees to work on Easter Sunday even if they are not legally required to, and the resulting loss of what would otherwise be a guaranteed public holiday. No submissions were received in opposition to the proposed Policy, so no submissions raised these points.
- 6.4 Option Two (not approving the proposed Easter Sunday Trading Policy) has no obvious advantages other than the reverse of the disadvantages to Option One.
- 6.5 None of the options have any financial implications for Council.

7 PREFERRED OPTION AND REASONS

7.1 The preferred option is Option One, as it is supported by all three submissions, and allows for increased financial and economic benefits in the District without forcing anyone to work against their will.

8 RECOMMENDATIONS

- A) THAT** Council receives the submissions received (attached as Appendix 3) on the Statement of Proposal for the draft Easter Sunday Shop Trading Policy, and
- B) THAT** Council approves the draft Easter Sunday Shop Trading Policy as proposed (attached as Appendix 1).

Jim Ebenhoh

Group Manager – Planning, Community and Environment

Appendix 1: Easter Sunday Shop Trading Policy

Appendix 2: Statement of Proposal for the Draft Easter Sunday Shop Trading Policy

Appendix 3: Submissions Received on Draft Easter Sunday Shop Trading Policy



Easter Sunday Shop Trading Policy

1. Introduction

This policy is made under Subpart 1 of Part 2 of the Shop Trading Hours Act 1990 (the Act). The purpose of the Act is to regulate the opening of shops on Anzac Day morning, Good Friday, Easter Sunday, and Christmas Day. The Act was amended in 2016 to allow Councils to have a policy to permit shops to open on Easter Sundays. The restrictions applying to Anzac Day morning, Good Friday and Christmas Day remain unchanged.

Currently most shops in most districts around New Zealand are unable to open for trade on Easter Sunday because of the day's status as a restricted trading day under the Act.

The Act allows shops selling certain types of goods (examples include dairies, service stations, take away bars, restaurants and cafes, garden centres and duty free stores) to remain open on the restricted trading days.

Some tourist areas have been given exemptions to open on Easter Sundays but there is currently no mechanism to allow for further exemptions to be granted.

Council recognises the importance of tourism-related trade and other trade to the Westland economy on Easter Sunday. Now, local communities have the choice of whether or not to allow shop trading on Easter Sunday.

2. Scope of policy

This Policy applies to the whole of the Westland District.

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

3. Shop trading permitted

Shop trading is permitted on Easter Sundays throughout Westland.

4. Shop employees' right to refuse to work

Easter Sunday continues to be a day of significance across New Zealand and some people would rather not work on this day.

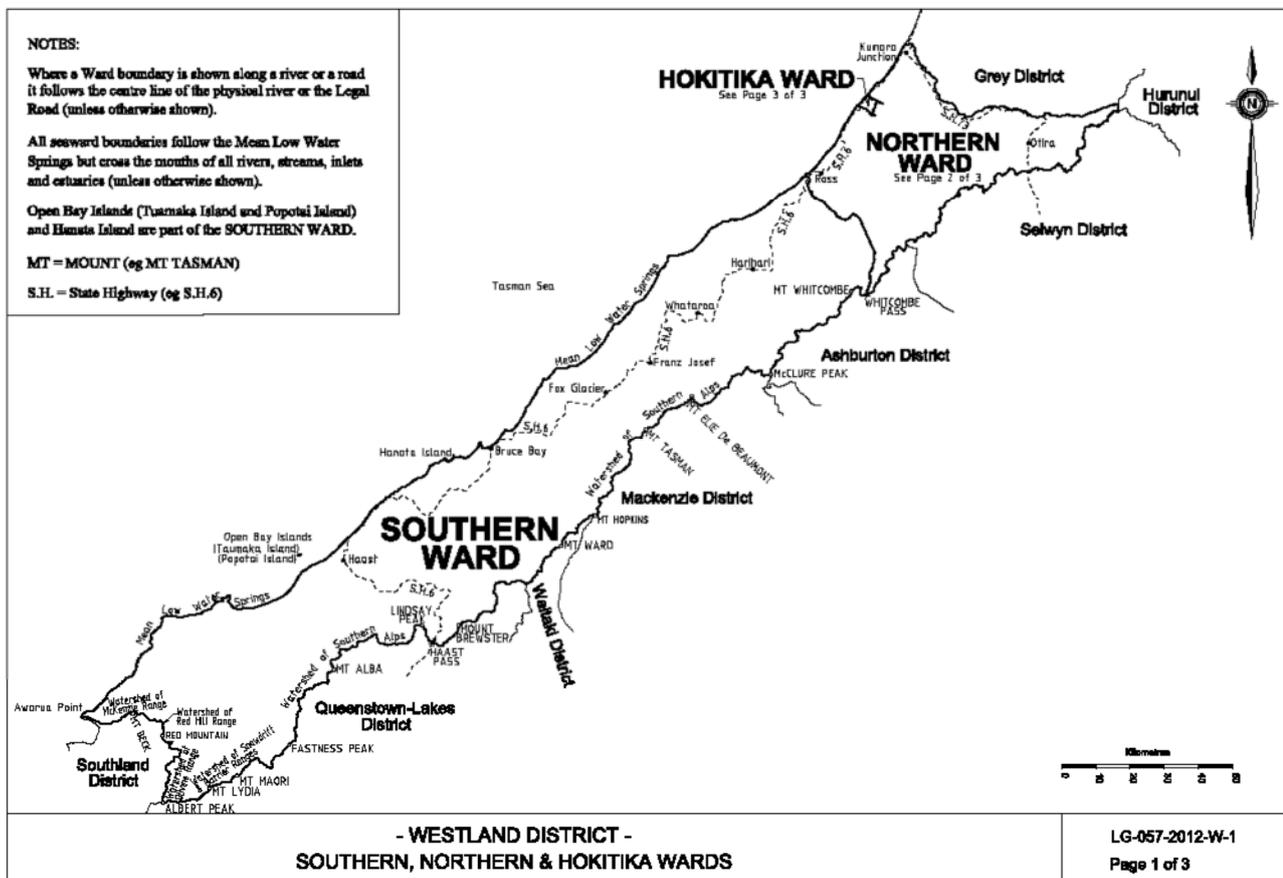
There are 'right to refuse' provisions in the Act allow employers and employees to negotiate freely, and means that all shop employees will have the ability to refuse to work on Easter Sunday without any repercussions for their employment relationship.

For the purposes of this Policy—

a *shop* is 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.

The extent of the Westland District is shown on the map below.





Statement of Proposal under Special
Consultative Procedure as per
Section 83 of Local Government Act
2002:

Proposed Easter Sunday Shop Trading
Policy

[Submit online at www.westlanddc.govt.nz](http://www.westlanddc.govt.nz)

30 January 2017

Council proposes that shops be allowed to trade on Easter Sundays

This proposal is now open for public consultation (30 January 2017 to 3 March 2017)

Submit online at www.westlanddc.govt.nz

GET YOUR SUBMISSION TO COUNCIL BY 5.00PM ON FRIDAY 3 MARCH 2017

Background: Shopping On Easter Sunday

Most shops in New Zealand can't open on Anzac Day morning, Good Friday, Easter Sunday, or Christmas Day.

Now Council can have a policy that lets shops to open on Easter Sunday.

The policy can't apply to Anzac Day morning, Good Friday or Christmas Day. Dairies, service stations, take away bars, restaurants and cafes, garden centres and duty free stores can already open on the restricted trading days.

Some tourist areas have exemptions to open on Easter Sundays but Westland doesn't have an exemption.

Council recognises the importance of tourism-related trade and other trade to the Westland economy on Easter Sunday.

Now, local communities have the choice of whether or not to allow trading on Easter Sunday.

Scope of the Policy

Council can establish a policy that allows shops to trade on Easter Sunday in—

- (a) the whole of the district; or
- (b) any part of parts of the district.

A policy cannot—

- (a) permit shops to open only for 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 in the area may open.

The 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.

A **shop** is 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.

Other Options Considered by Council

Status quo: the status quo means having no policy, and Easter Sunday trading would not be allowed aside from businesses that are already allowed by legislation to trade on Easter Sunday (e.g. service stations, restaurants, cafes, takeaways, dairies, etc). Council decided to reject this option and begin development of a policy so that people may have more say in whether shops should be allowed to trade on Easter Sundays.

Delaying development of an Easter Sunday Shop Trading Policy: this would allow the Council to find out more about other Councils' experiences, including possible legal challenges, and to have more discussion with the community before releasing this formal Statement of Proposal for submissions. In the interest of moving forward with the benefits of Easter Sunday trading, the Council rejected this option.

Limiting shop trading to part of Westland: this would mean having a policy that allowed Easter Sunday trading in certain areas but not elsewhere in Westland. This is still an option depending on the submissions that are received in response to this proposal.

How to make a submission

Any interested person or body is welcome to make a submission or comments on the proposed policy and the other options that have been considered for shop trading on Easter Sundays and on any aspect of, or omission from, the attached draft policy.

Council will take account of all submissions made when making decisions on the proposed policy. There will be a Council hearing in March 2017 for those submitters who indicate they wish to speak in support of their submission.

Please submit your feedback to Council by:

- (1) Delivery to the Customer Service Centre, 36 Weld Street, Hokitika
- (2) Post to Group Manager Planning, Community and Environment, Private Bag 704, Hokitika
- (3) Email to consult@westlanddc.govt.nz
- (4) You can also complete submissions at www.westlanddc.govt.nz

All submissions, including name and contact details of the submitter, will be made available to the public and media on Council's website, unless you specifically request that your contact details are kept private.

All enquiries (not submissions) should be directed to Jim Ebenhoh, Group Manager: Planning, Community and Environment, at 03 756 9010 or jim.ebenhoh@westlanddc.govt.nz.

Timetable

30 January 2017: submissions open

3 March 2017 (5pm): submissions close

Week of 6 – 10 March (likely): hearing of submissions (if necessary)

23 March 2017: Council meeting to decide on Policy

17 April 2017: Easter Sunday

Don't forget, get your submission to Council by 5:00pm on 3 March 2017!

Submitted on Tuesday, January 31, 2017 - 08:24 Submitted by anonymous user: 118.92.239.118 Submitted values are:

Name: Celine Stokowski

Appendix 3

Organisation (if applicable):

Postal Address:

259 Stafford Road

RD2

Hokitika 7882

Email: cbstokowski@gmail.com

Phone No.:

Type Submission Here: I support the new policy and believe it should be applied to all of the Westland District.

Do You Wish to be Heard in Support of your Submission: No If yes, do you want to make a joint case with another party?: No Do you require a language interpretor in order to present at the hearing?: No

The results of this submission may be viewed at:

<https://www.westlanddc.govt.nz/node/221/submission/633>

Submitted on Friday, February 10, 2017 - 14:13 Submitted by anonymous user: 122.56.73.156 Submitted values are:

Name: Bruce Watson and Claudia Landis

Organisation (if applicable): Take Note Hokitika Postal Address: 1 Weld St

Email: hokitika@xtra.co.nz

Phone No.: 0274 367 222

Type Submission Here:

We support the proposed policy to allow any shop in Westland that wishes to, to be able to trade on Easter Sundays

For shops such as ours, Take Note Hokitika, Easter is still high season, the time when we make money to keep our shop operating throughout the year. We run a 7-day a week operation on all the days we are legally allowed and believe Easter Sunday should be included. We are quite happy with staff having the option to work this day - we operate this system at present for Public Holidays and other Sundays.

In the case of Hokitika - we are now a tourist town and shops should be able to open the same days those other tourist towns (such as Queenstown and Rotorua) that have an exemption.

Do You Wish to be Heard in Support of your Submission: Yes If yes, do you want to make a joint case with another party?: No Do you require a language interpretor in order to present at the hearing?: No

The results of this submission may be viewed at:

<https://www.westlanddc.govt.nz/node/221/submission/638>

Submitted on Friday, February 10, 2017 - 23:09 Submitted by anonymous user: 125.236.176.171 Submitted values are:

003E

Name: Cushla Jones

Organisation (if applicable): Franz Josef FourSquare Supermarket Postal Address:

PO Box 65

Franz Josef 7856

Email: Cushka.Jones@foursquare-si.co.nz

Phone No.: 03-7520177

Type Submission Here: The Easter trading regulations are old , anequated and not in the current world, so YES, we agree with permitting trading on Easter Sunday. Given the opportunity it would just be great to go back to 6 days trading , closed every Sunday and ALL public holidays but that is sadly not reality fir the new world so we have to move with the times and cater for our customers needs and wants. We support Easter Sunday trading .

Do You Wish to be Heard in Support of your Submission: No If yes, do you want to make a joint case with another party?: No Do you require a language interpretor in order to present at the hearing?: No

The results of this submission may be viewed at:

<https://www.westlanddc.govt.nz/node/221/submission/639>