

Full Council

20 March 2025

Report for Agenda Item | Rīpoata moto e Rāraki take [2]

Department: Strategy & Policy

Title | Taitara: Adoption – Adoption of Easter Sunday Shop Trading Policy 2025

Purpose of the Report | Te Take mō te Pūroko

The purpose of this report is to provide information and present options to Queenstown Lakes District Council (QLDC or Council), so that it can make decisions on the draft Easter Sunday Shop Trading Policy 2025 (the draft policy, **Attachment A**), and to present the draft policy for adoption.

Executive Summary | Whakarāpopototaka Matua

On 24 October 2024, Council endorsed a statement of proposal (**Attachment B**), which included the draft policy for public consultation, in accordance with the special consultative procedure. Council received eight submissions on the draft policy during the consultation period that ran from 31 October 2024 to 30 November 2024.

No significant changes were proposed to the 2017 policy (**Attachment C**), with only the style and structure being updated.

The hearings panel received submissions at its meeting on 11 February 2025. The hearings panel proposed a minor change to the draft policy wording that went out for public consultation to respond to one submission that suggested there was insufficient information in the draft policy around employees having the legal right to refuse to work on Easter Sunday.

The hearings panel also recommended that if Council adopts the draft policy, that in addition to notice to the community of a new policy, that the provisions relevant to Easter Sunday trading in the Shop Trading Hours Act 1990 be outlined on an annual basis ahead of Easter.

Recommendation | Kā Tūtohuka

That the Council:

1. **Note** the contents of this report;
2. **Adopt** the draft Easter Sunday Shop Trading Policy 2025, with the following change to the draft policy that went out for consultation that is included at **Attachment A**:

“The Act and the Employment Relations Act 2000 allows Shop employees to decide not to work on Easter Sunday, without any implications to their employment relationship, and also places certain obligations on employers. The Act sets out the requirements and timing for the written notices an employer who proposes to trade on Easter Sunday must give to affected employees, and which affected employees who decide not to work on Easter Sunday must give to their Employer.”

3. **Resolve** that the Easter Sunday Shop Trading Policy 2025 will come into effect on 20 March 2025.
4. **Recommend** that the Shop Trading Hours Act 1990 provisions relevant to Easter Sunday trading be outlined as part of notice to the community of the Easter Sunday Shop Trading Policy 2025, and subsequently on an annual basis prior to Easter.

Prepared by:



Name: Carrie Williams
Title: Policy Manager
27 February 2025

Reviewed and Authorised by:



Name: Michelle Morss
Title: GM Strategy and Policy
27 February 2025

Context | Horopaki

Easter Sunday trading context

1. Easter Sunday is a restricted trading day under the Shop Trading Hours Act 1990 ('Act'). All shops are to remain closed, except for certain shops under certain conditions. These include dairies, cafes, service stations, garden centres, pharmacies, souvenir and duty-free shops.
2. In 2016, amendments to the Act enabled councils to adopt a policy which permits all shops to open on Easter Sunday in the whole or part of their district. Councils cannot specify what type of shops can open or times that shops can open.
3. Council adopted an Easter Sunday Shop Trading Policy on 9 March 2017 in consultation with the community. This policy allowed all shops in the Queenstown Lakes District (QLD) to open if they wished to. The policy supported local businesses that benefit from tourist trade in particular and provided greater retail options for the large volume of visitors to the district over this time period. It also eliminated any confusion about which shops can open on Easter Sunday.
4. Note that an Easter Sunday trading 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. Additionally, monitoring and enforcement of an Easter Sunday shop trading policy is the responsibility of the Ministry for Business, Innovation and Employment (MBIE), not QLDC.
5. The Act requires councils to review an Easter Sunday trading policy using the special consultative procedure no later than seven years after adoption, therefore the QLDC policy was automatically revoked on 9 March 2024.
6. Shortly after the automatic revocation of Council's policy, a private members bill (the Repeal of Good Friday and Easter Sunday as Restricted Trading Days (Shop Trading and Sale of Alcohol) Amendment Bill) was introduced to Parliament to reform the laws around Easter trading and remove the need for individual councils to have a policy to enable shops to be open on Easter Sunday.
7. The Bill was defeated at first reading on a conscience vote on 17 December 2024 (74 against, 49 in favour). Accordingly, councils will continue to need a policy to enable trading on Easter Sunday.

Timeline

8. The process and key milestones for this policy are summarised below.

| Date | Milestone |
|-----------------|---|
| 24 October 2024 | Council resolved to consult on a draft Easter Sunday Shop Trading Policy 2025 in accordance with the special consultative procedure and appointed a hearing panel to receive submissions. |

| Date | Milestone |
|-------------------------------------|---|
| 31 October 31 - 30 November 2024 | Formal consultation period. |
| 13 February 2025 | Hearings and consideration of options by the hearing panel. |
| 20 March 2025 | Council to deliberate and adopt the policy. |

Analysis and Advice | Tatāritaka me kā Tohutohu

Summary of submissions received

9. Council received eight submissions on the draft bylaw. Seven submitters supported the draft policy and one submitter opposed it. When the 2017 policy was consulted on with the community, of 33 submissions received, 76% (25) were in support of the proposed policy, 3% (one) was neutral and 21% (seven) disagreed with the proposed policy.
10. At 88% support, the 2024 consultation had a greater percentage in support of Easter Sunday trading. However, the number of submissions received is relatively low. This could indicate that the expired policy was working effectively, and that the community is amenable to the draft policy. The opportunity and process for participation followed the special consultative procedure and was consistent with QLDC's approach for such consultations.
11. Submitter feedback referred to the high number of visitors to the district, the need for consistency across the district, as well providing shops with the option to choose whether to open, as reasons to retain the policy. The panel agreed that the draft policy responds to these comments in relation to Easter Sunday.

Employees right to choose not to work

12. One submitter provided feedback that whilst they were not opposed to trading on Easter Sunday in principle, that they opposed the draft policy because they viewed that there was insufficient information in the draft policy around employees having the right to refuse to work on Easter Sunday. The panel discussed that it is important to ensure that such a policy does not disadvantage employees, particularly members of the community who may not be aware that employees are entitled to refuse to work on Easter Sunday, and that they don't have to give a reason for the refusal.
13. To reinforce this, the panel recommended a minor change to the draft policy. The relevant wording in the draft policy that was adopted for consultation stated:

"Employers must comply with the provisions relating to a Shop employees right to refuse to work, as is set out in the Act and in the Employment Relations Act 2000. Employers and Shop employees must also give notice in accordance with the time provisions set out in the Act."

14. To respond to this submission, the panel recommended that this sentence be amended to read as follows:

“The Act and the Employment Relations Act 2000 allows Shop employees to decide not to work on Easter Sunday, without any implications to their employment relationship, and also places certain obligations on employers. The Act sets out the requirements and timing for the written notices an employer who proposes to trade on Easter Sunday must give to affected employees, and which affected employees who decide not to work on Easter Sunday must give to their Employer.”

15. It is open to Council to make change to the draft policy in relation to this point. The reason for the wording in the draft policy that went out for consultation was not intended to shift the focus of employees right to refuse to work, but to emphasise the legislative requirements of the Act and the Employment Relations Act 2000 in this regard, that sit above a council policy. A change of wording would not alter the responsibilities or obligations described in the draft policy.

16. In addition to this, the panel recommended that if Council adopts the draft policy, that the relevant provisions of the Shop Trading Hours Act 1990 are outlined to the community, and that this be done on an annual basis ahead of Easter. Following its meeting the hearing panel confirmed that it intended to refer solely to the Shop Trading Hours Act 1990 provisions specific to Easter Sunday trading in relation to this point, and that it was not clear what legislation was being referred to during its meeting (**Attachment D**).

17. Whilst the panel acknowledged that councils do not have jurisdiction over employment relations, it unanimously supported that the provisions that are specific to councils that have a policy that allows shops to open on Easter Sunday be made clear for people who may not be aware of their right and obligations. In summary, these provisions are¹:

- a shop employee may refuse to work on Easter Sunday and is not required to provide the employer with a reason for refusing to work on Easter Sunday (s.5H)
- an employer who wants a shop employee to work on Easter Sunday must give notice to the shop employee of his or her right to refuse to work on Easter Sunday (s.5I)
- a shop employee who intends to refuse to work on Easter Sunday must give notice to his or her employer of that intention (s.5J)
- a shop employee’s employer must not compel the shop employee to work on Easter Sunday or treat the shop employee adversely because the shop employee refuses to work on Easter Sunday (s.5K)
- a claim by an employee of contravention of s.5K is a personal grievance (s.5L).

Options and analysis

18. This report identifies and assesses the following reasonably practicable options for assessing the matter as required by section 77 of the Local Government Act 2002.

¹ [Shop Trading Hours Act 1990 No 57 \(as at 12 April 2022\), Public Act Contents – New Zealand Legislation.](#)

19. Council is able to make changes to the draft policy as an outcome of formal consultation in response to feedback received, as long as the changes are within the scope of what is contemplated in the statement of proposal. Material changes to the draft policy proposed after consultation that are not contemplated in the statement of proposal may require Council to consult again.
20. **Option 1:** That Council accept the recommended change from the hearing panel with no further amendments and adopt the draft Easter Sunday Shop Trading Policy 2025.

| Advantages | Disadvantages |
|---|--|
| <ul style="list-style-type: none"> The draft policy would respond to submitter feedback. Council would have fulfilled its obligations under the Act and the Local Government Act 2002 (LGA) to consult on the draft policy and to hear submissions received. The policy provides a sound basis for allowing Easter Sunday trading in the district. | <ul style="list-style-type: none"> Some people in the community may not agree with providing shops the option to open on Easter Sunday. |

21. **Option 2:** That Council does not accept the recommended change from the hearing panel and adopt the draft Easter Sunday Shop Trading Policy 2025 that was adopted for consultation.

| Advantages | Disadvantages |
|--|---|
| <ul style="list-style-type: none"> Council would have fulfilled its obligations under the Act and the LGA to consult on the draft policy and to receive submissions. The policy provides a sound basis for allowing Easter Sunday trading in the district. | <ul style="list-style-type: none"> The policy would not respond to submitter feedback. Some people in the community may not agree with providing shops the option to open on Easter Sunday. |

22. **Option 3:** That Council does not adopt the draft Easter Sunday Shop Trading Policy 2025.

| Advantages | Disadvantages |
|---|--|
| <ul style="list-style-type: none"> • Council would have fulfilled its obligations under the Act and the LGA to consult on the draft policy and to hear submissions received. • If Council chooses to not to adopt a draft policy, some people in the community may support not providing shops the option to open on Easter Sunday. | <ul style="list-style-type: none"> • If Council chooses to not to adopt a draft policy, it will be unlawful for shops to open on Easter Sunday in the district until such time that a new policy is endorsed. |

23. This report recommends **Option 1** for addressing the matter because:

- the proposed change responds to submitter feedback
- having a policy in place responds to the high number of visitors to the district, the need for consistency of rules across the district as well providing shops with the option to choose whether to open.

Next steps

24. If Council adopts the draft policy, as required by s.5E of the Act, the chief executive of MBIE, as the department responsible for the administration of the Act, will be notified of the decision to adopt the draft policy, including the resolution to adopt and a copy of the final form of the policy.

Consultation Process | Hātepe Matapaki

Significance and Engagement | Te Whakamahi I kā Whakaaro Hiraka

25. This matter is of low significance, as determined by reference to the Council's Significance and Engagement Policy 2024 because

- the matters have minimal to moderate impact on the community, although parts of the community will have interest in this issue
- while there is interest in this issue, this report is not requesting adoption of the draft policy at this time
- the proposal is consistent with Council's 2017 policy
- the proposal will not change the level of services provided by Council, or Council's capacity
- there is a low level of financial consequence for QLDC as a result of adopting the recommended option.

26. The persons who are affected by or interested in this matter are residents/ratepayers of the Queenstown Lakes District community, business owners and operators and visitors to the district.

27. Council has consulted on the matter in line with the special consultative procedure, which enables it to better understand community views on the draft policy. Feedback was sought from the community and industry stakeholders. Council will give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter, as required by the LGA (s.78(1)).

Māori Consultation | Iwi Rūnaka

28. Council has not undertaken direct consultation with Iwi, but the opportunity to make a submission during the consultation period was available to Iwi and Rūnaka.

Risk and Mitigations | Kā Raru Tūpono me kā Whakamaurutaka

29. This matter relates to the Regulatory/Legal/Compliance risk category. It is associated with RISK10020 Ineffective communication and RISK10003 Economic impacts and prosperity within the QLDC Risk Register. Risk 10003 has been assessed as having a high residual risk rating and Risk 10020 has a moderate residual risk rating.

30. The approval of the recommended option will allow Council to avoid these risks. This will be achieved by:

- effectively consulting with the community regarding a draft policy for Easter Sunday trading in the district, and
- adopting the policy, as shops in the District will continue to be allowed to open on Easter Sunday if they wish to, so there will be no change to any economic impacts.

Financial Implications | Kā Riteka ā-Pūtea

31. Costs associated with consultation and adoption of a policy will be met within current Council budgets. Costs include staff time and advertising.

Council Effects and Views | Kā Whakaaweawe me kā Tirohaka a te Kaunihera

32. The following Council policies, strategies and bylaws were considered:

- the outcomes and principles of Vision Beyond 2050: Our Vision and Mission - QLDC
- the QLDC Annual Plan
- the QLDC Long Term Plan 2024-2034.

33. The recommended option is consistent with the principles set out in the named policies.

34. Provision for review of policies is included in the Long Term Plan/Annual Plan

Legal Considerations and Statutory Responsibilities | Ka Ture Whaiwhakaaro me kā Takohaka Waeture

35. Section 5B of the Shop Trading Hours Act 1990 requires that consultation on a draft policy be done via the special consultative procedure outlined in sections 83 and 86 of the LGA. The special consultative procedure requires that Council adopts a formal statement of proposal, has a consultation period of not less than one month, and allows people to present their views to Council in a manner that enables spoken interaction, such as by having a hearing. In accordance with s.83 of the LGA, Council has encouraged people to give feedback, by:
- placing advertisements in local newspapers
 - promoting the consultation on Council's social media pages.
36. The draft policy, the statement of proposal and other supporting documents were made available on Council's Let's Talk website, at the Council offices at 10 Gorge Road, Queenstown, and 47 Ardmore Street, Wānaka.
37. There are no formal notification requirements in relation to Council's decision to adopt this policy. Accordingly, if Council elects to outline the Shop Trading Hours Act 1990 provisions relevant to Easter Sunday trading as part of notice to the community of the Easter Sunday Shop Trading Policy 2025, and subsequently on an annual basis, this sits outside of the requirements in the special consultative procedure requirements in the LGA.

Local Government Act 2002 Purpose Provisions | Te Whakatureture 2002 o te Kāwanataka ā-Kiaka

38. Section 10 of the Local Government Act 2002 states the purpose of local government is (a) to enable democratic local decision-making and action by, and on behalf of, communities; and (b) to promote the social, economic, environmental, and cultural well-being of communities in the present and for the future. The issues that the draft policy addresses relate to ensuring that shops are able open on Easter Sunday if they choose to do so. As such, the recommendation in this report is appropriate and within the ambit of Section 10 of the Act.
39. The recommended option:
- Can be implemented through current funding under the Long Term Plan and Annual Plan;
 - Is consistent with the Council's plans and policies; and
 - Would not significantly alter the intended level of service provision for any significant activity undertaken by or on behalf of the Council or transfer the ownership or control of a strategic asset to or from the Council.

Attachments | Kā Tāpirihaka

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|---|--|
| A | Draft Easter Sunday Shop Trading Policy 2025 |
| B | Statement of Proposal |
| C | Easter Sunday Shop Trading Policy 2017 |
| D | Hearing Panel minutes |