
REPORT 3
(1215/52/IM)

**EASTER SUNDAY SHOP TRADING AMENDMENT
BILL AND SHOP TRADING HOURS ACT REPEAL
(EASTER TRADING) AMENDMENT BILL SUBMISSION**

1. Purpose of Report

For Committee agreement to a submission to the Commerce Select Committee regarding the:

- Easter Sunday Shop Trading Amendment Bill (Member's Bill 2006 No 51-1)
- Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill (Member's Bill 2006 No 42-1).

2. Recommendations

It is recommended that the Committee:

1. *Receive the information.*
2. *Note that submissions will be received by the Select Committee Office until 28 July 2006.*
3. *Note that Positively Wellington Tourism contributed to the development of this submission.*
4. *Agree to the attached submission on the Easter Sunday Shop Trading Amendment Bill and the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill.*
5. *Delegate to the Chief Executive Officer and Economic Portfolio leader the authority to include any amendments required.*

3. Background

Prior to 1990 shops were closed for trading on Sundays and all public holidays. Under the Shop Trading Hours Act Repeal Act 1977, individual business or geographical areas could apply to the Shop Trading Hours Commission for exemption from the national restriction on trading on Easter Sunday. Government introduced the Shop Trading Hours Repeal Bill 1990 to remove all restrictions on shop trading hours. Opposition, particularly from religious groups, led to amendments being agreed which permitted shopping on Sundays and all statutory holidays except ANZAC Day until 1.00 pm, and all Good Friday, Easter Sunday and Christmas Day.

Exemptions based on the type of goods sold were abolished and the fifteen area exemptions existing from the 1980's were preserved. However, no new exemptions by area could be granted as the Commission was disbanded. This has led to anomalies where shops in tourist areas like Taupo and Queenstown, for example, are exempt, while shops in Rotorua and Wanaka, along with those in Wellington, are not permitted to trade on the restricted days.

Two private member bills have been proposed to liberalise provisions around trading on statutory holidays. Both are currently with the Commerce Select Committee for consideration and submissions are being received until 28 July 2006.

The Easter Sunday Shop Trading Amendment Bill responds to the anomaly created between exempt and non-exempt areas. It proposes to grant partial exemption to the 1990 Act to allow shops in communities with a significant visitor industry to open on Good Friday and Easter Sunday between 10 am and 5 pm. The purpose of this bill is to recognise the nature of the retail environment in communities with a significant visitor industry, acknowledging the business community and allowing it to service and satisfy the retail demand accordingly. To achieve this it:

- adds definitions to the *Interpretation* section, for *employment agreement* to match those in the Employment Relations Act 2000 and the Local Government Act 2002, and *mandatory opening provision* to be consistent with its later use in the same Bill
- introduces a new schedule of *Visitor districts to which the Act applies*, such districts being those identified as having a 'significant visitor history'. Shops in these districts may remain open on Good Friday and Easter Sunday during the period from 10 am and 5 pm. The process through which a district is added to the schedule is not clear
- extends existing protections for workers and businesses to the new Act.

The Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill proposes to remedy the same anomalous situation but in a different way. The purpose of this bill is to enable territorial authorities to decide whether retail shops in their districts may be open on Easter Sunday and to require territorial authorities, before making any such decision, to consult their communities by adopting the special consultative procedure provided for in Part 6 of the Local Government Act 2002. To achieve this it:

- changes the definitions of *district* and *territorial authority* to match those in the Local Government Act 2002
- adds a new section to enable local authorities to undertake community consultation and make their own decisions
- extends existing protections for workers and businesses to the new Act
- provides that any pre-existing prosecutions proceed.

4. Discussion

4.1 *Potential benefits for Wellington*

Increased opportunity for shop trading in Wellington on previously restricted days will contribute to growth and prosperity for Wellington businesses, particularly those in the tourism and retail sectors. It may also increase the uptake of access to Wellington's attractions and facilities.

Tourism is a 365-day a year industry. Of particular benefit is the potential to make Wellington a better-connected community, nationally and internationally, by making Wellington more attractive to visitors and raising Wellington's status as a tourism destination and events centre.

In brief it may make Wellington more eventful, inclusive, prosperous, competitive, entrepreneurial and innovative, and better connected.

4.2 *What the bills propose*

Both bills seek to amend the Shop Trading Hours Act Repeal Act 1990.

Comparing the two Bills

	Easter Sunday Shop Trading Amendment Bill	Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill
Day coverage	Good Friday and Easter Sunday between 10am to 5pm only	Easter Sunday only
Area coverage	Only districts identified in Schedule 2.	All Local Authorities, empowers them to make their own decision about implementation
Types of business included	Unclear. By implication, could be limited to tourism-related businesses	Unclear. By implication, could be limited to tourism-related businesses
Consistency with other legislation (e.g. Local Government Act 2002)	Yes	Yes
Clear and simple	It is not clear how additional districts are approved for addition to Schedule 2	Requires a more complex Local Authority process for implementation
Mandate	From the Crown for those districts identified in Schedule 2	From the community through consultation
Special consultation	Not required	Required

procedures		
Workers protected from compulsion	Yes	Yes
Businesses protected from compulsion	Yes	Yes

4.3 What the bills could mean for Wellington

Parliament may enact either, neither, or an amended version of one or both bills. An act comes into force on the day after the date on which it receives the Royal assent.

Enactment of the Easter Sunday Shop Trading Amendment Bill may enable Wellington to be included in Schedule 2 and so allow Wellington shops to choose to open on Good Friday and Easter Sunday between 10am to 5pm. However, Wellington might not be included on Schedule 2.

Enactment of the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill would enable Council to undertake community consultation and decide whether Wellington shops may choose to trade on Easter Sunday. The opportunity for Council to make its own decisions would be tempered by the compliance burden of requirements for special consultation, through which Council would consider such aspects as:

- the proportion of businesses seeking to trade on restricted days. Anecdotally this is thought to be high but further data is needed
- the views of workers, who may be losing one of their last non-work days
- the views of religious residents
- the interests of potential visitors, and of tourism operators.

For either bill:

- existing restrictions on other days and times would remain
- no strong rationale is apparent for the restrictions proposed on the particular days or times of day to be designated. Neither provides for the liberalisation of trading on all statutory holidays
- shops, or their customers, would incur the additional costs, such as penal pay rates, associated with trading on statutory holidays.

The Easter Sunday Shop Trading Amendment Bill, with amendments, is recommended as the option most easily able to meet Council's objectives, empowering Wellington businesses and workers to make their own decisions.

5. Submission

The attached submission to the Commerce Select Committee supports liberalisation of trading and supports amendment to the Easter Sunday Shop Trading Amendment Bill as the preferred option.

The submission says that to better meet Wellington's needs the Council:

- strongly supports the concept of decisions being made locally in regard to trading
- seeks reassurance that businesses, such as tourism operators, are similarly advantaged
- seeks amendment to include Christmas Day, Good Friday, Easter Sunday, and ANZAC Day, without time restriction
- seeks reassurance that either
 - all local authorities will be included on Schedule 2 so that all businesses and workers can make their own decisions, **or**
 - there will be a clear, future-proofed process for local authorities to be included on Schedule 2, and that Wellington will be included.

6. Conclusion

Either bill presents the basis for an opportunity for Council to pursue its strategic goals for Wellington. Amendment to the Easter Sunday Shop Trading Amendment Bill is seen as providing the best way forward, and a submission to the Commerce Select Committee to this effect is attached.

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Supporting Information

1) Strategic Fit / Strategic Outcome

Increased opportunity for shop trading is aligned with raising Wellington's status as a tourism destination and as a centre of creativity and innovation. It has potential to contribute to Council's outcome goals of making Wellington more eventful, inclusive, prosperous, competitive, entrepreneurial and innovative, and better connected (see outcomes 4, 5, 11, 12, 13 and 7).

2) LTCCP/Annual Plan reference and long term financial impact

This submission contains no significant financial implications for the LTCCP other than the compliance costs associated with any community consultation requirements following enactment of any resulting bill.

3) Treaty of Waitangi considerations

This proposal contains no Treaty of Waitangi implications.

4) Decision-Making

This is not a significant decision.

If either bill is enacted, Council will have the opportunity to consider shop trading on public holidays in Wellington City. Such considerations may involve the special consultation procedure.

5) Consultation

a) General Consultation

Dependant on which, if either, bill is enacted, Council could have the opportunity to consider shop trading on public holidays in Wellington City. Such considerations may involve the special consultation procedure.

b) Consultation with Maori

If either bill is enacted, Council will have the opportunity to consider shop trading on public holidays in Wellington City. Such considerations may involve the special consultation procedure.

6) Legal Implications

This proposal holds no legal implications for Council.

7) Consistency with existing policy

This proposal is consistent with existing policy.

Appendix 1

EASTER SUNDAY SHOP TRADING AMENDMENT BILL AND SHOP TRADING HOURS ACT REPEAL (EASTER TRADING) AMENDMENT BILL SUBMISSION

File ref:

27 July 2006

Fenella Bovett
Clerk of the Committee
Commerce Committee
Select Committee Office
Parliament Buildings
WELLINGTON

SUBMISSION TO THE COMMERCE SELECT COMMITTEE REGARDING THE

- **EASTER SUNDAY SHOP TRADING AMENDMENT BILL, AND**
- **SHOP TRADING HOURS ACT REPEAL (EASTER TRADING) AMENDMENT BILL**

Introduction

1. This submission is from the Wellington City Council.
2. We wish to have noted our strong support for the intent of these bills, with the recommendations as noted below.

General

3. Council strongly supports the concept of decisions being made locally in regard to trading on public holidays. The general intent of both bills will empower Wellington's business community to make its own decisions.
4. The intent of the bills is closely aligned with Council's strategic goals and Long Term Council Community Plan. In pursuit of its vision, Creative Wellington - Innovation Capital, Council seeks opportunity and growth for Wellington.
5. Wellington enjoys a diverse community, in terms of cultural, religious and economic background, presenting a wide range of values and views. It has a higher than average proportion of people under forty years old. Either bill can support Council in embracing this diversity.
6. For some residents, the religious or remembrance celebration is their paramount focus. For others, their religious or cultural backgrounds mean the particular celebration may hold little personal relevance. Some prioritise opportunities to work. Families often like to shop and relax together, particularly on holiday

weekends. Such decisions do not restrict individuals' respect for the nature of others' remembrance attached to particular days.

7. No strong rationale is apparent for differentiating shop trading arrangements at a national level on days designated as statutory holidays. Council seeks to ensure a balance between social, religious, commercial and employee interests. It believes residents and businesses should be able to make their own decisions about their choice of activities on these days.
8. Increased opportunity for shop trading in Wellington on previously restricted days will contribute to growth and prosperity for Wellington businesses, particularly those in the tourism and retail sectors. As part of Council's economic development strategy it already contributes significantly to supporting the retail sector, for instance by providing free weekend parking in the city centre.
9. Increased trading may also:
 - strengthen the city's status as a centre of creativity and innovation: Creative Wellington - Innovation Capital
 - increase the value realised from urban development and investment in transport
 - promote cultural wellbeing by increasing the uptake of access to Wellington's attractions such as its museums, and galleries
 - encourage greater participation in sport, recreation and the arts.
10. Of particular benefit is the potential to make Wellington a better connected community, nationally and internationally, and to raise Wellington's status as a tourism destination through increased opportunity for:
 - strengthening partnerships with arts and festival organisations
 - attracting national and international events
 - engaging grassroots and youth-oriented arts and culture
 - attracting visitors to stay longer in Wellington, and continue to use it as a gateway to other areas.
11. In brief, this will make Wellington more eventful, inclusive, prosperous, competitive, entrepreneurial and innovative, and better connected.

Rrecommendations

12. Wellington City Council asks that the Committee notes that local authorities are close to their communities and are in an ideal position to make decisions that reflect community wishes.
13. Wellington City Council supports the Shop Trading Hours Act Repeal (Easter Trading) Amendment Bill because it proposes all areas have the opportunity for freer trading hours, rather than just those on a predetermined schedule. However, the adoption of special consultation procedures seems unnecessary as businesses

would ultimately retain the option of not opening for trading, even if Councils did remove the restrictions.

14. Wellington City Council's preferred option is amendment to the Easter Sunday Shop Trading Amendment Bill. Wellington City Council seeks amendment such that:
 - either
 - a. all local authorities will be included on Schedule 2 so that all businesses and workers can make their own decisions, **or**
 - b. there will be a clear, future-proofed process for local authorities to be included on Schedule 2, and that Wellington will be included
 - trading is permitted on all statutory holidays, including Christmas Day, Good Friday, Easter Sunday, and ANZAC Day, without time restriction
 - businesses in the tourism, retail and service sectors are similarly advantaged

Conclusion

15. Wellington City Council strongly supports the intent of both bills and looks forward to new opportunities for Wellington residents, businesses, and visitors.

Yours sincerely

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