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Corporate Plan Output: Advice to Council	

The purpose of this report is to propose that the Council makes a submission to the Justice and Law Reform Committee opposing the provisions of this Bill.

The Shop Trading Hours (Abolition of Restrictions) Bill is a private member's Bill in the name of Patricia Schnauer, an ACT MP. The Bill proposes to remove all restrictions on shop trading hours except the restriction on trading on Anzac Day up to 1pm.

Prior to 1990 shops (with some significant exceptions) were closed for trading on Sundays and all public holidays. In 1990 the government introduced a law designed to remove all restrictions on shop trading hours, but in the subsequent public discussion and Select Committee process this Bill was modified so that it permitted shopping on Sundays and all statutory holidays except Good Friday, Easter Sunday, Christmas Day and Anzac Day up to 1 pm. If this Bill becomes law shopping will go from being permitted on three hundred and sixty one and a half days a year (three hundred and sixty two and a half days in leap years!) to being permitted on all but one half a day per year.

The Bill is based on the argument that when a shop is open should be left entirely in the hands of the operator to determine, rather than be a matter which Parliament should regulate for on behalf of the community.

The argument against that approach is that people live in communities not as isolated individuals and families and the impact of the decision to relax rules on shop trading hours almost to the point of abolition is as much a matter of social engineering as the impact of a decision to restrict shop trading hours. Significant concerns related to the proposed extensions to shop trading hours include:

- It will provide for all shops to be open on the three days that are seen by most people as the holiest days in the Christian Calendar (Christmas Day, Good Friday and Easter Sunday). Although only a minority attend church services, Christmas in particular has an almost religious significance for most people.
- Staff will be required to work on these holidays. It is simply not true that whether to work is a matter of choice because, even if that is the legal situation, over time shop operators will employ staff on condition that they are available to work on those statutory holidays. Further, the nature of the employment relationship, particularly in small retail premises, is such that responsible employees will feel a moral obligation to work on these days, if required, out of loyalty to the firm.
- Shopping is increasingly being done in Malls and Mall operators usually specify that when the Mall is open the retail shop must be open. This means that operators of shops and shopping malls will at best have to open if a majority of their colleagues decide that they want to be open and at worst have to open because Mall management requires them to be open.

- Some, particularly small retail premises, are operating very close to their margin of solvency and these shops will be forced to open because they cannot afford to miss even the small amount of business that will go elsewhere if they are not open when their competitors are.
- Opening on these extra days is not likely to improve productivity because retail spend is not likely to increase to more than cover the costs of opening on these extra days. The most likely significant economic effect is that the total retail spend will remain much as it is, but be spread over more days, meaning that on average retailing will be less profitable. At the margins some already close to insolvent retailers will be forced over the brink either because they have chosen to stay shut and the loss of revenue is the final straw (see above) or because the extra costs of staying open become the final straw. If there is an increase in retail spend it will be at the expense of spending in other discretionary spending areas which again means that at the margin some other businesses that rely on spending of households discretionary dollars will be under additional financial pressure.
- Having retail shops open and trading has an impact beyond the customers, operators and staff. In particular the noise and traffic and other activity generated by the process of retailing spreads into the surrounding community. This effect will be most keenly felt very close to large shopping centres, but will be felt to some extent throughout the community. It will mean that these statutory holidays will come closer to having the same “feel” about them as any other statutory holiday or Sunday.
- We recognise that opening hours have an effect beyond the immediate customers, operators and staff, in the area of licensed premises. The logic of this Bill is that these restrictions should also be removed.

Overall this Bill should be opposed because it is unnecessary. In the name of libertarianism it proposes to take New Zealand’s already very generous shopping hours and expand them by removing restrictions on the three most sacred days in the Christian Calendar, leaving only one half of Anzac Day ‘shopping free’. The proponents of the Bill have demonstrated no economic, social or other gain that will result from this change, and in the points given above there are at least some significant questions to be raised about the disadvantages.

Recommendation: That the Committee authorise the preparation of a submission on the Shop Trading Hours (Abolition of Restrictions) Bill opposing it on the grounds set out above. The draft submission to be considered by the June Council Meeting.

Chairman’s

Recommendation: That the Legal Services Manager draft a submission opposing this Bill on the grounds set out above. The submission to be approved by the Council at its June meeting.