



WHAKATANE DISTRICT COUNCIL Consultation Policy 2012





CONSULTATION POLICY

Adopted: 27 June 2012
Commences: 1 July 2012
Review: 1 July 2015

Better decisions through public participation

1.0 PURPOSE

The Whakatāne District Council (the “Council”) values public input into its decision-making process and is committed to ongoing and effective consultation. This Consultation Policy has been prepared to support the Council’s obligations and commitment to making decisions in an open, transparent and democratically accountable way.

The purposes of this policy are to:

- a) Ensure a consistent approach to consultation across the Council in terms of whether it will consult on a matter, how it will consult, and to what extent.
- b) Ensure that the community has the opportunity for meaningful input and genuine involvement in the Council’s decision making.
- c) Ensure that those being consulted are clear about what they can reasonably expect to influence as a result of engaging in a consultation process.

2.0 SCOPE OF THIS POLICY

The Council’s obligation to consult the public is set out in legislation, as outlined briefly under section 5 of this policy. This Policy assumes that where legislation requires a prescribed process of consultation, the Council will follow those requirements. This policy does not outline the various processes required by legislation in detail.

This policy provides guidance in situations where the Council is required to exercise discretion within or beyond legislation, in terms of whether it will consult on a matter, how it will consult, and to what extent.

This Policy should be read in conjunction with the Council’s Policy on Determining Significance, and the Local Government Act 2002 (LGA 2002).

3.0 WHAT IS CONSULTATION

For the purposes of this policy consultation is:

“the genuine exchange of information and points of view between decision-makers and people affected by or interested in a matter before a decision is made”.

4.0 WHAT CONSULTATION IS NOT

Consultation provides an opportunity for the public to influence an outcome. However it is impossible for the Council to do everything that everyone wants because of the diversity of views and interests that exist in the District.

The community views expressed through consultation will be considered and taken into account, along with other information such as costs and benefits, impacts on the four wellbeings (social, economic, environmental and cultural), legislative requirements, and technical advice. Consultation may not necessarily result in a ‘win/win’ situation, agreement or consensus. However, consultation should allow all relevant views and opinions to be considered before a decision is made.

5.0 WHY DOES THE COUNCIL CONSULT

The Council consults to enable effective public participation in its decision making. Consultation enhances the quality of decision making and strengthens the concept of democracy within our district.

The LGA 2002 lays out the obligations of local authorities in relation to planning, accountability, decision making and consultation. The LGA 2002, section 78 (1) requires that:

“A local authority must, in the course of its decision-making process in relation to a matter, give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter”.

As part of the Council’s obligations under the LGA 2002, opportunities must be provided for Maori to participate in and contribute to decision making.

The LGA 2002 sets out the requirements for local authorities to consult with the public when considering certain matters or decisions. Under the LGA 2002 the Council must use a prescribed consultation process in certain circumstances, for example when preparing the Long Term Plan or making bylaws. Consultation processes are also prescribed under other legislation including the Resource Management Act 1991 (RMA), the Reserves Act 1977, the Local Government Rating Act 2002 and others.

There are many potential benefits of consultation:

- a) It helps the Council to assess the community’s needs, views and priorities.

- b) It helps the Council to build a full picture of the issues and potential solutions, so that there are fewer surprises later on in the process.
- c) It helps to build positive relationships with the public by encouraging co-operation, respect and mutual understanding of other points of view.
- d) It helps to achieve buy-in to decisions, from both inside and outside the Council, so as to make decisions that are more sustainable.

6.0 PROCEDURES

6.1 Responsibility for Making the Assessment

In the first instance, Council officers will be responsible for assessing whether or not consultation is necessary (refer to section 7 of this Policy) and if so, the level of consultation that will be undertaken (refer to section 8 of this policy). These assessments will be conducted in accordance with the relevant sections of this Policy and will require the application of professional judgement. This assessment will be reported to Council for approval as outlined below.

6.2 Reporting to Council

Every report on a proposal or decision to the Council or delegated decision maker (e.g. Committee) must provide a statement outlining any process for 'Community Input'. This must include: either a brief outline of the consultation process that will be or has been undertaken, or; if not consulting, the justification under section 7.2 of this policy why consultation is not being undertaken. For more significant matters requiring substantial public engagement, a Communications Plan will be developed outlining the approach that the Council will take to engage with the public. Any such Communications Plan will be reported to Council or relevant committee for approval.

Regardless of whether or not consultation will be or has been undertaken, every report on a proposal or decision to the Council or delegated decision-maker must give consideration to the views and preferences of persons likely to be affected by, or who have an interest in, the matter. The level of consideration should be in proportion to the significance of the matters affected by the decision.

7.0 HOW WILL THE COUNCIL DETERMINE WHETHER OR NOT TO CONSULT

The Council will be guided firstly by legislation and secondly by the significance of a matter, as to whether consultation will be undertaken and how consultation will occur. These circumstances are outlined under section 7.1 below. The Council may also choose not to consult on a matter and will make any such determination in accordance with section 7.2 of this Policy.

This process of determining whether or not the Council will undertake consultation in relation to a matter is illustrated in Appendix 1 of this Policy.

7.1 When the Council Will Consult

- a) **When legislation requires that consultation be undertaken:** The Council will consult when it is a legal requirement to consult (as set out by the LGA 2002, RMA 1991 and other Acts). The Council will undertake these consultation processes in accordance with the legislative requirements guiding them, as a minimum. The Council may choose to consult further depending on the level of significance of the matter being considered and not withstanding the legislative requirements. For any consultation above the minimum requirement, the Council will determine the appropriate extent and scope of consultation as guided by section 9 of this policy.
- b) **When a significant proposal or decision is being considered:** Subject to consideration of factors under section 7.2 of this policy, the Council will consult whenever a 'significant decision' needs to be made. A significant decision is one which has been identified as such under the Council's Policy on Determining Significance.

Note: a 'significant' decision will not automatically trigger application of the Special Consultative Procedure (SCP). For more information about the SCP refer to the LGA 2002 s83-89.

- c) **For some matters that are not considered significant:** In general, where a matter is not considered significant under the Council's Policy on Determining Significance, consultation will not be undertaken. This is consistent with clauses 7.2 (a) and 7.2 (d) of this policy.

In some cases, where a decision is close to, but does not exceed, the significance test under the Council's Policy on Determining Significance, the Council may decide to consult on the matter. Any determination of whether or not to consult on matters that are not significant will be subject to consideration of section 7.2 of this policy with particular regard to section 7.2 (a) and 7.2 (d).

7.2 When the Council May Not Consult

Information is always necessary for the decision making process. However, there are times when it is not necessary, appropriate or possible to engage the community on a matter or decision. The Council may also choose not to consult on a matter and if so will make this determination in accordance with the criteria below and not withstanding any legislative requirements.

The Council will not consult when:

- a) The matter is not of a nature or significance that requires consultation (LGA 2002, s82(4)(c) , see also council's policy on determining significance; or
- b) The Council already has a sound understanding of the views and preferences of the persons likely to be affected or interested in the matter (s82(4)(b) LGA 2002); or

- c) There is a need for confidentiality or commercial sensitivity (s82(4)(d) LGA 2002); or
- d) The costs of consultation outweigh the benefits of it (s82(4)(e) LGA 2002); or
- e) The matter has already been addressed by the Council's policies or plans, which have previously been consulted on; or
- f) An immediate response is necessary because of emergency or in the interests of health and safety; or
- g) There are no other practicable alternative options to choose from; or
- h) Works are required unexpectedly as a consequence of a policy, or following further investigations on projects, already approved by the Council; or
- i) The works required are related to the maintenance of a Council's asset and responsible management requires the maintenance works to take place.

Where the above listed circumstances apply and consultation is not to be undertaken, the Council is still required to give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter (LGA 2002 section 78 (1)). The LGA 2002 requires that this consideration be in proportion to the significance of the matters affected by the decision (section 79 (1)).

8.0 HOW WILL THE COUNCIL CONSULT

Where the Council intends to consult, the level of consultation, and the tools and techniques to be applied, will be tailored to the nature and significance of the matter being considered, to the target audience and in keeping with the Principles of Consultation as outlined in section 9 of this Policy.

There are a variety of tools and techniques that the Council may apply when undertaking consultation. Typically, although not always, the consultation process involves written submissions with opportunities provided for speaking to those submissions. The means available to participants in a consultation process for the presentation of views, will be defined by the method of consultation undertaken. These will be clearly communicated to the participants in that process.

Appendix 2 illustrates the level of consultation that will be undertaken depending on the degree of significance and provides examples of the types of tools the Council will use to engage with the public. The greater the degree of significance of any particular matter, the greater the level of consultation that will be undertaken. The model in Appendix 2 sources information from the International Association for Public Participation (IAPP) and incorporates this into a Council approach to consultation. In designing and undertaking a consultation process the Council will also be guided by the principles outlined in clause 9 of this policy.

8.1 Consultation with Iwi

The Council will establish and maintain processes that will provide opportunities for Iwi to contribute to decision making processes of the Council. A Consultation with Iwi Policy is in the early stages of development at the time of writing this Policy.

9.0 PRINCIPLES OF CONSULTATION

The following principles will underpin the Council's approach to all consultation undertaken. The principles are common to all consultation processes irrespective of whether they are required by legislation.

These principles align with the legislative requirements of the LGA 2002 (Section 82) with additional principles included to reflect good practice.

- a) **Resourcing and Pragmatism** – The Council will consider the degree of significance and the costs versus benefits when designing a consultation process.
- b) **Timeliness** - The Council will build consultation into the planning process from the start. Sufficient time will be allowed for considered responses from all groups with an interest in, or who are affected by, the issue.
- c) **Inclusiveness** - The Council will seek the views of the community, where appropriate using targeted consultation to access various sector and interest groups in the community.
- d) **Access to information** - The Council will ensure that information is readily available so that participants can make informed and timely contributions.
- e) **Transparency** - The Council will provide information about the purpose of the consultation and the scope of the decisions for example why the Council is consulting, what issues are and are not up for decision making, how the decisions will be made and who will be making them. The Council will be clear on how decisions will be made and who will be making them so that the participants know and understand the impact of their involvement.
- f) **Opportunity to present your views** - The Council will encourage and provide reasonable opportunities for those who may be affected by or interested in the issue, to present their views. The means of presenting views will be defined by the tools and techniques selected for any given consultation process and these will be clearly communicated to the participants in that process. This will not always involve opportunities for presenting oral submissions.
- g) **Openness** - The Council will receive views with an open mind and will give those views due consideration when making a decision. The Council welcomes indications of support for or opposition to proposed projects or issues.

- h) **Feedback** - The Council will provide information regarding the outcome of the decision making process the reasons for the decisions and how the public influenced the decision.

10.0 REVIEW OF THE POLICY

The Council's Consultation Policy will be reviewed every three years alongside the review of the Council's Policy on Determining Significance.

Appendix 1: Process map for determining whether or not to consult



