



KAPITI COAST DISTRICT COUNCIL

Consultation Policy December 2003

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Kapiti Coast District Council's Consultation Policy

Purpose

The purpose of this policy is to ensure a consistent approach to consultation throughout the Kapiti Coast District Council ("the Council") and compliance with the consultation requirements of the Local Government Act 2002 ("LGA 2002").

This policy does not cover the submission process that may be required under the Resource Management Act 1991.

Background

As an organisation responsible to the community it serves, the Council is committed to on-going and effective consultation. The Council already consults with the public on many issues and this policy reflects both current practice and its responsibilities under the LGA 2002.

The Council must make its consultation policy publicly available after the three-yearly general election, as set out in section 40(1)(h) of the LGA 2002.

Note that within this policy, the words *the Council* refer to any decision-maker within the Council. This could be the Council, or sub-committee or an officer with delegated authority.

Commitment to Consultation

A well-structured consultation process is a key part of improved decision making. The Council welcomes and values input from the people of the Kapiti Coast District so it can adequately reflect their views in its decision making. Decision making is improved as a result.

The Council is also committed to determining the overall community view as accurately as possible and will use the appropriate techniques to meet this objective.

Consultation will enhance the democratic process by contributing to the decision making of the Council.

The Council is committed to acknowledging the unique perspective of Māori and recognise that they are more than an interest group. The Council also recognises that within the Māori community, different levels of relationship exist which requires consultation that appropriately reflects each level of relationship.

What Is Consultation?

Consultation is a genuine exchange of information, points of view and options for decisions between affected and interested people and decision-makers before a decision has been made.

It does not mean that the decision will be delegated to those involved in the consultation process, but rather that the decision, when made, is likely to be improved by the public's involvement.

For the purpose of this policy the Council has adopted the following definition of consultation:

Consultation is the dialogue that precedes decision-making.

According to this definition, consultation means the Council will:

- Seek input into a concept, issue or proposal that has not been decided upon.
- Encourage those people who will or may be affected by, or have an interest in, the matter to present their views (s82(1)(b), LGA 2002).
- Provide those people who will or may be affected by, or have an interest in, the matter with reasonable access to relevant information about the matter, and clear information about the purpose of the consultation and the scope of the decisions to be taken following consideration of the views presented (ss82)(1)(a) and (c), LGA 2002).
- Give people a reasonable opportunity to present their views according to their preferences and needs (s82(1)(d), LGA 2002).
- Listen to what people have to say and consider their views and comments with an open mind (s82(1)(e), LGA 2002).
- Decide if and how any proposal should be changed or developed further.
- Report on the final decision and the reasons for it (s82(1)(f), LGA 2002).
- Respond to the people involved in the process (s82(1)(f). LGA 2002).

According to this definition, the public's role in consultation will generally be one of expressing an opinion and providing additional information (unless a referendum is used). It does not actually mean that the decision has been delegated to them.

Consultation may include market research techniques such as quantitative surveys, qualitative focus groups and individual interviews.

Consultation is not:

- Solely providing information (although effective communication forms part of consultation).
- Always about reaching an agreement or consensus.
- Always about negotiation.

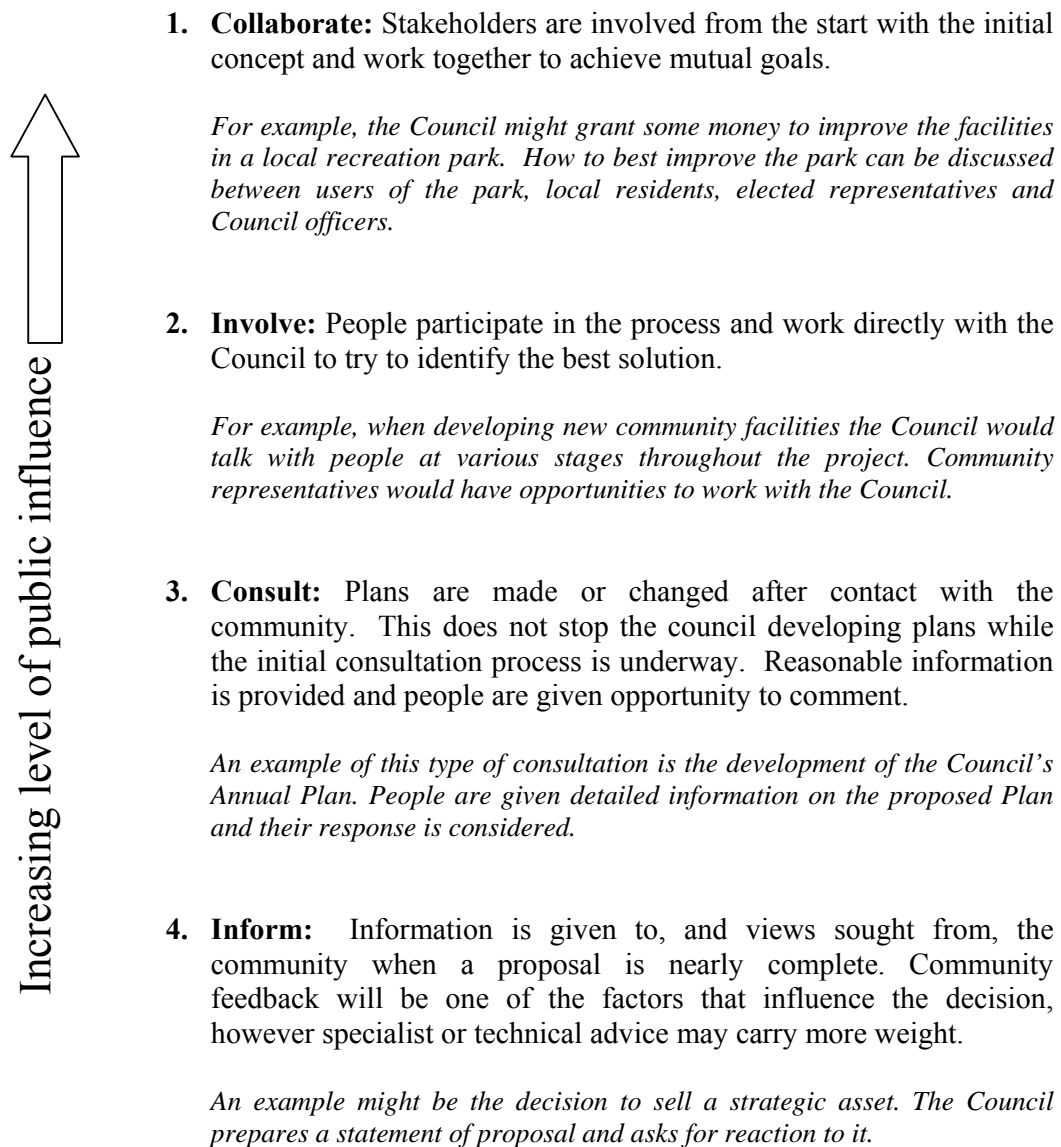
Consultation is not appropriate when:

- A decision has already been made or the likely decision is apparent (s82(1)(e), LGA 2002).
- There is a need for commercial sensitivity.
- It is a small issue within the public interest (see the Council's policy on significance).
- The likely costs of the consultation are not in proportion to the benefits (s82(4)(e), LGA 2002).
- There is a threat to public health or safety.

Type of Consultation

The Council has established that there are four levels of consultation and will choose the one most suited to each proposal or decision that is to be consulted on.

Figure One



Source:

IAP2 Public Participation Spectrum

International Association for Public Participation (see www.iap2.org)

Different levels of consultation may be appropriate with different stakeholders and at various stages of the matter in question.

Special Consultative Procedure

This is a summary of the Special Consultative Procedure and some examples of when it will be used.

The Special Consultative Procedure will be used in the following situations:

- Long Term Council Community Plan (s84, LGA 2002).
- Annual Plan (s85 LGA, 2002).
- Adoption, amendment or review of by-laws (s86, LGA 2002).
- Change to a significant activity (s288, LGA 2002).

For more detailed information and the other occasions when the procedure must be used see the Special Consultative Procedure under the LGA 2002.

The Special Consultative Procedure (s 83, LGA 2002)

This is a summary of the Special Consultative Procedure. It is only a guide and for more detailed information consult the Act itself.

- The Council will prepare a statement of proposal and a summary of the information. This proposal will set out what the Council proposes, the timeframe, costs and implications of any decision.
- The proposal will appear on the agenda of a Council meeting and will be made available for public inspection at places the Council considers necessary to provide all ratepayers and residents with reasonable access to it.
- The Council will give public notice of the proposal and explain how people can obtain either the summary or the full proposal and also the time period in which they can make submissions (not less than one month from initial notice).
- Ensure that anyone who makes a submission receives a written acknowledgement and has a reasonable opportunity to be heard. If the submission is electronic then the acknowledgement may be electronic also.

This is a minimum requirement under the Act and the Council may choose to consult further depending on the matter in question.

Summary of Information (s89, LGA 2002)

The summary of information contained in the statement of proposal must be a fair representation of the major matters in question.

The form of the summary can be determined by the Council (for example, a supplement in the Council's preferred advertising newspaper) as long as it is distributed as widely as reasonably practicable (considering the matter the proposal relates to). The summary needs to say where the full statement of proposal can be inspected, how a copy can be obtained and the period within which submissions may be made.

Policy on Significance (s90, LGA 2002)

The Council has a policy on significance. This sets out the Council's general approach to determining the significance of issues and proposals as well as the assets it considers strategic.

Submission Process Compared to Consultation

While a submission process may form part of consultation there are some differences. Under a submission process for a resource consent or district plan change, for example, objectors have a statutory right to be heard and a right of appeal. Under a non-statutory consultation process this is not the case.

Statutory Compliance

The Council will comply with all the relevant Acts when it makes the decision whether to consult or not, and also when and how it consults with affected or interested parties.

Consultation Process

It is essential that the decision-maker be involved in defining the matter in question as well as the decision whether to consult and the level of public consultation required. The involvement of the decision-maker in the decision to consult and the level of consultation required is extremely important.

If the consultation process does not follow the special consultative procedure previously described, the Council will then use the best and most appropriate forms of consultation to gather the views of interested and affected people.

The decision-maker, or their delegated representative, will determine who is to be consulted, bearing in mind who may be affected by or have an interest in the matter. Costs and benefits will also be considered when determining with whom the Council consults.

The Council will produce an appropriate consultation plan in accordance with the Council's consultation framework. This will detail the matter to be consulted on, the reasons for consultation, the level to which the consultation process may affect the decision and the interested or affected parties.

Public interest, importance, cost, benefit and commercial sensitivity of the issue will guide the Council in choice of techniques and level of influence. The Council will make maximum use of new technology, particularly the internet, as is appropriate.

Consideration of Views

When making a decision, the Council must give consideration to the views and preferences of people likely to be affected or have an interest in the matter. This consideration must be given at the different stages where problems and objectives are defined, where practical options are identified and assessed, and where proposals are developed and adopted.

The level of influence will determine the weight the Council will give to the results when making its decision. As noted in Figure One – there is a range of weightings the Council can give. In “**Collaborate**”, the consultation process should be given a high weight. In “**Involve**”, slightly less, “**Consult**” less again and “**Inform**” will have the lowest weight applied to public consultation.

The Council will always consider submissions and the consultation process as a whole with an open mind. Other factors such as expert advice, the benefits and costs of each

option (including present and future social, economic, environmental and cultural well being of the District) and the extent to which community outcomes can be achieved in an integrated and efficient manner will also be considered.

Decisions made following consultation will be taken after considering the views of all stakeholders and the Council will make all reasonable, cost-effective efforts to learn these views and encourage stakeholders to take part, particularly the “silent majority”.

Contributions by Māori

The Council acknowledges that specific iwi exercise mana whenua (maintenance and sustainable management of land) over lands within the Council’s boundaries. They will be consulted by the Council for the purposes of the Resource Management Act 1991 (where there is a duty to consult with tangata whenua) and where there is mutual agreement between the Council and iwi exercising mana whenua.

The Council will maintain processes that provide opportunities for Māori to contribute to decisions. Te Whakaminenga O Kapiti (the group who advise and support Council on things pertaining to Maori) will advise on how best to manage the consultation process and to facilitate the relationship between the Council and iwi exercising mana whenua.

The Memorandum of Partnership between Ati Awa Ki Whakarongotai Inc, Te Runanga O Raukawa Inc, and Te Runanga O Toa Rangatira Inc and the Council was signed on 9 February 1994. The Memorandum outlines the relationship between the Council and the Tangata Whenua and is the foundation document for how this process will proceed. Copies of the Memorandum of Partnership can be obtained from the Council’s Democratic Services Co-ordinator and the Council’s website.

The Council will continue to consider, and where appropriate implement, ways to foster the development of Māori capacity to contribute to its decision-making processes. The Council will make relevant information available to the wider Māori community or taurahere (ss81 and 82(2) LGA 2002) consulting with them where appropriate.

The Council also acknowledges that specific iwi have historical and spiritual ties to lands within the Council’s boundaries and as such should be consulted by Council for the purposes of the Resource Management Act 1991 in particular in respect to resource consent applications, District Plan changes and Notice of Requirements.

The Resource Consents Manager will manage the Resource Management consultation process for resource consent applications. The District Planner will manage the consultation process for all other Resource Management matters.

Working with others

Organisations

The Council will work with other organisations during consultation as necessary. It will share information and results in a free and open manner unless there are reasons of commercial sensitivity for not doing so.

On occasion the Council will work with other agencies to fulfil its roles in the community. This does not remove any obligation the Council has to consult with the community about the proposal and it may work with its partners to coordinate it.

Consultants

When project consultants are involved in the consultation phase of a project, it should be clear to participants that the consultation is conducted for the Council. Officers will oversee the consultation process to ensure that the Council best practice is followed even though they may not conduct the consultation themselves. Consultation will not be delegated in such a way that the Council loses control of the process or that the information gathered has reduced value.

Payment for Consultation

The Council as a general rule does not usually pay the people being consulted for their time or travelling expenses. However, there are occasional exceptions and these may include consultation with tangata whenua or other groups with special circumstances. Such exceptions are approved by the Chief Executive.

Council Discretion

Significance

The Council has discretion whether or not to undertake consultation if the issue is not of a nature or significance that requires consultation (s82(4)(c), LGA 2002). See also the Council's policy on significance.

Costs and Benefits

The likely costs and benefits of any consultation process or procedure also gives the Council some discretion (s82(4)(e), LGA 2002). If the cost of consultation outweighs the benefits (including social, environmental and cultural factors) the Council may make a decision without public consultation.

Quick Decision

If the Council is called upon to make a significant decision quickly and the likely cost of delay will outweigh the benefits of consultation, it may make a decision without the usual public consultation. (s82(4)(e), LGA 2002 and s330 of the Resource Management Act 1991 which deals with emergency situations).

Prior Knowledge

If the views and preferences of the affected or interested parties are already known to a reasonable degree, a new consultation process is not required (s82(4)(b), LGA 2002).

Sensitive Information

Under Part I of the Local Government Official Information and Meetings Act 1987 the Council may withhold certain information from the public, for example of a commercially sensitive nature.

Public Health and Safety

If there is a health or safety risk to the public and a delayed decision will continue or increase this risk, the Council will not consult with the public over the decision. It may work with affected parties to deal with their concerns as much as is practically possible. Also see section 330 of the Resource Management Act 1991 which deals with emergency situations.

Ongoing Maintenance

The Council will consult on the service levels in any asset management plan and will then continue to maintain existing assets without further consultation.

Inconsistent Decisions**Inconsistent with Existing Policy or Plan**

If the Council's decision is significantly inconsistent with a policy or plan already adopted by the Council, it will explain the inconsistency, the reasons for it and how the policy or plan will be modified to accommodate the decision (ss80(1)(a)-(c) LGA 2002).

Inconsistent with Bulk of Public Submissions

The Council will consider the views and preferences of people likely to be affected by or to have an interest in the matter.

Where the bulk of public submissions are contrary to the Council's decision, the Council will pay special attention to explaining to interested and affected parties the reasons for the decision.

Consultation Techniques

The Council will establish consultation techniques which are aligned to best practice (*see IAP2 Public Participation Toolbox @ www.iap2.org*) and the level of influence accorded to each within that consultation process. These techniques will be used by the Council staff wherever possible to ensure the process is cost-effective.

Resources Supporting Public Consultation

The Council will decide on the resources which may be used to support the chosen consultation techniques. A list of these will be made available to staff to ensure that the consultation process is cost effective.

Materiality of Cost

Where the cost of consultation has a material impact on the delivery of a project or service, the consultation project shall be approved in plan form before an approach to the public is made. Materiality shall be at the discretion of the Chief Executive, but it may be influenced by the cost, time delay or risk associated with the consultation project.