



CONSULTATION POLICY



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Purpose

The purpose of this policy is to ensure a consistent approach to consultation across Hauraki District Council and compliance with the consultation requirements of the Local Government Act 2002.

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

Requirements

As an organisation responsible to the communities it serves, Hauraki District Council is committed to ongoing and effective consultation.

The council already conducts consultation with the public on many issues and this policy reflects both current practice and its responsibilities under the Local Government Act 2002.

The council will make its consultation policy publicly available after the three-yearly general election, as set out in section 40(1)(h) of the Local Government Act 2002.

Note that within this policy, the word council refers to any decision-maker within council. This could be the council, a committee 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 Hauraki 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.

The council is committed to acknowledging the unique perspective of Maori and recognise they are more than an interest group. Council also recognises that within the Maori 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 communities' involvement.

For the purpose of this policy Hauraki District 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 on 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) Local Government Act 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 (s82(1)(a) and (c) Local Government Act 2002).
- Give people a reasonable opportunity to present their views according to their preferences and needs (s82(1)(d) Local Government Act 2002).
- Listen to what people have to say and consider their views and comments with an open mind (s82(1)(e) of the Local Government Act 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) Local Government Act 2002).
- Respond to the people involved in the process (s82(1)(f) Local Government Act 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 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) Local Government Act 2002).
- There is a need for commercial sensitivity.
- It is a small issue with little 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) Local Government Act 2002).
- There is a threat to public health or safety.

Types of consultation

The council identifies four levels of consultation and will choose the one most suited to each proposal or decision that is to be consulted on.

1. Collaboration: Stakeholders are involved from the start with the initial concept and work together to achieve mutual goals.

For example, the council might grant some money to improve the facilities in a local park. How to best improve the park can be discussed between users of the park, local residents, elected representatives and council officers.

2. Participation: People participate in the process and work directly with the council to try to identify the best solution.

For example, when developing new community facilities the council would talk with people at various stages throughout the project. Community advocates would have opportunities to work with the council.

3. Involvement: Plans are made or changed after contact with the community. This does not stop the council developing plans while the initial consultation process is under way. Reasonable information is provided and people are given opportunity to comment.

An example of this type of consultation is the development of the council's Annual Plan. People are given detailed information on the proposed plan and their response is considered.

4. Reaction: Information is given to, and views sought from, the community when a proposal is nearly complete. Community feedback will be one of the factors that influence the decision, however specialist or technical advice may carry more weight.

An example might be the decision to sell a strategic asset. The council prepares a statement of proposal and asks for reaction to it.

Different levels of consultation may be appropriate with different stakeholders and at various stages of the proposal being considered.

Special consultative procedure

This is a summary of the special consultative procedure and some examples of when it will be used. For more detailed information see *the special consultative procedure under the Local Government Act 2002*.

The special consultative procedure will be used in the following situations:

- Long-term council community plan (s84 Local Government Act 2002).
- Annual plan (s85 Local Government Act 2002).
- Adoption, amendment or review of by-laws (s86 Local Government Act 2002).
- Change to a significant activity (s88 Local Government Act 2002).

There are other occasions when the procedure must be used. For a full listing consult the Local Government Act 2002.

The special consultative procedure (s83 Local Government Act 2002)

This is a summary of the special consultative procedure. It is only a guide and for more detailed information consult the Act itself.

1. The council will prepare a statement of proposal and a summary of the information. This proposal will set out what the council proposes, timeframes, costs and implications of any decisions.
2. 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.
3. 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.)
4. 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 the minimum required under the Act and the council may choose to consult further depending on the matter in question.

Summary of information (s89 Local Government Act 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, an advertisement of supplement in a local newspaper) as long as it is distributed as widely as reasonable 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 Local Government Act 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, as required for some, for resource consents and District Plan Change, 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 the 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 taken into account when determining whom the council consults with.

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 who the interested or affected parties are.

Public interest, importance, cost, benefit and commercial sensitivity of the issue will guide us in choice of techniques and level of consultation. 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 consultation will determine the weight that the council will give the results when making its decision. In collaboration, the consultation process should be given a high weight. In participation, slightly less, involvement less again and reaction will have the lowest weight applied to public consultation.

Council will always consider submissions and the consultation process as a whole with an open mind. Council will also consider 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.

Decisions following consultation will be made 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 Maori

The council acknowledges that specific Iwi exercise mana whenua over lands within council boundaries. They will be consulted by 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 council and Iwi exercising mana whenua.

The council will maintain processes that provide opportunities for Maori to contribute to decision-making. The council will continue to consider, and where appropriate implement, ways to foster the development of Maori capacity to contribute to its decision-making processes. The council will make relevant information available to the wider Maori community or taurahere (s 81 and 82(2) Local Government Act 2002) consulting with them where appropriate.

Council also acknowledges that specific Iwi have historical and spiritual ties to lands within council boundaries and as such should be consulted by council for the purposes of the Resource management Act 1991 in respect to resource consent and District Plan 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 is commercial sensitivity or privacy reasons for not doing so.

On occasion the council will work with other agencies to fulfil their role 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 co-ordinate 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.

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) Local Government Act 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 (s84(4)(e) Local Government Act 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) Local Government Act 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) Local Government Act 2002).

Sensitive information

Under part I of the Local Government Official Information and Meeting 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 of 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 s330 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 (s 80 (1)(a) – (c) Local Government Act 2002).

Inconsistent with bulk of public submissions

The council will consider the views and preferences of people likely to be affected by or 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.