

Proposed new Significance and Engagement Policy

TO	Council
FROM	Angela Jane - Governance and Strategy Manager
DATE	8 September 2014
SUBJECT	Proposed new Significance and Engagement Policy

1 Executive Summary

The purpose of the report is for the Council to consider a proposed new Significance and Engagement Policy and to consider if public consultation is required before the new policy is adopted.

The new policy replaces the Council's Significance Policy and links our methods of engaging on different types of decisions/issues. The new policy does not necessarily ask us to do anything differently, we are able to simply reflect our current ways of operating.

The proposed new policy attached for the Council's consideration largely reflects Thames-Coromandel District Council's current practice with similar significance levels and types of engagement. Developing the new policy gives us the opportunity to consider improved ways of operating. The proposed new policy provides a flexible base for improvements to be implemented without needing to amend the policy. Given the limited time between the Amendment coming into force and the 1 December deadline for adopting the new policy, developing the new policy in this manner is also seen to be the most practical option.

2 Background

The Local Government Amendment Act 2012 introduced a range of amendments affecting local government decision-making processes, including a change to the Significance Policy. The policy as we know it has been replaced by a Significance and Engagement Policy. The government's general policy statement that accompanied the Amendment Act noted that the previous legislation contained consultation, decision-making and planning provisions that limited councils' abilities to design efficient and effective processes and were not fully achieving the desired results. The amendments were intended to give more flexibility on how we consult and allow us to design decision-making and community engagement processes that are appropriate to different circumstances and in proportion to the matter being considered.

The amendments included a change in focus that narrows the mandatory use of the Special Consultative Procedure allowing councils to instead apply the consultation principles (as stated in section 82) for various decisions/potential consultations. The Special Consultative Procedure has been retained for some specific decisions/processes (includes references from other legislation), with small amendments that provide more flexibility to councils on how to publicly notify that consultation is underway and how to conduct hearings.

The Waikato councils have been collaborating on a regional template for the new policy for the past six months in anticipation of the legislation being passed. The work was coordinated under the Mayoral Forum's Regulatory Policy and Bylaw work-stream (work is aimed at better alignment of council policies, bylaws and other regulations). The work-stream is being led by Craig Hobbs, Chief Executive of South Waikato District Council. Tegan McIntyre (Hamilton City Council) and Cindy Kent (South Waikato District Council

now Waipa District Council) were tasked in late March 2014 to co-lead the development of a shared Significance and Engagement Policy framework to test the viability of regional collaboration on policy issues; and to then apply the learnings through the development of standardised policy and bylaw templates. The Strategic Planning team from Thames-Coromandel District Council did not have capacity to participate in the development of the regional template but the report writer was involved while employed by the regional council.

The attached proposed new policy is based on the regional template. The template has been developed utilising the experience and skills of a wide group of planners, reviewed by the regulatory policy and bylaw workstream governance group and the Mayoral Forum and has had a legal review arranged through LGNZ.

3 Purpose of the policy

The purpose of the significance and engagement policy, as stated in the legislation, is to:

- *enable the council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions and activities; and*
- *provide clarity about how and when communities can expect to be engaged in decisions about different issues, assets, or other matters; and*
- *to inform the local authority from the beginning of a decision-making process about—*
 - *the extent of any public engagement that is expected before a particular decision is made; and*
 - *the form or type of engagement required.*

The first bullet point was previously covered by the Significance Policy and the third bullet point was previously noted in the decision-making clauses in the legislation. By bringing them together and including how and when we will engage with our communities with respect to both matters provides for a comprehensive and useful document to both council and our communities.

4 Obligations for all councils

Each council must adopt a **significance and engagement policy** setting out:

- the council's approach to determining the significance of proposals and decisions in relation to issues, assets and other matters
- any criteria, or procedures to be used to assess significance
- how the council will respond to community preferences about engagement on decisions relating to specific issues, assets or other matters including when use of the special consultative procedure is desirable
- how the council will engage with communities on other matters.

The policy must list the council's **strategic assets** as did the previous Significance Policy.

In meeting the legislative requirements for decision-making (Part 6 of the Act) the significance and engagement policy is an important guide to councils in making judgements, in relation to particular issues and decisions about the appropriate:

- extent to which different options are to be identified and assessed
- degree to which costs and benefits are to be quantified
- extent and detail of the information to be considered
- extent and nature of any written record to be kept recording how compliance has been achieved.

And, in making those judgements they must also have regard to:

- all matters of significance
- the principles in section 14 of the LGA

- the scope and opportunity to consider a range of options or the views and preferences of other persons
- other enactments.

The requirements where a decision is inconsistent with this new policy remain the same as for the old significance policy.

Councils, when beginning a consultation process under the consultation principles alone (i.e. excluding use of the special consultative procedure or consultation for an annual plan) where people are either considered affected, interested or have been invited or encouraged to participate, must make the following publicly available:

- the proposal and the reasons for the proposal
- an analysis of options
- a draft of any proposed plan, policy or other document
- details of amendments to any existing plan, policy or other document

The new legislation has specified particular requirement for consulting on the council's **long-term plan** and annual plan. The requirements are a variation based on the use of the special consultative procedure

5 About community engagement

Community engagement occurs across a spectrum at differing levels. The engagement spectrum is expressed in different ways, the most frequently referred to being the International Association for Public Participation (IAP2) five-step model. However, common to all of the various spectra is that as you move along the spectrum (from left to right) the level of public impact increases through more active listening and greater inclusiveness resulting in increasing social capital and ultimately better decisions.

The community engagement process generally follows five phases:

- Planning – crucial to sustainable decision-making
- Strategy development – bringing together all of the planning elements, the road-map
- Implementation of the strategy – action planning and implementation
- Reporting – providing feedback to stakeholders and reporting to the council
- Final evaluation – how well was the objective achieved?

6 Issues

Major difference between the policies

The old policy included thresholds in addition to criteria for determining significance. The thresholds were not a mandatory requirement; but were quite common in other councils' policies. The nominated thresholds were generally financial in nature and the numbers used varied across councils as they directly related to particular expenditure levels or ratios for each council.

Thames-Coromandel District Council's thresholds for determining if a decision was significant were:

- It involves \$5million or more budgeted expenditure
- It involves \$500,000 or more unbudgeted expenditure
- The decision impacts by increasing individual rates levies by 10% or more

The proposed new policy does not include these thresholds. Instead we recommend the Council relies on the criteria within the policy and a definition of a significant activity within the policy. The regional template requires each council to define what a significant activity is for its district.

Staff recommend using the upper threshold in the current Significance Policy for budgeted

expenditure to define a significant activity -

Any activity where the annual expenditure for the current financial year is equal to or greater than \$1 million.

Timing of adoption and consultation on new policy

The new policy must be adopted by the Council by 1 December 2014.

When the policy is adopted [or later amended] the council must consult in accordance with section 82 (the Act's consultation principles) unless it considers on reasonable grounds that it has sufficient information about community interests and preferences to enable the purpose of the policy to be achieved.

After the policy is adopted the policy may be amended from time to time, no set review date was included in the legislation.

Some of the Waikato councils have indicated that they will be publicly consulting on their draft policy prior to adoption on 1 December and using the special consultative procedure. Others have indicated that they do not intend to consult on the basis that the new policy is reflecting the council's current basis for assessing significance and types of engagement. One council surveyed its public during the development phase and is relying on that information to ensure the policy meets their residents' needs.

Assessment of information held about our community's views

The Council seeks feedback on how it engages with residents through various means. The annual satisfaction survey of residents is one tool; the annual submissions to the Annual Plan is another opportunity along with receiving complaints/bouquets through the council's customer request system. A scan of the recent submissions to the Annual Plan and last Long Term Plan did not show any particular issues with the method of our consultations. Submitters obviously were aware of the consultation, so this does not test our awareness raising efforts. A summary of the most useful questions/responses within the resident satisfaction is below.

Up until 2011 the Council included in its annual satisfaction survey of residents a question to gauge satisfaction with the council's consultation and community involvement.

Year	Percentage satisfied/very satisfied with Council's consultation and community engagement	Percentage neither satisfied nor dissatisfied	Percentage dissatisfied/very dissatisfied
2011	44%	31%	18%
2010	32%	26%	35%
2009	39%	28%	28%
2004-2008	47-50%	22-30%	15-20%
2003	35%	34%	24%

The responses to this question can be interpreted in various ways - were the public happy with the result of the consultation and community engagement or were they satisfied with the level of consultation/engagement and the information and tools we used to disseminate it.

More telling are the responses to the following questions (only asked up until 2011):

Year	Get on with job	Consult on major issues	Consult on most issues
2011	22%	61%	16%
2010	12%	61%	26%
2009	16%	58%	24%
2008	15%	62%	23%
2007	16%	56%	27%
2006	17%	60%	22%

In 2011 the peer group and national average results for these questions were:

Get on with job peer group 22%, national average 17%
 Consult on major issues peer group 58%, national average 62%
 Consult on most issues peer group 26%, national average 22%

In the 2010 and 2011 surveys, respondents who expressed a desire for consultation on major issues noted the following topics as major issues:

- mining issue,
- rates issues/increases/spending of rates,
- town Planning/development/subdivisions/District Plan,
- roading/bridge issues,
- sewerage issues,
- water supply/water rates/meters,
- marina issues,
- charges at boat ramps/boat ramp issues.

The Communitrak survey asks residents if they feel there is enough or more than enough information provided by Council. This question does not directly test if we consult in a manner that suits our residents and for the right decisions that they wish to be involved in; but it can be used as an indicator. High satisfaction as a response to this question would indicate that the community considers our information to be sufficient. If we were not engaging with our communities on issues/decisions that they wanted us to we suggest it would be reflected with low satisfaction to this question.

Year	Provide enough/more than enough information
2013	75%
2012	66%
2011	66%
2010	61%
2009	68%

In 2013 the comparison between residency/non-residency for this question was 67% and 84% respectively, compared to our peer group of 68% and national average of 69%.

7 Options for consultation

1. Adopt the proposed new policy (with amendments if necessary) without consulting.
2. Adopt the proposed new policy (with amendments if necessary) without consulting but include a review within two years that must include an appropriate form of engagement to determine if the policy is being achieved.
3. Consult on the proposed new policy (with amendments if necessary) prior to the 1 December 2014 adoption deadline.

Option 1

The proposed policy would be amended in accordance with the direction from the Policy Committee and presented to the 22 October 2014 Council meeting for adoption along with a recommendation not to consult.

Option 2

The proposed policy would be amended in accordance with the direction from the Policy Committee and presented to the 22 October 2014 Council meeting for adoption along with a recommendation not to consult but to review within two years.

Option 3

This option would need a speedy approval of Council to undertake consultation. This could occur either at the 22 October 2014 council meeting or at a meeting notified to coincide with the 15 October council workshop. Consultation could take the form of the special consultative procedure or something less lengthy, less informal with adoption scheduled for the 26 November to meet the 1 December 2014 legislative deadline.

8 Recommendations

That the Council:

1. Receives the Proposed New Significance and Engagement Policy report, dated 8 September 2014.
2. Adopts the proposed new Significance and Engagement Policy attached to the report with any amendments necessary; and
3. Notes that formal public consultation on a draft policy is not considered necessary for the following reason:
 - The Council has sufficient information about community interest and preferences to enable the identification of significant decisions and the appropriate form of engagement for its decisions.

Attachment A Proposed new Significance and Engagement Policy (Docset# 3547183)

9 Excerpts from the amended Local Government Act 2002

76AA Significance and engagement policy

- (1) Every local authority must adopt a policy setting out—
 - (a) that local authority's general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters; and
 - (b) any criteria or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, assets, decisions, or activities are significant or may have significant consequences; and
 - (c) how the local authority will respond to community preferences about engagement on decisions relating to specific issues, assets, or other matters, including the form of consultation that may be desirable; and
 - (d) how the local authority will engage with communities on other matters.
- (2) The purpose of the policy is—
 - (a) to enable the local authority and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions, and activities; and
 - (b) to provide clarity about how and when communities can expect to be engaged in decisions about different issues, assets, or other matters; and
 - (c) to inform the local authority from the beginning of a decision-making process about—
 - (i) the extent of any public engagement that is expected before a particular decision is made; and
 - (ii) the form or type of engagement required.
- (3) The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.
- (4) A policy adopted under subsection (1) may be amended from time to time.
- (5) When adopting or amending a policy under this section, the local authority must consult in accordance with section 82 unless it considers on reasonable grounds that it has sufficient information about community interests and preferences to enable the purpose of the policy to be achieved.
- (6) To avoid doubt, section 80 applies when a local authority deviates from this policy.

Definitions of interest

Section 5 of the LGA2002 has the following definitions for "significance" and "significant".

Significance, in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, as meaning the degree of importance of the issue, proposal, decision, or matter, as assessed by the local authority, in terms of its likely impact on, and likely consequences for:

- the district or region;
- any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter;
- the capacity of the local authority to perform its role, and the financial and other costs of doing so.

Significant, in relation to any issue, proposal, decision, or other matter, means that the issue, proposal, decision, or other matter has a high degree of significance

Attachment A

Attachment A - Draft Significance and Engagement Policy - TCDC