

Council Procedures 25

25.29 *CONSULTATION POLICY*

Source: LTCCP 2004/2005, adopted 30/6/04

The Buller District Council will:

- Regularly engage with communities to actively identify community stakeholders and their interests;
- Commit to informing all relevant community stakeholders of both current and future initiatives planned by the Council;
- Consult in a manner that actively encourages participation from all relevant members of the community and community stakeholders;
- Actively work with representatives of the Maori community in the district to keep them informed of both current and future initiatives planned by the Council;
- Respect the diversity, needs and views of the entire community;
- Seek to collaborate in consultation initiatives with neighbouring and Regional Councils, and other interested agencies;
- Target consultation appropriately to reduce unnecessary waste of resources on consultation and to minimise demands on the community.

INTRODUCTION

1.1 *The Context*

The Local Government Act 2002 is a result of a substantive review of local government's historical practices and policies under previous legislation. The Act encourages local authorities to consider their role in "promoting the social, economic, environmental, and cultural wellbeing of communities, in the present and for the future". This consideration is embedded within a framework of "democratic and effective local government". Recognising that for many local authorities this will require a degree of re-orientation, the Act outlines key responsibilities for local authorities to consult and involve their communities in their decision making.

The purpose of the Act in outlining these responsibilities is to promote a greater level of community participation in local government decision making and increase the accountability of local authorities to their communities. Consultation is identified within the Act as a key tool for providing the community with an opportunity to participate in local government decision making. Within this context, consultation is seen to have a critical role in the effectiveness of local authorities to meet the expectations of the Local Government Act 2002 and the future needs of their communities.

1.2 The Purpose of this Consultation Policy

While there is a legislative requirement within the Local Government Act 2002 for Local Authorities to maintain a minimum level of consultation compliance, this policy represents the Council's commitment to ensuring they acknowledge and attend to the diversity within the district.

The Council has always had an ongoing commitment to ensuring it is aware of the diverse community opinions existing around topical issues. The Council recognises, however, that the Local Government Act requires Councils to go beyond consultation on specific issues and begin to look to the changing needs and expectations of the community for the future. Underpinning this document is an appreciation of the importance of consultation for effective and comprehensive decision making.

This policy provides a framework for community consultation which will assist in guiding Council decision making. This framework for consultation is set out in the appendices. Council at times, may wish to engage with the community in ways that do not require the formal process outlined here.

The purpose of this policy is to:

- Promote a sense of community by encouraging public involvement in decision making processes.
- To ensure the Buller community is well informed about issues, strategies or plans that may directly or indirectly affect them.
- To ensure the people in the Buller district have the opportunity for genuine involvement in Council's decision-making and policy development.
- Help the community understand the issue and promote acceptance of the outcome.
- Ensure that the Council consults with the community in an appropriate and lawful manner.
- Assist the Council to make decisions that are based on complete information.
- Ensure the Council's consultation methods are more effective and efficient by providing guidelines for the people conducting the consultation.
- Assist the Council to assess the communities desires and needs.
- To seek the views of a wide cross-section of the community, selecting consulting methods that are flexible, inclusive and accessible to those being consulted.

1.3 Consultation Policy Principles

Buller District Council:

- Will communicate the parameters of the consultation process to participants from the outset, including legislative requirements, Council's sphere of influence, conflicting community views, policy frameworks and context, budget constraints etc.
- Recognises that community participation is a right of all citizens and an integral component of informed decision making.
- Operates under a key value of openness and is committed to ensuring that community is well informed about Council's service delivery, planning and decision making process.

- Aims to encourage involvement from a wide cross-section of the community using consultation processes that are accessible to and inclusive of minority groups.
- Will endeavour to ensure that sufficient timeframes and adequate resources are allocated to consultation processes.
- Will clearly state to the community when input will be accepted and how it will be used.
- Will ensure that when the community is consulted that all community contributions and relevant information is considered, prior to making any decisions that affect the local community.
- Will co-ordinate its community consultation process where possible to optimise resources, ensure efficiency and avoid duplication.
- Will communicate clearly the objectives of the consultation process and provide community members with all available relevant information to ensure informed discussion.
- Recognises the skill required to undertake community consultation, and will provide staff with opportunities for further skill development and training.
- Recognises that it may be necessary to go over information more than once as issues and strategies may need to change through the process.
- Will acknowledge all submissions (a legislative requirement).
- Is committed to providing participants with feedback, including reasons for its decision, following the completion of the process.
- Is committed to an evaluation of the consultation process on its completion and the results of the evaluation being fed back into improving the consultation process.

1.4 Statutes

Several statutes govern consultation by Local Government. The most significant are the Local Government Act 2002, the Resource Management Act 1991, the Reserves Act 1977, Land Transport Management Act 2003 and the Ngai Tahu Claims Settlement Act 1998. Other relevant Acts include the Local Government (Rating) Act 2002 and the Building Act 1991.

1.5 Te Tiriti O Waitangi

The Treaty of Waitangi is considered the founding document in outlining the relationship between Maori as tangata whenua of New Zealand and agents representing the interests of the Crown. The Local Government Act 2002 has clear guidelines for Local Authority's to involve Maori in decision making; however, it also highlights the importance of consultation processes appropriate to Maori. Recognition of the principles of Te Tiriti O Waitangi within this consultation policy acknowledges the Council's appreciation of biculturalism as an issue and the uniqueness of Maori culture.

In addition Councils are required under Section 8 of the Resource Management Act 1991 to take into account the principles of the Treaty of Waitangi when exercising functions and powers under the Act.

Buller District Councils consultation capacity with Maori still needs to be developed further. Council does have a liaison committee but protocols still need to be fully

developed and implemented. Training of elected members and staff in relevant Maori matters will be undertaken.

2.0 DEFINING CONSULTATION

2.1 Overview of Consultation

Local authorities often recognise the need for consultation as well as their obligations to consult. However, there is often a lack of clarity around the nature of consultation. While not a legal definition, consultation can be identified as:

A way of engaging with the community to improve understanding of the communities views on a specific proposal or issue.

It provides communities with an opportunity to participate in the development of council policies, strategic decisions and as a way for Council to test new ideas. Quality consultation enhances decision-making by receiving information, opinions, ideas and feedback from communities about their different needs and priorities, all of which helps to identify and avoid pitfalls.

Stakeholders need to have sufficient information to participate effectively in the consultation process. The process must be clear and all participants must be informed about how their input will be used along with the method of feedback. The process as well as the outcome is important if the community is to be made to feel it has real and influential input into the process.

In the *Wellington International Airport Ltd v Air New Zealand* (1991) case, the Court of Appeal found the following points fundamental elements of consultation:

- The statement of a proposal not yet decided upon
- Listening to what others have to say and considering responses
- Sufficient time must be allowed and a genuine effort must be made
- People who are being consulted with must be given enough information so as to be able to make intelligent and useful responses
- The consulting party must keep its mind open and be prepared to change or even start afresh, although it is entitled to have a working plan already in mind
- The party obliged to consult must hold meetings, provide relevant information and further information on request, and wait until those being consulted have had a say before making a decision

The Court noted consultation is not:

- Merely telling or presenting
- Intended to be a charade
- The same as negotiation, although a result could be an agreement to negotiate.

2.2 Levels of Consultation Interaction

Within the framework of consultation there are a range of the levels of interaction with the community. The different levels of consultation can be summarised as:

1. **Partnership** - People are involved right from the beginning and work together or plan jointly to achieve mutually acceptable goals. Council *shares* decision making with the group of people involved.
2. **Involvement** - Representatives of the community are involved throughout a decision making process. They work together with the Council to try to identify a compromise or consensus solution. Council *facilitates* the process, but retains final decision making.
3. **Seeking information** - Plans are formulated or modified after contact with the community. Reasonable information is provided and people are given reasonable opportunity to comment. The Council *leads* the process.
4. **Informing** - Information is provided to the community when their input or advice is required on a proposal that is, or is very nearly, complete. The Council *directs* this consultation.

The extent of this consultation and the level of input from the community depends upon the scope, size and type of the project being undertaken. The Community Consultation decision Matrix gives guidance on deciding which level of interaction may be best for the consultation project being undertaken.

2.3 Balance

There are two main aspects to striking a balance when using consultation:

1. Consultation should be considered as one tool among several to be used in the decision making process. Other tools include legislative requirements, Councillors input, research, and technical constraints. There is a balance to be struck over the use of each of these.
2. There is also a balance to be struck in representing the views of particular groups at the Council level and this has a number of dimensions. A primary dimension is the requirement for Council to function as an effective corporate body, while good governance and the maintenance of constructive relationships depend in part, on the ability to compromise for the greater good of the community. So while it may appear that there are benefits to a cost effective approach to consulting, it is important to recognise that effective consultation can save both time and money in the long term by creating a sense of ownership of problems and solutions within the wider community. If people understand why and how decisions have been made, there is likely to be less antagonism - and less risk of litigation - between local authorities and the community. If the Council, Council staff and the community all support an initiative, it will be much easier to implement.

2.4 Benefits of Consultation

Some benefits of consultation are outlined below:

Leadership

- Places the Council in a key leadership role in the development and implementation of community outcomes

Relationships

- Builds positive relationships between the Council, community stakeholders and the wider community as a whole
- Allows Council to clarify the expectations of the community
- Maintains local democracy

Information

- Provides information to the Council and their consultation partners about the needs, issues and perceptions of the community
- Keeps members of the community informed about the activities and functions of the Council and the changing nature and needs of the whole community
- Enables Council to creatively and proactively engage with new solutions and ways of addressing issues through open engagement and debate

Decision Making

- Assists the Council to make conscious and transparent decisions that recognise and consider community needs and perceptions
- Encourages community ownership and support of decisions made

Quality of Service

- Supports the Council in making more robust and informed decisions
- Provides the Council with indicators of the impact of their policies and initiatives on the wider community

- Results in better or more appropriate services and better value for money

2.5 Risks Arising from Inadequate Consultation

Significant risks face Council if consultation is not undertaken, or is undertaken in an inadequate manner. Some risks may include:

Information

- The community will remain uninformed of Council's contributions to community wellbeing
- The Council and staff will be unaware of issues arising for members of the community

Decision Making

- Decisions may be made that will be impractical or unachievable
- There will be no community ownership of Council decisions
- Members of the community will be denied opportunities to engage with Council decision making

Relationships

- Poor relationships may occur between the Council and members of the community
- Challenges will arise from the community about the Council's non-compliance with the Local Government Act and its purpose

Quality of Service

- The Council may provide ineffective or inefficient services to the community

3.0 CONSULTATION GUIDELINES

3.1 Considerations for Consultation

When setting the objectives for a consultation, the questions below are considered an effective guide for developing the nature of the consultation process to follow. A decision matrix and toolbox have been developed to guide this process.

- What is the subject of the consultation?
- Why is the consultation taking place?
- What work has already been done/is being done?
- Who is to be reached?

- What is the best method to reach these people?
- What specific information is required by these people to enable them to respond?
- How can this information best be provided?
- What is the timeline?
- How will the feedback be recorded?
- How will the responses be analysed?
- What are the possible limitations; that is, what can prevent or lessen the chances of a successful consultation?

Communication is a key ingredient in any consultation. The communication tools and strategies that are selected can make or break the engagement and involvement of stakeholders in the process.

Council needs to determine:

- Communication objectives that are definable and measurable, and have a time frame
- Target audiences and stakeholders (internal as well as external)
- Channels and techniques to use in order to reach stakeholders, eg written material, internet, community meetings workshops, door to door calls, phone calls, displays, radio or newspapers, street talking

Stakeholders need the following information:

- An explanation of the consultation process itself and what we want them to do
- The decision-making process for this project or issue
- The subject matter of the consultation (this could include the statement of proposal and the summary of proposal)
- The reason for consultation (avoid stating because the law requires it)
- How the consultation is going to be conducted (in some instances may ask for advice from the community)
- How people can give their input
- A deadline for input
- Where to go for more information
- How their input will be used and acknowledged

3.2 Who to Consult

Good consultation practice would seek to involve as many dimensions of the affected community as can be practically achieved. A decision matrix and toolbox have been developed to guide this process.

In general, the base audience for the majority of Buller District Council's community consultation will include:

- Maori
- The resident population and ratepayers
- Out of district ratepayers
- Key stakeholder groups
- Regional advisory groups

It is anticipated that, for specific issues, this base audience will be refined with specific attention being made to ensure the participation of key groups relevant to the topic in focus.

3.3 Consulting Maori

While good consultation processes will reduce many of the barriers affecting Maori involvement in decision making, mainstream organisations often fail to recognise the diversity existing within Maori communities themselves. In recognition of this diversity it has been identified as important to involve the widest possible range of Maori representation appropriate to an issue.

3.4 When to Consult

Level of community involvement relates to the nature, complexity and the impact of the issue. In general consultation takes place when:

- All issues outlined as significant in the Buller District Council Significance Policy; including but not limited to legislative requirements to consult as outlined in the Local Government Act 2002
- Where controversial issues are involved
- Where large numbers of people are affected
- Where a small number of are people affected but with a large impact upon them

In addition, there is a range of criteria that should be considered for determining when community consultation is required and to what level. These are outlined in the Community Consultation decision matrix. These criteria include:

- Any changes that will impact on current users or customers of a Council service or facility;
- Legislative requirements regarding community consultation;
- Any issues or changes to Council services which will affect the rights or entitlements of community members;
- Potential impact of a proposed development on surrounding neighbours;
- To identify community issues, needs and priorities;
- To monitor customer satisfaction with Council's services and facilities;
- The level of controversy or sensitivity involved in an issue;
- When there is conflict among community members about an issue;
- When an issue may have potential impacts on health, safety or well being of any community member.

3.5 What the Buller District Council Consults On

The Council will consult on issues at three different levels. These are:

1. Strategic Issues eg:

- Annual Plan, LTCCP
- District Plan
- Recreation Strategy
- Solid Waste Management Strategy

2. Policy Issues (which underpin Strategy) eg:

- Bylaws
- Rating Policy
- Funding Policy
- Reserves Management Plans
- Youth Policy

3. Operational Issues (how to implement policy) eg:

- Service level
- Resource consent applications (for Council activities)
- Service delivery - in-house/LATE's and contracting out
- Reserve leases and licences
- Projects

4.0 POLICY IMPLEMENTATION

In the development of sustainable and ongoing consultation networks a number of key categories of development have been identified. The areas of development seen as necessary for the Council and its staff to develop are:

- Targeted approaches to consultation
- Building on existing local consultation groups and networks
- Supporting intersectorial collaboration and utilising existing intersectorial networks (eg Federated Farmers, West Coast Regional Council)
- Creating opportunities for culturally specific consultation

Each of these components of consultation requires commitment and energy from both Council and staff. In order to implement the framework that has been outlined in this document, each area of development requires specific strategies. Several of these areas can be developed in parallel, and are seen to compliment each other. Some of these steps can be seen as being integrated into the consultation framework in the appendices, while others will be ongoing processes essential for the Council to remain responsive to changing community needs and issues.

The consultation matrix and consultation toolbox are a guide to implementing this policy. This consultation toolkit should be used in conjunction with the consultation decision matrix. The steps to take using these documents are summarised below:

1. Setting objectives and scope of the project.
2. Level of participation - use consultation matrix to determine the level of participation that is required. The level of participation could be partnerships, involvement, seeking information, or informing, depending upon the level of impact.
3. Type of consultation.
 4. Guidelines and protocols.
 5. Consultation approach.
 6. Consultation action plan.
 7. Implementation.
 8. Monitoring and evaluation.