

Statement of Proposal and
Draft Significance and
Engagement Policy



TE KAUNIHERA Ā-ROHE O TE MATAU-A-MĀUI

Statement of Proposal on revised Significance and Engagement Policy

24 March 2021

What is the proposal?

This proposal is to adopt the attached *Significance and Engagement Policy*.

Why are we consulting on this?

According to our own Policy, it must be reviewed every five years and involve community engagement. The Regional Council is using the Long Term Plan consultation process to concurrently consult on this Policy and to seek feedback on minor changes.

What's changed

The Significance and Engagement Policy was first adopted by the Regional Council in 2014. Since then it has remained substantially the same, with the exception of additions to the list of strategic assets. Waitangi Regional Park was added to the list in 2018 and the “Napier Port Future Investment Fund (inflation adjusted capital base retention of net proceeds from partial sell-down of 45% ownership of Napier Port following Initial Public Offering)” was added in October 2019.

The new version remains substantially the same with minor changes to tidy up some of the wording and to:

Page 2: add climate-change factors as a criteria for significance

Page 2: reference the guidance of the recently established Māori Partnerships Team.

The changes are noted in red and strikethrough in the draft Policy attached to this Statement of Proposal.

Background

Under section 76AA of the Local Government Act 2002, every local authority must adopt a Significance and Engagement Policy (S&E Policy). At least a summary of the policy must be included in the Long Term Plan.

The S&E Policy must set out:

- the local authority’s general approach to determining the significance of proposals and decisions in relation to issues, assets, and other matters
- 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
- 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
- how the local authority will engage with communities on other matters.

The S&E Policy is the Council's device for assessing where on the continuum of significance a particular matter sits. Past a certain point on the continuum the matter is deemed significant. This is important because it will drive the way the Council makes decisions. Generally, the higher the degree of significance the more analysis and engagement is required.

A council's assessment of significance can be contested in court, typically as part of a wider challenge to a council's decision-making. The court may (and have in the past) overturned council decisions for non-compliance with the council's own significance policy.

Staff are required to assess significance when writing all decision reports to the Council. It is a mandatory section in the report template. The guidance provided to report writers includes a link to the Significance and Engagement Policy.

Submissions

People wishing to submit on this consultation proposal are invited to do so by 8pm on 2 May 2021.

Submissions can be made online at hbrc.govt.nz or in writing to the Regional Council by completing the specific section on the form in the Long Term Plan consultation document: Time to act – Kia Rite!

DRAFT Significance and Engagement Policy

Purpose and Scope

Hawke's Bay Regional Council has developed this policy to:

1. Enable the Council and our communities to identify the degree of significance attached to particular issues, proposals, assets, decisions and activities
2. Provide clarity about how and when communities can expect to be engaged in decisions made by the Council
3. Inform the Council from the beginning of a decision-making process about the extent, form and type of engagement required.

The Local Government Act 2002 (the Act) has consultation principles to guide the Council when making decisions. With this in mind, the Council commits to:

- Identify and assess options
- Place a value on benefits and costs
- Consider an appropriate level of detail
- Show evidence of how we comply with this Significance and Engagement Policy
- Provide processes to encourage and engage with Māori.

Process

On every issue requiring a decision, the Council will consider the degree of significance and the most appropriate level of engagement.

The Council will refer to the *Criteria for significance* (page 2) to identify when assessing matters, issues or proposals that require a Council decision. Advice on significance and options will come from a Regional Council officer or other professional. The Council will consider and make decisions, taking into account the degree of significance of the issue and referring to the *Criteria for engagement spectrum* (page 3) to identify the appropriate level and type of engagement.

Advice from Regional Council officers normally comes through the Council-approved report format. This format specifically alerts elected members to significant impacts and engagement considerations.

Our general approach to significance

Significance means the degree of importance of the issue, proposal, decision, or matter – determined by the local authority – relating to 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 achievement of, or means to achieve, the Regional Council's stated levels of service as set out in the current Long Term Plan
- The capacity of the Regional Council to perform its role and carry out its activities, now and in the future
- The financial, resource and other costs of the decision, or that these are already included in an approved Long Term Plan.

The Council will exercise its judgement when assessing the degree of significance for each decision to be made by the Council.

Significant means that the issue, proposal, decision or other matter is judged by the Council to have a high degree of importance. This is typically when the impact is on the regional community, or a large portion of the community or where the financial consequences of a decision are substantial.

If the issue, proposal, decision or related matters concerned involve a significant decision in relation to land or a body of water, the Council will take into account the relationship of Māori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna, and other taonga. The Council will also take into account the values of the whole community.

When making decisions, the Council will:

- Identify and assess as many options as are practical
- Evaluate the costs and benefits resulting from the decision/s to be made
- Provide detailed information, which will be accessible to the public
- Maintain clear and complete records showing how compliance with this Significance and Engagement Policy was achieved.

As part of the engagement process for the adoption of this policy, and subsequent reviews, the Council will ask people in the region their engagement preferences and will review those preferences each three-year term¹.

The Council will also take into account views already expressed in the community and make judgements on the level of support for those views, when determining the significance of a decision.

Criteria for Significance

When looking at the significance of a matter, issue, decision or proposal, elected members will assess:

- The likely level of community interest
- The likely impact or consequences for affected individuals and groups in the region
- How much a decision or action promotes community outcomes or other Council priorities
- The impact on levels of service identified in the current Long Term Plan
- **The likely impact of climate change factors in the region**
- The impact on rates or debt levels
- The cost and financial implications of the decision to ratepayers
- The involvement of a strategic asset.

Strategic assets

Strategic assets are owned by the Council and defined as ‘an asset or group of assets that the local authority needs to retain to maintain its capacity to achieve or promote any outcome that it determines to be important to the current or future well-being of the community.’ This does not include strategic natural resources managed by the Council. Regionally significant natural resources are served by the Resource Management Act and Regional Resource Management Plan.

Hawke’s Bay Regional Council considers the following to be strategic assets:

- Napier Port **Holding Limited (NPHL)**

- Napier Port Future Investment Fund (inflation adjusted capital base retention of net proceeds from partial sell-down of 45% ownership of Napier Port following Initial Public Offering)
- Hawke’s Bay Regional Investment Company Limited
- Heretaunga Plains Flood Control Scheme
- Upper Tukituki Catchment Control Scheme
- Tūtira Regional Park (excluding commercial forestry)
- Pekapeka Regional Park
- Pākōwhai Regional Park
- Waitangi Regional Park

The Regional Council owns a number of assets that, managed as a whole, we consider to be strategic. However not all trading decisions made regarding these assets are regarded as significant nor do they affect the asset’s strategic nature, i.e. the Heretaunga Plains Flood Control Scheme is strategic, but small parcels of land that make it up may not be, and the purchase or sale of such parcels of land may not amount to a significant decision.

Our general approach to engagement

Engagement is a term used to describe the process of seeking information from the community to inform and assist decision-making. There is a spectrum of community involvement, and the Regional Council follows these general principles:

- We conduct our business in an open, transparent, democratically accountable manner
- We stay aware of, and have regard to, the views of all of our communities
- When making a decision, we consider: the diversity of the community and the community’s interests in its district or region; the interests of future as well as current communities; and the likely impact of any decision on these interests
- We provide opportunities for Māori to contribute to our decision-making processes **and are guided by the Māori Partnerships Team’s advice and methodology for engagement.**

¹ Regional Resident Survey, SIL Research

The Council seeks authentic engagement with our community ~~and applies a *Criteria for engagement*~~. We acknowledge that “community” may be ‘communities of place’ or ‘communities of issue’ and will use appropriate tools and techniques to make meaningful and timely connections that result in feedback. Formal consultation is one of many approaches that can be used.

Guidance on obligations and timing to respond to public correspondence is addressed in the Local Government Official Information and Meetings Act 1987 (LGOIMA or OIA), which sets a maximum of 20 working days.

The Regional Council will prepare a communications or engagement plan for each major decision or group of inter-related decisions. Decisions are not usually delegated to those involved in the engagement processes, however they are likely to be informed by community and stakeholder engagement.

A communications or engagement plan will outline:

- Engagement objectives – the feedback that is sought from communities
- Timeframe and completion date
- Communities to be engaged with
- Engagement tools and techniques to be used
- Resources needed to complete the engagement
- Communication planning needed
- Basis of assessment and feedback to the communities involved
- Project team roles and responsibilities.

Engagement is not solely about providing information, is not always about reaching an agreement or consensus and is not always about negotiation. Engagement is not appropriate when outweighed by commercial sensitivity or when there is a threat to public health and safety.

~~Criteria for~~ Engagement Spectrum

Community engagement is a process. It involves all or some of the public and is focused on decision-making or problem-solving. The Council considers the significance of a decision to be made and uses a ~~table of criteria~~ **engagement spectrum** to assess the approach we might take to engage the community.

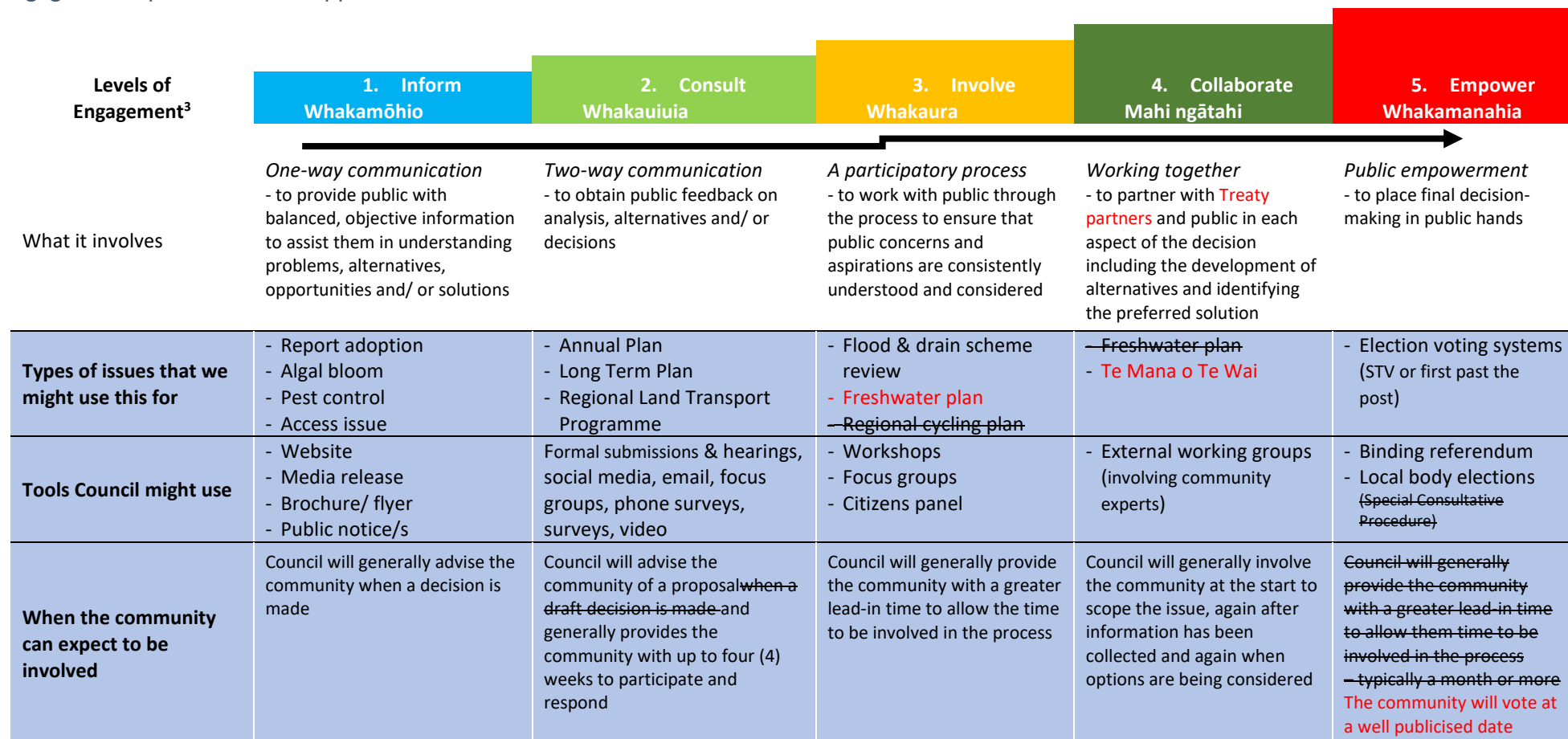
In some circumstances the Regional Council is required to use the special consultative procedure, set out in section 83 of the Act and described in a separate section below.

The spectrum ranges from “inform” to “empower”. The level of engagement will be “inform” as a minimum standard. Decisions of high significance will be at the very least informed to wider communities, and will use engagement tools and techniques beyond “inform” for affected communities.

While community and stakeholder engagement improves decision-making, it is not the sole input into a decision. There are a wide range of information sources and perspectives that will inform a Council decision. All the input gathered is harnessed and collated to help make a ‘sustainable’ decision (i.e. unlikely to require re-visiting because it is well-informed and well-considered). Decisions made by the Council may differ from the prevailing public opinion.

The level of engagement will be agreed on a case-by-case basis. The significance of the decision will guide the selection of appropriate engagement tools and techniques to be used. A low level of engagement does not mean that engagement is diminished, inappropriate or necessarily that a decision is of lesser significance. Time and money may limit what is possible on some occasions.

Engagement Spectrum² – our approach



The Regional Council engages with communities in many ways, from face-to-face to meetings, forums and surveys. Preferences for community engagement are periodically evaluated through regional surveys⁴.

² Using the International Association of Public Participation (IAP2) Spectrum of Engagement

³ **Level of engagement also determined with reference to the Māori Partnerships Team’s guidance and methodology on engagement**

⁴ [2019 Regional Resident Survey](#), SIL Research

Special consultative procedure

In some cases, and as required under the Act, the Regional Council will use the special consultative procedure to issue a proposal. When that happens, the proposal will be open to the community to provide their views for at least a month. The process we will follow is to:

- Prepare and adopt a statement of proposal, and in some cases a summary of the statement of proposal which is:
 - a fair representation of the statement of proposal
 - in a form determined by the Council, i.e. published online, in the newspaper and/ or in the Council's regional newsletter, so long as it is distributed as widely as reasonably practical
 - indicates where it is available
 - states how long it is open for public submission.
- Make publicly available (at Council offices, through interest group distribution lists, at Public Libraries, on the Council's website):
 - the statement of proposal
 - a description of how people can present their views
 - a statement of the period the proposal is open for comments.
- Make the summary of proposal widely available
- Allow people to present their views to the Council ensuring that they have a reasonable opportunity to do so and know how and when this opportunity will be available to them
- Allow people to present their views by audio link or audio-visual link, or as agreed.

The Council may also request advice or comment from a Council officer or any other person.

Where the Regional Council is required to use the special consultative procedure as part of making or amending bylaws, the statement of proposal must include:

- A draft of the proposed bylaw, or the proposed amendment of the bylaw

- The reasons for the proposal
- A report on any determinations made under the Act on whether a bylaw is appropriate.

Where the Regional Council is required to or chooses to use the special consultative procedure, the statement of proposal is a draft of any plan, policy or similar document or in any other case a detailed statement of the proposal which must include:

- The reasons for the proposal
- An analysis of options
- Any other relevant information.

Review of Policy

This policy will be reviewed at least once every five years, when it will involve community engagement. It may also be amended from time to time. This policy was last amended and adopted on ~~9 October 2019~~ **24 March 2021**.