

SOUTH WAIRARAPA DISTRICT COUNCIL

15 OCTOBER 2014

AGENDA ITEM C10

SIGNIFICANCE AND ENGAGEMENT POLICY

Purpose of Report

To present the "Significance and Engagement Policy" for consideration

Recommendations

Officers recommend that the Committee:

1. *Receives the information.*
2. *Adopts the Significance and Engagement Policy included in appendix 1 as recommended in option 2.*

1. Executive Summary

The Local Government Act Amendment Act 2014 (the Act) inserted a new section (on 8 August 2014), 76AA, which introduced the requirement for each Local Authority to adopt a "Significance and Engagement" policy.

A review of Councils current operative policy A800 "Significance" and policy A1100 "Consultation" against the legislation indicates that apart from some minor changes Council already complies with the new legislative requirement.

The above policies do need to be merged into one policy.

The new policy needs to be adopted by 1 December 2014.

The special consultative procedure is not required for the adoption of this policy

2. Discussion

Section 76AA of the Act outlines the purpose:

"(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.

Attached as appendix 1 is the Draft Significance and Engagement policy. Track changes have been used to indicate that changes required from the individual Significance, and Consultation, policies. Section 5 is the start of the old Consultation policy.

3. Options

The Act also removes the absolute requirement to use the “special consultative procedure” when consulting with the public, unless this procedure is specified to be used, or Council chooses to use this procedure.

The new “significance and engagement policy” is simply a merger of the old policy A800 Significance, and A1100 Consultation” with some minor amendments to accommodate the new legislation.

There are two options with regard to consultation for this new (merged) policy, both tailored to achieve adoption by 1 December:

Option 1

1. Adopt the new policy recognising it is a merger of two existing, operative and consulted on policies
2. Advertise we are seeking written feedback on the new policies
3. Analyse the feedback at the council meeting of 19 November
4. Adopt new policy on 19 November
5. Incorporate into LTP statutory consultation process to allow for further comment if necessary.

Option 2

Option 2 is to simply adopt the changes to the merged policy.

This option is available by virtue of the following section of the Act:

S76AA(1)(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.”

This option is based on the premise that these policies are currently operative, require very little change to meet the requirements of section 76AA, and have already been consulted on.

If the above is accepted, further public consultation is not required.

To accept option 2, Council needs to be comfortable that it has "sufficient information about community interests and preferences" and that the "purpose of the policy will be achieved"

Does Council have sufficient information about community interests and preferences?

Guidance on this leg of the question can be taken from the recent NRB surveys which indicate that:

- 78% of respondents had a positive or neutral view on the way rates are allocated
- 89% of respondents were positive or neutral when asked about whether they could approach the Mayor or Councillors
- 83% of respondents were positive or neutral about the open mindedness of the Mayor or Councillors
- 80% of respondents had a "non negative" view of the way Council involves the public in the decisions it makes

It is clear that from the responses to the NRB survey questions, Council can reasonably conclude that its current significance and consultation policies are effective in engaging with the public, and that Council has "sufficient information about community interests and preferences" through existing processes.

The second leg is in relation to whether the purpose of the policy will be achieved.

Comparing the purpose statement (S76AA(2)) with the wording, and more importantly the operation, of the current Significance, and Consultation, policies would indicate that the purpose of the policy will be, and in fact already is being, achieved.

If this option is taken, it is further recommended that the full significance and engagement policy is included in the 2015/25 Long Term Plan for further public exposure and comment.

4. Legal Implications

There are no legal implications

5. Financial Considerations

There are no financial implications

6. Appendices

Appendix 1 – Draft Significance and Engagement Policy

Prepared by: Paul Crimp, Chief Executive Officer

Appendix 1 – Draft Significance and Engagement Policy

~~POLICY ON SIGNIFICANCE~~ DRAFT SIGNIFICANCE AND ENGAGEMENT POLICY

1. Background

The Local Government Act 2002 (LGA) requires local authorities to have a [Significance and Engagement](#) policy ~~on significance~~.

References below relate to the LGA unless specified otherwise.

Once a decision is determined to be “significant” in accordance with the general approach, criteria and procedures in this policy, a higher standard of compliance is required. Section 76(3)(b) requires that the Council must ensure before a significant decision is made that subsection 76(1) has been “appropriately observed”.

The legislation (schedule 10 LGA) only requires the Long Term Plan (LTP) to contain a summary of the [Significance and Engagement](#) policy ~~on significance~~, but the entire policy is included in the LTP in place of the summary.

2. South Wairarapa District Council “General Approach” to Significance

The Local Government Act 2002 requires local authorities to set out their “general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters” (s90(1)(a)).

The Council will determine the significance of any issue requiring a decision, by making judgments according to the likely impact of that decision on:

1. The current and future economic, cultural, environmental and social well-being of the district or region.
2. The achievement of, or ability to achieve, the Council’s strategic issues and objectives as currently set out in the LTP.
3. Any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter.
4. The capacity of the local authority to perform its role and carry out its activities, now and in the future.
5. The financial, resource and other costs of the decision.

3. Thresholds, Criteria and Procedures

The Policy must also set out any “thresholds, criteria, and procedures” that the Council uses for assessing significance (section 90(1)(b)).

The range of issues requiring decisions by local authorities is very wide and it is impossible to foresee every possibility. It is therefore recommended that thresholds are not used to determine significance.

The following procedure will be used to determine significance:

3.1 Procedure for Determining Significance

1. Identification of an issue requiring a Council decision (generally by officers).
2. Assessment of significance using the criteria set out in "South Wairarapa District Council's General Approach to Significance", set out above; followed by:
3. Officer or other professional advice on significance and options; followed by:
4. Council consideration and final decision-making on the;
 - Degree of significance of the issue.
 - Appropriate level and type of consultation.

Advice from Council officers will, in normal circumstances, be included in the Council approved report format. It is proposed that this format be revised so that it specifically considers the impact of decisions as set out in the "general approach" above.

4. Strategic Assets

This policy must also list those Council owned assets, considered by the Council to be "strategic assets" (section 90(2)).

"Strategic asset" is defined in the LGA as:

" ... an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority's capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community; and includes: -

- (a) *any asset or group of assets listed in accordance with section 90(2) by the local authority; and*
- (b) *any land or building owned by the local authority and required to maintain the local authority's capacity to provide affordable housing as part of its social policy; and*
- (c) *any equity securities held by the local authority in –*
 - (i) *a port company within the meaning of the Port Companies Act 1998;*
 - (ii) *an airport company within the meaning of the Airport Authorities Act 1966.*

Below is a table showing the South Wairarapa District Council owned assets that are considered to be "strategic assets". Only those assets that are important to achieving the Council strategic objectives have been included.

- Roothing Network (including footpaths, street lighting and parking).
- Wastewater Network and Oxidation Ponds.
- Water Treatment, Storage and Supply Network.
- Stormwater Network and Water Races.
- Reserves and Sports Fields.
- Swimming Pools.
- Libraries.
- Community Buildings.
- Public Toilets.
- Cemeteries.
- Pensioner Housing.

NOTE:

1. Pensioner housing is a strategic asset by law.
2. The Council considers all asset classes listed above as single whole assets. This is because the asset class as a whole delivers the service. Strategic decisions, therefore only concern the whole asset class and not individual components, unless that component substantially affects the ability of the Council to deliver the service, or would be deemed significant and strategic under the procedure above.

5. Consultation

5.1 Rationale

To ensure a consistent approach is taken to consultation across South Wairarapa District Council in compliance with the consultation requirements of the [Local Government Act 2002](#).

This policy does not cover the submission process that may be required under the [Resource Management Act 1991](#) or the Amendment Act 2009.

5.2 Introduction and Background

- 2.1 As an organisation responsible to the community it serves, South Wairarapa District Council is committed to ongoing and effective consultation.
- 2.2 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.

- 2.3 The Council will make its consultation policy publicly available after the three-yearly Local Body election of the Mayor and Councillors, as set out in section 40 (1)(h) of the [Local Government Act 2002](#).
- 2.4 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.

5.3 3. Commitment to consultation

- 3.1 A well-structured consultation process is a key part of improved decision making. The Council welcomes and values input from the people of South Wairarapa District so it can adequately reflect their views in its decision making. Decision making is improved as a result.
- 3.2 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.
- 3.3 Consultation will enhance the democratic process by contributing to the decision making of the Council.
- 3.4 The Council is committed to acknowledging the unique perspective of Māori and will consult with Council's Maori Standing Committee.

5.4 4. What is consultation?

- 4.1 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.

- 4.2 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.
- 4.3 For the purpose of this policy South Wairarapa District Council has adopted the following definition of consultation:

Consultation is the dialogue that precedes decision-making.

5.4.1.

5.4.2. 5. 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 (section 82 (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 (section 82 (1)(a) and (c) Local Government Act 2002)
- give people a reasonable opportunity to present their views according to their preferences and needs (section 82 (1)(d) Local Government Act 2002)
- listen to what people have to say and consider their views and comments with an open mind (section 82 (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 (section 82 (1)(f) Local Government Act 2002)
- respond to the people involved in the process (section 82 (1)(f) Local Government Act 2002).

- 5.1 According to this definition, the public's role in consultation will generally be one of expressing an opinion and providing additional information. It does not usually mean that the decision has been delegated to them.
- 5.2 Consultation may include market research techniques such as quantitative surveys, qualitative focus groups and individual interviews.

5.4.3. 5.3 *Consultation is not:*

- solely providing information (although effective communication forms part of consultation)
- always about reaching an agreement or consensus

- always about negotiation.

5.4.4. 5.4 *Consultation is not appropriate when:*

- a decision has already been made or the likely decision is apparent (section 82 (1)(e) Local Government Act 2002)
- there is a need for commercial sensitivity
- it is a small issue with little public interest
- the likely costs of the consultation are not in proportion to the benefits (section 82 (4)(e) Local Government Act 2002)
- there is a threat to public health or safety.