

# Significance and Engagement Policy

## Introduction

Bay of Plenty Regional Council (BOPRC) is required to have this policy under section 76AA of the Local Government Act 2002 (LGA 2002). Amendments to the LGA 2002 in 2014 provided more flexibility in how and when Council will consult on a range of decisions. In some cases Council may exercise discretion when deciding what process to follow and this policy advises the public of how that discretion will be exercised.

## Purpose and Scope

The purpose of this policy is to:

- Enable Council and its communities to identify the degree of significance attached to particular issues, proposals, assets, decisions and activities
- Provide clarity about how and when communities can expect to be engaged in Council's decision making process
- Provide direction from the beginning of a decision making process about the extent of expected public engagement and the form of engagement required (i.e. what tools will be used to suit the particular community)

This policy is broad in scope as it is relevant to the process followed by all projects and initiatives at every level across the organisation.

## Definitions

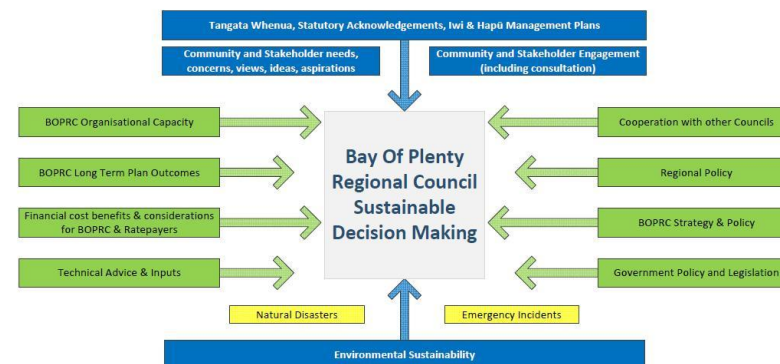
Community	A group of people living in the same place or having a particular characteristic in common- includes interested parties, affected people, key stakeholders and iwi/hapu.
Decisions	Refers to all the decisions made by or on behalf of Council, including those made by officers under delegation. Note that management decisions made by officers under delegation during the implementation of Council decisions will not be deemed to be significant.

Engagement	A term used to describe when we purposely approach affected communities to help shape decisions about our proposed plans and actions. This is a process that involves all or some of the community and focusses on generating ideas, decision making or problem solving. There is a continuum of community involvement, as described in Council's Community Engagement Guide (attached in Schedule 2).
Significance	As defined in section 5 of the LGA 2002: <i>"in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, means 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:</i>  <ol style="list-style-type: none"> <li>1. <i>the district or region</i></li> <li>2. <i>any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter.</i></li> <li>3. <i>the capacity of the local authority to perform its role, and the financial and other costs of doing so."</i></li> </ol>
Significant	As defined in section 5 of the LGA 2002:  <i>"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."</i>
Significant Activity	An activity (or group of activities) that Council deems to be significant, as per section 5 of the LGA 2002 as defined above. For the purposes of this policy, all Council activities in the long term plan are deemed to be significant activities, with the exception of those in the Corporate Services Group.

Strategic Asset	<p>Section 76AA(3) of the LGA 2002 requires a significance and engagement policy to list the assets considered by Council to be strategic assets (attached in Schedule 1). Strategic assets are defined in section 5 of the LGA 2002 as:</p> <p><i>“in relation to the assets held by a local authority, means 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—</i></p> <p>a. <i>any asset or group of assets listed in accordance with section 76AA(3) by the local authority</i></p> <p>b. <i>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</i></p> <p>c. <i>any equity securities held by the local authority in</i></p> <p style="margin-left: 20px;">(i) <i>a port company within the meaning of the Port Companies Act 1988</i></p> <p style="margin-left: 20px;">(ii) <i>an airport company within the meaning of the Airport Authorities Act 1966”.</i></p>
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## Inputs to decision making

One of the key roles of local government is to enable democratic decision making and action by, and on behalf, of communities. While community and stakeholder engagement improves decision making, it is not the sole input to a decision. As shown below, there are a number of other information sources that will inform decisions made by Council. Considering different information sources helps Council to make sustainable decisions. As decisions are based on a wide range of information sources and perspectives they may sometimes differ from the prevailing public opinion.



## General approach to determining significance of a decision and the level of engagement required.

The purpose of Local Government reinforces that Council acts on behalf of its community, and works with them to decide what public services and infrastructure will be provided and at what cost. The context for determining significance under this policy is the purpose of Local Government and the role and powers of local authorities as outlined in Part 2 of the LGA 2002.

A consistent procedure must be followed for all matters. As a general principle, the more significant an issue is, the greater the need for community engagement.

Final decisions on the level of significance of a proposal or decision will be made by full Council, Council committees and staff in accordance with standing orders and Council delegations.

## Thresholds and criteria

In the context of Part 2 of the LGA 2002, Council will apply the following thresholds and criteria on a case-by-case basis when assessing whether a proposal or decision is significant.

Criteria	Threshold
Financial cost of the decision.	It involves unbudgeted expenditure exceeding 10% of Council's total expenditure for the year.
Likely effect on Council's ability to fulfil its statutory functions or perform its statutory roles.	It potentially adversely affects Council's ability to fulfil its statutory functions or roles under any enactment.
Likely impact of the decision on the community.	There are major potential impacts on the environmental, social, economic or cultural interests of most of the Bay of Plenty community.

If a decision meets ANY of the thresholds above then the decision has a HIGH degree of significance.

If a decision does not exceed the above threshold, Council will tailor its decision making process on a case by case basis to ensure compliance with sections 77 and 78 of the LGA 2002 in proportion to the level of significance of the decision. Section 77 and 78 require Council to consider various options, impacts, views and preferences of persons likely to be affected by a decision.

This further consideration of significance will be determined by consideration of the following matters:

- Whether the decision is within existing budgets and implements the current long term plan or annual plan.
- Whether the financial costs and implications of the decision are known and provided for.

Council will also consider whether the decision follows and/or implements a Council decision that was made as part of a prescribed statutory process that involved a consultation process (e.g. under the Resource Management Act 1991).

## Procedure for decisions of high significance

When any issue is determined as being 'significant' (i.e. it has a HIGH degree of significance) certain steps must be taken to meet Council's statutory requirements. In particular, Council will consider reasonably practicable options and community views and preferences in accordance with sections 77 and 78 of the LGA 2002 before determining a course of action. Council will also comply with any other requirements under Part 6 of the LGA 2002 in relation to significant matters. Where practicable,

significant proposals or decisions will be included in the consultation document for each long term plan.

Council's decision making framework will be reviewed from time to time by the Chief Executive to ensure it remains compliant with all legislative requirements. An assessment of the degree of significance of proposals and decisions and the appropriate level of engagement will be considered with discretion and judgement in accordance with this policy on a case-by-case basis.

## Consultation Principles (section 82)

Before Council makes a significant decision it will consult the public following the principles set out in section 82 of the LGA 2002. In practice, this means that Council will, where appropriate, on a case by case basis.

- Identify people who will be affected by or have an interest in the decision
- Provide them with reasonable access to relevant information in an appropriate format on the process and scope of the decision
- Encourage people to give their views
- Give people a reasonable opportunity to give their views in an appropriate way
- Listen to, and consider those views, with an open mind
- Following the decision, provide access to the decision and any other relevant information

## Community engagement

A consistent and transparent approach is required to identify, communicate and/or engage with communities. Council must apply the principles of consultation in section 82 of the LGA 2002 in its engagement planning, however, 'consultation' as referred to in section 82, is only one of a range of tools for engaging with the community.

Engagement is a wider concept than consultation, as described in Council's Community Engagement Guide (Schedule 2). That guidance document assists staff at the early stages of a project to consider the most suitable tool to use for different engagement requirements. It also provides examples of types of issues and what expectation is created when we engage at particular levels. Differing levels of engagement may be required during the various phases of decision making on an issue, and for different stakeholders.

## Engaging with Māori

Council acknowledges the unique status of Māori and will continue to utilise a range of different mechanisms to engage with the wider Māori community and ensure their views are appropriately represented in the decision-making process. Council is committed to providing relevant information in a suitable format and through suitable forums to inform Māori contribution and improve their access to Council's engagement and decision-making processes.

Council is also aware of the amendments made to other primary legislation governing the responsibilities of Council. For example, the recent changes to the Resource Management Act 1991, including providing for iwi to invite councils into Mana Whakahono a Rohe/Iwi Participation Agreements which will include particular obligations to Maori that council must fulfil.

## Council discretion and when Council will not engage

In exceptional cases Council may wish to make a decision that is inconsistent with this policy. For example, if in the opinion of Council, failure to make a decision urgently would result in unreasonable or significant damage to property, or risk to people's health and safety, or the loss of a substantial opportunity to achieve one or more Council outcomes. This process is provided for in section 80 of the LGA 2002.

## Special consultative procedure

Where the LGA 2002 or any other enactment requires Council to use the special consultative procedure, then Council must release a statement of proposal which is open for public submissions for one month. Submitters must then have the opportunity to present their views to Council, including an opportunity for spoken/sign language interaction.

The LGA 2002 requires the use of a special consultative procedure for the following issues requiring decisions:

- Adoption or amendment of the long term plan (sections 93(2) and 93A)
- Making, amending or revoking a bylaw that Council identifies as having significant interest to or impact on the public (section 156(1)(a))

Unless already explicitly provided for in the long term plan, Council will also use the special consultative procedure (as provided for in section 87 and pursuant to the requirements of section 93E) when it proposes to:

- Substantially alter the intended level of service provision for any activity (except those in the Corporate Services Group of Activities) undertaken by, or on behalf of Council, including commencing or ceasing such an activity(section 97(1)(a)); or
- Transfer the ownership or control of strategic assets, as listed in Schedule 1 (section 97(1) (b))

## Other mandatory consultation

Council will consult in accordance with, or use a process or a manner that gives effect to, the requirements of section 82 of the LGA 2002 (principles of consultation) where required to by law. For example, prior to making decisions on:

- Adopting an annual plan if required under section 95(2) of the LGA 2002
- Transferring responsibilities to another local authority under section 17 of the LGA 2002
- Establishing or becoming a shareholder in a Council-controlled organisation
- Adopting or amending a revenue and financing policy, financial contributions policy, rates remission policy, rates postponement policy, or policy on the remission or postponement of rates on Māori freehold land

For such consultation, Council will develop information fulfilling the requirements of section 82A of the LGA 2002, will make this available to the public, allow written submissions for a suitable period of time and will consider all submissions prior to making decisions. In terms of the length of the engagement period, it will be proportional to the importance of the issue/s, the nature of the audience, and the circumstances in which the decision is taken.

Other Acts of Parliament which we operate under that may specify consultation requirements include (but are not limited to):

- Civil Defence Emergency Management Act 2002 (CDEM plans)
- Biosecurity Act 1993 (pest management plans and strategies) Resource Management Act 1991 (various Regional Council functions and duties)
- Land Transport Act 1998 and Land Transport Management Act 2003
- Maritime Transport Act 1994 (navigation safety bylaws)
- Treaty Settlement legislation (e.g. Tūhoe Claims Settlement Act 2014)

## Policy Review

This policy will be reviewed every three years or as necessary. This will be as part of the Long Term Plan development.

## Schedule 1 - Strategic Assets

Section 76AA(3) of the LGA 2002 requires a significance and engagement policy to list the assets considered by Council to be strategic assets (as defined in section 5 of the LGA 2002).

The following is a list of assets or group of assets that BOPRC needs to retain, if it is to maintain its capacity to achieve or promote any outcome that it determines to be important to the current or future wellbeing of the community. Assets that Council considers to be strategic assets are:

1. Council's shareholding in Quayside Holdings Limited
2. Council's majority shareholding in Port of Tauranga Limited, which is held through Quayside Holdings Limited
3. Council's Flood Protection and Drainage Schemes

## Schedule 2 - Community Engagement Guide

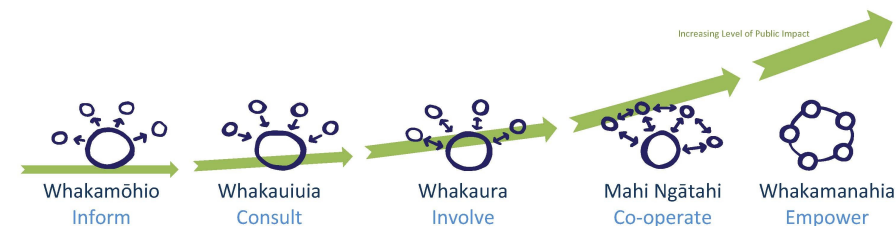
Community engagement is when we purposely approach affected communities to help shape decisions about our proposed plans and actions.

It is:

- A process
- Involves all or some of the community
- Focussed on generating ideas, decision making or problem solving

Community engagement occurs across a spectrum at differing levels. The International Association for Public Participation (IAP2) model is the most frequently referred to spectrum. BOPRC uses a customised version of the IAP2 model, part of the model is shown below.

The spectrum shows increasing levels of public engagement in decision making as you progress from left to right. In general, the more significant an issue is, the greater the need for community engagement.



Over the course of a project through until the time of decision making, Council may use a variety of engagement techniques on any one issue or proposal. Council may also engage with different stakeholders on the same project at different levels. The tools may be adapted based on a range of factors including history and public awareness of the issue, stakeholder involvement, timing related to other events or engagement, budgets and other factors. Each situation will be assessed according to the issue, the phase of decision making and the individual circumstances it presents. In all cases section 82 (principles of consultation) of the Local Government Act 2002 must be referred to as it sets out statutory requirements for any consultation that Council undertakes.

When engaging with Māori across the region Treaty of Waitangi settlements should be recognised, particularly those specific mechanisms identified such as co-governance agreements, statutory acknowledgement, protocols, joint management agreements, memorandum of understanding or any other similar high level agreement. Council should also consider the enhanced role that Maori will have by virtue of the amendments made to the Resource Management Act 1991, including providing for iwi to invite councils into Mana Whakahono a Rohe/Iwi Participation Agreements. These changes have a direct impact on Council decision-making processes with respect to managing natural resources. The Māori Engagement Toolkit, Treaty Training Toolkit and Māori Engagement Charter currently provide guidance for staff.

Council are in the final stages of preparing the Mātauranga Māori Framework which highlights the importance of focussing on the relationships Council forms with tangata whenua.

Council will also take into consideration that the community can feel 'over consulted', expressed as "stop asking us what we think and get on with it". This must be managed with sensitivity and appropriateness and is why engagement must be genuine and transparent.

When engaging with the community at different levels of the engagement spectrum, Council will:

- Promote sustainable decisions by recognising and communicating the needs and interests of all participants, including the decision makers

- Seek out and encourage contributions from people who may be affected by, or interested in the decision
- Provide relevant, timely and balanced information so people can contribute in a meaningful way.
- Provide a variety of appropriate ways for people to have their say
- Tell the community about the final decision and how the public input was considered
- Collaborate with key stakeholders to achieve common goals
- Seek to apply the IAP2 Quality Assurance Standard for Community and Stakeholder Engagement

The following table provides examples of the differing levels of engagement that might be considered appropriate, the types of tools associated with each level and the timing generally associated with these types of decisions/levels of engagement. Time and money may also limit what is possible on some occasions.

Level	Inform	Consult	Involve	Co-operate	Empower
GOAL	To provide affected communities with balanced and objective information to assist them in understanding the problems, alternatives/or solutions.	To obtain input or feedback from affected communities about our analysis, alternatives and/or proposed decisions.	To work directly with affected communities throughout the process to ensure that their issues and concerns are consistently understood and fully considered in Council's decision making.	To work closely with affected communities to develop alternatives and recommend a preferred solution.	To place final decision-making in the hands of affected communities.  NB: Under the LGA 2002, Councillors are elected to make decisions on behalf of their constituents. In certain circumstances Council can delegate its decision making responsibility to affected communities.
PROMISE TO THE COMMUNITY	Council will keep you informed and advise you of the decisions it makes.	Council will keep you informed and listen to and acknowledge your concerns. Council will provide reasons for the decisions it makes.	Council will work with you to ensure your concerns and issues are directly reflected in the alternatives developed. Council provide feedback about how your input influenced the decisions it makes.	Council will work with you to formulate solutions and incorporate your advice and recommendations into the decisions it makes to the maximum extent possible.	Council will implement what you decide.  NB: Council can only implement what you decide if the delegation is permitted within its legislative boundaries.

Level	Inform	Consult	Involve	Co-operate	Empower
TYPES OF ISSUES WE HAVE USED THIS FOR	<ul style="list-style-type: none"> <li>Annual Report</li> <li>Annual Plans</li> <li>Maritime enforcement of Bylaws</li> <li>Civil Defence preparedness</li> </ul>	<ul style="list-style-type: none"> <li>Annual Plan (if content differs to the LTP)</li> <li>Long Term Plans</li> <li>Reviews of Navigation Safety Bylaw</li> <li>Region-wide Water Quantity (Proposed Plan Change 9 to the Bay of Plenty Regional Water and Land Plan)</li> </ul>	<ul style="list-style-type: none"> <li>Proposed Change 2 (Natural Hazards) to the Bay of Plenty Regional Policy Statement</li> <li>National Policy Statement for Freshwater Management (NPS-FM) Plan Change 12 (Frestwater Future)</li> <li>Western Bay of Plenty Public Transport Blueprint - Bus Network</li> </ul>	<ul style="list-style-type: none"> <li>Regional Water Advisory Panel</li> <li>Kaimai Mamaku Catchment Forum.</li> </ul>	Election voting systems.
TOOLS COUNCIL MIGHT USE	<ul style="list-style-type: none"> <li>Websites</li> <li>Information flyer</li> <li>Public notices</li> <li>Social media</li> <li>Public signage</li> </ul>	<ul style="list-style-type: none"> <li>Formal submissions and hearings</li> <li>Focus groups</li> <li>Surveys</li> <li>Social media</li> <li>People's Panel</li> </ul>	<ul style="list-style-type: none"> <li>Hui, wananga</li> <li>Workshops</li> <li>Focus groups</li> <li>Citizens Panel</li> <li>On-line Discussion Forums</li> <li>Opinion Polling</li> </ul>	<ul style="list-style-type: none"> <li>External working groups (involving community experts)</li> <li>Co-Governance Forums</li> </ul>	<ul style="list-style-type: none"> <li>Binding referenda</li> <li>Local body elections</li> </ul>
WHEN THE COMMUNITY CAN EXPECT TO BE INVOLVED	Council would generally advise the community once a decision is made.	Council would advise the community once a draft decision is made and would generally provide the community with up to four weeks to participate and respond.	Council would generally provide the community with a greater lead-in time to allow them time to be involved in the process.	Council would generally involve the community at the start to scope the issue, again after information has been collected and again when options are being considered.	Council would generally provide the community with a greater lead-in time, to allow them time to be involved in the process, e.g. typically a month or more.

# BOPRC Spectrum of Engagement

Engagement – is when we purposely approach affected communities to help shape decisions about our proposed plans and actions.

