

### 3. BRIEFING PAPER – CONSULTATION FRAMEWORK

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The purpose of this report is to update members on a possible consultation framework which can be used to augment and consolidate the existing Seeking Community Views policy.

#### INTRODUCTION/RATIONALE

Seeking Community Views Policy – the Seeking Community Views Policy was developed and introduced by the Council in 1997. This document was appropriate for its time and provided a useful foundation on which to base consultation practice and processes.

However, both the public and political environments have altered since that time and, with these social and political changes, have come increasing expectations around public involvement in decision making processes. These changes are reflected in the recent adverse media attention and concerns regarding the costs of consultation relative to the size of the projects being undertaken. In addition, there has been disquiet amongst sectors of the community regarding lack of consultation and/or information on key issues.

Local Government Reform - The draft Local Government Bill identifies consultation with citizens as a fundamental part of decision-making for local government. In accordance with the community governance model, it emphasises the need for local governments to ensure that both information and consultation processes are more open, transparent and accessible in order to facilitate citizen participation.

The new legislation will require the development of community consultation, as a primary, rather than a secondary function of local government.

Council initiatives - a number of independent initiatives have been implemented around consultation.

- Establishment of the Communication and Consultation Special Committee – whose terms of reference are as follows:

*Recommend to the Council a comprehensive set of practices that make clear the nature and scope of consultation, and a communication strategy and practices; Evaluate and keep under review options with regard to electronic democracy.*

- Parks and Waterways Unit – have developed a model of consultation practice which utilises the International Association of Public Participation (IAP2) framework and are engaged in an evaluation research project with Landcare Research.
- City Streets Unit – employed RDT consultants to work with City Streets staff on developing new consultation processes for the Unit

The emergence of these independent projects within two business units raises the possibility of inconsistency of approach and, potentially, further confusion in the community around Council consultation processes. The focus to date has been on developing and reflecting on processes to improve consultation undertaken by Council staff, however there remains a need for an overarching policy framework for consultation.

#### PROPOSED CONSULTATION FRAMEWORK DOCUMENT

A suggested framework document sets out:

- (1) Definition of Consultation.
- (2) Statement of Commitment – which includes the how, what, when and who questions upon which the Council will base its consultation with the community and the approach it will take to community involvement in decisionmaking.
- (3) Decisionmaking – outline of several decisionmaking models which the Council could use in the consultation processes (See Appendix Three).

## 1. Definition of Consultation

A number of different interpretations of the term 'consultation' exist which have implications for the understandings of all parties involved and the nature and extent of the processes which are undertaken.

A proposed definition follows:

### (1) Court of Appeal

In New Zealand, the development of a definition on consultation typically involves reference to the Court of Appeal decision regarding Wellington International Airport versus Air New Zealand Limited. The Controller and Auditor-General has summarised the principles or elements of consultation from this case:

- *"Consultation is not to be equated with 'negotiation'. The word 'negotiation' implies a process that has as its objective arriving at agreement. However, 'consultation' may occur without those consulted agreeing with the outcome.*
- *Consultation includes listening to what others have to say and considering the responses.*
- *The consultation process must be genuine and not a sham.*
- *Sufficient time for consultation must be allowed.*
- *The party obliged to consult must provide enough information to enable the person consulted to be adequately informed so as to be able to make intelligent and useful responses.*
- *The party obliged to consult must keep an open mind and be ready to change and even start afresh, although it is entitled to have a work plan already in its mind.*
- *Consultation is the statement of a proposal not yet fully decided upon".*

Several alternative definitions have been sourced and are attached as an appendix to this paper (see Appendix 1 and 2).

## 2. Statements of Commitment

- The Council acknowledges that there are times when it is statutorily required to consult.
- The Council recognises that there are benefits to undertaking consultation with the public.
- The Council acknowledges the importance of the Treaty of Waitangi. However, this policy is about the Council's general consultation, and the consultation with Tangata Whenua is to be more specifically guided by Memoranda of Understanding that the Christchurch City Council develops with Tangata Whenua, specifically Ngai Tahu, and Mana Whenua groups.
- The Christchurch City Council will work to actively engage the community of Christchurch in public debate, dialogue and deliberation on issues of significance to the social, cultural, economic and environmental wellbeing of the city.
- The Council recognises that consultation is an evolving process and is committed to improving its interactions with the local community.

### Who the Council will Consult with

- The Council will consult with people who will be affected by the proposed project or issue and/or those who have an interest in the proposed issue/project.
- Both external stakeholders, including communities, and internal stakeholders, such as other Council units will be included in consultation processes.
- The Council has a particular focus on encouraging the participation of communities of interest – children, youth, people with disabilities, women, older persons and low income persons.
- The Council undertakes to develop relationships with particular sectors and ethnic groups within the community to facilitate better access to political processes.

- The Council will work through business units and community-based Advocacy teams to build community capacity around engaging in consultation.
- The Council acknowledges the need to develop ongoing relationships with particular communities which could act as 'gateways' for ongoing dialogue around issues of mutual interest, eg umbrella groups – Council of Social Services, Disabled Person's Assembly, Ethnic Council etc.

### **When the Council will Consult**

- As part of its governance responsibilities, the Council will decide whether or not it will consult over a particular issue. In doing so it will take into account a number of factors including the interests of the public, the responsible use of resources and the level of impact the project may have on the public.
- The Council acknowledges that there will be situations when it chooses not to consult:
  - (a) When a decision has already been made.
  - (b) When tight time constraints exist.
  - (c) When the costs of consultation exceed the benefits.
- If the Council chooses not to consult it will make the reasons clear to the community.
- The Council will consult as early in the planning and decisionmaking processes as possible – the appropriate timeframe will vary according to the issues, as well as the number, range and type of people to be consulted.
- The Council acknowledges that, in some instances, it will be appropriate to consult more than once in the decisionmaking process.

### **How the Council will Consult**

- It will use a clear and comprehensive approach to engaging the public in decisionmaking processes. The foundations of good public participation, consultation objectives and promises to the public in each phase of a consultation process will form the basis of this approach (See Appendix Four IAP2 spectrum).
- The Council will make the purpose of the consultation process and the potential outcomes of the project clear to the community from the outset.
- The Council will develop and utilise electronic democracy to facilitate consultation both internally and externally.
- Staff have multiple roles and responsibilities in the planning, development and implementation of consultation processes on behalf of the Council.
- The Council acknowledges that factors such as lack of experience in consultation, inexperience in political processes, lack of appropriate representative structures, lack of working relationships between key stakeholder groups, lack of resources and consultation overload all impact on the community's ability to engage in political processes.
- A consultation plan will be completed for each consultation which the Council undertakes in the community.
- When undertaking consultation with the community, the Council will use a range of techniques which reflect the following:
  - the extent and nature of the issue being consulted on,
  - the cost-effectiveness of the proposed consultation tools for the consultation process,
  - the needs and capacities of the specific groups/communities involved.

- The Council will provide sufficient information in clear and simple language so that communities can make fully informed decisions.
- The Council will provide the public with all relevant information at the beginning of a consultation process, including the following:
  - a clear outline of the consultation process to be used,
  - the predicted level of influence which the consultation participants can expect,
  - the respective roles of the Council staff, elected members and the participants in the consultation.
- The Council recognises that communities require time to engage effectively in consultation processes and will work toward setting realistic timeframes on consultation and decisionmaking processes.
- The Council will give feedback on decisions made as a result of the consultation process, including the level of influence which public input has had on the final decision.

#### **Who will undertake Council Consultations**

- Council staff who undertake consultation processes will be appropriately trained and skilled and knowledgeable in undertaking consultation processes.
- In some instances the Council will utilise community facilitators or third parties with specialist expertise when it undertake consultations with specific needs – based groups or on particular projects.

**Recommendation:** For discussion.