

SIGNIFICANCE and ENGAGEMENT POLICY

1 July 2017

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Introduction

This policy provides guidelines for determining the significance of proposals and decisions in relation to issues, assets or other matters affecting the Otago region, people likely to be affected, and the council's capability to perform.

It sets out how Council may engage the Otago community in its decision making processes, and what types of decisions may be involved.

The policy also sets out those assets considered by Council to be strategic assets.

This policy is prepared under the provisions of the Local Government Act. This policy will not apply where significance and engagement provisions are provided for in other legislation under which Council operates, such as the Resource Management Act.

Significance

The Local Government Act 2002 (the Act) defines significance, as follows:

“significance, 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, -

(a) the district or region;

(b) any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter;

(c) the capacity of the local authority to perform its role, and the financial and other costs of doing so.”

Assessing significance is essentially a matter of judgement. Council will consider each issue, proposal, decision or matter to determine the degree of significance attached to it. The degree of significance will influence our approach to decision making. As the level of significance increases, the degree of community engagement undertaken will also increase.

Degree of significance

When determining the degree of significance of any issue, proposal, decision or other matter we will consider:

- the extent of any consequences or impacts on Otago residents and ratepayers, or stakeholders, including the consequences for or impacts on future generations. A moderate impact on a large number of residents or ratepayers, and a major impact on a small number of residents or ratepayers will have higher degrees of significance than when there is a minor impact on any number of residents or ratepayers;
- the level of public interest likely to be generated within the region or New Zealand generally;
- any likely effect on the ability of the ORC to perform its role, carry out its existing activities and meet statutory timeframes;
- any financial and other costs or implications.

- the impacts on people’s ability to use property or essential services;
- if the issue, proposal, decision or other matter involves a strategic asset as listed in this policy.

Judgement will set the level of community engagement and whether or not any impacts and consequences are of such a degree of importance as to require consultation on the issue, proposal, decision or other matter. The assessment will be documented, with reasons for conclusions reached.

Financial guidelines for assessing the degree of significance

To determine whether or not an issue, proposal, decision or other matter is significant on the basis of its monetary value, comparison of its cost should be made against an appropriate base amount.

Consideration will also be given to what proportion of the community is likely to be financially affected by the issue, proposal, decision or other matter.

To assist practical situations, percentage limits may be used as guides for determining the level of significance, with respect to monetary value:

- an amount, which is equal to or greater than 10% of the appropriate base amount, could be presumed to be significant, unless there is evidence to the contrary.
- an amount, which is equal to or less than 5% of the appropriate base amount could be presumed to not be significant, unless there is evidence to the contrary.
- an amount, which lies between 5% and 10% of the appropriate base amount is a matter of judgement and depends upon the particular circumstances of the case.

Procedures

Issues, proposals, decisions or other matters that are part of the normal day to day council operations will not require formal consideration for significance.

Matters that are in ORC’s Long Term Plan and/or Annual Plan, and other policies and plans that as a requirement of legislation, have been consulted on, will not usually need further consideration under this policy.

When preparing reports to the council and its committees that require a decision, staff will complete a checklist indicating the following:

- whether or not the issue, proposal, decision, or matter has been included in an Annual Plan or Long Term Plan,
- the financial cost, if any associated with the issue, proposal, decision or matter, if it has been budgeted for, and if so, if it is within budget, and
- an assessment of the significance of the issue, proposal, decision or matter.

Authority is delegated to the Chief Executive and the council directors to review the assessment of significance on any issue, proposal, decision or matter arising, and approve the assessment made.

If an issue, proposal, decision or matter is determined to be significant, consultation will be required.

Engagement

Engagement through this policy is about how the ORC will interact with the Otago community, interest groups, and its ratepayers, as part of its decision-making processes, and how we will respond to the community's preferences on issues.

Not all decisions will necessarily require specific engagement. As the level of significance of a decision increases, the degree of community engagement undertaken will also increase.

Some engagement is undertaken to provide information to the community, including about what the council is doing, and some to get feedback from the community on its preferences in relation to issues. This policy is in respect of the engagement undertaken to seek community preferences.

Forms of engagement

Engagement takes many forms, from meeting informally with individuals and groups as part of our day to day operations, through to undertaking formal consultation processes with the whole community to seek its views on a specific matter.

When considering formal forms of engagement, the nature of the issue, proposal, decision or matter arising will help inform which engagement tool might be appropriate to the circumstance.

The sorts of tools council may use to engage with its community include:

- undertaking surveys
- using social media
- meeting with individuals, focus groups, and key stakeholders
- holding public meetings
- undertaking consultation

When choosing which engagement tool to use, consideration would be given to the circumstances of the matter including:

- who is being affected by the matter, i.e., is it a small focused group, or region wide, and how are they being impacted;
- what information does council already hold on community preferences in relation to the matter; and
- what is the level of significance of the matter, and the level of urgency in making a decision on it.

Legislative requirements for consultation

Consultation is just one tool of engagement. Both the Local Government Act (LGA) and the Resource Management Act (RMA) have provisions around consultation.

Local Government Act 2002

In Section 82 of the LGA, the principles of consultation are provided. These principles include the following:

- anyone who may be affected or have an interest in a decision or matter should be encouraged to present their views to the local authority;
- the views presented should be received with an open mind, and given due consideration when making a decision; and
- processes must be in place for consulting with Maori.

Within this section the council has discretion to apply the principles in a manner it considers appropriate to any particular instance.

The LGA also sets out those circumstances when consultation in accordance with Section 82 must take place, and includes:

- development of this Significance and Engagement policy
- annual plans
- amending funding and financial policies

In Section 83, the LGA provides for a prescribed form of consultation, being the special consultative procedure. This procedure includes:

- preparation of a statement of proposal, which provides information on the matter to be consulted on, and making this publicly available;
- providing a period of not less than one month for people to provide their views on the proposal; and
- providing an opportunity for people to present their views to council in person or by way of audio link or audiovisual link.

The LGA also sets out those circumstances when Council must use the special consultative procedure for engaging with the community. They include:

- making, amending or revoking a bylaw; and
- adopting or amending a Long Term Plan.

Resource Management Act 1991

The RMA sets out the process for consultation that Council must use when developing policy statements, or regional plans under this Act, and processing applications for resource consent. The steps can include:

- giving public notice of the consultation and sending a copy of the notice to anyone council thinks may be affected, and
- allowing a period of time for receiving submissions, and
- advertising that a summary of submissions received is available, and inviting further submission, and
- providing an opportunity for people to present their views.

These legislative requirements for consultation cover a high proportion of matters that Council would otherwise wish to engage the Otago community on.

Other engagement matters

There are many other situations when the council will engage with individuals, groups, stakeholders and communities.. These include but are not limited to the following:

- matters determined to be significant, if not already consulted on under legislative requirements;
- engaging with individuals and communities on water quantity issues and the availability of water;

- engaging with individuals and communities on water quality issues, and ways to comply with council's Water Plan requirements;
- liaising with those living within our flood protection and drainage scheme areas on scheme matters;
- engaging with communities on ways to improve air quality;
- engaging with land owners and occupiers on matters including pest animal and pest plant controls; and
- seeking information on customer satisfaction with services provided, and the council as a whole.

In all cases where engagement has been undertaken as part of Council's decision making processes, community preferences will be taken into consideration prior to any decision being made. Reports to Council and Committees prepared by staff will provide details of any engagement undertaken including the preferences of the community on the matter being decided upon.

Consultation with Maori

Council has in place a "Memorandum of Understanding and Protocol between Otago Regional Council, Te Rūnanga o Ngāi Tahu and Kāi Tahu ki Otago for Effective Consultation and Liaison". The memorandum and protocol were first established in 2001, and are reviewed and updated as appropriate.

Te Rūnanga o Ngāi Tahu is the tribal representative body of Ngāi Tahu Whānui, a body corporate established 24 April 1996. The takiwā (area) of Ngāi Tahu Whānui includes the entire area of Otago Region.

It is the acknowledged practice of Te Rūnanga o Ngāi Tahu that consultation in the first instance is with the Papatipu Rūnanga. In the Otago Region there are four Papatipu Rūnanga being:

- Te Rūnanga Moeraki;
- Kati Huirapa Rūnanga ki Puketeraki;
- Te Rūnanga o Ōtākou; and
- Hokonui Rūnaka.

Council has statutory responsibilities to consult with Iwi and Maori on relevant management issues in the region and to take into account the principles of the Treaty of Waitangi. These obligations are primarily under the RMA 1991, the Ngāi Tahu Claims Settlement Act 1998, the Ngāi Tahu Claims Settlement (Resource Management Consent Notification) Regulations 1999, the Biosecurity Act 1993, and the Local Government Act 2002.

Consultation is required on the development, review and implementation of the Council's regulatory plans, policies and strategies under the LGA, RMA and Biosecurity Act. For such plans, policies and strategies, consultation and building of knowledge is mutually supported and facilitated through specific consultancy agreements between the Council and Kāi Tahu ki Otago Limited.

Meetings are held each year with representatives from the four Papatipu Rūnanga, Te Rūnanga o Ngāi Tahu, and Te Ao Marama, and discussions include Council's work programmes and plans.

Consent approvals and other regulatory permissions, wherever required by statute or plans, when being impacting Iwi / Maori interests and understandings, will involve consultation with Iwi / Maori.

Strategic Assets

The Act defines strategic assets as:

“strategic asset, 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 wellbeing of the community; and includes:

- (a) Any asset or group of assets listed in accordance with section 76AA(3) 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 1988;*
 - ii. An airport company within the meaning of the Airport Authorities Act 1966.”*

The assets that the ORC holds and considers to be strategic are:

- ORC shares held in Port Otago Limited
- Flood Protection and Drainage Schemes

The flood protection and drainage schemes, managed as a whole, are considered to be strategic. However not all trading decisions made about these assets are regarded as significant, nor do they affect the asset's strategic nature, e.g., the Lower Taieri Flood Protection Scheme is strategic, but some bridges within the scheme area may not be, and the purchase or sale of such bridges may not amount to a significant decision.

Acquisition or disposal of a component of a strategic asset will not trigger this provision, unless it is considered that the component is an integral part of the strategic asset and that its acquisition or disposal would substantially affect the operation of the strategic asset.