
TO Mayor and Councillors

AUTHOR Michelle Clive
Strategic Planner

FILE REFERENCE Document: 2734964
Appendix A: Statement of Proposal (27337799) and proposed
Significance and Engagement Policy (2723727)

PORTFOLIO HOLDER/S Mayor Toby Adams
Policy portfolio

MEETING DATE Wednesday, 15 July 2020

SUBJECT **Significance and Engagement Policy review 2020 –
Statement of Proposal and Proposed Policy**

SUMMARY | TE WHAKARĀPOPOTANGA

- The Council is required to have a Significance and Engagement Policy as per section 76AA of the Local Government Act 2002.
- The Council's *Significance and Engagement Policy 2017* is due for review in 2020 ahead of the 2021-2031 Long Term Plan.
- The statement of proposal and proposed policy (**Appendix A**) based on the working party assumptions has been prepared for consultation with the community.
- Options and issues considered by the working party have been included in the report including recommending changes to the following policy aspects:
 - The return of the community well beings.
 - Contribution to decision-making by Māori
 - Consultation requirements
 - Significance thresholds
 - Financial thresholds
- The proposed option is to undertake a special consultative procedure with the Statement of Proposal with proposed policy (**Appendix B**) from 17 July to 17 August 2020.

RECOMMENDATION | TE WHAIKUPU

THAT the report be received.

THAT the Council pursuant to the Local Government Act 2002 adopts the Statement of Proposal and proposed Significance and Engagement Policy for consultation and,

THAT the Council considers these decisions to be significant under its Significance and Engagement Policy 2017 and,

THAT the Council approves the special consultative procedure be undertaken from 17 July 2020 to 17 August 2020.

1 PURPOSE | TE ARONGA

To present the statement of proposal and proposed Significance and Engagement Policy for approval for consideration.

2 BACKGROUND | TE KŌRERO Ā MUA

Council determined at its 29 January 2020 meeting to form a working party for the review of its Significance and Engagement Policy. The working party have met and the statement of proposal and proposed policy (**Appendix A**) reflect their considerations.

The public consultation on this policy, was originally expected to take place in April/May 2020 however with Covid-19, the decision was made to postpone the consultation on this policy.

Councils are required to have a Significance and Engagement Policy (SEP) as per section 76AA of the Local Government Act 2002 (LGA02). At its simplest, the SEP therefore has two main parts:

1. Defining what matters are significant to the Council and its communities, and
2. Defining how and when the Council will engage with its communities.

The SEP in effect should provide a local (i.e. district, city or regional) application of the Council's decision-making and engagement obligations.

Our existing policy

In short, the SEP states that Council will:

- a) Consult on matters when it is legally required to, and
- b) Engage (in the broader sense) on all other issues requiring a decision on a case by case basis. The more significant an issue, the greater the need for community engagement.

The policy does not provide for the how Council will engage but provides examples of forms of engagement that may be used.

The SEP is a means of letting the public know what decisions or matters the Council and its communities consider to be particularly important and how Council will go about assessing the importance of matters.

The current SEP sets out matters to be considered when assessing significance as well as guidance thresholds including financial amounts.

The Council is legally required to consider whether a matter is significant in various steps of its decision making processes and if so, apply different approaches or standards. Likewise, it must also consider the views and preferences of those who are likely to be affected by or have an interest in a matter when making decisions, and what its SEP says about when and how it will engage on such matters.

A summary of the SEP must be included in the Council's long term plans.

3 THE ISSUES | NGĀ TAKE

The Significance and Engagement Policy 2017 is due for its three yearly review ahead of the Long Term Plan 2021-2031. Council must consider the statement of proposal and proposed policy and determine whether to consult on them as proposed (**Appendix A**)

3.1 The return of the 'community wellbeings'

The four community well beings *social, economic, environmental and cultural* were reinstated under the current government in the Local Government Act 2002. The previous government had removed them and therefore they were not part of the previous considerations of the 2017 review of the SEP.

- (1) The purpose of local government is –
 - (a) To enable democratic local decision making and action by, and on behalf of, communities; and
 - (b) To promote the social, economic, environmental, and culture well-being of communities in the present and for the future.¹

These four well beings are also included in the definition of *significance* in the LGA02 which reiterates the importance of considering them when looking at how important an issue is to the Council and its communities.

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 current and future social, economic, environmental, or cultural well-being of 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 so²

At a minimum we should update our definitions in the policy to reflect the changes to the LGA02. However, the purpose of reinstating the community outcomes is to provide focus on Council's role *to promote the social, economic, environmental, and culture well-being of communities in the present and for the future*, therefore we could consider them more broadly in assessment of significance.

The working party recommend that the definition is updated to reflect the changes to the LGA02 and that also one of the matters for assessing significance **3.3 in Appendix 1** is also amended as below:

- iv. The likely impact on present and future social, economic, environmental, or cultural well-being of the district. ~~interests of the community, recognising Māori cultural values and their relationship to land and water.~~
- v. Whether the proposal will have significance to Māori cultural values and their relationship to land and water.

3.2 Contribution to decision-making by Māori

The LGA02 requires that a Council must:

¹ Part 2, Section 10, Local Government Act 2002

² Part 1, Section 5, Local Government Act 2002

- 1) maintain process to provide opportunities for Māori to contribute to Council's decision making processes
- 2) consider ways in which it may foster the development of Māori capacity to contribute to those decision-making processes
- 3) provide relevant information for the above purposes.

It must also set out the steps that it intends to take to foster the development of Māori capacity (as per the second item above) in its long term plans. Defining these steps has in the past been done separate to the preparation of the SEP, however as the two concern engagement, they are closely related.

The Hauraki Treaty settlements will inevitably result in changes to the way we engage with the Hauraki Iwi. The SEP and process for Māori contribution for decision-making should reflect these changes once known. These documents and forms of engagement need to connect as well as we can whilst still in the process of developing them alongside Māori and Iwi.

The working party recommend including the following section into the SEP (the parts which are underlined are new) and also included in (**Appendix A**):

Engagement with Māori

3.13. Council recognises that Māori as Tangata Whenua have a unique relationship with Council through the Treaty of Waitangi and supporting legislation.

3.14. Council will recognise Māori cultural values and take into account Māori interests, particularly their relationship to land and water.

3.15. Council will establish and maintain processes to provide opportunities for Māori to be consulted and contribute to decision-making processes.

~~3.16. Joint Management Agreements, Memorandum of Understandings or any other similar high level agreement will be considered as a starting point when engaging with Māori and Iwi.~~

3.3 Consultation requirements

The SEP does not take away Council's obligations to fulfil other consultation requirements. It should in fact help give effect to them. Two key sets of requirements to be aware of are:

1. The consultation principles for how the Council should consult (section 82 of the LGA 2002)
2. Specific circumstances which require consultation processes under a range of different pieces of legislation. (e.g. Resource Management Act 1991)

A range of other statutes place other engagement requirements on councils at the involvement and collaboration part of the spectrum such as the Hauraki Gulf Forum (established under the Hauraki Gulf Marine Act 2000) where Council partners with Tangata Whenua, government ministries and other local authorities, and the Ngāti Koi Domain Co-Governance Committee (established under the Ngāti Tara Tokanui deed of settlement and settlement legislation pertaining to the Ngāti Koi Domain).

The existing policy includes prompts to consider what consultation is required specifically under legislation as part of the assessment of significance and engagement.

The working party recommend the inclusion of a point within the legislative context of the Policy to include clarity around this policy not overriding provisions for significance and engagement within other legislation.

- 2.1 This policy is made in accordance with Local Government Act 2002 (the Act).

- 2.2 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.

The working party also recommend that requirements under section 82 and 83 of the LGA 2002 which were previously included in the schedule be brought into 3.8 and 3.9 of *Community Engagement* (Appendix A) within the policy for improved flow of reading. These changes are reflected in **Appendix A**.

3.4 Significance thresholds

The significance thresholds currently used within the SEP have been working well and are still largely considered appropriate. When compared against 10 other Councils (Thames-Coromandel DC, Matamata-Piako DC, Hamilton City Council, Waipa DC, Western Bay of Plenty DC, Waikato RC, Taupo DC, Timaru DC, Southland DC and Grey DC) the thresholds are reasonably on par. The following are the current thresholds included in the draft significance and engagement policy as discussed to this point of the report (the proposed new additions are underlined):

- i. Whether there is a legal requirement to engage with the community.
- ii. The level of financial consequences of the proposal or decision.
- iii. Whether the proposal or decision will affect a large portion of the community.
- iv. The likely impact on the current and future social, economic, environmental, or cultural well-being of the district.
- v. Whether the proposal will have significance to Māori cultural values and their relationship to land and water.
- vi. Whether the proposal affects the level of service of a significant activity.
- vii. Whether community interest is high.
- viii. Whether the likely consequences are controversial.
- ix. Whether community views are already known, including the community's preferences about the form of engagement.
- x. The form of engagement used in the past for similar proposals and decisions.

Financial thresholds

The financial thresholds have not changed in the policy in some time and therefore warrant thorough consideration. The policies current financial thresholds are:

- i. Individual issues, assets, or other matters that incur more than \$1,000,000 in excess of budgeted expenditure, as identified in the Annual Plan and/or Hauraki Long Term Plan; and/or more than \$1,000,000 of unbudgeted expenditure.
- v. A decision that will trigger a breach of one or more of Council's Rates Caps as detailed in the Council's operative financial strategy.
- vi. A decision that will trigger a breach of one or more of Council's Debt Caps as detailed in the Council's operative financial strategy.

The threshold (i) of \$1,000,000 in unbudgeted expenditure has not changed since 2006. This is not be reflective of today's dollar values as the Local Government Consumer Price Index increased by 35% between 2006 and 2017. Also a set value amount is an uncommon threshold in significance and engagement policies. What is more common is the use of a percentage based threshold and staff also recommends there is a split between operational and capital expenditure into two thresholds. The working party has considered the financial thresholds and recommend the following:

- i. Net financial cost/revenue of implementation, excluding any financial impact already included in a Long-Term Plan/Annual Plan:
 - a. Net capital expenditure >20% of total rates in year commenced, and/or

- b. Net operating expenditure >5% of total rates in year commenced.³

The percentage option allows for the change in inflation/monetary value which happens overtime. It is valuable to split the capital and operational expenditure given the different impacts they have on rates.

4 ENGAGING WITH OUR COMMUNITIES | KIA UIA TE HAPORI WHĀNUI

Staff consider that the Council does not have enough of an understanding of **community views and preferences** on this matter. The level of engagement considered appropriate for this matter, at this point in time, is to consult (i.e. two-way communication to obtain public feedback)

When adopting or amending a significance and engagement policy Council must undertake a special consultative procedure unless it is considered that sufficient information about community interests and preferences are already known. Given there are changes proposed to the policy is considered appropriate that the community are provided with the opportunity to provide feedback to Council on those proposed changes.

5 OUR OPTIONS | NGĀ KŌWHIRINGA A MĀTOU

Staff have identified the following options for the Council to consider:

- Retaining the status quo, make no changes to the policy and advise community the policy has been reviewed, unchanged and no further feedback will be sought.
- Undertake the special consultative procedure on the statement of proposal and proposed Significance and engagement policy as attached.
- Make further changes to the proposed policy and undertake the special consultative procedure as legally required amending the policy.

These options and their advantages and disadvantages are outlined below.

5.1 OPTION 1: Retain Status quo

ABOUT THIS OPTION Council could choose to make no changes to the policy and take an inform approach to engagement (one-way communication/advising) with the community	
ADVANTAGES Nothing further required.	DISADVANTAGES <ul style="list-style-type: none"> • Risk to Council reputation through not providing appropriate avenues for interested parties to engage. • The policy will not have had the proposed minor changes to enable it to best reflect current times.
FINANCIAL COSTS	
Whole of life costs	One off operating cost to inform : <ul style="list-style-type: none"> • Up to \$200 for a public notice in the Hauraki Herald • Internal staff time to disseminate emails to interested parties. •

³ 5% operational expenditure equates to \$1.5million and 20% capital expenditure equates to \$6million

Budget source	Existing Strategic Planning budget
Changes to budgets	In order to accommodate these costs there will not need to be changes to budgets.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this comes out of existing budgets.

5.2 OPTION 2: Consult on the proposed SOP and Policy

<p>ABOUT THIS OPTION Undertaking the special consultative procedure on the Statement of Proposal and proposed Gambling Policy as attached.</p>	
<p>ADVANTAGES</p> <ul style="list-style-type: none"> • Community are engaged through their preferred option • Community feedback can be considered and reflected in the policy where appropriate • Policy gets the changes it needs to stay current 	<p>DISADVANTAGES None identified</p>
<p>FINANCIAL COSTS</p>	
Whole of life costs	<p>One off operating cost:</p> <ul style="list-style-type: none"> • Approximately \$250 for combined public notification with the other SOP's being proposed for as part of this Council agenda (responsible freedom camping, nuisance bylaw (vehicle crossings) dangerous and insanitary buildings policy and gambling policy. • document publication costs which would be met from existing printing budgets, • staff time for implementing consultation process and the collating public feedback for the consideration of the Council.
Budget source	Existing Strategic Planning budget
Changes to budgets	In order to accommodate these costs there will not need to be changes to budgets.
Impact on the Council's debt	There is no impact on the Council's debt.
Potential impact on rates	There will be no impact on rates because this comes out of existing budgets.

5.3 Make changes to the proposed policy and SOP before consultation

<p>ABOUT THIS OPTION Council may wish to make amendments to the proposed policy and statement of proposal before it is consulted on.</p>

ADVANTAGES <ul style="list-style-type: none"> • Community are engaged through their preferred option • Community feedback can be considered and reflected in the policy where appropriate • The policy reflects changes the Council considers appropriate 		DISADVANTAGES <ul style="list-style-type: none"> • May add a small delay in consultation to allow staff time to amend to proposed policy and statement of proposal for consultation. 	
FINANCIAL COSTS			
Whole of life costs		One off operating cost: <ul style="list-style-type: none"> • Approximately \$250 for combined public notification with the other SOP's being proposed for as part of this Council agenda (responsible freedom camping, nuisance bylaw (vehicle crossings) dangerous and insanitary buildings policy and gambling policy. • document publication costs which would be met from existing printing budgets, • staff time for implementing consultation process and the collating public feedback for the consideration of the Council. public feedback for the consideration of the Council. 	
Budget source		Existing Strategic Planning budget	
Changes to budgets		In order to accommodate these costs there will not need to be changes to budgets.	
Impact on the Council's debt		There is no impact on the Council's debt.	
Potential impact on rates		There will be no impact on rates because this comes out of existing budgets.	

6 PREFERRED OPTION | TE KŌWHIRINGA MATUA

Staff recommend proceeding with option 2 – Consult on proposed SOP and Policy.

6.1 LINKAGES

STRATEGIC DIRECTION	The preferred option IS consistent with the Council's strategic direction , including community outcomes.	<ul style="list-style-type: none"> • Progress Hauraki We are a proactive council that provides leadership and communicates effectively with all sectors of our district. • Kotahitanga Hauraki We take a collaborative approach with both Mana Whenua and Tangata Whenua in our district. • <i>Please note, as at the drafting of this report staff were in the process of being advised of the new Community Outcomes as adopted at 24 June 2020 Council meeting.</i>
----------------------------	--	---

LONG TERM PLAN / ANNUAL PLAN ALIGNMENT	The preferred option IS consistent with the long term plan and/or annual plan programmes and budgets.	This options meets our legal obligations and fits within existing programmes and budgets.
POLICIES, BYLAWS AND PLANS ALIGNMENT	The preferred option IS consistent with the Council's other strategies, policies, bylaws and plans.	This option does not contradict any other strategies, policies, bylaws or plans.
SIGNIFICANCE ASSESSMENT	The decision IS considered significant under the Council's Significance and Engagement Policy 2017.	This decision is significant as it is a policy that is legislatively required policy which has to be reviewed three yearly and has specific requirements and considerations.
IMPLICATIONS FOR MĀORI	The decision DOES NOT involve a significant decision in relation to land or a body of water.	

6.2 ASSESSING THE RISKS

Staff have not identified any risks associated with the preferred option.

7 NEXT STEPS | TE ARA KI MUA

Timeframe	Action	Comments
17 Jul – 17 Aug 2020	Special Consultative Procedure (Consultation)	
9 Sep 2020	Council hearings and deliberations	
30 Sep 2020	Council consideration of final draft policy	

Approval

Prepared by	Michelle Clive Strategic Planner
Approved by	Peter Thom Group Manager – Planning & Environmental Services