

30 August 2021

[REDACTED]
[REDACTED]
[REDACTED]

Dear [REDACTED]

LOCAL GOVERNMENT OFFICIAL INFORMATION AND MEETINGS ACT REQUEST: 2021-91

Thank you for your email request of 20 August 2021, for the following information:

"...under the LGOIMA to enable the Taxpayers' Union to publish an online dashboard summarising the positions (or timeline for decision and link to consultation materials) of each territorial authority on the Government's proposed "Three Waters reform". The Taxpayers' Union is New Zealand's largest taxpayer and ratepayer group – enjoying the support of some 140,000 registered members and supporters.

We note that some councils, such as the Far North DC, have publicly stated that (at least in principle) they are 'opting-out' of the three waters reform. We want to clarify the position with your Council and understand how these decisions are being made.

We request a copy of the Council's "Significance and engagement policy" as required by s76AA of the Local Government Act 2002.

We also request information that answers the following questions:

- 1. Has your council, or Mayor, taken a position (even if just 'in principle') for or against opting into the government's proposed three waters reforms?*
- 2. If so, what is that position, how was it come to, by whom, and on what date?**
- 3. Have you made a determination under your Significance and Engagement Policy?*
 - a. If so, what is that position, how was it come to, by whom, and on what date?**
 - b. What is the timeline for engagement under this determination?****
 - c. If not, what is the anticipated timeline to make that determination?*

**please append any associated meeting minutes and/or media statements.*

*** if the matter is currently out for public consultation, please provide or link to the consultation material.*

Please ensure the information is accurate as at the time of your response – and not just as of today's date. Please also address each question/information request separately."

Your request has been considered under the Local Government Official Information and Meeting Act 1987 (the Act).

As requested, attached as **Appendix A** is our Significant and Engagement Policy, extracted from the 2021-31 LTP.

Our response to your questions have been answered in the number order below:

1. Has your council, or Mayor, taken a position (even if just 'in principle') for or against opting into the government's proposed three waters reforms?

At this stage no position has been taken for or against the three waters reforms.

2. If so, what is that position, how was it come to, by whom, and on what date?

No position.

3. Have you made a determination under your Significance and Engagement Policy?

No determination has been made under the Significance and Engagement Policy.

- a. **If so, what is that position, how was it come to, by whom, and on what date?**
- b. **What is the timeline for engagement under this determination?**
- c. **If not, what is the anticipated timeline to make that determination?**

We do not have an anticipated timeline to make that determination at this stage.

For more information on the regional response to government three water reform program please refer to the Carterton District Council website: <https://cdc.govt.nz/regional-response-to-governments-three-water-reform-programme/>

Thank you again for your email/letter. You have the right to ask an Ombudsman to review this decision. You can do this by writing to info@ombudsman.parliament.nz or Office of the Ombudsman, PO Box 10152, Wellington 6143.

Yours sincerely



Geoff Hamilton
Chief Executive



SIGNIFICANCE AND ENGAGEMENT POLICY

(Pursuant to section 76AA of the Local Government Act 2002)

Purpose

The decisions the Council makes affect its communities on a daily basis. Some decisions have greater significance than others.

This Significance and Engagement Policy explains how the Council will determine the degree of significance of particular issues, proposals, assets, decisions, and activities.

It lets both the Council and the community understand when the community can expect to be engaged in the Council's decision-making processes, and to know how this engagement is likely to take place.

Introduction

While Councillors are elected to make decisions on behalf of their communities, engaging with the community is important to help the Council make informed decisions.

Effective community engagement builds trust in Council decision-making, while increasing the Council's understanding of issues in the community, but over-consultation can exhaust the community's willingness to participate.

As well as the informal methods of engagement, some decisions require a more structured form of engagement, due to the significance that a matter has within the wider community, or for groups within the community.

This policy does **not** apply to decision-making under the Resource Management Act 1991.

The Council may choose not to consult on some projects when it believes it has enough information with which to make an informed decision.

The Council may choose not to consult when it believes the matter is not significant enough. In these cases, the public will receive information about the project and the decision.

This policy is made up of two parts.

- Part 1 Significance - explains how decisions on significance will be determined and what happens when something is highly significant or not.
- Part 2 Engagement and Consultation - focuses on engagement and consultation. It sets out the principles of engagement the Council will use, minimum information requirements, and the special consultative procedure.

This Policy also lists the assets Council considers to be strategic assets.

Part 1—Significance

Definition

Section 5 of the Local Government Act 2002 (the Act) defines **significance** as:

'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,—

- the current and future social, economic, environmental, or cultural wellbeing of the district or district:*
- any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter:*
- the capacity of the local authority to perform its role, and the financial and other costs of doing so'.*

And it defines **significant** as:

'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'.

Determining significance

Councils must make decisions about a wide range of matters and most will have a degree of significance, but not all will be considered to be 'significant'. An assessment of the degree of significance of proposals and decisions, and the appropriate level of engagement and consultation, will be considered in the early stages of a proposal before decision-making occurs.

The following guide in the table below should be considered when assessing the degree of significance of proposals and decisions, and the appropriate level of engagement:



Process

Decisions on significance will be made in accordance with this policy, the Council's Governance Statement, Standing Orders, and other policies including Delegations.

In practice, this means:

- Where any issue, policy, decision, or other matter meets one or more criterion and is deemed to have significance (low, moderate or high), the matter shall be reported to Council.

- Each report shall include a statement indicating that the issue, policy, decision, or other matter has been considered in regard to Significance and Engagement Policy. The report shall include an assessment of the degree of significance of the issue, policy, decision, or other matter, based on the criteria outlined in this Policy.
- The assessment should consider each criterion of significance and report on these, where applicable. The report should include a statement on the level of significance and reasoning behind the conclusion (e.g. why was it determined to have moderate significance) using the following table for guidance.



| Matter/Issue | Determining the Level of Significance | | |
|--|---|---|--|
| | Low Significance | Moderate | High |
| Relates to an asset that is a 'strategic asset' | Does not relate to strategic assets or does not substantially affect other Council assets | Involves sale of, or substantial impact on, part of a strategic asset, or other Council asset | Sale of a strategic asset, or activities that affect the performance of the strategic asset as a whole |
| Changes to levels of service | Minor loss of, or change to, service levels provided by the Council (or its contractors) | Moderate changes to the level of service provided by the Council. | Decision or proposal creates substantial change in the level of service provided by the Council |
| Likely level of community interest | Decision or consequence has little impact or is easily reversible | Minor or moderate level of community interest in a proposal or decision; or there is a moderate impact arising from changes; or one or more areas of the District are affected disproportionately to another; or duration of an effect may impact detrimentally on people or a community | A high level of community interest in a proposal or decision; likely to be, or is, controversial in the context of the impact or consequence of the change; involves a specific area affected (eg geographic area, or area of a community by interest, age or activity); or there are substantial impacts or consequences arising from the duration of the effect |
| Financial impact | No material effect on the Council's budget, debt, or residents' rates | Minor effect on rates, debt, or the financial figures in any one year or more of the Long Term Plan | Substantially affects debt, rates, or the financial figures in any one year or more of the Long Term Plan |



| | | | |
|--|--|--|--|
| Changes to Groups of Activities | Minor change to how Council manages groups of activities | Partial exit from a group of activities | Ceasing an existing activity or adding a new group of activities |
| Delivery arrangements | No substantive change to partnership arrangements for delivery of services, or consultant services | Contracting out or entering partnership with the private sector to carry out minor activities on behalf of the Council | Contracting out or entering partnership with the private sector to carry out a significant activity or a group of activities |





- The assessment, and where appropriate the report, must also include consideration of the following requirements, matters, and procedures set out in the Act:
 - s77 Requirements in Relation to Decisions
 - s78 Community Views in Relation to Decisions
 - s79 Compliance with Procedures in Relation to Decisions
 - s80 Identification of Inconsistent Decisions
 - s81 Contributions to Decision-making Processes by Māori
 - s82 Principles of Consultation.
- The report should recommend appropriate methods and extent of consultation and engagement, proportionate to the level of significance.

When Council may not engage

There are times when Council will not normally consult with the community because the issue is routine, operational or because there is an emergency. These may include:

- Emergency management activities, such as during a state of emergency
- Decisions that have to be made urgently where it is not reasonably practicable to consult
- Decisions to act where it is necessary to comply with the law
- Decisions that are confidential or commercially sensitive as prescribed under the Local Government Official Information Act 1987
- Organisational decisions (such as staff changes and operational matters) that do not materially reduce a level of service
- Decisions with regard to regulatory and enforcement activities
- Procurement and tendering processes
- Standards set by National Policy Statements
- Any decisions that are made by delegation or sub delegation to officers
- Any matter where the costs of consultation outweigh the benefits
- An issue where Council already has a good understanding of the views of the persons or community likely to be affected by or interested in the matter
- Where the matter has already been addressed by Council’s policies or plans, which have previously been consulted on
- Minor administrative changes to documents.

- Some decisions made by Council are bound by legislation. In these situations, Council must follow the law and cannot use a flexible consultation process with the community.
- Council will use the Special Consultative Procedure, or other statutory process as required.
- The method of engagement for matters that are determined to be significant will be decided on a case-by-case basis. For guidance and examples see Part 2 Engagement and consultation (following) and the Community Engagement Policy.

Part 2—Engagement and consultation

The primary purpose of consulting with the community is to enable effective participation of individuals and communities in the decision-making of councils. This will enable elected representatives to make better-informed decisions on behalf of those they represent.

Matching engagement to significance

In any engagement process undertaken with the community, that engagement will be in proportion to the significance of the matter being considered and any statutory requirements. This is illustrated in the table below.

| ← LOW to MEDIUM to HIGH significance → <i>(one or more approach may be used)</i> | | | | |
|---|---|--|--|--|
| The community is provided with objective information to assist in its understanding of problems, solutions, performance | Feedback is obtained from the community to assist in the formulation of options and decisions | The Council works directly with the public throughout the process, to ensure both public and private concerns are understood | The Council seeks direct advice from the community in formulating solutions, and this advice is incorporated in decisions to the | The public is empowered to make the decision |



| | | | | |
|--|--|--|-------------------------|--|
| | | | maximum extent possible | |
|--|--|--|-------------------------|--|

| EXAMPLES OF ENGAGEMENT METHODS <i>(additional activities, from left to right)</i> | | | | |
|--|--|---|---------------------------------|----------------------|
| Reports, website update, media release, public notice, letter, <i>Snippets</i> , social media, customer services staff information training, or councillor or staff email networks | Notifications to those directly affected, information displays at Council and Library, and at targeted venue, public meeting, open days, focus groups, online consultation, public hearings, print and radio advertising | Discussion groups and workshops, road shows, residents' survey, community-led development, pre-engagement strategy to heighten awareness and create interest and participation, expert opinion on outcomes sought | Working groups, advisory boards | Local body elections |

- ensure that elected members are a primary conduit for engagement with the community they represent
- ensure that the engagement has sufficient time and adequate resources to be effective
- seek to hear from everyone likely to be affected ask for views early in the decision-making process so that there is enough time for feedback, and for views to be considered properly
- consider different ways in which views can be presented
- listen to and consider views in an open and honest way
- respect everyone's point of view
- work in partnership with appropriate representative and special interest groups
- be sensitive to engagement becoming a burden
- ensure that the engagement process is efficient and cost-effective
- provide information about the outcome of the engagement and the reasons for any decisions.

Engagement with Māori

The Council is committed to developing and maintaining positive working relationships with mana whenua, taura here and Māori communities in the Carterton district. Council will actively provide opportunities for Māori to contribute to its decision making processes through:

- Recognising and protecting Māori rights and interests within Carterton District
- Providing early engagement with Māori in the development of plans, policies and decisions
- Taking guidance from Maōri in the ways Council will engage with them
- Supporting Maōri to fully engage with the Council, for example through but not limited to capability and capacity building.

Engagement principles

When any engagement takes place, other than simply providing information, the Council will:



Information Requirements

At a minimum, the Council will provide the following information when conducting consultation or engagement:

- what is being proposed
- why it is being proposed
- what the reasonably practicable options and consequences are for the proposal
- if a plan or policy or similar document is proposed to be adopted, a draft of the proposed plan, policy, or other document
- if a plan or policy or similar document is proposed to be amended, details of the proposed changes
- what impacts may occur if the proposal goes ahead
- how submitters and participants can provide their views
- the timeframe for consultation and engagement
- how the decisions will be made and who will be making them
- how submitters and participants will be informed about the outcome.

Special Consultative Procedure

There are still situations where the Special Consultative Procedure (section 83 of the Local Government Act 2002) must be used:

- adoption or amendment of a Long Term Plan
- making amending or revoking a by-law
- reviewing a strategic asset.

There are also statutes that require the special consultative procedure to be followed in specific situations, including:

- Resource Management Act 1991
- Sale and Supply of Alcohol Act 2012
- Reserves Act 1977
- Dog Control Act 1996
- Building Act 1991.
- Gambling Act 2003
- Waste Minimisation Act 2008

- Land Transport Act 1998.

Review of the Policy

The Significance and Engagement Policy will be reviewed at least every three years.

Schedule 1—Strategic assets

Strategic asset is defined in the Local Government Act 2002 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.

For the purpose of this Policy, Council considers its networks and other large assets as complete single assets. It is the group of assets as a whole that delivers the service.

The Council has identified its strategic assets as:

- roading network, including bridges, street lighting, and footpaths
- water treatment, storage, and supply network
- sewerage reticulation network and sewage treatment facilities
- stormwater drainage network
- rural water race network
- landfill site, including transfer station
- parks and reserves, Council-owned land and buildings, public toilets, and sports fields
- cemetery
- Events Centre
- Outdoor Swimming Complex
- Kaipaitangata Forest.



Decisions on transferring the ownership or control of strategic assets require the use of the Special Consultative Procedure.

Council does not expect to undertake engagement for decisions that relate to changes to a part of a strategic asset, unless that part substantially affects the level of service provided to the community.

In emergency situations alterations to strategic assets may be required without formal consultation to:

- Prevent an immediate hazardous situation arising, or
- Repair an asset to ensure public health and safety.