



Find out more: phone 379 2020 or visit www.aucklandcity.govt.nz

Auckland City Council's Consultation Policy

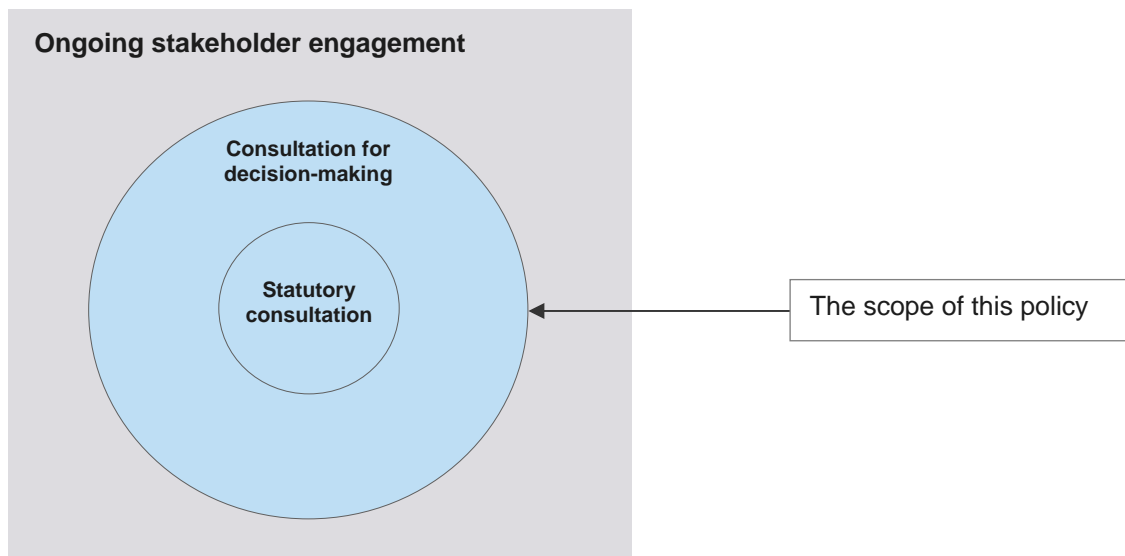
Better decisions through public input

June 2008

1 Context and purpose

- 1.1 Auckland City Council values public input into its decisions. The council gathers public input on its strategies, projects and activities so it can make democratic and well-informed decisions.
- 1.2 The council's aim is to promote social, economic, environmental and cultural wellbeing in Auckland city and it needs public input and feedback on how best to achieve this. In this regard, the success of the council's initiatives depends upon public involvement.
- 1.3 The council engages with the public in a number of ways:
 - a) through the formal consultation processes required by law
 - b) through additional processes and techniques designed to encourage broader public input into its decisions
 - c) through its ongoing relationships with key partners and stakeholders.
- 1.4 This policy focuses on the first two ways. It sets out the approach that the council will take to make sure it follows best practice when including the public in decision-making.

Figure 1 The scope of this policy:



- 1.5 This policy will be most useful in two instances – when the council is not required to follow a statutory process, and during those statutory processes that leave an element of discretion as to how the council consults the public.
- 1.6 Legislation requires the council to follow certain consultation processes for particular decisions. The two major pieces of legislation that do so are the Local Government Act 2002 and the Resource Management Act 1991 and their respective amendments. The Local Government Act 2002 contains a set of principles for consultation (see Appendix) and contains general provisions about when and how the council should consult people interested in or affected by a council decision. The Resource Management Act 1991 also sets out provisions for consultation in relation to some specific matters under that Act (see section 5 of this policy for more details).
- 1.7 Every effort has been made to align this policy with the relevant legislation. In the event that there appears to be an inconsistency between what an act of parliament requires and what this policy says, the act prevails.

- 1.11 Other Auckland City Council policies of particular relevance to this Consultation Policy are the Consultation with Maori Policy and the Significance Policy. The Consultation with Maori Policy describes how the council consults with Maori. The Significance Policy states how the council determines the significance of its proposals and the decisions it has to make (see section 5.2.5, 5.2.6 and section 14.6 of this policy). The council assesses significance to help determine the extent to which it must enact the decision-making and consultation requirements of the Local Government Act 2002.
- 1.12 This policy was adopted on 26 June 2008 and will be updated in three years.

2 What is consultation?

- 2.1 Consultation is a tool used by Auckland City Council to improve its decisions. For the purposes of this policy, consultation refers to:
- a genuine exchange of information and points of view between decision-makers and people affected by and interested in a matter before a decision is made.**
- 2.2 This definition covers the broad range of council activities aimed at encouraging public involvement in its decision-making process. It represents a commitment by the council to genuinely seek out and listen to the views and needs of stakeholders about actions that could affect their lives. Key to making use of this input is council's consideration of stakeholders views and needs alongside other kinds of information when making decisions.
- 2.3 Effective consultation recognises the needs of all participants, including decision-makers (who may be community board members and/or councillors (i.e.: elected representatives) and/or council officers. It is elected members' and delegated officers' role to decide, within the bounds of legislation, what kinds of information should be taken into account in making a particular decision, how much weight should be given to different factors, and the extent and nature of any consultation required.
- 2.4 Sometimes the term consultation is incorrectly used to describe practices that are actually education, public relations or negotiation. Consultation is not:
- solely about providing information (although informing the public is a critical part of consultation)
 - always about reaching an agreement or consensus
 - a negotiation
 - taking a vote on an issue, where the majority view must be recommended or adopted
 - just about promoting a decision that has already been made.
- 2.5 Consultation provides an opportunity for the public to influence an outcome. However, it is impossible for the council to do everything everyone wants. While public input is a vital contributor to decision-making, the council must also consider other information such as costs, benefits, social, cultural, economic, environmental well-being, technical advice and other plans and policies when making its decisions.
- 2.6 To ensure consultation is meaningful, the council will: let the public know what decisions they can influence; as far as practicable, enable the public to participate in a manner appropriate to their needs; let the public know how their feedback will be considered; and let the public know what the final decision is and the reasons for it.

3 Who are the public?

- 3.1 The public is any individual or group of individuals, organisations or political entities affected by or interested in a decision or with particular expertise or interest in the issues concerned. They are often referred to as stakeholders.
- 3.2 Internal stakeholders (individuals who work for or with the council) are also part of the public.

4 Why Auckland City Council consults

4.1 The main reason that Auckland City Council consults with the public is to enable effective public participation in its decision-making. Consultation enhances the quality of decision-making and strengthens democracy.

4.2 Auckland City Council uses consultation to:

- help decision-makers build a full picture of issues and potential solutions
- assess a community's needs, views and priorities as accurately as practicable
- help achieve ownership of and buy-in to decisions, from both inside and outside the council, so as to make decisions more sustainable
- build positive relationships with the public by encouraging cooperation, respect and understanding of others' points of view
- endeavour to find better policies and solutions from the public, than the Council has developed on its own.

5 Legislative requirements for consultation and decision-making.

5.1 Auckland City Council is bound by legislation concerning when and how it must consult.

5.2 Local Government Act 2002

5.2.1 Section 78 of the Local Government Act 2002 states that the council "must in the course of its decision-making process in relation to a matter give consideration to the views and preferences of persons likely to be affected by, or to have an interest in, the matter".

5.2.2 Section 78 also states that people's views and preferences must be considered at the stages when:

- problems and objectives are defined
- options are identified
- options are assessed and proposals developed
- proposals are adopted.

5.2.3 Note that section 78 does not require a local authority to consult at each of the above stages, only to consider people's views and preferences.

5.2.4 Factors that affect whether and how the council is legally required to consult include the extent to which stakeholder views and preferences are already known, the nature and circumstances of the decision to be made, and the costs and benefits of consultation.

5.2.5 The Local Government Act's section 79 says that the council must judge how it will comply with section 78, largely based on the significance of the matters affected by the decision. Significance is therefore an important concept when the council decides on the appropriate nature, extent and degree of any consultation. Section 15.6 of this policy contains a definition of what significance means.

5.2.6 For some decisions, the council is required to carry out a particular form of consultation. One is the special consultative procedure of the Local Government Act 2002. This must be used for certain specified decisions, such as making or reviewing a bylaw, and adopting the long-term council community plan or annual plan (see attachment x).

5.3 Resource Management Act 1991

- 5.3.1 Other legislation, such as the Resource Management Act 1991, also sets out processes for public involvement in certain decisions, for example when preparing and changing district plans.
- 5.3.2 Section 36A of the Resource Management Act 1991 provides that neither the council nor the applicant has a duty to consult in relation to a resource consent application or a notice of requirement before it is lodged, although they may choose to do so. Except in relation to non-notified applications for consent, consultation is provided for by the notification, submission and hearing process,
- 5.3.3 In relation to preparing and changing plans, clauses 3 to 3C of the First Schedule require that certain persons, including the Minister for the Environment, are consulted before the plan or plan change is publicly notified. Whether persons other than those listed are consulted prior to notification is left to the council to decide. Following notification, consultation is provided for by the submission and hearing process.
- 5.3.4 The council will consider this consultation policy and the principles of consultation set out in section 82 of the Local Government Act 2002 (see Appendix) when deciding whether to consult.

Figure 2: Examples of legislative requirements to consult

Some legislative requirements to consult are listed below (note that this is not an exhaustive list of decisions and acts of parliament that require consultation).

<p>Local Government Act 2002:</p> <ul style="list-style-type: none">• using the special consultative procedure (section 83)• adopting a long-term council community plan (section 84)• adopting an annual plan (section 85)• adopting or reviewing bylaws (section 86)• making changes to a significant council activity (section 88)
<p>Resource Management Act 1991:</p> <ul style="list-style-type: none">• preparing or changing a district plan (First schedule)• considering a notified resource consent application (Part six and Fourth Schedule)• applying for a resource consent that needs to be publicly notified (Part Six)• public notification of a notice of requirement (Section 169)
<p>Reserves Act 1977:</p> <ul style="list-style-type: none">• changing reserve status (sections 24 and 24A)• making reserve management plans (section 41).
<p>Land Transport Management Act 2003:</p> <ul style="list-style-type: none">• setting the annual land transport programme (Part 2 sections 12 to18)• proposing works that were not in the annual land transport programme (Part 2 section 15)

5.4 Changing a decision

- 5.4.1 The process the council will follow to make a change to a decision the public is consulted about will depend on the type of public consultation undertaken in relation to the decision, the significance of the decision, the significance of the change to be made to the decision, and when in the decision-making cycle the change is being made. When making the change, the council will follow, as appropriate, the decision-making, notification and consultation requirements of the Local Government Act 2002 and Resource Management Act 1991.

6 When not to consult

- 6.1 Unless there is a statutory requirement to do so, Auckland City Council will not consult the public:
- about decisions that have already been made, or when plans have been finalised
 - when a decision to be made does not have sufficient social, cultural, economic or environmental “significance” to warrant public engagement (as per this policy and the Significance Policy)
 - when the council already has a sound understanding of the views and preferences of the persons likely to be affected by, or have an interest in, the matter in relation to which a decision needs to be made or a matter that requires a non-notified resource consent
 - in an emergency, or when the council must act quickly in the interests of safety
 - about business as usual, for example, when conducting regular maintenance.

7 Non-statutory approaches to consultation

7.1 Spectrum of participation

- 7.1.1 Auckland City Council has adopted the International Association for Public Participation’s (IAP2) spectrum of participation and will use it to guide how and when to seek public input into its decisions.
- 7.1.2 Different techniques and levels of engagement will be appropriate depending on the statutory requirements for consulting the public about the matter being addressed, the nature of the matter being addressed, the significance of the decision to be made, and the stages in the project’s life when consultation occurs. There may also be different levels of engagement with various stakeholder groups, according to their particular needs, interests and concerns, and at different stages in a project’s life cycle.
- 7.1.3 “Informing” (see below) requires the council to consider the information needs of stakeholders and forms a very important part of consultation. However, in most cases, only informing the public will not comprise a sufficient level of engagement to constitute genuine consultation because it does not allow the public to have direct input into a decision. Consultation involves council allowing the public the opportunity to influence a decision, or in other words, allowing the public to participate in the council’s decision-making process. The public needs to feel that the council’s decision-makers have listened to and considered their points of view.

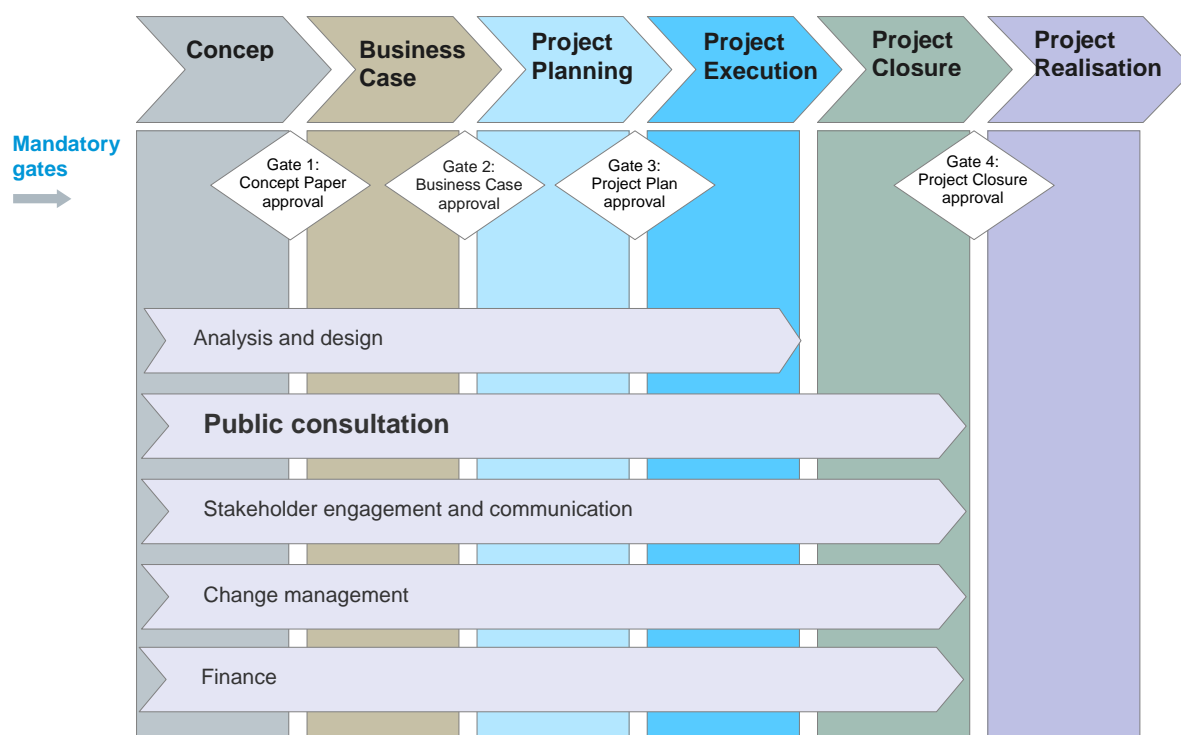
Figure 3: Spectrum of participation

Inform	Consult	Involve	Collaborate	Empower
Objective	Objective	Objective	Objective	Objective
To provide the public with balanced and objective information to assist them in understanding the problem, alternatives, or solutions, as part of the decision-making process.	To obtain public feedback on analyses, alternatives and decisions and to endeavour to develop better policies and solutions.	To work directly with the public throughout the process to ensure that public concerns are understood and considered.	To partner with the public in each aspect of the decision, including the development of alternatives and the identification of the preferred solution.	To place final decision-making in the hands of the public.
The council's commitment to the public	The council's commitment to the public	The council's commitment to the public	The council's commitment to the public	The council's commitment to the public
We will keep you informed.	We will keep you informed, listen to and acknowledge concerns and aspirations and provide feedback on how public input influenced the decision.	We will work with you to ensure that your concerns and aspirations are reflected in the alternatives developed and provide feedback on how public input influenced the decision.	We will look to you for direct advice in formulating solutions and incorporate your advice into the decisions to the maximum extent possible.	We will implement what you decide.

7.2 Project management framework

- 7.1.1 Auckland City Council has developed a project management framework that governs the way it manages its projects (see figure 4). Consultation is a core component of this framework and generally runs throughout a project's life, contributing to decision points (or gates) along the way. The exact nature, extent and timing of consultation will vary from project to project.
- 7.1.2 See figure 4 to see how the project management framework and the consultation process work together.

Figure 4: Project management framework



8 Principles applying to consultation

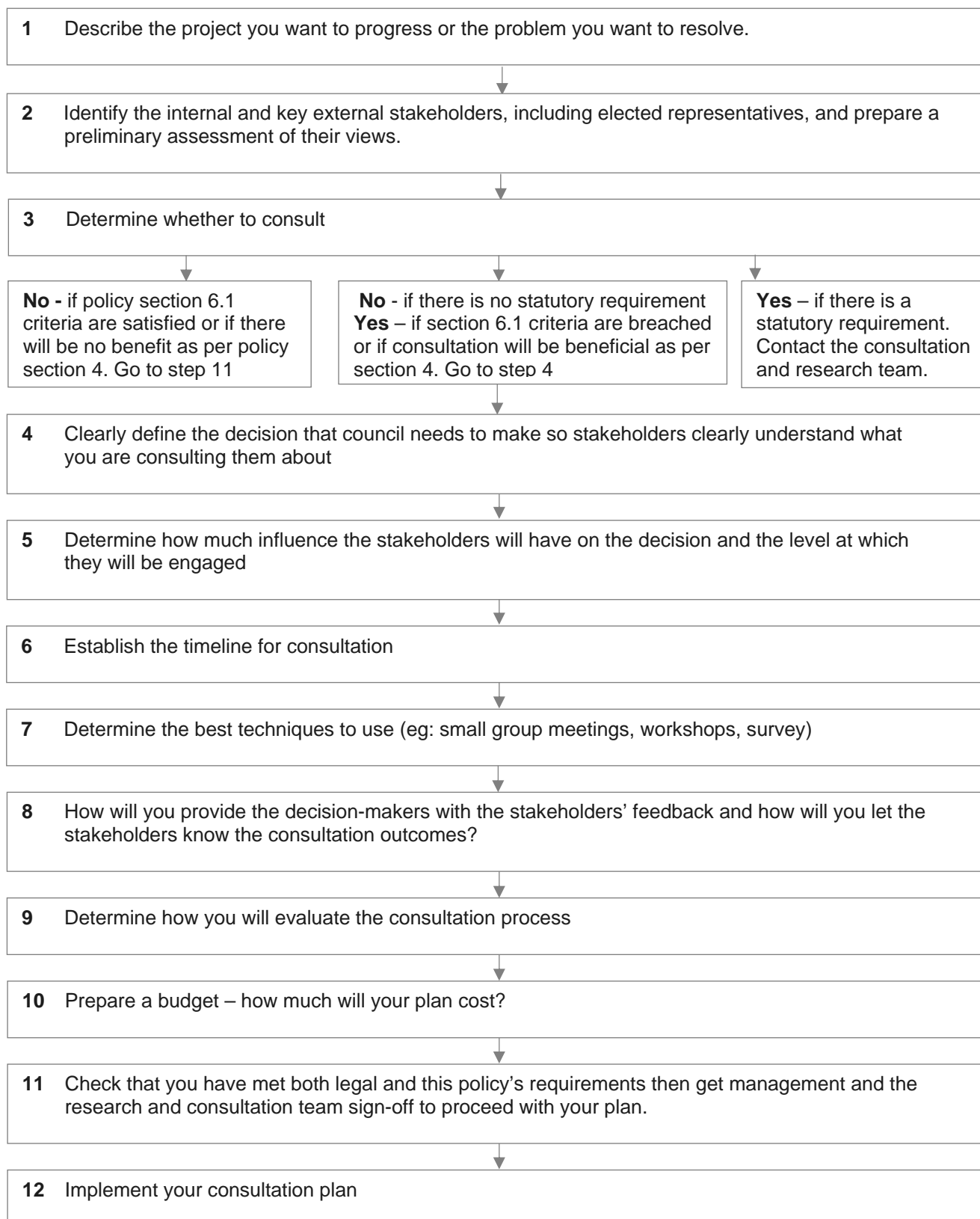
- 8.1 These principles are designed to enhance the clarity and effectiveness of Auckland City Council's consultation. They have been developed to align with legislative requirements and the International Association for Public Participation's (IAP2) model of best practice. The principles are:
- 8.2 Plan thoroughly. The council will:
- ensure consultation is purpose-driven and well considered from the outset
 - before consultation begins, ensure those with delegated responsibility have agreed who the decision-makers are, how the decisions will be made, and what level of influence the community will have
 - confirm what stakeholder input and knowledge the council already has on the matter.
 - plan consultation to occur at the stages in the project's life cycle when the communities' needs and preferences should be considered
 - evaluate consultation activities and outcomes against clear objectives to learn from mistakes and celebrate successes.
- 8.3 Take a pragmatic and balanced approach.
- Consultation will not always be appropriate or beneficial (see Section 6)
 - The council will consult according to the nature and significance of the issue
 - The council will engage the public to the extent that the benefits of doing so outweigh the costs of doing so
 - The council will only consult when a decision has yet to be made and where community input can influence the decision
 - The council will employ appropriate techniques for data collection and analysis to ensure that accurate and representative information about the views of those interested or affected by the matter is received.
- 8.4 Consult with genuine intent.
- The council will conduct consultation with genuine intention to listen to, and consider with an open mind, stakeholders' needs, preferences and points of view
 - What stakeholders tell the council will be incorporated into the decision-making process.

- 8.5 Consult at an early stage. The council will:
- consult as early as practical and appropriate in the decision-making process, before final proposals have been developed
 - engage stakeholders in considering the problems to be addressed as well as the potential solutions.
- 8.6 Engage stakeholders in a way that is focused on their needs for participation. The council will:
- encourage and enable the participation of stakeholders who are likely to be affected by or interested in the matter
 - provide stakeholders with a reasonable opportunity to present their views, in a way that is appropriate to their needs, level of knowledge on the issue, culture, ethnicity, age and disabilities.
- 8.7 Provide clear information. The council will
- ensure full and balanced information relating to the matter and the consultation process is readily accessible according to stakeholder's participation needs so that they can make informed and timely contributions
 - be clear about the purpose of the project, the problem being addressed, the purpose of the consultation, the nature, scope and significance of the decision to be made, and the degree to which stakeholders can influence the decision
 - use plain language and avoid jargon.
- 8.8 Allow sufficient time. The council will:
- allow enough time for participants to understand the matter and contribute their views in a way that is relevant to them
 - acknowledge that stakeholders can sometimes raise unexpected issues, which can impact on project timeframes.
- 8.9 Acknowledge our Treaty of Waitangi-based relationship with Maori.
- The council acknowledges the interests and status of Maori in Auckland city
 - Pae Herenga Tangata (a unit within Auckland City Council) will lead and manage consultation with Maori
 - The council will apply Auckland City Council's Consultation with Maori Policy.
- 8.10 Demonstrate leadership. The council will:
- exercise professional judgement in deciding when to consult, and when to stop consulting and make a decision
 - consider the interests, concerns and points of view of all stakeholders, taking care not to either favour or diminish the views of any particular group or individual.
- 8.11 Close the loop.
- The council will provide stakeholders with timely and balanced information about the project's progression, the decisions made, the reasons for those decisions, and how decision-makers used community input.
- 8.12 Avoid conflict of interest.
- All elected representatives and officers involved in a decision-making and consultation process will disclose any potential or actual conflict of interest they may have in relation to the matter to be consulted about and the decision to be made.
 - The council will take swift and efficient steps to manage the conflict of interest, which may include disqualifying the elected representative or officer with a conflict of interest from the consultation and decision-making process.

9 Auckland City Council's consultation process

See section 14 for further information.

Figure 5: The consultation process



10 Working with others

10.1 Other organisations

- 10.1.1 Auckland City Council will work with other organisations during consultation as necessary. It will share information and results in a free and open manner, unless there are commercial or other good reasons for not doing so.
- 10.1.2 On occasion, the council will work with other organisations to fulfil its role in the community. This does not remove any obligation that the council has to consult.

10.2 Consultants

- 10.2.1 When the council involves project consultants in planning or running consultation, it should be clear to participants that the consultation is being conducted for the council. Council officers will oversee the consultation process to ensure that the council's policies and guidelines are followed, even though they may not conduct the consultation themselves. Consultants must satisfy the requirements of this policy.
- 10.2.2 The council will not delegate consultation in such a way that it loses control over the process or reduces the value of the information gathered.

11 Resources

- 11.1 Auckland City Council normally pays for the resources it needs to consult with the public, such as venues, independent facilitation, expert advice, and the necessary refreshments, furniture and audio-visual equipment.
- 11.2 The council also normally pays for communicating about the matter being consulted on, the consultation process, the decision that is made and the reasons for it.
- 11.3 The council does not normally pay stakeholders for their time or any expenses they incur by taking part in consultation.
- 11.4 In exceptional circumstances, the chief executive or a delegated representative may decide that input is required from stakeholders who do not have the resources to participate. In such cases, the council may help these stakeholders take part in the consultation process.

12 Review

- 12.1 Officers and the Chief Executive are all accountable for the correct application of the Consultation policy. When a consultation process is believed to have overlooked a particular party or parties' views, those affected are able to call for a review of the process by contacting the Team leader, research and consultation, or their manager.

13 Acknowledgements

- 13.1 Auckland City Council gratefully acknowledges the help of the International Association for Public Participation (IAP2), the Dunedin, North Shore, Wellington and Christchurch city councils, Local Government New Zealand, and the Auckland District Health Board in preparing this policy.

14 Where to go for further information

- 14.1 You will find details about projects Auckland City Council is currently consulting the public about and information regarding how to take part in the council's decision-making processes on our website www.aucklandcity.govt.nz.

- 14.2 The research and consultation team can provide further information about the consultation policy and procedures.

15 Glossary

15.1 Community

A network of people linked together by common factors, such as a place (e.g. a geographic community), common interest (e.g. cycling) or identity (e.g. hapu, voluntary organisation or society).

15.2 Consultation

A genuine exchange of information and points of view between decision makers and people affected by and interested in a matter, before a decision has been made.

15.3 Decision

A resolution or agreement to take any action in respect of a particular matter. This may include a decision to not take any action.

15.4 Decision-maker

A person, committee or body with the delegated authority to make the decision that the public are being consulted about.

15.5 Public

The public is any individual or group of individuals, organisations or political entities affected by or interested in a decision or with expertise or interest in the issues concerned. They are often referred to as stakeholders. Internal stakeholders (individuals who work for or with the council) are also part of the public.

15.6 Significance

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 so.

See Auckland City Council's Significance Policy for more information.

15.7 Stakeholders

See "public".

Appendix 1: The Local Government Act 2002 Principles of Consultation (section 82)

- (1) Consultation that a local authority undertakes in relation to any decision or other matter must be undertaken, subject to subsections (3) to (5), in accordance with the following principles:
 - (a) that persons who will or may be affected by, or have an interest in, the decision or matter should be provided by the local authority with reasonable access to relevant information in a manner and format that is appropriate to the preferences and needs of those persons;
 - (b) that persons who will or may be affected by, or have an interest in, the decision or matter should be encouraged by the local authority to present their views to the local authority;
 - (c) that persons who are invited or encouraged to present their views to the local authority should be given clear information by the local authority concerning the purpose of the consultation and the scope of the decisions to be taken following the consideration of views presented;
 - (d) that persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons;
 - (e) that the views presented to the local authority should be received by the local authority with an open mind and should be given by the local authority, in making a decision, due consideration;
 - (f) that persons who present views to the local authority should be provided by the local authority with information concerning both the relevant decisions and the reasons for those decisions.
- (2) A local authority must ensure that it has in place processes for consulting with Maori in accordance with subsection (1).
- (3) The principles set out in subsection (1) are, subject to subsections (4) and (5), to be observed by a local authority in such manner as the local authority considers, in its discretion, to be appropriate in any particular instance.
- (4) A local authority must, in exercising its discretion under subsection (3), have regard to—
 - (a) the requirements of section 78; and
 - (b) the extent to which the current views and preferences of persons who will or may be affected by, or have an interest in, the decision or matter are known to the local authority; and
 - (c) the nature and significance of the decision or matter, including its likely impact from the perspective of the persons who will or may be affected by, or have an interest in, the decision or matter; and
 - (d) the provisions of Part 1 of the Local Government Official Information and Meetings Act 1987 (which Part, among other things, sets out the circumstances in which there is good reason for withholding local authority information); and
 - (e) the costs and benefits of any consultation process or procedure.
- (5) Where a local authority is authorised or required by this Act or any other enactment to undertake consultation in relation to any decision or matter and the procedure in respect of that consultation is prescribed by this Act or any other enactment, such of the provisions of the principles set out in subsection (1) as are inconsistent with specific requirements of the procedure so prescribed are not to be observed by the local authority in respect of that consultation.