

# THE DEMANDS AND PRINCIPLES OF CONSULTATION

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*Consultation with the public or other interests is becoming part of our way of life in New Zealand's resource management jungle.*

Putting consultation within a wider communications strategy may help groups and individuals to consult more effectively. There are also guiding principles of good communication that can be used to improve or review how consultation occurs and make it a more effective process.

Many organisations have been stretched to respond to new requirements brought about by corporate reorganisation and new and explicit provisions in legislation relating to duties and rights of legal interests. Consultation invariably involves time, resources and commitment, and is inherently risky because of the time "lost", the risk of not being understood, or of being understood too well, and not achieving tangible or immediate results. Consultation should reflect a pro-active and planned interaction with key people and groups to achieve goals or mandates.

## BACKGROUND

In the past, consultation in New Zealand has been compromised by paternalism/maternalism because of our protectionist business and governmental environment. Moreover, recent attempts in politically contentious areas have sometimes resembled a PR strategy rather than effective two-way communicating.

In consequence, many New Zealanders are wary about negotiating and are uncertain about the results. Memories often stretch to the sometimes disingenuous "consulting" that preceded the dismantling of cherished parts of our local cultural identity. Certain groups used "consultation" as another arm of their corporate marketing. Distrust makes people reluctant to communicate. Some in the corporate world do not understand that satisfaction of real issues is more important than glossy presentation. The medium is *not* the message.

Initial distrust stemming from some past corporate brushoff or brushup is typical in community disputes which have gone to some form of Additional Dispute Resolution (ADR). Consultation usually involves some willingness to compromise on the part of corporate interests. An element of luck is also important to provide the right combination of conditions for consultation and agreement. It is vital that past distrust is dispelled, by not being too pushy or failing to acknowledge the other party's needs/interests.

## CASE LAW

Case law has given guidance, in the consumer and resource management field, as to who and how to consult, eg the Air New Zealand case (*Air New Zealand & others vs Wellington International Airport & Attorney General in the High Court - CP403/1991*) seemed to express the following elements of what constitutes good consultation:

- a. being prepared to participate;
- b. being prepared to listen;
- c. remaining open-minded;
- d. allowing sufficient time for discussion;
- e. obtaining/providing sufficient information to allow an informed discussion;
- f. being prepared to change stance during consultation.

The why, who, how, when, where and what of consultation needs to be re-iterated from time to time so we have a consistent approach or rationale, and understand the legal, social, political ramifications of consulting.

## PRINCIPLES

The most important principle is to be aware of your own interests and attitudes, because they are likely to shape

discussion. It is common to meet quite senior planners who believe that the groups that most annoy them or who don't speak "technologese" (often submitters in opposition to a proposal) are biased, whereas the people that they are familiar with, the developer's agents, are not. The same applies to members of community groups, only in reverse. It is a problem common to all professions and personalities.

Degree of familiarity and experience condition how we will perceive the party with which we wish to consult. The principle also extends to the position an interest group holds. Being aware of one's personal and professional prejudices is important for communication. This doesn't mean that planners don't hold positions, but that you should be able to justify them professionally, to yourself, for the organisation, and in terms of a wider legislative social and cultural mandate. To justify policy in terms of the organisation alone usually leads to unbalanced policy and in its extreme historical form, the Nuremberg principle, ie "I was obeying orders" or "I was carrying out the organisation's mandate".

The second principle of communicating is to be explicit as is sensible about a position/issue, given the need for confidentiality. Other parties can then understand a position and respond intelligently. In the public arena, authorities are often slow to accept that information affecting the public should in fact be in the public domain.

Confidentiality is used too frequently as an excuse, as is anonymity of advice. A good example of the complexities involved in releasing information in New Zealand is the keeping of registers on contaminated sites. There are probably reasonable grounds for limiting access to the registers (unless there is a working party convened from members of the public) to those who need to know in order to avoid the prospect of planning blight, as has occurred overseas. Access may then be obtained at cost through enquiries made about particular sites. Having said that, there are circumstances where costs should be waived in instances where public or

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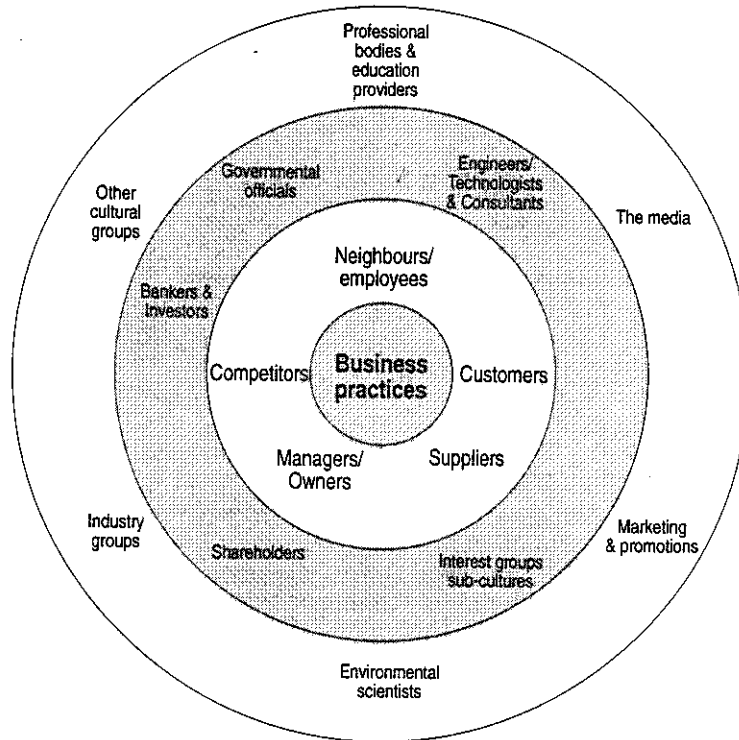


Figure 1.

individual interest "greater than the public generally" is involved.

This means that there is an onus on the authority to carefully work through its risk criteria and be prepared to answer enquiries when it consults with affected parties. In many cases people's perception of risk/effect is just as important as a technical model of risk in evaluating effect, because we deal with people, not abstract systems. Technical models are also subject to change in their paradigms.

The continuing stream of Ombudsman's reports suggests that public agencies are still generally unnecessarily fearful of exposure. Recourse to reading their mandates and not focusing on technical risk assessments may be helpful to their client relationships.

A third principle of effective communication is to establish the reasons why consultation is occurring and what is being consulted on. Is it to establish/maintain a relationship? Is it to fulfil a statutory requirement? Is it to fulfil principles of natural justice in contractual or administrative law? Does it provide a better cost/benefit ratio than adversarial politics/marketing/administration? What sort of feedback is being requested and is it reasonable to expect it in the circumstances? What are the benefits from consulting particular people?

Answering these questions helps establish the type and degree of consultation. As a rule, it pays to at least mentally review the

reasons for consulting from time to time and relate them to changes in the organisation and its environment.

A fourth principle is to establish who is to be consulted and in what context. There are a number of guidelines here. The first is obvious: establishing the requirements set out in statute regulations and case law. The second step is listing the parties that have legitimate interest(s), ie are affected by an activity or mandate, and the nature of each interest. Figure 1 displays relationships that a business or any other organisational stakeholder has with other parties in respect to its environmental standards. The relationships are ranked from the most direct near the core to the least on the periphery. It pays to distinguish between different types of interest, as each has different implications.

For example, community group members may have simultaneous roles as political opponents of council policy, as ratepayers with a legitimate interest in fiscal responsibility, as neighbours of a proposed development, as parents of children affected by traffic changes, as members of a group dedicated to enhancing the built or natural environment, or as technical experts who have the ability to discuss council policy.

To be sure of understanding the relevant interests, it is helpful to map relationships and patterns. Kaupapa or issue mapping is a similar technique to conflict mapping, with the proviso that one goal of

good consultation is to be pro-active in predicting and preventing conflict by accurately defining, and where feasible, meeting needs and interests. A further strategic step is to identify the importance of any consultation to day-to-day and/or strategic operations. Figure 2 is an example of a matrix demonstrating interests of each party.

Often interests are clouded by political and cultural attitudes/positions and it is a good strategy to stand back from an issue and try to distinguish the actors and the various levels of kaupapa/platform/issue/problem. It is a common human tendency to set up the other interest as a "straw man" to be knocked down or "demonised", adding emotional fuel to organisational or personal positions. Even supposedly objective scientists can do this. There is an equally common tendency to see other parties as good or bad in relation to our own policy without going deeper and reflecting on the respective reasons for each policy.

The fifth principle, of paying attention to the method of consultation, influences the costs to be borne by each party and the preferred consulting environment. It shows respect to another party to consult on their territory or at a mutually acceptable venue.

Providing good chairing/facilitation is another aspect of encouraging trust. Stating conflicts of interest and mandate, independence, ethical behaviour and knowing when to seek specialist advice and support are

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| Interests submittees | Neighbour or other affected by the proposal | Direct or indirect competitor | Fellow industrialist | Supplier/employee/agent/consultant | Environmental group/community spokesperson |
|----------------------|---|-------------------------------|----------------------|------------------------------------|--|
| S1                   | X   |                               |                      |                                    | X  |
| S2                   |   |                               |                      | X                                  |  |
| S3                   |   |                               |                      |                                    | X  |
| S4                   |   |                               |                      | X                                  |  |
| S5                   |   |                               |                      |                                    | X  |
| S6                   |   | X                             | X                    |                                    |  |
| S7                   | X   | X                             |                      |                                    |  |
| S8                   | X   |                               |                      |                                    |  |
| S9                   | X   |                               |                      | X                                  |  |

Figure 2: A hypothetical group of submittees (and their interests) that need to be consulted about a local industrial expansion.

some of the characteristics of good facilitation. When consultation is ongoing, attention to detail can be relaxed somewhat, particularly if there is agreement on protocol and procedure. But initial approaches are always important because they set the tone for subsequent contact.

The costs of contact affect all parties, but they may be offset by budgeting to meet established objectives, sharing resources, supporting groups that have difficulty participating, forming alliances and setting out shared protocols to minimise cost.

Understanding issues at an early stage is critical for efficiency, therefore, spending money on defining the legal, cultural and scientific boundaries of complex ongoing questions saves money in the medium to long term, eg with regard to the question of public access. Under community-based definitions of sustainable management, arising out of case law, emphasis on consultation will increase, although once systems are in place, the onerous element should decrease as communities of interest get used to discussing issues at an early stage.

Another aspect of method is feeling sufficiently confident to negotiate with others who may not share your background and experience. Some personalities always find difficulty in relating, but as a rule, success is based on learnt behaviour.

There are a number of ways to acquire people skills: the emphasis is generally on encouraging others to speak and articulating and understanding your position without being confrontational. Understanding

others' expectations is always helpful in avoiding glitches. Cross-cultural communication requires special care in sending the right signals.

The final principle of consulting is being systematic in understanding when consultation is necessary and linking it into formal budgets/programmes and routines. Consulting should never be an orphan activity: it needs acknowledgement in management practices and total communication strategies. The principle applies whether you are communicating with staff, clients, markets, equals and partners, submitters, allies, or potentially difficult interests.

The agenda for discussion should be set out in advance to allow response and necessary research. Methods of recording outcomes and initiating activity from a meeting should be clearly established to avoid subsequent loss of momentum and confusion.

An often-forgotten benefit of adopting consistent consultation practices is being able to receive new perspectives and tap into other networks. Often, we don't use these opportunities, pleading lack of time and logistical difficulties. Communicating well requires effort. The end result, however, is more than the immediate results of a particular consultation. It is a gain in personal flexibility and acceptance of wider perspectives, greater knowledge of the "marketplace" and a better understanding of your functions as seen through others' eyes.

The new pressures to consult in New Zealand are a potential stimulus to man-

agement in a sometimes disturbingly changeable environment. Accepting that consultation is like any other management factor, ie something that isn't accidental and requires some deliberate patterning should remove some of the stress of dealing with what seem to be expanding responsibilities. In the end, consulting is a social activity. Communication does not require a fancy system.

Graphics in Figure 1 by Elizabeth Whitham of The Open Polytechnic of New Zealand.