

2013

Plan Components Guidance Note

Consultation for plan development



Consultation for plan development

The Local Government (Auckland Transitional Provisions) Amendment Act 2013 introduces a streamlined plan-making process that only applies to the development of the first Auckland Unitary Plan (AUP). This guidance note has not been amended to include changes to the AUP plan-making process, rather it focuses on plan-making prescribed by the Resource Management Act 1991. For information about the process for the first AUP, refer to the Ministry for the Environment's [Fact Sheets](#).

Consultation is a mandatory requirement in plan and policy development, review and change processes (collectively referred to in this guidance note as 'plan development').

Consultation in plan development requires a commitment to: communicate effectively with a large community of individuals and groups with different values and concerns; and to take on board feedback. When undertaken effectively and early in plan development, consultation can increase community understanding of the plan and RMA processes, improve the quality and buy-in of the plan, and ideally result in fewer disputes and appeals to the plan in the long term.

This guidance note:

- sets out the statutory requirements to undertake consultation, including consultation with tangata whenua
- outlines general principles of consultation
- provides guidance on effective consultation processes

The guidance note covers consultation for all plan development processes. For the purpose of this note, policy statements and plans are collectively referred to as 'plans'. See [consultation for resource consents](#) and [facilitating consultation with tangata whenua](#) for specific guidance on consultation for resource consents and consultation with tangata whenua.

Guidance note

Requirement to consult

Understanding the legal requirements to consult tangata whenua

Understanding the principles of consultation

Developing a consultation plan

Different forms of consultation

Understanding the different stages in the plan development consultation process

Integrating with other consultation

Understanding the different roles in consultation processes

Identifying and understanding your audience

Being clear about the purpose of your consultation

Communicating effectively

Evaluating your consultation



Requirement to consult

Clauses 2 - 3C of the First Schedule of the Resource Management Act 1991(RMA) set out statutory requirements for consultation which must occur before the notification of any proposed plan. These requirements apply to developing new plans, undertaking plan reviews and making variations or changes to proposed or operative plans, including plan change requests made under Part 2 of the First Schedule. For more information on private plan change requests see the guidance note on [private plan changes](#).

Clause 3(1) provides the following list of parties that councils must consult with in preparing a proposed plan:

- a) the Minister for the Environment; and
- b) those other Ministers of the Crown who may be affected by the policy statement or plan; and
- c) local authorities who may also be affected; and
- d) the tangata whenua of the area who may be so affected, through iwi authorities; and
- e) any customary marine title group in the area.

Councils may also consult with any other parties (Clause 3(2), which must be undertaken in accordance with [s82 of the Local Government Act 2002](#) (LGA) (Clause 3(4)). This section of the LGA sets out a series of principles for consultation.

Regional Policy Statements - Clause 3A of the First Schedule specifically requires that a regional council, and every territorial authority whose district is wholly or partly within a region, enter into an agreement on consultation processes when a regional policy statement is reviewed; or when a change or variation is being prepared. This agreement must form part of the [triennial agreements](#) under s15 of the LGA. This agreement on consultation processes is particularly important, given that territorial authorities are required to give effect to any revised regional policy statement.

These agreements must be in place before 1 March following a local authority election and remain in force until they are replaced by another agreement. Amendments can be made to an agreement provided that these are completed before the next local authority election.

If after 1 March following a local authority election, the local authorities cannot agree on the consultation process, they are required to notify the Minister for the Environment. If the matter is not submitted to mediation by the local authorities concerned, or mediation has been unsuccessful, the decision on the consultation process will be made by the Minister for the Environment, or persons appointed by the Minister.

Regional Coastal Plans - Clauses 2(2) and 3(3) of the First Schedule require that a regional council must consult with the following parties when preparing a proposed regional coastal plan:

- the Minister of Conservation
- iwi authorities of the region
- any customary marine title group in the region



THE RMA QUALITY PLANNING RESOURCE

- the Minister of Transport
- the Minister of Fisheries

Previous consultation - Clause 3C provides the ability for councils to combine consultation exercises where appropriate, potentially helping to reduce consultation fatigue and make more efficient use of resources. This means that people who must be consulted under clause 3 need not be re-consulted if they have been consulted on the same issue under another enactment within 36 months. However, this applies only if they were advised that the initial consultation would apply to RMA matters.



Understanding the legal requirements to consult tangata whenua

The RMA contains specific requirements to undertake consultation with tangata whenua through iwi authorities as part of the plan development process:

- Clause 3(1)(d) of Schedule 1 of the RMA requires that councils consult with tangata whenua through iwi authorities before notifying any plan.
- Clause 3B sets out a procedure for consulting with iwi authorities whose details are contained within the Council's record of iwi authorities under s35A. A council will be treated as having consulted with iwi authorities if the council:
 - considers ways in which it may foster the development of their capacity to respond to an invitation to consult; and
 - establishes and maintains processes to provide opportunities for those iwi authorities to consult it; and
 - consults with those iwi authorities; and
 - enables those iwi authorities to identify resource management issues of concern to them; and
 - indicates how those issues have been or are to be addressed.
- Clause 2(2)(b) requires regional councils to consult with iwi authorities when preparing a regional coastal plan.

Undertaking consultation with tangata whenua is important for councils to be able to fulfil particular obligations to tangata whenua under the RMA. These obligations are:

- All councils are required to take into account any iwi management plans in undertaking any plan development process, and recognise and provide for any relevant matters in a customary marine title planning document (ss61(2A), 66(2A) and 74(2A)).
- A regional policy statement must state the resource management issues of significance to iwi authorities of the region (s62).
- Councils must recognise and provide for:
 - the relationship of Maori and their culture and traditions with their ancestral lands, water, sites, wahi tapu, and other taonga (s6(e))
 - the protection of historic heritage from inappropriate subdivision, use, and development (s6(f))
 - the protection of protected customary rights (s6(g)).
- Councils must have particular regard to kaitiakitanga (s7(a)).
- Councils must take into account the principles of the Treaty of Waitangi (s8).

In addition, new requirements for consultation with iwi authorities are beginning to emerge through Treaty of Waitangi settlements and under the Marine and Coastal Area (Takutai Moana) Act 2011.

See the [Facilitating consultation with tangata whenua](#) guidance note for more information on the obligations for consultation with tangata whenua.



Understanding the principles of consultation

The Environment Court has 'synthesised' a statement of principles for consultation from a number of court case decisions. These have been primarily developed through case law relating to resource consents and notices of requirement, yet they are equally applicable to the plan development processes and should be understood before embarking on any consultation process.

Plan development (particularly whole-plan reviews and major policy shifts) are also potentially subject to consultation processes under the LGA. A [set of principles](#) for consultation is contained in the LGA, as well as general provisions about when and how councils should consult people interested in or affected by a council decision. Some councils have a specific consultation policy that takes into account the requirements of the RMA and LGA.

Developing a consultation plan

Developing a plan is the key to any good and effective consultation exercise. The consultation plan should include a communication plan that clearly sets out the purpose and desired outcome, objectives, issues, audience, key messages and strategy for communication throughout the consultation period.

When developing a consultation plan, consider:

- tailoring the consultation process to available resources and political expectations (time, expertise and budgets)
- involving people who are committed, who are effective at listening and communicating
- considering the relevance of any council LGA consultation policy
- proactively thinking about any potential cross-over with any consultation occurring around the same time - including under other legislation - and integrating with other consultation when appropriate
- following any agreed consultation process included in the triennial agreement when preparing, reviewing or changing a regional policy statement
- identifying and understanding your audience
- identifying and planning for consultation with tangata whenua, including an understanding of any additional or specific requirements under Treaty of Waitangi settlements. This should include a plan to identify who the relevant iwi authorities are and, once identified, should consider their capacity to be able to consult and the different timeframes for agreement/approval by the relevant iwi authorities
- the form and type of feedback needed in responding to input from consultation
- being flexible and prepared to change the consultation approach as required, particularly as issues arise that need to be addressed more thoroughly
- having a strategy to manage media involvement in consultation
- considering what worked well and why in previous consultation exercises.

It is important to meet councillors overseeing the plan development process, to check that they are happy with the consultation and communication process. Clear messages from identified and well-informed spokespeople are essential when issues are raised by the community that may be controversial.

Different forms of consultation

Different forms of consultation might include:

- capturing people's attention and interest through the use of easy to understand, catchy media promotions such as advertisements in local papers, newsletters and brochures and using web sites
- establishing a 'brand' or theme so that all information about the plan and the plan development process is readily identifiable. Carry this through to the web site and put all related documents on the web for public access
- holding introduction workshops and seminars for public and stakeholder groups. Think about using existing community groups and local personalities to help you
- setting up focus or reference groups for key issues
- holding internal council workshops with key staff to identify issues and concerns that staff may have with existing plan provisions and to test the effectiveness of any proposed provisions. Consider including Council's legal advisors and hearings commissioners as well
- providing notice of likely future plan development processes, including background information on the council website
- preparing a 'draft plan' highlighting the future direction with draft issues, objectives, policies and methods. Alternatively, consider preparing an 'issues or options document' that identifies the range of issues identified by the community and internal stakeholders and that explores options for dealing with the issues.

Workshops

Workshops are particularly useful as they can assist to:

- find out how to best consult with the community
- identify whether you should contract some groups to provide input
- find out who is interested and what aspects of the plan or policy statement is of most interest
- identify particular stakeholders for ongoing consultation.

Workshop topics could include:

- introducing the RMA and how it affects your area
- introducing the plan development process and how it influences the future
- introducing the rationale and need for any plan change or review
- what could change and what is not likely to.



Understanding the different stages in the plan development consultation process

While early consultation is important, councils should approach consultation as an ongoing iterative process through all stages of a plan development exercise. Make sure this is not a one-off event or series of disjointed encounters, and not perceived as a token effort.

The form of consultation undertaken may also differ through different stages of the plan development process. Such consultation can be broken into three general stages:

1. before notification
2. from notification until the plan is made operative
3. while the plan is being monitored and evaluated.

To enable effective and active participation in consultation throughout all stages of plan development, it is important that:

- participants are provided with clear information on the process from the outset. This should include how the plan development process works, what their opportunities are to participate at the various stages, and what consultation has occurred and is planned. The proposed timetable and methods for engaging in the statutory phases should be as clear as possible so that participants can see the opportunities to be involved
- feedback from all those involved in consultation can be provided, followed by a process which confirms to participants that their comments have been considered in shaping a plan. It is also important that a reasonable period is provided to participants in making comments: this may have to go beyond statutory minimums.

Stage 1: Before notification

Consultation during the period before notification may involve discussing:

- why the plan is being reviewed or needs to change
- the meaning of sustainable management for the particular region/district/topic area and audience
- monitoring information on the effectiveness of current plan provisions
- identification of key issues to include in the plan, and their reasons for inclusion
- objectives, policies and environmental results expected that may be included in the plan
- implications of various options for particular areas, for example methods and spatial dimensions (mapping approach/zoning)
- process, stages and timeframes that the review will follow.

Different forms of consultation that can be used during this stage include workshops, open days and seminars (for the public and council), publicity campaigns, and the use of a draft plan.



THE RMA QUALITY PLANNING RESOURCE

Internal consultation with council staff and councillors is a critical part of the plan review and preparation process, which may involve education on the process and its objectives, and well as a programmed path of internal input into plan development.

At this stage, you should also consider how much of your developing plan to use and present as part of the consultation process: such as whether you circulate themes, issues and objectives; or a more substantiated draft plan as part of the consultation process. Local or regional politicians may have strong views on these types of decisions. Therefore, ensure that you have political endorsement for your approach, and have established a political reference group to go back to if issues arise. You may have to revise or revisit your consultation plan.

Early consultation can help identify areas of agreement on a number of issues, areas or the overall strategic approach. However, consultation may also identify where further understanding on certain issues may be required through further consultation.

Stage 2: From notification until the plan is made operative

Consultation should continue after the plan has been notified, before and even during the hearings process. It can also occur while any subsequent appeals are being resolved, until the plan is made fully operative. However, consultation held during hearings or as part of appeal resolution has to be framed appropriately within the legal requirements and principles that direct these processes.

Good practice during this period is as follows:

Post-plan notification

- Immediately after notification, hold public meetings and workshops on the proposed plan to inform people of its implications, and consider using facilitated processes. For example, a well-trained facilitator may be better able to manage a sensitive issue where council may be perceived to already have a fixed position.
- Consider holding meetings and workshops educating people about the submission process, how to make a submission, and who can, prepare a further submission (see [Submissions on a plan](#) for details).
- Allow plenty of time for feedback from all people involved in the consultation process. Consider using more than the minimum statutory timeframes, especially where these may involve holiday periods such as Christmas and New Year (communities take longer breaks than 20 December - 10 January).
- When you notify the new plan/plan change, provide a summary of the feedback received during consultation before notification. Preferably provide the response to such feedback also, as people will want to see how you dealt with their input.
- Consider providing independently facilitated workshops on drafting submissions, as the process is much easier when submissions are well drafted and clear decisions are included.
- Provide for electronic submissions and provide summaries of submissions and copies of submissions on the website if possible: this provides the community with 24/7 access.
- Keep the website up to date.



THE RMA QUALITY PLANNING RESOURCE

- If particular issues arise from submissions (particularly unforeseen issues), consider entering informal or facilitated discussion with submitters on particular issues before finalising s42A reports.
- Inform submitters on progress on preparing for the hearings, particularly if there is a long period between close of submissions and the start of hearings.

During hearing(s)

- Provide information to submitters on the hearings process, and how they can best present their views/position.
- Allow for some flexibility in managing hearings, particularly if the use of 'off-line' consultation processes during the hearings process (adjourning and reconvening hearings as needed) may be appropriate: this will allow for some frank discussion, and possible further research and evaluation of options.
- The officers' reports should clearly explain how the matters raised by submitters have been addressed.
- Preferably, prepare a version of the plan with changes tracked, consolidating all recommended changes in the s42A reports. Make all hearing reports available on the web, as even those that do not want to attend the hearing(s) may want to see the report - and others may want to see what changes are being recommended.
- Keep the website up to date.
- Care should be taken in communicating with submitters, in a legal sense, and also because of the real risk of miscommunication at this stage of the process.

After decisions

- Make it easy to see the changes to the plan that result from submissions: a version with changes tracked 'as amended by decisions' should be prepared and made available.
- Provide information on any appeals, their progress, the nominated contact person, and the status of the plan on the council website
- Keep the website up to date.

It is important for councils to continue to communicate with internal stakeholders throughout this period, to ensure:

- all council sections, staff, management and councillors have a common understanding and agreement on the purpose of consultation
- those parts of council who are likely 'applicants' are aware of the new provisions and changes and potential implications for their projects
- those responsible for implementing the plan are kept up to speed with the changes and potential implications to assist in reviewing the interpretation of provisions and practicality of proposed rules. This will also help identify any new processes that need to be put in place (including training) to help implement the plan once it is notified.



Stage 3: While the plan is being monitored and evaluated

Consultation during this stage will help assess how well the plan is working and help determine the need for further action, possible changes and improvements to plans. Different forms of consultation at this stage could involve: establishing focus groups and holding plan-effectiveness workshops; participants could be plan implementers, compliance staff and external users such as planners, commissioners or technical experts (for example traffic engineers and arborists).

Integration with other consultation (especially LGA consultation)

As noted above Clause 3C of Schedule 1 to the RMA provides that consultation on a plan or policy statement can be combined with consultation under another Act, provided:

- people know they are also being consulted for RMA purposes; and
- it is within 36 months of the proposed plan or policy statement being notified.

This provides an opportunity to integrate council consultation efforts and avoid duplication, especially in regards to RMA/LGA consultation. Key considerations when integrating consultation include:

- determining whether the information that may be obtained during the earlier consultation could be used for RMA purposes
- ensuring that those being consulted are notified of this fact at the time consultation takes place
- specifically whether to combine consultation for RMA plan development with developing or reviewing a Long Term Plan
- other opportunities such as for structure planning for specific areas where there are implications for the Long Term Plan as well as plan changes.

If it is not possible to integrate consultation under other Acts within the required timeframe, consider:

- using other documents that have been consulted on to inform your consultation processes
- describing how the resulting plan, policy or strategy will be implemented through RMA plan development processes
- outlining how the consultation that has already occurred will assist in any RMA plan development processes
- how to integrate outcomes of RMA consultation with other council planning and policy activities.



Understanding the different roles in consultation processes

There are a number of important roles during consultation processes:

- facilitator of the process
- recorder of the views expressed during consultation
- participant in consultation as an involved party
- technical expert
- political representative.

A person may hold a combination of the above roles at different stages of the consultation process. For example, with the exception of political representation, RMA practitioners may fill any of these roles in any consultation process. Because of this, RMA practitioners should carefully consider and clearly define their role in consultation with regard to how the consultation will transfer into the development of the plan.

Councillors have an important role in consultation processes as the council is the primary decision-maker on any plan.

It is therefore important that councillors:

- have early awareness or buy-in to consultation processes
- if possible, complete consultation within one electoral cycle to avoid political change (provided this does not curtail sufficient time for effective and meaningful consultation)
- play a positive role in consultation; there is often value in having a champion (councillor or mayor) who secures resources and speaks with the community - so they get to know the parties and issues early on
- are kept up to date with the results of consultation.

The use of external RMA professionals experienced in plan development and consultation may also be useful to assist with consultation exercises. Although this option may be costly, it can promote community understanding and prove to be cost-effective in the long term.

Trained professionals, such as facilitators, can often have a useful and important role in consultation exercises. Consider using independent facilitators when:

- a neutral position is preferable
- council staff wish to listen and not appear to be leading the process
- council staff are otherwise busy or unable to attend consultation meetings
- council staff are required as technical experts during consultation
- there are difficulties in the relationship with those being consulted and/or other problems.

You might also consider seeking expert advice from communications specialists. They can assist with managing media, and possibly prepare information packs for the public and special interest groups.



THE RMA QUALITY PLANNING RESOURCE

Technical experts can also be useful in consultation exercises by:

- educating the community on technical matters and options
- offering potential solutions to problems (in many cases the solutions may sit outside the RMA)
- providing independent or alternative views
- identifying constraints to various approaches.

Identifying and understanding your audience

It is important to identify your key audiences and stakeholders as part of your consultation plan. Be aware that these may change through the plan development process. As part of identifying and understanding your audience, you should:

- clearly determine who they might be: residents' associations, tangata whenua, government agencies, other local authorities, utility operators, industry/business, professional associations, environmental groups, local residents
- be inclusive
- develop consultation objectives and actions for each audience or stakeholder group, assessing their different levels of understanding and needs and tailoring your objectives accordingly
- keep and maintain records of the contact details for any iwi authorities, any relevant planning documents (recognised by an iwi authority within your region/district) and areas of the region or district over which one or more iwi authorities exercise kaitiakitanga.

Once you have identified your audience, you should think about the values, views and agendas of various audiences and devise strategies to deal with this. Some options include:

- meeting iwi authorities, or other relevant tangata whenua groups, on a marae
- timing the meetings to suit audiences, which may involve evenings and weekends
- communicating appropriately to ensure consultation is tailored to the audience level of understanding and towards their interests
- holding facilitated meetings involving tangata whenua and other cultures
- being prepared to break into smaller groups to discuss specific topics or important values.

As part of your communication strategy, you should also consider providing options that meet people's needs for involvement: for example, consultation that is area- or locality-specific, rather than the broader picture. Often it is useful to use relevant and real-world examples for the people being consulted. Local residents are generally interested in local matters that affect them directly, so deal with these first and then move to broader issues.



THE RMA QUALITY PLANNING RESOURCE

Different ways to get people involved in consultation include:

- developing a database of interested people and their desired level of involvement: some people will wish to actively participate in consultation whereas others will just want to be kept informed
- advertising in the newspaper (that is, providing more than the required statutory notice), in local publications, or council newsletters
- providing information about the plan development process and any proposed and current plan changes on the council website
- possibly using professional media (and/or marketing) to get the plan in an accessible and readable form; but manage any media input carefully
- focus groups on issues or areas, with a mix of representatives, interests or perspectives.

At some stage in the consultation process, you should consider bringing together stakeholders with different, and sometimes conflicting, expectations about the plan, so that different views can be discussed. This allows various stakeholders to be educated about other people's views and may help set realistic expectations. Bringing together different stakeholders may also provide for some negotiation on particular issues or proposed provisions, and enable some compromises to be agreed on.

Engaging tangata whenua in discussions with other stakeholders can act to improve people's understanding of the issues that may affect tangata whenua. You could consider running focus groups on specific issues for tangata whenua and then integrating these discussions into the main consultation process.

Being clear about the purpose of your consultation

Before embarking on any consultation process, you should be clear on its purpose and communicate this to those being consulted. The purpose could include:

- communicating the process and key messages
- identifying issues and ways to resolve them
- ascertaining community views and opinions in order to achieve better results
- meeting the statutory requirements for consultation which includes government agencies (for example promoting consistency among policies and plans), local authorities that may be affected (for example cross-boundary issues), and tangata whenua (through iwi authorities)
- addressing community concerns over particular plan policies.

You should also clearly communicate during consultation how the views and information gathered during consultation will feed into plan development. This will change depending on what stage of the plan development process you are up to. For example, consultation before plan notification is more likely to be an informal and two-way process in nature; but consultation after notification will generally be more formal and informative.

Consultation can also act to increase the awareness of the role of councils, plans and the RMA in general. Educating people being consulted can cause delays in achieving your purpose.



Communicating effectively

Effective communication is a key to effective consultation. Ways to ensure that you are communicating effectively include:

- being proactive and positive
- listening and acknowledging views: consultation is a two-way process
- being responsive; follow-up as needed
- avoiding jargon and acronyms
- communicating information at the appropriate level of your audience
- ensuring all written information is concise, in plain English and easy to read
- not overloading people with too much information at one time
- getting to know people and developing relationships
- respecting tikanga Maori
- ensuring that you are accessible and responsive by following through on sending out any promised information, responding to phone calls, and giving people feedback on their comments if possible
- not raising unrealistic expectations about the level of influence that consultation may have on plan development and what a plan can achieve.

Several different approaches can be taken to consult and communicate effectively with different audiences. Some of these approaches could include:

- running interactive workshops or meetings that facilitate free and open discussions
- holding meetings of special-interest groups
- developing discussion documents, and asking people to comment on them
- holding meetings focused on particular issues
- asking people simple questions to provoke responses such as "what do you like/not like", "what do you want to change"
- carrying out perception or satisfaction surveys
- using interactive websites or media
- using participatory appraisal processes

Evaluate your consultation

It is important to continually evaluate the effectiveness of your consultation plan throughout the plan development process. Methods could include:

- undertaking regular de-briefs during the process to identify where processes and methods could be improved, and what went well
- recording the levels of interest and attendance at workshops etc, and identifying how these could be improved if interest and attendance is lower than anticipated
- identifying how views and ideas generated through consultation were integrated into plan development.



THE RMA QUALITY PLANNING RESOURCE

