



A QUICK GUIDE TO EFFECTIVE PUBLIC CONSULTATION

New Zealand has an open and participatory government. Engaging with the public and key stakeholders is an important stage in the policy development process. But there are no hard and fast rules on whether you should consult, how much consultation is required, when to consult, the form consultation should take, and how much it will cost.

This guide is intended as a starting point. It sets out the questions you should ask yourself when planning your consultation.

WHY ARE YOU CONSULTING?

When weighing up whether public consultation is required or not, consider:

- If the policy process would be enhanced by further review and input.
- If there is a statutory obligation to consult on the policy proposal. *If there is and you don't consult, you risk a breach of duty and a possible judicial review.*
- If stakeholders have a reasonable expectation that consultation will occur, taking into account past practice and any promises made.
- If some people have a particular interest in the outcome of the policy decision. *Whose rights or interests may be affected?*

Public consultation can be time-consuming and costly. However, if you decide that consultation is required, view it as an investment and not just a procedural requirement. If done properly it will help inform and add value to your work and inform those that you are consulting with.

WHAT ARE YOUR EXPECTATIONS?

Effective consultation starts with being clear about what you are seeking to achieve. You should think about how any feedback you may receive will be used and how it may affect the decision-making process. The spectrum of public participation includes:¹

INFORMING	CONSULTING	PARTNERING	EMPOWERING
Minimal external input	External views sought and taken into account	Collaboration with others for shared decision-making	Support for community-led decision-making

When you are consulting, you are not obliged to agree with the feedback you receive but you should genuinely be seeking the views of the public. You should approach consultation with an open mind, be willing to change your mind, and if necessary, re-start the decision-making process.

¹ Adapted from the Good Practice Participate website: www.goodpracticeparticipate.govt.nz

WHO IS YOUR AUDIENCE AND HOW WILL YOU CONSULT?

There are several different ways to consult with the public. The method(s) you choose will depend on the nature and complexity of your policy proposal, your target audience, and the amount of resources and time available for consultation.

Method	When to use
Public discussion document	Large scale policy proposals and significant public legislation (note: Cabinet approval is generally required prior to publication of the document)
Targeted discussion document	Policy proposals with restricted impact or which involve minor technical changes
Open public forum	Proposals that affect localities or raise strongly held opinions
Hui or fono	Policy proposals that have significance for Maori or Pacific communities
Stakeholder meeting	Proposals that affect industry or community groups.

Increasingly, public participation is being sought online. The State Services Commission has put together the *Guide on Online Participation*, which we would encourage you to take a look at if you are thinking about online consultation. For a copy, visit www.ssc.govt.nz

WHAT ARE YOUR TIME-FRAMES?

Consultation should occur after the basic policy work has been completed, but before final decisions have been made.

- Consultation too early will be unfocussed and unhelpful.
- Consultation too late risks missing out on the benefits of key stakeholder input, may mean your policy development misses key issues, and may be subject to legal challenge.

As a rough guide, your timeline for consultation needs to allow for some or all of the following:

Stage in consultation process	Possible Timing (weeks)
Preparation of a discussion document	3 – 12
Ministerial and Cabinet approval for public release of a discussion document	3 – 5
Publication and distribution	2
Adequate time for stakeholders to prepare submissions	3 – 12
Analysis of submissions and incorporation of feedback into the policy process where appropriate	4 – 20
Further consultation and clarification of issues if required	as required



ATTRIBUTES OF GOOD PUBLIC CONSULTATION

- The method and level of consultation are appropriate to the policy proposal and audience.
- The views of the public/stakeholders are genuinely sought.
- Parties are provided with sufficient information to make informed submissions.
- There is adequate time for parties to make their submissions.
- Feedback is carefully recorded and summarised objectively.
- While you may begin consultation with a preferred option, submissions should be considered with an open mind before any final decision is made.

RISKS OF NOT PROPERLY CONSULTING

Failure to undertake proper consultation can result in the following:

- Not getting the information you need to inform a thorough analysis of the options, including information required for Cabinet processes (e.g. regulatory impact analysis).
- Criticism from your stakeholders who feel that they haven't had sufficient opportunity to comment, that there is bias or that there is predetermination of views.
- Bad publicity or ill-informed comment on your proposals.
- Future suspicion and/or lack of buy-in on other consultations.
- Less than optimal policy decisions and outcomes.
- A breach of any duty to consult, and consequent potential for judicial review.

A poor consultation process can also lead to delays while legal challenges are undertaken, official information requests are filed, media queries, and political commentary responded to, etc. It is in the interests of all parties that consultation processes be well planned and executed.

You can avoid these risks by ensuring that your consultation process is well planned and well executed.

WHEN DEVELOPING A DISCUSSION DOCUMENT

- ✓ Allow plenty of time for developing the document including discussing content with your colleagues, your Minister, and appropriate external stakeholders.
- ✓ Clearly identify your target audience(s) and tailor your document to best communicate your messages to them.
- ✓ Be clear about the level of confidentiality that you can assure submitters (submissions are likely to be subject to the Official Information Act 1982).
- ✓ Have a clear statement of the purpose and possible outcomes of consultation.
- ✓ Keep background information to a minimum – focus on the key issues.
- ✓ If your proposal has potential regulatory implications (i.e. could involve a change to the law) then you need to consider the Government's regulatory impact analysis requirements. Refer to the Treasury website: www.treasury.govt.nz/publications/guidance/regulatory.
- ✓ Use questions to guide feedback, but leave room for stakeholders to disagree with your fundamental assumptions.
- ✓ Use a feedback form to assist people to make their submissions.
- ✓ Consider using electronic media to circulate the discussion document or receive feedback.
- ✓ Get all necessary approvals before publication, including Cabinet approval where appropriate.

THE IMPORTANCE OF KNOWING YOUR AUDIENCE

Know your stakeholders! Some communities prefer to be consulted in person rather than by paper. Some stakeholders will engage better with you if your proposals are presented in a particular form or in multiple stages to enable ideas and potential interventions to be tested as they are being developed.

There is a wide range of information and guidance available to ensure that your consultation is fit-for-purpose and suitable for your audience.

- If you are consulting with different cultural groups, check out Te Puni Kokiri's website (www.tpk.govt.nz); the Ministry of Pacific Island Affairs' website (www.minpac.govt.nz) and the Office of Ethnic Affairs' website (www.ethnicaffairs.govt.nz)
- The Ministry of Women's Affairs has information about consulting with women, visit www.mwa.govt.nz
- The Office for Disability Issues provides information about engaging with those with a disability, visit www.odi.govt.nz

You might also consider arranging an external facilitator for face-to-face meetings with key stakeholders.

WHERE TO GO FOR MORE INFORMATION

"Good Practice Participate" is an excellent website that can help you to involve the community in decision-making. It is hosted by the Office of the Community and Voluntary Sector, which is part of the Department of Internal Affairs. Visit www.goodpracticeparticipate.govt.nz/

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We are a New Zealand consultancy, and proud of our Wellington roots. This is reflected in the way we work – always as your partner – whether it is locally or globally.

We are available to help you with your consultation processes. We have proven expertise in the design and execution of consultation exercises. This includes:

- Writing discussion documents.
- Developing stakeholder engagement plans.
- Undertaking both targeted and wider public consultation exercises.
- Analysing submissions.
- Developing and implementing policies and strategies.
- Developing Ministerial briefings and Cabinet papers.
- Project management.
- Evidence-based research and policy analysis.
- Evaluation and reviews of programmes, processes and agencies.
- Regulatory system design and implementation.
- Training and mentoring.

For more information, visit our website: www.allenandclarke.co.nz