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Report to Policy and Finance Committee
from Councillor Ian Buchanan

Proposed Policy on Payment for Consultation with Iwi when the Council is an Applicant for a Resource Consent

1. Purpose

To seek adoption of the proposed policy on payment for iwi consultation when the council is applying for a resource consent.

2. Background

Different departments within the Wellington Regional Council are sometimes required to apply for resource consents to carry out their operations. It has become the practice of some of the iwi to charge any applicant for consultation. From the point of view of the iwi, the Wellington Regional Council is likened to any other applicant that may approach the iwi for consultation.

Currently, Council applications involve consultation with iwi in a variety of ways. While no department reports paying iwi for consultation, some have contracted iwi to produce reports. These include reports used in the preparation of applications, and reports prepared for planning purposes which have later been used in preparing applications. Iwi have provided reports on waahi tapu and archaeological sites, and provided input into floodplain management plans.

A proposed policy on payment for iwi consultation when the Council is an applicant for a resource consent was presented for discussion at the 1998 September meeting of Ara Tahi. The meeting concluded that further consideration of the issues was required. Consequently, meetings were held with iwi representatives, and a revised policy incorporating comments and suggestions from those meetings was sent out for further comment on 9 November 1998.

The proposed policy recommends that iwi be contracted to provide information and advice, where required, with the same contractual arrangements as there would be for other consultants. The objective of contracting iwi for advice is to ensure an improved environmental outcome.

The policy would apply when:

- the application is made to the WRC or any other consent authority; and
- the consent is notified or non-notified.

Attachment 1 sets out the principles and approach of the proposed policy. Further work needs to be done on implementation.

3. **Consideration by Ara Tahi**

Ara Tahi considered the proposed policy at its meeting on the 9 December 1998. Ara Tahi decided that the policy should be adopted on an interim basis pending the investigation of a more generic approach to funding Maori participation.

4. **Recommendation**

That the Committee recommend to Council that:

- (1) *When Council is an applicant for a resource consent, it consults with iwi in accordance with the approach set out in Attachment 1.*
- (2) *This approach be considered as interim pending further investigation of funding for Maori participation.*

IAN BUCHANAN
Councillor

Attachment: 1

Attachment 1

1. Suggested Principles

Council's overall intention in working with iwi is to act in good faith. To reflect that intention, it is suggested that the policy should be based on the following general principles. The first three principles are the same as that contained in the iwi funding policy. They are included for reasons of consistency with that policy.

- *The Council is committed to having a mutually beneficial relationship with iwi.*
- *The Council acknowledges its responsibilities set out in the Resource Management Act 1991, the Charter of Understanding, and the Regional Policy Statement.*
- *The Council recognises that iwi have limited resources to participate in the resource management process, and acknowledges the requests from iwi for assistance.*
- *The Council as consent authority has the same expectations of the Council as applicant in regard to consultation, as it would have of any other applicant, i.e. that the applicant must provide information on:*
 - *what, if any, consultation that has taken place with affected iwi, hapu or whanau;*
 - *potential impacts of the proposal on tangata whenua; and*
 - *how impacts will be addressed.*
- *The Council recognises that tangata whenua are best placed to provide information and advice on the impacts of a proposal on tangata whenua values associated with particular resources.*
- *Consulting tangata whenua during the preparation of a resource consent application is good practice*

2. Suggested Approach

The following steps are proposed when the Council is preparing an application.

- (1) The Council will consult with tangata whenua about all resource consents it prepares, where they clearly have an interest. In the majority of cases, Council will need to consult. However, if tangata whenua have indicated in the past that they have no concerns about a

particular type of activity in a location, then it is likely that the Council will not consider it necessary to consult.

(2) The Council will contact iwi representatives at the earliest possible opportunity to:

- provide a preliminary outline of the application;
- identify when and with whom consultation should occur;
- identify views and concerns for further consideration; and
- ascertain whether there is a need to obtain information and advice from the iwi concerning the assessment of effects.

(3) If the application is relatively straightforward, then a contract for information from iwi may not be required. For example:

- where the information sought has already been provided by tangata whenua;
- where the impacts on tangata whenua are already understood, e.g., they are outlined in a council or iwi planning document;
- where tangata whenua state they have no concerns; or
- where the application is of a minor nature.

However, tangata whenua should be given the opportunity to assess whether further research is needed, for example, to take account of emerging issues, or to include new information on sites or resources that was unavailable before. The final decision on the need for further information will rest with the Council as applicant.

(4) It is suggested that the following criteria be used to decide whether a contract is required:

- limited information or analysis is available to the Council in order to assess effects on tangata whenua, e.g., information may not be recent, or may not cover a specific site or situation;
- there is insufficient information in a policy statement or plan in order to assess effects on tangata whenua;
- it is inappropriate to obtain information from other sources about effects on tangata whenua;
- the information will not only assist in preparing the application, but also contribute to the Council's information base;
- the application requires detailed investigation from tangata whenua so that they may give an informed response; or
- circumstances where tangata whenua may need assistance in understanding a technical report, so as to be in a better position to provide an assessment of impacts to Council. In that case Council may agree to funding for interpretation of the technical report.

(5) The range of information and advice from iwi that Council would consider payment for includes, but is not limited to, the following:

- waahi tapu and archaeological sites;
- the relationship of tangata whenua to specific water bodies;
- treatment and disposal of sewage in relation to tangata whenua values;
- environmental pollution;
- characteristics of the coastal environment of special value to tangata whenua;
- values associated with particular resources and assessment of impacts of the proposal on those values;
- resources where iwi/hapu/whanau exercise a kaitiaki role;
- actions required to protect tangata whenua interests;
- environmental monitoring issues.

(6) If Council decides that information is required, it will discuss and agree with the iwi representative(s) what information and advice is needed and the level of payment that is appropriate. Once agreed, a contract will be drawn up. Information and advice may be provided in either oral or written form. The contract may take into account the costs of activities undertaken by an iwi representative to produce the information and advice, such as consultation with other iwi members and site visits.

(7) In addition, there are some general procedures that should be followed:

- koha should be paid when appropriate;
- payment may be required for hire of a marae venue for a hui;
- a written contract should be prepared for the supply of information from iwi.