

Overview of the Collaborative Planning Process, Part 4 of Schedule 1 of the Resource Management Act

Deciding whether to use a collaborative process:

1. Councils must consider a range of matters in deciding whether to use a collaborative planning process (clause 37). If council decides to use a collaborative planning process, a public notice of that decision is required under clause 38. From that point on, council may not withdraw from the collaborative process, unless:
 - a collaborative group can't be appointed
 - the collaborative group breaches its terms of reference, and is unable to resolve this through dispute resolution
 - there are insufficient consensus recommendations on which to draft a plan/policy statement.

Appointing a collaborative group:

2. The council must appoint a collaborative group under clause 39. Criteria for appointing the group are set out in clause 40. This includes a number of mandatory appointments including at least one person chosen by iwi authorities to represent tangata whenua. It also includes a requirement that membership reflects a balanced range of the community's interests, values, and investments in the area, as they relate to the issues to be considered.
3. Clause 41 requires council to set terms of reference for the collaborative group (in consultation with the group) and lists matters to be included in the terms of reference e.g. a procedure for the collaborative group.
4. Clause 42 requires the council to give public notice, detailing the appointments and where the terms of reference can be viewed. Collaborative groups must determine their own procedure (within their terms of reference), and are treated the same as a council committee under section 43 of the Local Government Act 2002 for the purpose of indemnification.

Presenting a consensus report:

5. Clause 43 requires the collaborative group to provide the council with a consensus report which must include:
 - recommendations that the group reached consensus on and reasons why
 - a summary of the costs and benefits identified
 - any alternatives considered
 - a record of matters on which the group did not reach consensus
 - a summary of how the group obtained and considered the views of the community in coming to its recommendations

Clause 44 requires the council to then give public notice detailing where the collaborative group report can be viewed.

Drafting and notifying a proposal based on the consensus report:

6. Clause 45 requires councils to draft a proposed policy statement or plan, which must 'give effect to the consensus recommendations of the collaborative group'. Council can draft its own provisions on parts of the plan or policy statement where the group has

not reach consensus, provided those matters are within the terms of reference given to the collaborative group.

7. Advice must be sought from iwi authorities on the draft (clause 46). The council must also prepare and consider a section 32 evaluation report on the proposal (clause 46). The council must then publicly notify the plan change under clause 48, and call for submissions under clause 49. Once submissions are received and analysed, council must prepare a report on the submissions, and call for further submissions. No later than 3 months after the closing date for further submissions the council must prepare a report on whether the decision requested are consistent with the consensus recommendations and provide a copy of that report to the collaborative group and iwi authorities for comment (clause 50).

Review panel:

8. A review panel must be established by council (clause 63) in accordance with the criteria for appointing members (clause 64). The review panel must hold a hearing under clause 51, and operate its procedures in accordance with clauses 66 to 73 (which include the ability to require mediation and undertake cross-examination). The collaborative group may appoint one of its members to assist the review panel for the particular purposes listed in clause 52.
9. The review panel must provide a report to the council (with recommendations) under clause 53.
10. The review panel must not recommend any changes to a proposed policy statement or plan unless:
 - changes are required to ensure compliance with legislative or regulatory requirements, including any Treaty legislation, or
 - the collaborative group is given the chance to comment on the changes, if they differ to the consensus recommendations of the collaborative group, and this is included in the review panel report.

Considering the review panel's recommendations:

11. Council must decide whether to accept or reject the recommendations of the review panel using the process set in clause 54. Council must then publicly notify the amended policy statement or plan under clause 56.

Circumstances for appeals:

12. The collaborative planning process has reduced appeal provisions compared to the standard process. Clause 59 enables appeals to the Environment Court by way of rehearing on parts of the proposed policy statement or plan that:
 - are not based on a consensus recommendation from the collaborative group
 - are changes recommended by the review panel that were opposed by the collaborative group
 - relate to a notice of requirement, designation or heritage order that the relevant requiring authority or heritage protection authority did not support, or supported with changes.
13. Clause 60 enables appeals on points of law to the Environment Court.