

Briefing Paper: Oral submissions

Reporting Officer: Briar Corbett – Engagement Lead
Date: 28 February 2023

Ngā whāinga | Purpose

To provide information on legislative requirements for oral submissions, the difference between oral submissions and hearings, the purpose of oral submissions, statutory powers and options to delegate.

Horopaki | Context

Oral submissions are when individuals or representatives choose to share their feedback, make submissions or present their view(s) on a council project verbally or using NZSL (either in person or via AVL).

We provide a reasonable opportunity to make oral submissions as an alternative method to share feedback and formally submit on projects and topics that council consult with its communities on. Oral submission processes can provide the opportunity for interaction between the submitter and council if council chooses to allow.

Under the Local Government Act 2002 we have legislative obligations to:

- When consulting on any decision or matter, provide a reasonable opportunity for people to present their views in a manner and format that is appropriate to the preferences and needs of those people.
- When a special or prescribed consultative procedure is required under any Act or enactment, provide an opportunity for people to present their views in a manner that enables spoken or NZSL interaction (including by AVL) between the person and the local authority or their representatives.

Previously, council delegated authority to hear oral submissions to the Strategy and Policy Committee.

Ngā kōrerorero | Discussion

Statutory responsibilities

Local Government Act 2002 (LGA 2002)

The LGA 2002 [principles of consultation](#) state, “persons who wish to have their views on the decision or matter considered by the local authority should be provided by the local authority with a reasonable opportunity to present those views to the local authority in a manner and format that is appropriate to the preferences and needs of those persons.” (82 (1) (d))

Under a special consultative procedure ([section 83](#)), we must provide an opportunity for people to present their views to the council in a manner that enables spoken (or New Zealand sign language) interaction between the person and the council, or any delegated representatives, and ensure that any person who wishes to present their views is informed about how and when they may take up that opportunity. This does not mean we have to hold hearings, but we do need to give people the opportunity to submit orally (or using NZSL).

Council can allow oral submissions to be presented via an audio link or audio-visual link. This also means we could record oral submissions and provide them to council at a later date.

Consultation on an Annual Plan and Long Term Plan must follow the special consultative procedure and is subject to, amongst other things, section 83 LGA 2002 requirements.

Reserves Act 1977

Under the Reserves Act, every initial objection or submission must be made in writing and where the objector or submitter so requests in their objection or submission, council (as the administering body under the Reserves Act) must give the objector or submitter a reasonable opportunity of appearing before the council or a committee or a person nominated by the council in support of their objection or submission. Public notice issued by council pursuant to the Reserves Act states council must provide the opportunity for people to indicate that they wish to be heard in support of their written submission or objection. As the administering body, council may nominate a committee or person to hear those who wish to appear in support of their submission. The administering body or nominee can determine the procedure at the hearing (section 120).

What’s the difference between hearings and oral submissions?

Hearings are held when it states in the legislation that the submitter may request to be heard in support of their submission. Those speaking will already have made a written submission in support or opposition of a proposal. Council will receive a written submission that can be taken as read by the submitter who then speaks in support of their written submission.

Oral submissions are instead an alternative method of participation. Those submitting orally do not have to have made a written submission as well. Council will not necessarily receive a written submission to accompany the oral submission. Council may also choose to allow interaction or discussion with submitters if they have questions.

It should be noted that in some circumstances objections are different from submissions in that an objection may require a review of administrative decision via a hearing by an independent commissioner (in RMA matters) or a judge (in infringement matters).

When do we hold hearings and when do we have oral submissions?

Largely, when consulting with the community on matters outside of the Reserves Act (e.g., matters that do not concern council's reserves land), we are working within the LGA 2002 framework, which offers the opportunity to present an oral submission as set out in the Context above.

When public consultation is required under the Reserves Act, original submissions or objections under that Act are always in writing. Submitters are told that if they wish to speak to their written submission or objection, they can request to be heard – in which case a hearing is held.

The following processes outlined in the LGA 2002 also require hearings that are heard by the council, a nominee, commissioners (for most of RMA matters), or a judge (District Court or Environment Court – for summary offences such as non-compliance with parking, infringement or abatement notices):

- Alleged breaches of alcohol ban
- A person may request a hearing if they have been issued parking notice, an infringement or abatement notice
- Objections to development contribution requirements under the RMA
- A person may object to conditions imposed in a resource consent and request a hearing to resolve the objection.

NB: LTP and AP consultations do not require hearings. Spoken submissions do not need to be accompanied by a written submission.

The purpose of oral submissions

As with other methods of engagement, the purpose of offering the opportunity to submit verbally (or using NZSL) is to remove barriers to participation by enabling people to share their feedback in a way that they feel most comfortable.

To truly enable this, consideration should be given to the fact that, while many people may be more comfortable speaking their submission, having to present to a full council chamber and virtual audience is daunting and requires some skill in advocacy or public speaking.

Additionally, asking those who wish to speak to their submission to fit in with council's schedule does not acknowledge that our communities are busy and have other commitments and responsibilities. This is somewhat alleviated by offering the option to present via audio-visual link, however, we know that many communities in the Far North do not have reliable internet connection or the resources to present virtually.

The Future for Local Government review panel found that, "at times, councils do not conduct engagement in a way, at a place, or in a format that works for diverse groups. People often feel intimidated by formal council proceedings, are not able to participate at a time that a council meeting is scheduled due to meeting times, or the cost and time associated with attending."

Organising oral submissions take up a significant amount of people time, especially when there are a large number of people wishing to speak. Currently, organising oral submissions for committee or council meetings can include the policy team, or other team leading the relevant kaupapa, the democracy services team, the engagement team and, for Annual Plans or LTPs, the corporate planning team as well as elected member time. Sometimes we need to educate people on how to use audio-visual links. Sometimes the submitter does not turn up. We must provide the opportunity for oral submission, but we need to consider the appropriate cost.

Delegation

Provisions of Schedule 7 of the LGA 2002 allows council to delegate some of its powers, duties and obligations. This includes power to conduct hearing of oral submissions. Delegations cannot be made outside of council.

Committees, community boards or individual elected members can be delegated authority to hear oral submissions.

Options

1. Council could delegate to a committee to hear oral submissions. This could allow for committees to hear oral submissions that are relevant to their area of focus and could free up time for council agendas. It would mean that people still had to speak to an audience in chambers and would not allow for much flexibility.

2. Council could delegate to individual councillors who could hear submissions with the support of staff to take notes. This would remove barriers for people who are uncomfortable standing in front of a full council or who would prefer to remain more anonymous with their submission. It would also allow for more flexibility regarding available time slots. It may be time consuming for the elected members / delegated individual/s and the staff providing support but less demanding on staff time in general and would free up council agendas. The Future for Local Government review found that many people do not think their engagement will influence decision-making and for some submitters, speaking with only one councillor may enforce this idea.

3. Council could choose not to delegate and could request that all oral submissions align with the formal meeting calendar and are presented at a formal council meeting. This would allow for full council (all councillors) to hear oral submissions, however, it would not remove barriers for those who are uncomfortable speaking to an audience and would not allow for flexibility.

E whai ake nei | Next Steps

Council needs to determine how oral submissions will be heard and if they would like to make delegations for hearing oral submissions.

Please complete this [short survey](#) so we can understand the direction you may want to go on this topic. We will use your feedback to inform a decision paper that we will bring to a council meeting so recommendation and potentially formal delegation can be made.

Alternatively, we can workshop options prior to bringing a paper to council.