

**DRAFT PUBLIC PARTICIPATION POLICY**

**NEWCASTLE LOCAL MUNICIPALITY**

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**Annexure: Draft Public Participation Strategy**

**1. DEFINITION OF TERMS**

In this policy, unless the context indicates otherwise –

 **“Constitution”** means the Constitution of the Republic of South Africa, Act 108 of 1996;

**“Consultation”** means the action or process of formally consulting or discussing

**“Council”** refers to the Council of the Newcastle local municipality as established in terms of Section 18 of the Local Government: Municipal Structures Act 117 of 1998;

**“Councillor”** refers to a member of the Council of the Newcastle Local Municipality;

**“Designated municipal sites”** will include municipal buildings, libraries, customer care centres, Ward Councillor offices and the municipal website;

**“Community” or Local community”** means that body of people comprising the residents of the municipality, the ratepayers of the municipality, any civic organization and non-governmental, private sector or local organization or bodies which are involved in the local affairs of the municipality.

**“Designated groups”** are selected clusters of people with common identity/interest or distinguished by circumstances;

**“Empowerment”** is the highest form of participation, as it incorporates all the lower tiers of participation. Through education it grants societies the strength or power to act with confidence on their own initiative to the benefit of their communities within a legal framework, with or without the support of Council. At its peak, empowerment fosters independence and stimulates creativity and innovation for sustainable development;

**“Inform”** means to give or impart knowledge of a fact or circumstance.

**“Integrated Development Plan”** means the strategic planning instrument which guides and informs all planning and development in a municipality.

**“Involve”** means to have or include someone as necessary or integral part of the result.

**“Loud-hailing”** is an amplified call or message to those able to hear. This is a medium to impart to communities, in the shortest possible way, information for their benefit or to extend an invitation to participate in a gathering or exercise an action;

**“Meeting of Council”** is a statutory meeting held on a regular basis that all members of Council are required to attend and resolve matters referred to it;

**“Municipality”** as defined in the Intergovernmental Relations Framework Act, No. 13 of 2005, will –

(a)  when referred to as a corporate body, mean a municipality as described in Section 2 of the Municipal Systems Act, No. 32 of 2000;

(b)  when referred to as a geographic area, mean a municipal area determined in terms of the Local Government: Municipal Demarcation Act, No. 27 of 1998;

**“Municipal Manager”** means the person appointed in terms of Section 54A of the Municipal systems Act of 2003.

**“Official”** as defined in the Local Government: Municipal Finance Management Act 56 of 2003 in relation to a municipality or municipal entity, means –

(a) an employee of a municipality or municipal entity;

1. (b)  a person seconded to a municipality or municipal entity to work as a member of the staff of the municipality or municipal entity; or
2. (c)  a person contracted by a municipality or municipal entity to work as a member of staff of the municipality or municipal entity other than an employee;

**“Participation”** is the act of sharing something with others, where all parties play an active part in the process to achieve an outcome expected by those involved;

**“Partners”** are a union of two or more persons with different approaches who are required to work together to achieve an agreed outcome;

**“Partnership”** refers to engagements where all parties are directly and actively involved in a project and committed to achieving a goal. Stakeholders will strive to work in harmony towards a cause. This form of engagement is perhaps more in line with the notion of participation espoused by Sections 4 and 5 of the MSA, which requires the balancing of reciprocal duties and responsibilities by a municipal administration and the community it serves;

**“Performance Management system”** means a two-way communication process between the municipality and the municipality that measures specific targets, standards and priorities that were agreed upon during the IDP process.

**“Policy”** means the Public Participation Policy of the Newcastle Local Municipality,

**“Public buildings and open spaces”** mean property, developed or under development, that is accessed or used by the public for general purposes or to obtain services, and is not closed to the public for whatever reason. Such property is considered public space;

**“Public meeting”** is a gathering of community at a venue (undercover or not) where matters of concern are discussed by those attending, and is open to all citizens;

**“Public participation”** occurs where the public participates in an active way to ensure that its needs are responded to satisfactorily by the Municipality.

 **“Vulnerable groups”** consist of persons not afforded the same security as the general citizen, i.e. children, women, the aged, and persons with disabilities;

**“Ward Committees”** is a committee established in terms of section 72 and 73 of the Local Government Structures Act 117 of 1998, as amended.

**2 PURPOSE OF THE POLICY**

2.1 The policy is aimed at creating a framework within which the public participation can be effected, serves to validate the commitment of Council to create an environment conducive to the engagement of the public in its governance and performing the duties and obligations set out in legislation with regard to public participation.

2.2 This policy serves to provide mechanisms, processes and procedures aimed at achieving adequate, reasonable and effective public participation by enabling members of the public to get access to information, participate in consultation and decision making processes of the municipality.

2.3 The Policy promotes an integrated approach to ensure mainstreaming of the interests of vulnerable groups and special sectors such as youth, women, children, people with disabilities and older persons.

**3 REGULATORY FRAMEWORK**

The Policy is guided and informed by statute as follows:

**3.1 Constitution of the Republic of South Africa, Act 108 of 1996**

The objects of local government in terms of Chapter 7, Section 152(1)(a) of the Constitution is to “encourage the involvement of communities and community organisations in the matters of local government.”

Chapter 7 further prohibits the passing of by-laws, unless the proposed by-law has been published for public comment in terms of Section 160(4).

Section 195(1)(e) stipulates that “people’s needs must be responded to, and the public must be encouraged to participate in policy-making”, whilst Section 195(1)(g) stipulates that “transparency must be fostered by providing the public with timely, accessible and accurate information.”

**3.2 Local Government: Municipal Systems Act, No. 32 of 2000, as amended (MSA)**

In terms of Section 4(2)(c), the council of a municipality has the duty to “encourage the involvement of the local community”.

In terms of Section 4(2)(e) the council has a duty to “consult the community about the level, quality, range and impact of municipal services provided by the municipality” and options available for service delivery.

Section 5 grants members of the community the right to engage in the processes and mechanisms established by statute to participate in and contribute to the manner in which the municipality is managed.

Chapter 4 of the MSA (as amended) makes provision for community participation in the following ways:

Section 16 – promotes the development of a culture of community participation.

Section 17 – makes provision for the establishment of mechanisms, processes and procedures for community participation.

Sections 18 to 21 – provide for access to information and platforms for communication.

Section 12(3)(b) of the Systems Act provides that no by law may be passed by a municipality unless the proposed by-law has been published for public comment in manner that allows the public an opportunity to make representations with regard to the proposed by-law.

Developmentally oriented planning is further provided for in Chapter 5 of the MSA, which also gives guidance on the manner in which participation by the public should take place.

In addition, community involvement in the municipality’s performance management system is promoted in Section 42, read together with Chapter 4.

Chapter 7 the MSA emphasises the fact that local government is governed by the democratic values and principles embodied in Section 195(1) of the Constitution; a Municipality must strive to achieve the objects of the local government as set out in section 152(1) of the Constitution; and a Municipality must perform the duties set out in Sections 4, 5 and 6 of the MSA.

**3.3 Local Government: Municipal Finance Management Act, No. 56 of 2003 (MFMA)**

The objects of the MFMA are aligned with those of the MSA and together they give effect to constitutional imperatives. Sections 21 – 23, read together with Chapter 4 of the MSA, make provision for public participation processes, regarding the municipal budget, integrated development plan, performance management processes, and policy development. Such public participation processes are to be concluded within set time frames in accordance with the specifications set by the MFMA.

**3.4 Local Government: Municipal Structures Act, No. 117 of 1998 (Structures Act) (LGMS)**

Section 72(3) of the Structures Act conveys the sentiment that public participation enhances democracy. This is achieved through representative structures, where ward committees play an important role.

Section 74 thus grants ward committees the powers and functions (in addition to any other powers and duties delegated to them) to make recommendations on any matters affecting their wards, through the Ward Councillors, to the Council, Executive Committee or the Executive Mayor.

**3.5 Intergovernmental Relations Framework Act, No. 13 of 2005 (IRFA)**

The IRFA clarifies the meaning of the term consultation within a legislative context, defining it as “a process whereby the views of another on a specific matter are solicited, either orally or in writing, and considered”.

**4. POLICY PRINCIPLES**

4.1 The Policy reflects the values and principles embedded in the Constitution and espoused in the White Paper on Transforming Public Service Delivery, Notice 1459 of 1997 (Batho Pele White Paper) as follow:

4.1.1 **Access** – accessible and responsive arrangements are to be developed to enable members of the public to enjoy the rights and privileges guaranteed by legislation.

4.1.2 **Accountability** – is based on the assumption that all role-players will accept full responsibility for their individual actions.

4.1.3 **Commitment** – dedication to true forms of participation, which fosters democracy.

4.1.4 **Consultation** – consultation is an important process for sharing and gathering various insights with regard to addressing a particular issue. Consulting internal and external role-players is therefore critical when planning and/or initiating programmes and projects. Given the fact that the services of local government are for public consumption, it is imperative that the users of public services are consulted about their needs and priorities. Their inputs and comments must be taken into account when making decisions.

4.1.5 **Diversity** – South Africa is a diverse society. Public participation processes must therefore take into account differences that may stem from gender, religion, race, ethnicity, language, sexual orientation, age, economic status, and so on. These differences should be allowed to emerge and, where appropriate, ways sought to develop an approach that allows for inclusiveness, based on respect and dignity.

4.1.6 **Empowerment** – Through direct involvement in planning, decision- making and implementation of programmes, projects and strategies, communities may be uplifted and encouraged to seek sustainable methods for development and survival.

4.1.7 **Openness and transparency** – The Municipality will ensure that all involvement with the communities in public participation will be transparent and honest and to be relied upon to create institutions of people of good repute and constituting organs of people’s powers, such as forums and Ward Committees.

4.1.8 **Flexibility** – Flexibility is often required in respect of timing and methodology. It requires participants to make room for changing conditions and to explore various suitable alternatives.

4.1.9 **Information** – Effective decision-making and conduct are augmented by the availability and provision of comprehensive and accurate information. Information sharing often contributes to educating communities and fostering better understanding and appreciation for project decisions and implementation plans.

4.1.10 **Redress** – Residents are entitled to an apology, explanation and remedial action, if the promised standard of service is not delivered.

**5.POLICY OBJECTIVES**

5.1 Through the guidance of this Policy, Council seeks to achieve the following:

5.1.1 Instill a spirit of participatory government through the mechanisms developed in terms of the Policy.

5.1.2 Facilitate the prioritisation of community development and requirements, with the involvement and support of communities.

5.1.3 Ensure that any matters requiring community participation is referred to all sectors, which must include, inter alia, Ward Committees, and vulnerable groups.

5.1.4 Promote direct and indirect platforms of participation.

5.1.5 Create appropriate mechanisms for communication and participation suited to the process/nature of participation as prescribed in the Public Participation Procedure Manual.

5.1.6 Establish a comprehensive framework for defining, implementing, monitoring and evaluating public participation initiatives in the Municipality.

5.1.7 Afford local communities the opportunity, together with the Municipality, to consolidate resources and promote sustainable development and empowerment.

5.1.8 Provide municipal officials with standardised guidelines with regard to public participation initiatives, so that consistency and efficiency can be achieved.

5.1.9 Set clear roles and responsibilities for those affected by the Policy.

5.1.10 Establish implementation protocols within the Municipality consistent with the Constitution, and/or any other applicable policy, the scope and objectives of which endeavour to promote public participation.

5.1.11 Ensure that public participation initiatives are suitably focused and their impact on the functional, institutional and financial integrity of the Municipality is properly considered.

5.1.12 Ensure uniformity and consistency in respect of with regards the implementation of Council policies and processes.

5.1.13 Bring about outcomes that will have involved the communities from the outset thus ensuring ownership by communities and giving recognition to the opportunities and challenges presented by partners.

**6. SCOPE AND APPLICATION**

6.1. The Policy applies to all officials, Councillors, public representatives, parastatals, Ward Committees, designated groups, municipal entities and members of the public in as far as their rights, duties, responsibilities and roles are outlined in terms of the Policy.

6.2 The Policy makes provision for mechanisms, processes and procedures to facilitate and give effect to public participation as regulated by statute.

6.3 The public participation strategy and ward committee operational plan are a supplement to the Policy, and details procedures and processes to be followed by officials and political office bearers for proper public participation at community level.

6.4 The policy giving effect to Ward Committees, is an additional public participation policy instrument and should be read together with the Policy.

**7. METHODS OF PUBLIC PARTICIPATION**

7.1 The Municipality will seek to utilize the various levels of participation, i.e. information-sharing, consultation, engagement and empowerment as and when necessary.

7.2 The Municipality will promote and ensure people-centred and people-driven development, as reflected in the Constitution.

7.3 The Municipality will continuously strive to create an enabling environment for citizens to be involved in and participate in the development of policies from the initial stages.

**8. RIGHTS AND RESPONSIBILITIES OF THE COMMUNITY**

8.1 The success of participative developmental governance hinges on a healthy integrated balance between the rights and duties of local government and that of the community. The rights of members of the local community in terms of the MSA are to:

8.1.1 Be involved in and contribute to the decision-making processes of the Municipality and submit written or oral recommendations, make representations and submit complaints to the Municipality or to another political structure or a Councillor or an official of the Municipality through mechanisms provided and in accordance with processes and procedures in terms of applicable legislation, or the Policy.

8.1.2 Prepare responses to their written and/or oral communications, including complaints to Council or to another political structure or a political office bearer or the administration of the Municipality.

8.1.3 Be informed of decisions of Council, another political structure or any political office bearer of the Municipality, affecting their rights, property and reasonable expectations.

8.1.4 Receive regular disclosure of the state of affairs of the Municipality, including its finances.

8.1.5 Demand that the proceedings of Council and those of its committees are:

a)  Open to the public, subject to Section 20 of the said Act;

b)  Conducted impartially and without prejudice; and

c)  Untainted by personal self-interest;

8.1.6 Use and enjoy public facilities.

8.1.7 Have access to services delivered by the Municipality, provided that certain conditions are complied with.

8.1.8 Members of the community have the responsibility in terms of law when exercising their rights:

a)  To respect the rights of other members of the community.

b)  To observe the mechanisms, processes and procedures of the Municipality.

c)  To allow properly identified officials reasonable access to their property for the performance of authorised municipal tasks/activities.

d)  To comply with by-laws of the Municipality applicable to them.

e)  Where applicable and, subject to Section 97(1)(c), to pay promptly for service charges, surcharges of fees, rates on property and other taxes, levies and duties that may be imposed by the Municipality.

**9. COMMUNICATION**

**9.1 MEETINGS OF COUNCIL**

9.1.1 Notice will be given of the time, date and venue of every ordinary, and/or special or urgent Meeting of Council, except where time constraints make this impossible at least five (5) days before the meeting, by:

• publishing such notice in the local newspaper,

• broadcasting notifications via radio stations,

• displaying notices at designated municipal venues,

• vehicle loud-hailing,

• door-to-door visits,

• publication on the municipal website, or

• any other means that will assist the process.

**9.2 PUBLIC MEETINGS**

9.2.1 Members of the community will be invited to participate in open sessions where statutory determined processes, such as the IDP, the budget, policies and by-laws, and/or any other non-statutory processes are presented and reviewed.

9.2.2 Public meetings will be held at a place, time and venue convenient to the majority of people in a particular ward cluster.

9.2.3 Notices of public meetings will be published in the local print and broadcast media or any other suitable communication platforms, including the municipal website, at least five (5) days before the date of the meeting.

9.2.4 When deemed necessary, and when financially viable, pamphlets and loud-hailing may be used to publicise meetings.

9.2.5 Presentations made at such meetings must be in accordance with Council’s language policy.

9.2.6 Councillors will be informed of such meeting(s) before notice is given to the community.

9.2.7 Those entitled to special invitations to public meetings include: traditional leaders/authorities; Ward Committees; recognised business or civil society structures; and special guests.

9.2.8 Where public meetings are envisaged, a meeting schedule will be drawn up and advertisements placed in the local media and by any other means in accordance with municipal procedures set out in the Public Participation strategy. This process will allow the public to make direct input and contributions to what is to be contained in the IDP and Budget.

9.2.9 Prior to the public meeting, copies of the draft IDP and Budget must be made available over a period of twenty-one (21) days from the date of notification at designated municipal sites for perusal and comment by the public. Preliminary sessions with leading structures to ensure input from organised interest groups and ward communities may be held.

9.2.10 At the public meeting, a summary of the IDP and Budget will be verbally presented to communities at appropriate venues within ward clusters in a language most common to the community in question.

9.2.11 Submissions by the public may be made verbally at such public presentations or in writing in any of the two most commonly used languages of the region, i.e. IsiZulu and English.

9.2.12 Written submissions may be posted/e-mailed or hand-delivered at designated municipal sites.

**9.3 SUBMISSIONS BY THE PUBLIC**

9.3.1 Submissions by the public can be made in response to Council’s participatory processes, decisions, acts or omissions in any of the three main languages spoken in Newcastle, i.e. English and IsiZulu in the following ways:

a) Orally, at public meetings, Braille, sign language to be provided where possible, and in one-on-one interactions.

b)  Written submissions (letter, fax, e-mail, submitted document or any other means provided for by Council).

c)  Petition notice.

d)  Where practically and economically feasible, the Municipality will endeavour to make translators and transcribers available for the purposes of capturing the comments/submissions of the public in line with its Language Policy.

9.3.2. The above submissions will be:

a)  Consolidated and distributed for consideration by directorates and, where appropriate, any other relevant stakeholder.

b)  Considered for feasibility; and

c)  Where approved by the Municipal Manager, incorporated into Council’s strategic documents so that these may be reported on formally.

9.3.3 The decision to include or exclude community proposals from Council’s strategic plans, will be communicated to communities using the most appropriate communication tools available to Council.

**10. STATUTORILY DETERMINED PUBLIC PARTICIPATION PROCESSES AND MECHANISMS**

10.1 In terms of legislation the municipality is required to encourage and create conditions for community participation in the affairs of the municipality, including:

* The preparation, implementation and review of its IDP,
* The establishment, implementation, monitoring and review of its performance management system, including the outcome and the impact of such performance,
* The preparation and review of its budget, and
* Strategic decisions relating to the provision of municipal services

These are prescribed by legislation and the policy strives to give effect to prevailing legislative imperatives in this regard as set out below:

**10.2.1 MUNICIPAL BUDGET AND IDP REVIEW PROCESSES**

10.2.1.1 The Integrated Development Plan (IDP) is a five-year plan that informs the strategic agenda of Council and, together with the Budget, is reviewed annually. Initial community involvement and stakeholder consultation is an essential component of both processes. Over and above legislative compliance, the participation of members of the public in these processes constitutes good corporate governance and fulfils the spirit of government for the people by the people.

10.2.1.2 Consequently, members of the public must be invited and encouraged to make submissions with regard to both documents mapping the strategic priorities of the Municipality as per the guidelines in the Public Participation Procedure Manual.

10.2.1.3 The initial development of the content of the Budget and IDP must commence by no later than June of the preceding financial year for which the Budget and IDP are being prepared to ensure input into these processes by the community. The public must be extended an open invitation to make submissions for inclusion in the following year’s Budget for items that will be considered in the drafting of that Budget.

10.2.1.4 The IDP/Budget report-back sessions to the clusters will include direct responses to all the submissions received.

10.2.1.5 The cycle of inputs with regard to the IDP and Budget recommendations is consolidated during the last quarter of that calendar year, when contributions may have been gathered indirectly through representatives by way of Ward Committees and municipal officials or by way of institutional arrangements.

10.2.1.6 The Municipal manager’s office should ensure that public submissions are collected within seven days of the deadline.

10.2.1.7 All submissions will be acknowledged and recorded in a central register. These will be monitored and responded to.

10.2.1.8 The Municipal manager’s department should make hard and electronic copies of the IDP and budget available within 14 days of its adoption at designated municipal sites.

**10.2.2 POLICIES AND BY-LAWS**

10.2.2.1 Presentation of draft policies and by-laws to the public will be dealt with as follow:

a) The Executive Committee will grant approval to conduct public participation sessions.

b)  A schedule of public meetings will be determined through consultation with key stakeholders and then advertised in various formats (media, radio, pamphlets, etc.).

c)  The full version of the draft policy and by-law will be published in English and summaries will be made available in the two recognised languages of the Municipality, namely English and IsiZulu (subject to the availability of resources) and presented to communities in the respective clusters.

d)  A sufficient amount of copies for distribution will be made available in soft and hard copy for public comment.

e)  Public submissions (verbal or written) will be recorded, and submitted by the Municipal Manager to Council for consideration.

f) The legal services of the municipality will promulgate the adopted by-laws in the provincial gazette of the KZN province.

f)  Copies of the approved document or policy, or promulgated by-law will be made available in soft/hard format at the following sites of the municipality:

* Municipality website
* Municipal libraries
* Municipality’s designated offices and
* Public meetings

**10.3 SUBMISSIONS BY THE PUBLIC**

**10.3.1 CONSIDERATION OF PUBLIC COMMENTS**

10.3.1.1 The Public Participation unit is responsible for ensuring that public comments are channelled through the correct decision-making structures within Council, and for informing the public of outcomes of decisions taken by Council.

**10.3.2 PETITIONS**

10.3.2.1 The gathering of persons for the purposes of handing over a petition within the jurisdiction of the Municipality must be executed in accordance with the Regulations of Gatherings Act 205 of 1993. In terms of the said Act, notice of a public gathering must be given to the Municipality at least seven (7) days before commencement of the gathering. The convener and/or authorised member must liaise with the responsible officer of the Municipality to discuss the content of the notice and such conditions regarding the conduct of the gathering as may be deemed necessary. Such arrangements must include making provision for a designated person to receive the petition. Where the matter concerning the petition pertains to the decisions, conduct or an omission of the Municipality, a Portfolio or Ward Councillor may be called upon to receive the petition.

10.3.2.2 Petitions will be processed and dealt with in accordance with the Council adopted petitions policy of the Municipality.

**10.3.3 COMPLAINTS**

10.3.3.1 All complaints will be addressed to the Municipal Manager and may be submitted by way of Ward Council structures, municipal offices or any other mechanisms provided by Council.

10.3.3.2 Complaints may be submitted on an official form that must be relatively simple to complete, and could be submitted per e-mail or post. Complaints submitted must:

A) be legible;
b) clearly indicate the topic;
c) highlight the proposed solution/recommendation; and

d) Stipulate a reply address or contact details.

10.3.3.3 The Municipal Manager or his/her designated representative is responsible for responding to a petition or complaint within thirty (30) days of receipt of the petition or complaint in a manner appropriate to the matter at hand. These should also be submitted to the appropriate Portfolio Committee for record purposes.

**10.3.4 DEPUTATIONS AND INTERVIEWS**

10.3.4.1 Any person(s) who wish (es) to obtain an audience with Council or a committee of Council must submit a written application to the Office of the Speaker or the Municipal Manager.

10.3.4.2 Such an application must state the nature of the presentation the applicant wishes to make.

10.3.4.3 Whenever such an application is declined, the applicant must be furnished with reasons for the refusal.

**11. OTHER SPHERES OF GOVERNMENT**

11.1 Active co-operation between the various spheres of government will be promoted at all times.

**12 POLICY IMPLEMENTATION, MONITORING AND REVIEW**

12.1 Effect will be given to public participation within communities by implementing the Public Participation strategy and ward committee operational plan.

12.2 The public participation unit will report to council structures on a quarterly basis in respect of all public participation sessions held with the communities of the Newcastle local municipality.

12.3. The Office of the Speaker will monitor the implementation of the policy on a quarterly basis.

12.4 The Policy will be subjected to the process of public participation in accordance with the processes and mechanisms set out therein and communicated to members of the community, Councillors and officials, as determined by the Policy and its accompanying guidelines.

12.5 The Policy will be implemented on the date that is it adopted by Council and is subject to review, as and when required, in accordance with legislative reviews and/or every three years, whichever may apply first.

12.6 Should there be any conflict between this policy and any other policy of the municipality in relation to matters of public participation, the provisions of this policy will prevail.

12.7 Should there be any conflict between this policy and any other by-law of the municipality in relation to matters of public participation, the provisions of the By-law of the municipality will prevail.

**13 POLICY COMPLIANCE**

13.1 It is the responsibility of the Municipal Manager, together with the Office of the Speaker to ensure that institutional compliance in accordance with national and provincial policy regulatory frameworks and the Policy is achieved.