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## **SIGNIFICANCE POLICY AMENDMENTS 2013**

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### **1. Purpose of report**

This report presents proposed amendments to the Significance Policy for approval for consultation as part of the draft Annual Plan.

Officers have reviewed the Significance Policy in light of recent changes to the Local Government Act (2002). Minor amendments to the Significance Policy are recommended to reflect these changes.

### **2. Recommendations**

Officers recommend that the Strategy and Policy Committee:

1. *Receive the information.*
2. *Recommend that Council agree to consult on the proposed amendments to the Council's Significance Policy as part of the 2013/14 draft Annual Plan consultation process.*

### **3. Discussion**

The Council's Significance Policy was adopted in June 2012 as part of the 2012-2022 Long-term Plan. The Local Government Act 2002 (the Act) was amended in December 2012, including changes to the purpose of local government, and to the definition of 'significance'.

A policy on 'significance' is a requirement of the Act. The purpose of the Significance Policy is to provide guidance to officers, elected members and the public, for assessing the significance of decisions:

The use of the policy to record a local authority's understanding of its communities' expectations of what is significant makes it central to the purpose of local government *...to enable democratic local decision-making and action by, and on behalf of, communities.*<sup>1</sup>

The Significance Policy has overarching importance for local government decision-making. Case law reinforces that councils must take a sound approach

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<sup>1</sup> Auditor General 2004. Local Government: Results of the 2002-03 Audits. Office of the Auditor-General, Private Box 3928, Wellington.

to determining the significance of decisions, and must apply the Act's decision-making requirements, relative to the significance of each decision.<sup>2</sup>

### **3.1 Changes relevant to the assessment of significance**

Changes to the purpose of local government were enacted in December 2012 as part of the Government's reform programme for local government.

*The new purpose statement encourages local authorities to take a fresh look at what they are doing and why, and to seek guidance from their communities about what they want from their council now and into the future.*<sup>3</sup>

The Significance Policy draws its general approach and procedures for determining significance from the Act's definition of significance, and from its procedural requirements for decision-making (sections 77, 78, 80, 81 and 82). The Significance Policy also lists the assets the Council considers are of strategic importance for delivering community outcomes and well-being.

Officers took the following changes and considerations into account in assessing the impact of the changes to the Act on determining the significance of decisions:

- The overarching purpose of local government has not changed. Section 10(1)(b) continues to be to *“enable democratic local decision-making and action by, and on behalf of, communities”*.
- In the second part of section 10, local government's purpose to promote 'the four well-beings' has been replaced with: *“to meet the current and future needs of communities for good-quality local infrastructure, local public services, and performance of regulatory functions in a way that is most cost-effective for households and businesses”*.
- The only change to the procedural requirements for decision-making (sections 77, 78, 80, 81 and 82) was to section 77, where *“social, economic, environmental, and cultural well-being”* has been replaced with *“interests”*.
- Reference to 'the four well-beings' in the definition of significance have been replaced with *“the district or region”*.
- The definition of strategic assets, which includes the term 'well-being' is unchanged.

### **3.2 Implications for the assessment of significance**

The primary change above is the narrower scope of the second part of section 10 (the purpose of local government). While this narrower scope could affect the

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<sup>2</sup> For example see Council of Social Services in Christchurch/Otautahi Inc v Christchurch City Council (HC, 25/11/08); Whakatane District Council v Bay of Plenty Regional Council (CA, 03/08/10); Pascoe Properties Ltd v Nelson City Council (HC, 21/04/11).

<sup>3</sup> Department of Internal Affairs 2012. Better Local Government Factsheet, November 2012.

outcome, it does not affect the Council's approach or procedures for determining significance.

For example, "*most cost-effective*" has been added within section 10, assessing the cost-effectiveness of 'reasonably practical' options is already a requirement under section 77 of the Act. While the Council must now put more emphasis on cost effectiveness in decision-making, the framework for approaching decisions provided by the procedural requirements (sections 77, 78, 80, 81 and 82) remains the same.

Likewise the changes to the wording of the definition and section 77 will have little or no impact on the assessment of significance.

In summary, the following changes to the wording of the Significance Policy are recommended, to be consistent with the new definition of significance (quoted in section one of the Significance Policy). The Act's definition of significance is also incorporated into the Council's general approach to determining significance (Section 2). The 'four well-beings' are referenced within the procedures for assessing significance (section 3).

### **3.3 Changes to the Significance Policy**

Officers recommend the following minor amendments to the Significance Policy. The changes as detailed in Appendix 1 are to:

- amend the quoted definition of significance
- amend the Policy's general approach where it draws on the Act's definition of significance
- replace reference to the 'four well-beings' of the community within the Community Well-Being criterion, with 'Wellington City'.

The Act requires that the adoption of a Significance Policy, or any amendment, is consulted on using the special consultative procedure. It is therefore recommended that the proposed amendments are consulted on as part of the 2013/14 draft Annual Plan. An amended policy is attached.

### **3.3 Consultation and Engagement**

The special consultative procedure must be used to adopt or amend the Significance Policy.

### **3.4 Financial considerations**

There are no direct financial considerations.

### **3.5 Climate change impacts and considerations**

There are no direct climate change impacts and considerations.

### **3.6 Long-term plan considerations**

There are no direct Long-term plan considerations.

#### **4. Conclusion**

Officers have reviewed the Significance Policy in light of recent changes to the Local Government Act. Minor amendments are recommended to reflect these changes.

Contact Officer: Nigel Taptiklis, Policy Advisor

## SUPPORTING INFORMATION

### 1) Strategic fit / Strategic outcome

*The proposed amendments will align the Council's approach and procedures for assessing significance with recent amendments to the Local Government Act.*

### 2) LTP/Annual Plan reference and long term financial impact

*There are no direct financial or LTP/Annual Plan impacts.*

### 3) Treaty of Waitangi considerations

*There is no direct Treaty of Waitangi considerations.*

### 4) Decision-making

*This is not a significant decision.*

### 5) Consultation

#### a) General consultation

*The proposed amendments to the Significance Policy will be consulted on and adopted using the special consultative procedure.*

#### b) Consultation with Maori

### 6) Legal implications

*In relation to the assessment of significance, the implications of recent changes to the Local Government Act have been assessed as minor, and do not affect the Council's approach or procedures for assessing significance.*

### 7) Consistency with existing policy

*The recommendations of this report are consistent with existing policy.*

## Significance Policy

### 1 Introduction

- 1.1 The Council must ensure that its processes and decision-making comply with the Local Government Act 2002 (the Act). The Act gives Council discretion to decide the appropriate level of attention, consideration, disclosure, and consultation given to decisions, based on their relative importance to the district or region (section 79).
- 1.2 The Council must therefore consider the degree of significance of every matter; and ensure its consultation and decision-making processes are in proportion to the significance of the matters affected by the decision (section 79).
- 1.3 The Act requires that councils adopt a significance policy that sets out how the significance of a decision will be determined. Significance is defined within section 5 of the Act as:

*...the degree of importance of any issue, proposal, decision, or matter, which concerns or is before a local authority, in terms of its likely impact on, and likely consequences for, —*

~~(a) The current and future social, economic, environmental, or cultural well-being of the district or region.~~

**(a) the district or region:**

*(b) any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter:*

*(c) the capacity of the local authority to perform its role, and the financial and other costs of doing so*

- 1.4 The use of 'significant', for example in 'significant activity' or 'significant decision', refers to an activity or decision which has a high degree of significance, in relation to the above definition.
- 1.5 **This Significance Policy is required to show:**
- a) The Council's general approach to determining the significance of proposals and decisions.
  - b) Procedures, thresholds and criteria the Council will use in determining which proposals and decisions are significant.
  - c) A list of strategic assets owned by the Council.

### 2 General Approach

- 2.1 The Council will consider each proposal or decision in relation to issues, assets or other matters on a case-by-case basis to determine its significance. The significance of a decision will be assessed according to the likely impact of that decision on:

- ~~a) The current and future social, economic, environmental, or cultural wellbeing of the city.~~
- a) The current and future needs of Wellington City.**
- b) Any persons who are likely to be particularly affected by, or interested in, the issue, proposal, decision, or matter.
- c) The capacity of the Council to perform its role, and the financial and other costs of doing so.

2.2 The Act requires that any decision that significantly alters the level of service provided by the Council of a significant activity (including a decision to commence or cease such an activity), or transfers ownership or control of a strategic asset<sup>4</sup> to or from Council, can only be taken if “*explicitly provided for*” in the Long Term Plan (section 97). Usually, decisions assessed to be of high significance to the Council and community will be proposed within the Long Term Plan process so they:

- a) are linked to desired community outcomes
- b) are proposed in context with other major decisions
- c) are put before the community using established processes and timing
- d) meet legislative requirements.

2.3 There will be circumstances where a decision of high significance must be made outside of the Long Term plan process. In such circumstances, Council will ensure a consultation and decision-making process is followed in proportion with the high significance of the decision.

2.4 Every report to the Council or Council Committee must include a statement indicating whether or not the matter has been identified as significant.

2.5 For any matter considered significant, the report will address Council’s responsibilities under sections 77, 78, 80, 81 and 82 of the Act (as applicable). In general, these sections of the Act require the Council to:

- a) Consider all reasonably practical options, including the costs and benefits of those options, the extent to which they achieve desired community outcomes in an integrated and efficient manner, and their impact on the capacity of the Council to meet its statutory obligations.
- b) Consider the views and preferences of persons likely to be affected or have an interest in the matter.
- c) Identify and explain any significant inconsistency between the decision and any policy or plan adopted by the Council.
- d) Provide opportunities for Maori to contribute to the decision-making process.
- e) Promote compliance with the principles of consultation, including giving interested persons a reasonable opportunity to present their views.

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<sup>4</sup> Strategic assets are defined and listed in section 4 of this policy.

2.6 Council will ensure that in fulfilling the above requirements, the level of attention, consideration, disclosure, and consultation taken is in proportion to the significance of the decision.

### 3 Procedures for Assessing Significance

3.1 In general, the significance of an issue lies somewhere on a continuum from low to high. The Council has identified criteria to assess the degree of significance for the following areas:

- Community Wellbeing
- Community Interest
- Consistency with Existing Policy and Strategy
- Impact on Council’s capacity and capability

When a high degree of significance is indicated by factors or thresholds under two or more criteria, the issue is likely to be significant.

3.2 The criteria merely provide a trigger for identifying whether a matter is likely to be significant – they are provided to assist in the assessment of significance.

<b>Criterion</b>	<b>3.3.1 COMMUNITY WELLBEING</b>
	The extent to which the matter under consideration impacts on the <del>social, economic, environmental, or cultural well-being of the community</del> <b>communities of Wellington City</b> , now and in the future (Large impacts would indicate high significance).
<b>Factors and Thresholds</b>	Factors that might impact on community wellbeing are: <ul style="list-style-type: none"> <li>a) Any decision that would significantly alter the level of service provided by the Council of a significant activity (including a decision to commence or cease such an activity).</li> <li>b) Extent of costs, opportunity costs, externalities and subsidies.</li> <li>c) Uncertainty, irreversibility, and the impact of the decision in terms of the community’s sustainability and resilience.</li> </ul>
<b>High</b> <b>Low</b>	<b>Degree of Significance</b>
<b>LARGE IMPACT</b>	<b>LITTLE IMPACT</b>

<b>Criterion</b>	<p align="center"><b>3.3.2 COMMUNITY INTEREST</b></p> <p>The extent to which individuals, organisations, groups and sectors within the community are particularly affected by the matter.</p>
<b>Factors and Thresholds</b>	<p>Factors that would indicate a high degree of significance are:</p> <ul style="list-style-type: none"> <li>a) High levels of prior public interest or the potential to generate interest or controversy.</li> <li>b) Large divisions in community views on the matter.</li> <li>c) A moderate impact on a large proportion of the community.</li> <li>d) A large impact on a moderate number of persons.</li> </ul>
<p><b>High</b> <span style="float: right;"><b>Degree of Significance</b></span> <b>Low</b></p> <p><b>LARGE DIVISIONS IN COMMUNITY VIEWS</b> <span style="float: right;"><b>GOOD COMMUNITY AGREEMENT</b></span></p>	

<b>Criterion</b>	<p align="center"><b>3.3.3 CONSISTENCY WITH EXISTING POLICY AND STRATEGY</b></p> <p>The extent to which the matter is consistent with the Council's current policy and strategy.</p>
<b>Factors and Thresholds</b>	<p>Factors that would indicate a high level of significance are:</p> <ul style="list-style-type: none"> <li>a) Decisions which are substantially inconsistent with current policies and strategies.</li> </ul>
<p><b>High</b> <span style="float: right;"><b>Degree of Significance</b></span> <b>Low</b></p> <p><b>INCONSISTENT WITH OTHER STRATEGY AND POLICY</b> <span style="float: right;"><b>WELL WITHIN OTHER STRATEGY AND POLICY</b></span></p>	

<b>Criterion</b>	<b>3.3.4 IMPACT ON COUNCIL'S CAPACITY AND CAPABILITY</b> The impact of the decision on the Council's ability to achieve the objectives set out in its Long-term Financial Strategy, Long-term Plan and Annual Plan.
<b>Factors and Thresholds</b>	Factors that would indicate a high level of significance are: a) Transfers of strategic assets to or from council. b) High capital or operational expenditure. c) A financial transaction with a value of greater than 10% of rates revenue in the year of the decision.
<b>High</b> <b>Low</b>	<b>Degree of Significance</b>
	
<b>LARGE IMPACT</b>	<b>LITTLE IMPACT</b>

## 4 Strategic Assets

4.1 Any decision that transfers ownership or control of a strategic asset to or from Council, can only be taken if “*explicitly provided for*” in the Long-term Plan.

4.2 **Definition:** Strategic assets are defined in section 5 of the Act as:

*...an asset or group of assets that the local authority needs to retain if the local authority is to maintain the local authority's capacity to achieve or promote any outcome that the local authority determines to be important to the current or future well-being of the community; and includes:*

- (a) *any asset or group of assets listed in accordance with section 90(2) by the local authority, and*
- (b) *any land or building owned by the local authority and required to maintain the local authority's capacity to provide affordable housing as part of its social policy, and*
- (c) *any equity securities held by the local authority in*
  - (i) *a port company within the meaning of the Port Companies Act 1988:*
  - (ii) *an airport company within the meaning of the Airport Authorities Act 1966.*

4.3 **List Criteria:** From the definition above, strategic assets to be listed in this policy include any asset of group of assets that Council determines to be

important to achieving its community outcomes, or must be listed under clauses (b) and (c) above.

In addition, asset or groups of assets will be listed as strategic if Council ownership or control is essential to the long-term provision of the associated service.

4.4 The Council will take a group or whole of asset approach. Without limiting the application of this provision to other assets, the following examples of the application of the Policy to group assets are given:

- a) Water supply network assets, means those group assets as a whole and not each individual pipeline, reservoir, and pump station. The Council does not consider that addition or deletion of parts of that group asset (being a part of the group asset as a whole) will affect the overall group assets strategic nature.
- b) Roading and reserve assets (respectively), means those group assets as a whole. Therefore if the Council acquires land for a new road (or the formed road itself) or new reserve lands as a result of subdivision, these additions are part of the day to day business of managing the roading and reserves assets.

#### 4.5 List of Strategic Assets

<b>Asset</b>	<b>Strategic Importance</b>
Equity in Wellington International Airport Limited	Listed under section 5 of the Act.
The public rental housing held by Council to maintain affordable housing	Strategic importance for social and economic well-being.
The sewage collection, treatment and disposal system, including the sewer network, pump stations and treatment works	Strategic importance for the delivery of all outcomes and well-beings.
The land drainage system, including the storm water pipe network, waterways, and retention areas.	
The water supply system, including reservoirs, pump stations and reticulation	
The roading network including the public transport infrastructure system	
The Council's brand, Absolutely Positively Wellington	
The core data set used to deliver Council services	

Waterfront land and assets held on trust by Wellington Waterfront Limited for Council	Assets of strategic importance for delivering social, cultural or environmental well-being.  Services provided to the community include access to heritage, art, information and recreation.  Linked to Connected City, People-centred City, Dynamic Central City and Eco-City outcomes.
The Town Hall and Convention Centre complex	
St James Theatre and Opera House, Embassy Theatre	
Artwork and literature collections, including public art and collections held by libraries	
The buildings and collections of the Museum of the City and Sea, City Gallery, Plimmer's Ark Gallery, Colonial Cottage Museum, Wellington Cable Car Museum and the Carter Observatory	
Reserves lands, including the Town Belt, PFSI land held under the Reserves Act and land used for parks, cemeteries, gardens, sports fields and recreational areas	
Swimming Pool Facilities	
The ASB Sports Centre	
Community Centres	
Wellington Zoo	
The Quarry	Strategic importance for social and economic well-being.
Southern Landfill	