



## POLICY ON SIGNIFICANCE

### SIGNIFICANCE POLICY

#### 1. BACKGROUND

Hutt City Council was required by section 90 of the Local Government Act 2002 to, by 30 June 2003, adopt a policy setting out:

- Its general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and any thresholds, criteria, or procedures that are to be used in assessing the extent to which issues, proposals, decisions, or other matters are significant
- The policy must list the assets considered by Council to be strategic assets
- The policy may be amended from time to time
- A council must use the special consultative procedure both in relation to:
  - a. the adoption of the policy
  - b. the amendment of the policy.

#### 2. PURPOSE

All decisions Council makes must be made in accordance with the decision-making requirements of the Local Government Act 2002 (set out in sections 76-81). Council must make judgements about the appropriate level of compliance with those requirements, largely in proportion to the “significance” of the matters affected by the decision (section 79 of the Act).

The level of “compliance” with the decision-making requirements in the Act includes (section 79(1)(b)):

- The extent to which different options are to be identified and assessed
- The degree to which benefits and costs are to be quantified
- The extent and detail of the information to be considered
- The extent and nature of any written records kept as to compliance.

If a decision is determined to be “significant” in accordance with the general approach, thresholds, and criteria set out in this policy, a higher standard of compliance is required, including considering whether specific consultation or further assessment of the options is required.

#### 3. DEFINITIONS

Section 5 of the Local Government Act 2002 defines “*significance*”, “*significant*” and “*strategic asset*” as follows:

**significance**, in relation to any issue, proposal, decision, or other matter that concerns or is before a local authority, means the degree of importance of the issue, proposal, decision, or matter, as assessed by the 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
- (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.

**significant**, in relation to any issue, proposal, decision, or other matter, means that the issue, proposal, decision, or other matter has a high degree of significance.

**strategic asset**, in relation to the assets held by a local authority, means 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. GENERAL APPROACH

In accordance with the definitions set out in Section 3 above, Council, in determining whether an issue, proposal, or other matter requiring a decision is of significance, will consider the likely impact of that decision on:

- The social, cultural, economic and environmental well-being of the city, now and in the future
- The ability of Council to achieve its strategic objectives as set out in the Community Plan
- The capacity of Council to perform its role and carry out its services or activities, and the cost of doing so, now and in the future
- Any persons who are likely to be affected or particularly interested in the issue, proposal, or matter.

In determining whether any issue, proposal, or other matter requiring decision is of significance consideration will also be given to sections 5 and 6 of this policy.

#### 5. THRESHOLDS

When undertaking a process to determine whether an issue, proposal, or other matter is significant Council will consider the following thresholds:

- Any transfer of ownership or control, or the disposal or abandonment of a strategic asset in its entirety
- The loss of Council control of any Council-controlled trading organisation or Council-controlled organisation
- A decision that will, directly or indirectly, severely affect the capacity (including financial capacity) of Council to carry out any activity identified in the Community Plan
- Entry into any partnership with the private sector to carry out a significant activity.

If an issue, proposal, or other matter requiring decision does not meet one or more of the above thresholds, sections 4 and 6 of this policy should still be considered in determining whether or not it is significant.

#### 6. CRITERIA

In considering whether any issue, proposal, or other matter requiring decision is significant Council will consider whether:

- The issue, proposal, or other matter affects all or a large portion of the community in a way that Council considers is not inconsequential
- The impact or consequences of the issue, proposal, or other matter on the affected persons will, in Council's view, be substantial
- The financial implications of the issue, proposal, or other matter on Council's overall resources are, in Council's view, substantial
- The issue, proposal, or other matter has the potential to, in the view of Council, generate considerable public controversy.

#### 7. PROCEDURE

In achieving this policy the following procedure will be applied:

- Where any issue, proposal or other matter is considered to be significant the Chief Executive will report the matter to Council including an assessment of the degree of significance of the issue, proposal, or other matter, and how appropriate compliance with sections 77-82 of the Local Government Act 2002 will be achieved
- Council will report in its Annual Report on all issues, proposals, or other matters determined to be significant, and subject to the procedure outlined in sections 76, 77, 78, 80, & 81 of the Local Government Act 2002 as appropriate.

## 8. STRATEGIC ASSETS

In accordance with section 90(2) of the Local Government Act 2002 Hutt City Council considers the following assets to be strategic:

- Wastewater Network and Treatment Plant in its entirety
- Roading Network in its entirety
- Stormwater Network in its entirety
- Water Supply Network in its entirety
- Silverstream Landfill
- Parks and reserves and open space network managed as reserves of city-wide importance
- TheNewDowse and Settlers' collections in their entirety.

Council considers each group of assets listed above to be, in its entirety, a strategic asset. An issue, proposal, or other matter relating to a group of assets will not be considered significant unless it concerns the whole group of assets and not an individual component, unless the issue, proposal, or other matter regarding an individual component is considered significant in terms of this policy.

## 9. QUALIFICATION

Council may elect not to consult on an issue, proposal, or other matter requiring a decision considered significant in terms of this policy if that issue, proposal, or other matter is still subject, at a future date, to statutory processes such as those set out in the Resource Management Act or Reserves Act and after taking into account the financial implications of consulting on the matter.

## POLICY ON PARTNERSHIPS WITH THE PRIVATE SECTOR

- (1) A policy adopted under section 102(4)(e) –
- (a) must state the local authority's policies in respect of the commitment of local authority resources to partnerships between the local authority and the private sector; and
- (b) must include –
- (i) the circumstances (if any) in which the local authority will provide funding or other resources to any form of partnership with the private sector, whether by way of grant, loan, or investment, or by way of acting as a guarantor for any such partnership; and
  - (ii) what consultation the local authority will undertake in respect of any proposal to provide funding or other resources to any form of partnership with the private sector; and what conditions, if any, the local authority will impose before providing funding or other resources to any form of partnership with the private sector; and
  - (iii) an outline of how risks associated with any such provision of funding or other resources are assessed and managed; and
  - (iv) an outline of the procedures by which any such provision of funding or other resources will be monitored and reported on to the local authority; and
  - (v) an outline of how the local authority will assess, monitor, and report on the extent to which Community Outcomes are furthered by any provision of funding or other resources or a partnership with the private sector.
- (2) In this section partnership with the private sector means any arrangement or agreement that is entered into between one or more local authorities and one or more persons engaged in business; but does not include:
- (a) any such arrangement or agreement to which the only parties are:
    - (i) local authorities; or
    - (ii) one or more local authorities and one or more council organisations; or
  - (b) a contract for the supply of any goods or services to, or on behalf of, a local authority.

The policy can only be amended as an amendment to the Community Plan.

### PURPOSE

The policy is linked to the statutory principle that a local authority should collaborate and co-operate with other local authorities and bodies as it considers appropriate to promote or achieve its priorities and desired outcomes, and make efficient use of its resources (section 14(e) of the Local Government Act refers).

This policy only applies to partnerships with the private sector. "Partnership with the private sector" is defined in the Local Government Act to mean any arrangement or agreement that is entered into between one or more local authorities and one or more persons engaged in business, but does not include:

- Arrangements or agreements to which the only parties are local authorities or one or more local authorities and one or more council organisations
- A contract for the supply of goods or services to, or on behalf of, a local authority.

To clarify, Council has considered this definition with regard to the apparent overall intent of the legislation and the nature of Council's business. Council has determined that specifically this policy shall apply to:

- Arrangements or agreements for provision of grants, loans, guarantees, or investments between Council and persons engaged in business
- Agreements for a venture where Council participates with a person engaged in business with some joint objective
- Any agreement with a person engaged in business to form a Council organisation, or any agreement to sell shares in a Council-controlled Organisation or Council-controlled Trading Organisation to a person engaged in business (this will be in addition to the requirements of section 56 of the Local Government Act if applicable).

but shall NOT apply to:

- Contracts between Council and its ordinary suppliers of goods and services (for example, purchase of office supplies or legal services)

- Contracts between Council and its customers for the ordinary supply of goods and services (for example, sale of swimming equipment or provision of various consents or licences)
- Contracts for the supply of goods and services between Council and its agents for undertaking activities of Council (such as building or maintaining roads)
- Borrowing by Council and the investment of Council's funds purely for financial gain as these transactions will be addressed in the Liability Management and Investment Policies respectively
- Agreements with or grants to community organisations, charitable trusts and other community groups, government departments, not-for-profit organisations, other local authorities and Council-controlled Organisations where the other organisation is to supply any goods or services to, or on behalf of, Council
- Memoranda of Understanding or Heads of Agreement where Council is not providing any funding or other significant resources to the other party.

#### **CIRCUMSTANCES UNDER WHICH COUNCIL MAY CONSIDER A PARTNERSHIP WITH THE PRIVATE SECTOR**

Council may consider a partnership with the private sector where there are benefits to Council of committing resources to a partnership with the private sector such as when:

- A need, that a partnership with the private sector would address, has been defined in measurable terms
- The partnership is the most effective means of realising Council's strategic goals or Community Outcomes as defined in Council's Community Plan
- The partnership will lower the cost of the provision of identified services to the community
- Risk allocation is shared equitably
- There is scope for the private sector to contribute particular skills and/or innovative capacity.

#### **CONSULTATION**

Council will only undertake consultation in respect of any proposal to provide funding or other resources to any form of partnership with the private sector if that partnership is determined to be significant in terms of Council's approved Significance Policy. Council will generally not undertake consultation in respect of a proposal to provide funding or other resources to any partnership with the private sector that is not considered significant.

#### **CONDITIONS**

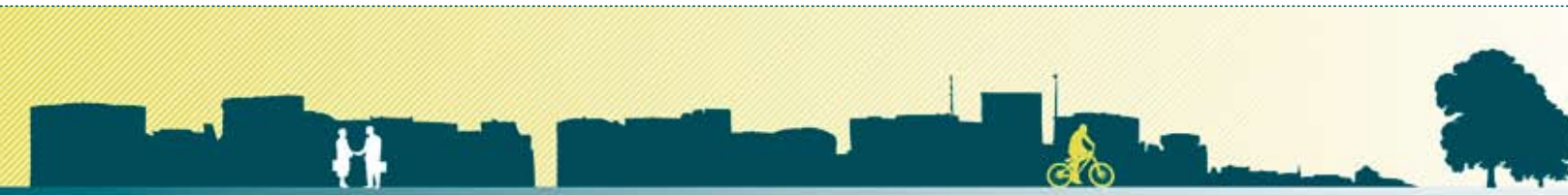
The conditions any Public/Private Sector partnership will be subject to will depend on the nature of the partnership but will include the following where appropriate:

- Private sector participation will be subject to approved procurement processes, with an emphasis on transparency and disclosure of processes and outcomes, acknowledging the need to protect commercial confidentiality where appropriate
- Any proposed partnership will be assessed against Council's policies, plans, strategic goals and Community Outcomes as specified in the Community Plan
- Outputs will be clearly specified including measurable performance standards
- The partnership is compliant with other relevant legislation
- All private sector parties will be fully accountable to Council for the delivery of the specified project and/or services.

#### **RISK MANAGEMENT**

Council will assess and manage any risks associated with any Public/Private Sector partnership in the following manner:

- Risk will be assessed, monitored and reported in accordance with Council's risk management framework
- Risk allocation between the partners will be clear and enforceable, with consequential financial outcomes



- The major principle governing risk will be a risk transfer regime where risk will be transferred to whoever is best able to manage it, taking into account public interest considerations
- Each party must have the freedom to choose how to handle and minimise any risk
- Where Council is not the only user of an asset, demand (or volume/usage) risk may also be transferred.

#### **MONITORING AND REPORTING**

Council will monitor and report on a Public/Private Sector partnership by:

- Ensuring transparency and disclosure of key processes and outcomes
- Clearly setting out responsibilities for the monitoring of outcomes
- Monitoring and reporting progress on partnership contracts in accordance with Council's financial and programme reporting regime
- Assessing and monitoring Community Outcomes as required under the Local Government Act 2002 Annual Report requirements.