



Kaipara District Council

draft

2012/2022 Ten Year Plan
Policy on Significance

Draft for inclusion in the Long Term Plan



Kaipara te Oranganui

**KAIPARA
DISTRICT**

Two Oceans Two Harbours

draft

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Policy on Significance

1 Background

The statutory requirement for Council to adopt a Policy on Significance is part of new decision-making requirements that work towards 'democratic local decision-making'. The Act requires the degree of significance to be assessed with each decision or proposal made by the Council. The Policy on Significance guides staff and Council when using discretion to assess the level of significance of a decision. The level of significance will then guide the level of robustness to be applied to the decision-making process (i.e. assessment of options, quantification of benefits and costs, the extent and detail of information to be provided, etcetera).

Almost all of Council's functions involve some form of decision-making. The decision-making requirements of the Act lay out the criteria that must be considered when making these decisions. According to section 79 (1) it is the responsibility of a local authority to make judgements in its discretion on how to achieve compliance with these requirements and the extent to which written records are to be kept. The Policy on Significance provides a tool by which Council can assess the relative importance of a decision in order to then judge the level of rigour to be employed when observing the Act's decision-making requirements.

Significance needs to be considered as if on a scale or continuum between 'not significant' and 'very significant'. Rather than thinking of it in a black and white sense, it needs to be considered in shades of grey. The more significant a decision or proposal, the greater attention Council will need to apply to the robustness of the statutory process of decision-making.

The Policy can be considered a tool that provides a framework identifying which issues to consider, how to assess their level of significance and set of procedures to be performed if significance is identified.

It may also be useful to think of the Policy as a tool for identifying when a decision may be potentially troublesome (according to the criteria) and provoke future social, economic, cultural or environmental conflict. The Policy therefore prompts Council to anticipate if a decision may be contentious or problematic, and then requires Council to take appropriate observance of the decision-making requirements. This will serve to provide both transparency and efficiency of process, and ensure that Council is optimally prepared for any potential future conflict.

Section 79 (2) of the Act states that when making judgements about the rigour to be employed in the decision-making process, regard must be given to the principles of local government as laid out in section 14 of the Act. These principles include (but are not limited to) transparency, accountability, the views and diversity of the community and the impact on the community. Therefore these factors must be considered in assessing the degree of significance.

The legislative requirements are set out in section 90 of the Act, as follows:

“90 Policy on significance

- (1) Every local authority must adopt a policy setting out-*
 - (a) that local authority’s general approach to determining the significance of proposals and decisions in relation to issues, assets, or other matters; and*
 - (b) any thresholds, criteria, or procedures that are to be used by the local authority in assessing the extent to which issues, proposals, decisions, or other matters are significant.*
- (2) The policy adopted under subsection (1) must list the assets considered by the local authority to be strategic assets.*
- (3) A policy adopted under subsection (1) may be amended from time to time.*
- (4) A local authority must use the special consultative procedure both in relation to-*
 - (a) the adoption of a policy under subsection (1); and*
 - (b) the amendment, under subsection (3), of a policy adopted under subsection (1).”*

In respect to section 90 (2), the Act defines “Strategic Assets” as follows:

A “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 wellbeing 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-*
 - a port company within the meaning of the Port Companies Act 1988:*
 - an airport company within the meaning of the Airport Authorities Act 1966.”*

In respect to “strategic assets”, a key consideration is whether the assets are essential to the continued delivery of an “outcome” that Council considers important for the well-being of the community. Decisions to transfer ownership or control of a strategic asset to or from Council or to construct, replace or abandon a strategic asset cannot be made unless they are first included in the Long Term Plan.

In addition, the legislative definitions of “significance” and “significant” must also be taken into account when preparing Council policy. The definitions indicate the standards and tests that are relevant in considering the issue. The definitions are 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.

2 Factors to Consider

2.1 ‘Significance’ and the Four Well-beings?

The requirement to consider the “four well-beings” would indicate that assessment of thresholds, criteria, and procedures in terms of significance should also include these matters as well as financial considerations.

In respect to financial considerations, options available could include; capital cost, operational cost or operational revenue or a combination of these factors. These factors could be used as absolutes (say all proposals above a certain dollar amount or as a proportion (say, of the annual budget or activity budget)). An alternative or additional measure may be to utilise an affordability measure. This could relate to costs per property per annum on a one off basis or on an ongoing basis.

It is more difficult to determine significance in respect to the four “well-beings” because these matters are not easily measured. A method of doing so may be to assess if decisions will promote the district Community Outcomes.

Consideration of persons likely to be affected could relate to the numbers of persons affected and/or the nature of that effect from an economic, social or cultural perspective.

2.2 Implications of 'Significance'

The identification of a significant decision or proposal does not necessarily trigger a special consultative procedure. The Act stipulates that significant decisions must comply with all decision-making requirements. The nature, extent and degree of compliance necessary to satisfy section 76 will vary from decision to decision. Section 79 gives each local authority the discretion to make judgements about how to achieve compliance with the decision-making requirements in any particular instance, having regard to the significance of the matters affected by the decision, the principles relating to local authorities and the resources available to the local authority. In other words, what is appropriate will depend on the relative importance of the issue to the district.

3 Objectives

The objective of this policy is to provide a document that both satisfies the statutory requirements of the Local Government Act 2002, and provides Council with a policy tool that clearly guides efficient assessment of significance during decision-making.

4 Options

The adoption of a Policy on Significance is a statutory requirement and therefore not optional. While Council has adopted a current policy within the 2004/2014 Long Term Council Community Plan, this Policy has been experienced in practice as unclear, overly quantitative, and as having insufficient sensitivity to community aspirations and opinion. This current Policy commits to review not less than every three years.

The amended draft Policy on Significance has been reviewed with these issues in mind. Set thresholds have been refined and a more detailed list of criteria has been included. These criteria seek to gauge a decisions level of impact upon the communities which Council serves.

5 Implementation

This Policy will be implemented by all Council staff and elected representatives when making decisions and assessing proposals. It will be incorporated into the Long Term Plan and become a part of the formal decision-making processes of the organisation. In accordance with the procedures outlines in this Policy, all reports will include statement that significance has been considered, and if deemed significant will explain why it is considered to be so, and also include a statement addressing the appropriate observance of sections 77, 78, 80, 81 and 82 as are applicable.

6 Risks

Adoption of this Policy is a statutory requirement and non-adoption would place Council in breach of these requirements.

7 Policy Statement

7.1 General Approach to Determining which Proposals and Decisions are Significant (section 90 (1)(a))

In considering whether any issue, proposal, decision or other matter is of significance under this policy Council will be guided by the following matters:

- The likely impact/consequences of the issue, proposal, decision or other matter, on the current and future social, economic, environmental, and cultural well-being of the community;
- Consistency with Community Outcomes identified under sections 91 and 92 of the Local Government Act 2002;
- The parties who are likely to be particularly affected by or interested in the issue, proposal, decision or other matter;
- The likely impact/consequences of the issue, proposal, decision or other matter from the perspective of those parties;
- The financial and non-financial costs and implications of the issue, proposal, decision or other matter having regard to Council's capacity to perform its role.

7.2 Thresholds, Criteria and Processes for Determining which Proposals and Decisions are Significant (section 90(1)(b))

When undertaking a process to determine the extent to which issues, proposals, decisions or other matters are significant, Council will use the following thresholds, criteria and procedures:

7.2.1 Thresholds:

A decision will be deemed significant if:

- it involves more than \$3,000,000 or more budgeted expenditure
- it involves \$300,000 or more unbudgeted expenditure
- the decision impacts by increasing individual rates levies by 10%

7.2.2 Criteria:

The significance of all decisions (other than those addressed by Section 97) is to be assessed by the application of the following criteria.

- The extent and quality of the decisions impact on individuals and/or groups.
- The number of people affected.
- Consistency with existing Council plans and documents.
- Levels of public interest.

Each of these criteria will be assessed on a continuum between low and high, and this will correlate to the degree of significance and importance of the decision.

The following outlines the way in which each criterion is to be applied. When assessing decisions or proposals against these criteria, the implications of the decision or proposal will be rated on the scale between the high and low extremes. The higher the corresponding number will indicate a greater the degree of significance. Each of these criteria will be applied where applicable.

Significance Assessment Criteria

| | | | | |
|--|---|---|-----------------------------------|---|
| 1. <u>Potential Impact on Individuals and Groups</u> | | | | |
| 1 | 2 | 3 | 4 | 5 |
| Low | | | High | |
| Here this criterion seeks to identify extent and quality (positive or negative) of the impact on the well-being of individuals and/or groups. The cultural values of each population cohort need to be taken into account in this assessment. | | | | |
| 2. <u>The Number of People Affected</u> | | | | |
| 1 | 2 | 3 | 4 | 5 |
| No people affected | | | All ratepayers/residents affected | |
| Here this criterion seeks to identify how many people are going to be affected by this decision or proposal in some way. | | | | |
| 3. <u>Consistency with Existing Council Policies and Plans</u> | | | | |
| 1 | 2 | 3 | 4 | 5 |
| Consistent | | | Inconsistent | |
| Here this criterion seeks to identify if a decision or proposal sits consistently with previously adopted documents, strategic and political directions. | | | | |
| 4. <u>Potential for the Promotion Community Outcomes.</u> | | | | |
| 1 | 2 | 3 | 4 | 5 |
| Promotes | | | Detracts | |
| Here this criterion seeks to identify if the degree to which decision or proposal supports the aspirations and interests local communities as identified in Community Outcomes. | | | | |

5. Levels of Public Interest in the Matter

1 2 3 4 5

Uninterested community

Very interested community

Here this criterion seeks to identify if ***intensity and/or distribution of public interest*** are high enough to deem the decision or proposal as significant to the district's communities

Each decision or proposal is to be considered in relation to each of these criteria. Professional judgment and discretion needs to be employed in the process of assessment. Significance may be indicated by a high score, 4 or 5 points, in one or more criteria. Significance may also be indicated by a medium score over multiple criteria.

While this Policy sets out distinct financial thresholds, there may be financial decisions that do not trigger these thresholds but need to be considered as significant. Decisions will be made with sensitivity to a decisions potential impact on, and interest held within, the community. Generally the greater the amount of money concerned, the higher impact on the community, higher levels of public interest, and therefore a higher level of significance. However this is not necessarily definitive. There may be some cases in which small financial transactions may attract great public interest, while some large financial transactions me accrue very little attention at all. Council may take into account knowledge it has previously gained about community opinion e.g. community plans, community outcomes, previous public debate and public submissions.

7.2.3 Procedures:

The following procedures will be applied:

- If the decision is considered to be significant, reports will include a statement indicating why the matter is considered to be significant. This statement will include an explanation which assessment criteria had been triggered and the potential implications of the decision.
- Where the proposal or decision is considered to be significant, the report will also include a statement addressing the appropriate observance of sections 77, 78, 80, 81 and 82 as are applicable;
- Once an issue, proposal, decision or other matter is determined as significant in accordance with the application of this policy, appropriate observance of the decision-making provisions of the Local Government Act 2002, will be undertaken.
- An accordance with section 77 (c) of the Act, when significant decisions relate to any land or body of water, Council will take into account the relationship of Maori and their culture and traditions with their ancestral land, water, sites, waahi tapu, valued flora and fauna and other taonga.

In Accordance with Section 90 (2) of the Local Government Act 2002, Council has Identified the Following Strategic Assets and Groups of Strategic Assets

For the purpose of section 90(2) of the Act, Council considers the following assets to be strategic assets:

Infrastructural Fixed Assets owned or maintained by the Kaipara District Council relating to:

- Roads
- Water
- Stormwater
- Wastewater
- Reserves
- Community Housing

8 Measurement and Review

This Policy shall be reviewed every three years in line with the Long Term Plan timetable.

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