

Waikato District Council

Lease Portfolio Overview

20 November 2023

Agenda

Portfolio Snapshot

- Council Portfolio
- Issues

Framework for occupation of Council land

- Relevant Legislation
- Current and Proposed Policies
- Delegations

Fees and Charges

- Commercial vs community rentals

Consultation and Engagement

- Framework for consultation
 - JMA & Crown Derived



Council Portfolio

A snapshot of the current Council Portfolio

Council Portfolio

Community and Commercial groups occupy a range of Council land. The main land types include:

- Reserves managed under the Reserves Act 1977
 - Recreation and Local Purpose Reserves make up the majority of leased Council Reserves
- General Council Land
 - Fee simple land (purchased by Council or gifted)
 - Includes endowment land
 - Raglan Harbour Board Land – Held for a wharf and harbour
 - Gifted by Community Groups – For the benefit of the Community
- Land held for Public Works
 - Includes land acquired under the Public Works Act 1981
- Roads (unformed or formed)

Council Portfolio

- Reserves - Reserves Act 1977
 - Reserve types
 - Recreation, local purpose, scenic, historic, etc
 - All have their own separate purpose and regime under the Act.
 - The origin of acquisition also impacts our decisions
 - Crown derived reserves (JMA/Confiscation areas)
 - Land might be purchased by Council or gifted via subdivision and then classified by Council
 - Is Council appointed to control and manage the Reserve or vested? This changes Councils delegations.
- When granting a lease
 - Public Notification required unless in conformity with the Reserve Management Plan
 - Needs to fit the purpose of the reserve classification (recreation, local purpose, scientific, scenic)
 - Maximum term of up to 33 years (but can be renewed)

Council Portfolio

- General Land owned by Council – Local Government Act 2002, Property Law Act 2007
 - No maximum term, but Resource Management Act considers any term beyond 35 years a subdivision and should be avoided on Council land
 - There are less legislative limitations on general land compared to Reserves, but any use should be appropriate for Council land.
 - Consultation may be required if the land is considered a park under the Local Government Act 2002
 - Council needs to consider whether the land is vested in trust for a purpose (endowment land)
 - This includes land such as:
 - Raglan Harbour Board Land – Endowment for a wharf and harbour
 - Gifted by Community Groups – For the benefit of the Community

Council Portfolio

- Public Works Act 1981
 - Land acquired under the Public Works Act 1981 for a specific public purpose may be leased.
 - Council doesn't see many of these but it is an option if appropriate.
- Roads (unformed or formed)
 - Council rarely sees leases on roads
 - Licences may be granted for occupation of Council road
 - Leases or licences may only be granted where they do not block the passage of vehicles or pedestrians
- Council as Lessee – where we lease land and buildings from other parties

Council Portfolio Snapshot

Active	Total	Being Processed	Revenue
Commercial Leases	44	5	\$608,578.30
Community Leases	55	13	\$9,916.73
Licences to occupy	39	2	\$95,723.46
Residential Tenancy & Elder Housing	35	1	\$348,290.00
Council as Lessee	38	2	\$432,289.09



System Improvements

1. Improving Historical Records
2. Reviewing our Lease Rentals
3. Recovering Lease Outgoings
4. Update Council Policy
5. Identifying occupiers / encroachments on Council land
6. Understanding engagement with mana whenua





Historical records

- Strategic Property has reviewed and improved the lease/licence portfolio to ensure data is accurate and reliable.
- The portfolio now provides proactive notifications and tracking of all lease/licence milestones:
 - Rent review, renewals, expiry dates, other milestones



Reviewing Lease Rentals

- Lease rental is determined by the land status, its market value, the Lessee's use and community based rental

Current Policy:

- Commercial lease rental – Set at market rent
- Community lease rental
 - \$10.00 p/a + GST – Lessee owns building
 - \$520.00 p/a + GST – Lessee uses Council building
- Review of rents needed
 - \$10.00 does not recover costs for the admin costs/time to invoice



Reviewing Lease Rentals

- What is a suitable Community Lease Rental formula?
 - Council understands that community groups have limited funding, rising costs and in many cases operated entirely by volunteers
 - Community groups will need time to plan for any increase in rents
 - Different community groups have different financial stability and revenue sources



Reviewing Lease Rentals

What is a suitable Community Lease Rental formula?

- Options
 - One size fits all
 - Fixed Fee adjusted annually?
 - How much is appropriate?
 - Cost recovery ? - which costs?
 - % Land Value?
 - Tiered system to fit financial stability of groups
 - Revenue generating lessees,
 - Externally funded lessees
 - Self funded by donations and volunteers
 - Allocate Lessees to a rental tier
 - Our Council's approaches



Reviewing Lease Rentals

- Elder housing tenancies have historically been below market rental. Currently \$208 per week. Fixed in User Fees & Charges
- Currently reviewing residential tenancies to market rent
- Sale of Elder housing is underway. Their rental will be considered once their future has been determined

Outgoings

- Outgoing recovery has not been actively managed historically (eg. rates, water rates, insurance).
- Commercial lease outgoings is being recovered from this financial year forward.
- Strategic Property proposes to advise community lessees of their likely outgoings and plan to recover for the next financial year
 - Notice will be given to lessees shortly
 - Council will need to ensure any increase in Community lease rental combined with outgoing recovery will not unduly impact Community Groups



Policy



Current occupation policy is spread across:

- Cellular Network Site Policy 2008
- Licences /Grazing Policy 1990
- Leases to individuals and commercial organisations policy 2010
- Leasing of Reserve Land Policy 2010
- Property Management Policy 2010
- Sponsorship and advertising on Council land policy
- Roading guideline



Combining Policy for Simplicity

- Use of Council Land Policy
 - Covers leases, licences and easements on all Council land
- Acquisition and Disposal of Council Interest Policy
 - Purchase and sale of Council land
 - Easements/interests on private land
- Occupation or Acquisition of Legal Road Policy
 - Road stopping
 - Occupation of legal road (formed or unformed)





Existing occupations, encroachments and opportunities

- Encroachments and occupations of Council land, not currently documented
- Process to identify, review and formalise (where appropriate)
- Ensure every occupier of Council land has an appropriate licence / lease to be there.
- Opportunity to improve revenue streams, ensure terms of occupation are current and clear
- Further opportunities to reduce Council operating costs, by leasing vacant land.



Engagement with Mana Whenua

- Strategic Property is working to understand what consultation looks like for its leasing portfolio.
- Understanding our obligation under legislation, treaty settlements and wider policies/agreements. Key sources:
 - Waikato River settlement - Joint Management Agreement
 - Reserves Act 1977 and Conservation Act 1987 – Section 4 requires Council to give effect to the Treaty of Waitangi
 - Treaty Settlements
 - Waitangi Tribunal
 - Co-management and other agreements



Engagement with Mana Whenua

How do we ensure Council has appropriately consulted?

Strategic property recommend that consultation is undertaken for:

- Crown derived:
 - Derived Reserves under the Reserves Act 1977
 - Lands subject to our Joint Management Agreement with Waikato Tainui
 - General land with identified sites of cultural significance
- Non-Crown derived land:
 - Reserves with co-management/consultation obligations or treaty settlement
 - Land with identified sites of cultural significance
- When else should we engage with mana whenua on leasing matters?

Council Delegation

- Councils' delegation register currently allows the Chief Operating Officer to sign licences for up to 5 years on behalf of Council. - every other property agreement needs a committee report and resolution
- The delegation register also appears to allow COO to grant leases up to 5 years, but it was not written accurately and needs to be amended.
- Legal are planning to review the register, but it can be a lengthy process.
- We recommend delegating the power to grant of low impact community leases to the COO to streamline Council processes.

Other improvements

- Standardising lease terms
 - Commercial
 - Council building 10 years (5+5)
 - Ground Lease 15 years (5+5+5)
 - Community
 - Council building 20 years (10+10)
 - Ground Lease 30 years (10+10+10)
- Templates for commercial and community leases
 - Drafted by our legal team
- Sale of elder housing
- Resolving encroachments on Council land
- Better utilisation of Council land
 - Z Lease strategic site is coming up for expiry
 - Raglan town centre
 - Ensuring occupations on reserves provide community enjoyment and benefit

Waikato District Council

Thank you