

Strategic Land Acquisition and Disposal Policy

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1 Introduction

The Council has multiple functions in the area of land management. It undertakes land acquisition and disposal, manages properties to provide public works such as roads and other infrastructure, greenspace or recreational purposes, as well as managing properties which have been set aside for future public use. Acquiring and disposing of land requires strategic oversight to make sure the best use is made of public funds.

This policy sets out the criteria the Council uses to guide decision making when acquiring or disposing of land. This policy ensures the reasons behind the Council's decisions are consistent, predictable, equitable, and available to the public.

2 Purpose

The Waikato District Council's Strategic Land Acquisition Policy provides principles and policies regarding the acquisition and disposal of Council land.

The Policy:

- a. Confirms the Council's strategic approach to land acquisition and disposal.
- b. Provides a consistent and predictable approach to how Waikato District Council will assess whether land should be acquired or disposed of.
- c. Outlines and explains the impact of policies that influence, and the legislation that Waikato District Council is obliged to follow, when acquiring and disposing of land.
- d. Provides a framework for why Waikato District Council will acquire land.
- e. Outlines the methods Waikato District Council uses to fund and acquire land.
- f. Defines how opportunities to acquire land are prioritised.
- g. Explains when Waikato District Council will consider disposing of land, and the methods to be used for disposal.
- h. Reflects the importance of strong relationships and partnerships with the private, public, iwi and Māori groups.
- i. Aligns with the Council's vision for "Liveable, Thriving and Connected Communities/He noohanga aahuru, he iwi whai ora, he hapori tuuhono tahi".

3 Definitions

Acquisition means to obtain or receive land or property through a method such as purchase or gift.

Delegated officer means a person identified in the Council's Delegations Manual as having the authority or responsibility to carry out a function as authorised by the Council.

Disposal means to sell or otherwise relinquish ownership of land or property.

Public work means infrastructure supporting delivery of council services such as playgrounds, libraries, roading, stormwater, wastewater or stormwater

4 Application

- 4.1 The policy applies to all the Council's employees, consultants or agents acting on behalf of the Council.

5 Policy Context

The Strategic Land Acquisition and Disposal Policy is informed and affected by the following policies, plans and strategies:

Waikato District Plan – identifies and manages growth areas, and uses designations to set aside land and signal its use for a particular purpose, and informs structure plans. Must also give effect to higher order statutory direction from National and Regional Policy Statements.

Waikato District Development Strategy – a high level 30 year strategic and spatial development guide for the district, and provides a link to sub regional, regional and national policies, plans and strategies including the Regional Policy Statement, the Future Proof Growth Strategy Implementation Plan and the Vision and Strategy for the Waikato River.

Long Term Plan – sets timing and funding of infrastructure works and other capital investments including planned land purchases on a ten-year planning horizon. It explains how the Council will respond to today's challenges while planning for the future. The Long Term Plan is developed every three years with an Annual Plan produced in the two intervening years.

Infrastructure Strategy – identifies significant infrastructure issues facing the Waikato District Council over a 30-year period and provide transparency to residents and ratepayers about those issues, options for managing the issues, and the long-term consequences of those options.

Activity Management Plans – contain whole-of-life information about assets and services. Through this information the Council manages assets and services in the most cost-effective manner to a level of service specified in the Long Term Plan. The plans are central to informing the Council of what assets and services are required (both existing and new) to deliver on strategic priorities of the Council.

Reserve Management Plans – identify management, use and development policies for a number of key reserves in the district by taking into account community preferences regarding reserves, and determining the best means to provide for them.

Structure Plans – provide a long term framework for the future growth and development of a particular area. These plans provide, in broad terms, the layout of land uses, key infrastructure and transport links.

Waikato District Blueprints – The aim of the Blueprints is to provide a high level ‘spatial picture’ of how the district could progress over the next 30 years, address the community’s social, economic and environmental needs, and respond to its regional context. The District Blueprint is one of the district’s guiding strategies. It contains proposals for the implementation of the Council’s vision: “Living, Thriving and Connected Communities/He noohanga aahuru, he iwi whai ora, he hapori tuuhono tahi”.

Development Contributions Policy – provides a framework to calculate and apply development contributions, to help fund the total capital cost, including land acquisition and development, of network infrastructure, community infrastructure and reserves.

Catchment Management Plans – contain information about different catchments and how different stormwater management options affect freshwater quality and flood hazards. This information feeds into Structure Plans and the District Plan.

Joint Management Agreements – are agreements between Iwi and Waikato District Council. They set out principles and objectives for engagement between the Council and our iwi partners, focusing on the importance of a meaningful working relationship with iwi.

Significance and Engagement Policy – guides what decisions or matters the Council and its communities consider to be important, how the Council will assess the importance of those matters, and how and when the community can expect to be engaged with on both. The policy also sets out the list of strategic assets, and the engagement procedures to be used when transferring the ownership or control of such assets.

Decision Making Framework for Unformed Legal Roads – the decision-making framework provides guiding principles to provide a consistent approach to management and disposal of unformed legal roads.

6 Legislative context

The key legislation which determines how Waikato District Council must acquire or dispose of Council-owned or administered land includes:

Public Works Act 1981 – the main mechanism available to the Council for acquisition and disposal of land. The Act outlines procedures for acquisition and disposal, as well as providing for compensation and compulsory acquisition.

Local Government Act 2002 – requires the Council to consult on proposals which are significant, or when the Council proposes to dispose of parks not held under the Reserves Act 1977. The Act also allows the Council to collect development contributions to recover growth related costs associated with any Council-owned or administered land, and allows the Council to charge a targeted rate to fund activities.

Local Government Act 1974 – sets out requirements for stopping and closing of roads, and disposal of land no longer required for road.

Local Government Official Information and Meetings Act 1987 – controls the public release of information in commercially sensitive situations, such as in negotiations to acquire or dispose of land.

Resource Management Act 1991 – allows the Council to designate land for certain purposes through the district plan, for example parks and open spaces, and to signal its intention to purchase land for public works. Allows the Council to take esplanade reserves and strips along the coast and waterways upon subdivision. Allows the Council to collect financial contributions or receive vested land upon subdivision.

Reserves Act 1977 – provides for parks and open spaces held by the Council to be declared reserves and classified for a purpose (for example recreation, local, scenic, scientific or historical) and sets out consultation and approval processes when land declared as a reserve is proposed to be disposed of or exchanged.

Settlement Acts including Waikato Raupatu Claims Settlement Act 1995, Waikato-Tainui Raupatu Claims (Waikato River) Settlement Act 2009, Nga Wai o Maniapoto (Waipa River) Act 2012 – Settlement Acts provide a framework for how the Council engage and work with our iwi partners through mechanisms such as joint management agreements.

7 Policy statements

7.1 Principles

There are seven basic principles that reflect the Council's approach to the acquisition and disposal of land. These principles, as described below, should be considered in all acquisition and disposal transactions.

a. Strategic approach

Decisions on the acquisition and disposal of land will be made in the wider context of long term trends, impacts, and will reflect the Council's strategic future planning.

b. Public Interest

The Council will ensure that all land decisions are made in the pursuit of the best interests of the public. Other options and their consequences are considered before acquisition and disposal.

c. Financial responsibility

The Council will exercise financial responsibility to get the best value for public money, and seek to maximise the value of its land assets and minimise whole-of-life costs.

d. Information management

Information on Council-owned or administered land will be easily accessible, complete and kept up-to-date to enable informed decision making regarding the acquisition and disposal of land.

e. Statutory and regulatory compliance

The Council will operate within the framework of applicable statutes and regulations at all times.

f. Iwi and Māori relationships

Decisions to acquire or dispose of land will be made while building and improving upon the relationship between the Council, iwi and Māori through ongoing and meaningful engagement that is robust, appropriate, and accessible to iwi and Māori.

g. Transparency of process

Processes will be run in an open and transparent manner to ensure the Council is seen to be responsibly managing public funds, whilst acknowledging that protecting landowner rights with respect to land acquisition and disposal will often require that certain information be kept confidential.

Consistent application of these principles will set the tone for what the public can expect from the Council.

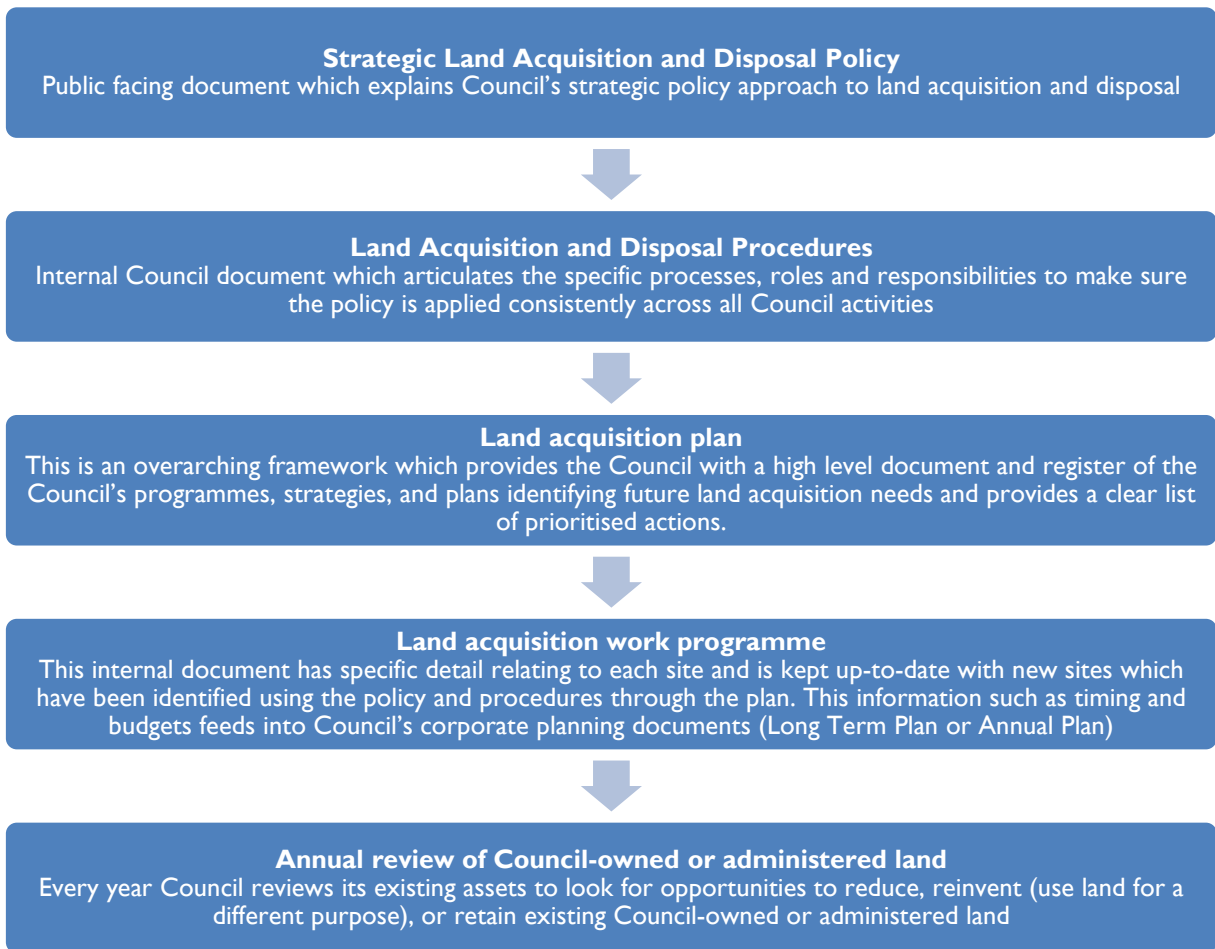
8 Decision making roles

8.1 General policy

- a. When deciding whether to acquire or dispose of land the Council will follow the policies and criteria outlined in this policy.
- b. Waikato District Council will develop an internal Land Acquisition and Disposal Procedural document to implement the policies and criteria in this policy.
- c. All decisions relating to the acquisition or disposal of Council-owned or administered land will be made by Council resolution or described in the Long Term Plan or Annual Plan.
- d. The Chief Executive has the power to negotiate and enter into contracts to acquire or dispose of property so long as the terms of sale are conditional upon ratification by the Council.

8.2 Framework

This policy establishes the following framework:



9 Consultation

- 9.1 The Council will apply its Significance and Engagement Policy when determining the appropriate level of engagement on decisions to acquire or dispose of property.
- 9.2 In planning for land acquisition and disposal the Council is generally required to undertake public engagement through the preparation of Long Term Plans, Annual Plans or Structure Plans. Preparation of these planning documents will identify general requirements and the intended purpose of the land at a non-property specific level of detail.
- 9.3 In some cases, such as disposal of reserves, endowments or land purchased for a specific purpose, the Council has additional legal obligations to inform specific parties, offer the land back, or is required to undergo additional consultation when disposing of land.

10 Acquisition

- 10.1 A full report to the Council by a delegated officer applying this policy will be required as part of the Council considering land acquisition.
- 10.2 The Council has additional requirements it must comply with when acquiring land depending on the nature of the land's ownership, such as if it is Māori freehold land as defined in Te Ture Whenua Māori Act 1993.
- 10.3 When purchasing land, a registered valuation must be obtained.
- 10.4 When a need to acquire land is identified, the Council will also assess and explore non-ownership alternatives and their consequences such as joint ventures or leasing.

10.5 Acquisition plan and acquisition programme

- a. The Council will develop an acquisition plan and an acquisition programme which will identify needs and opportunities for land acquisition which comply with the criteria in this policy. This information will feed into the Council's Long Term Plan and Annual Plan.
- b. It is the Council's preference that all acquisitions are identified, planned and budgeted for in its Long Term Plan or Annual Planning documents through its acquisition plan and acquisition programme.
- c. For those acquisitions not planned for, the ad hoc provisions in section 12 of this policy also apply.

10.6 Purpose of acquisitions

Waikato District Council acquires land for the following purposes:

Public works	Where the Council provides roads and other infrastructure for things like drinking water, stormwater wastewater (sewage), it may need acquire land to provide either additional capacity to growing communities or increase levels of service provided by existing infrastructure. In these instances, the Council acquires land through the Public Works Act 1981 and must comply with its obligations under this legislation.
Reserves and open spaces	<p>Reserves and open space in the district are utilised by a range of active and passive pursuits, and assets on council reserves provide for enhanced community use and enjoyment. Reserves assets vary from toilet blocks to play grounds and community halls. Reserves and open spaces can also be acquired to protect and preserve ecological values, historic heritage, cultural value, geological value, or landscape values.</p> <p>The Council acquires reserves and open spaces to accommodate growth of our communities, and developers are required to contribute either funds (through financial or development contributions) or land towards providing this.</p> <p>If this land is classified as a reserve, the Council has obligations for their management, including rules for their disposal, under the Reserves Management Act 1977.</p>
Esplanade strips/reserves	The Council acquires esplanade reserve when landowners subdivide titles along water bodies and the coast. Whilst esplanade reserves are vested as a separate title with the Council, esplanade strips are simply recognised by an instrument on the certificate of title of the underlying lot and therefore remain in private ownership, however there will likely be requirements relating to public access, fencing, planting and so on.
Offsetting	The Council may acquire land where a development is required under a resource consent to vest land in the Council to offset a negative effect of the development.
Strategic Investment	The Council may acquire land for the purpose of investment, where the acquisition is strategically important to the Council and/or the community, or to maximise value for rate payers.

10.7 Methods

Waikato District Council can use the following methods to acquire land:

Willing seller – willing buyer	Direct negotiation occurs between Waikato District Council and the landowner. Terms of the sale, including the price paid for the land is determined through the negotiation process.
Compulsory acquisition	The Public Works Act 1981 provides Waikato District Council with the ability to compulsorily acquire land for public work, with or without the agreement of the landowner. The landowner is compensated in accordance with the requirements of the Public Works Act.
Endowment (Gifting and bequeathing)	Landowners approach Waikato District Council to gift or bequeath land. When deciding whether to accept a proposal to gift or bequeath land, the Council must consider the need for the land, how much it will cost to develop and the ongoing maintenance costs.
Vesting	Land is vested in Waikato District due to a requirement in planning rules, such as those relating to esplanade reserves or subdivision.
Land exchange and transfer between public uses	Generally applied to public works acquisitions, opportunities can arise for the mutually beneficial exchange of land through boundary adjustments or outright ‘swapping’ of land. Waikato District Council owns land for a wide variety of purposes and at the end of the life of an asset, or due to changing needs, land may become available for an alternative public use, such as a park.

Private Public Partnerships	The Council can enter into agreements with the private sector for capital works projects, including land acquisition. In these agreements the Council would work with and share risk with a private company to deliver better outcomes for the community.
First right of purchase agreement	The Council and the landowner enter into an agreement that the Council has the option to purchase the property prior to it being offered for sale on the open market. The agreement outlines the terms and conditions under which the property will be offered to the Council to purchase. An encumbrance is recorded on the property title to acknowledge the first right of purchase agreement.

10.8 Funding options

The Council obtains funding to acquire land from a variety of sources. These sources and how they are applied to acquiring land are summarised below:

Rates	The Council can fund land acquisition from rates. These are set each year in Annual and Long Term Planning documents.
Targeted rates	The Council has the ability to charge a targeted rate on a group of properties for a defined purpose, such as acquiring a specific piece of land for a specific purpose. Funds collected this way must be spent on the purpose for which it is collected.
Loans	The Council can raise loans against capital works such as purchasing land, and is used by the Council as a 'smoothing mechanism' to reduce the impact of one-off large expenditure on rates, balanced with a prudent approach to ensure the burden of debt does not get too large.
Financial contributions	The Resource Management Act 1991 allows councils to collect financial contributions when land is developed to mitigate the effects of growth.
Development contributions	The Local Government Act 2002 allows councils to require a contribution from new developments to provide infrastructure required due to growth, such as land for infrastructure like public works or greenspace. Development contributions can only be spent on growth related infrastructure in accordance with the Council's Development Contributions Policy.
Proceeds from the disposal of Council-owned or administered land	If the Council disposes of land it may choose, or be required to under the Reserves Act 1977, to utilise the proceeds from any such sale towards acquiring new land. Proceeds from asset sales will be credited to the Property Proceeds Reserve.

10.9 Acquisition opportunity assessment process

The Council will apply a strategic approach to land acquisition. This approach is summarised in the flow chart below. Acquisition and prioritisation criteria used to assess acquisition opportunities are explained further in this policy.

To inform a decision on whether or not to acquire land, the Council will use the following steps to assess acquisition opportunities:



10.10 Criteria for determination of priority strategic land acquisition areas

The Council will use the following criteria to assess an opportunity to acquire land and discover whether it contributes to the objectives and principles of this policy.

The Council can decide to proceed with the acquisition if one or more of the below criteria are not met. Any criterion not met will be analysed in the decision-making report, and this will be taken into account when the Council decides whether or not to acquire the land.

10.10.1 Land Acquisition Criteria

The land acquisition criteria below are a guide for decision making by the Council. Every land acquisition will be considered on its own merits, and no one of the criteria listed is necessarily of greater weight, nor is a land acquisition required to meet every one of the criteria.

A. Overall strategic fit of the acquisition

- I. The acquisition is identified in a growth strategy, structure plan, asset management plan or similar.
- II. There are no other parcels of Council-owned or administered land which could address the need for land.
- III. The proposed site improves functionality or access to existing Council-owned or administered land.
- IV. There are demonstrable social and environmental benefits to the acquisition.
- V. The acquisition fills a gap or responds to a previously identified need, for example, as identified in the Council's annual property review.
- VI. The acquisition provides a connection or improves safety and access to the coast, waterways, walkways, cycle tracks or other recreational connections.
- VII. The acquisition is strategically important to the Council and/or the community.

B. Identification in Long Term Plan or Annual Plan

- I. The acquisition has been budgeted for in the relevant Long Term Plan or Annual Plan.

C. Community requirements

- I. Any known community interest or preferences for the acquisition opportunity, particular site or the need promoting the acquisition have been taken into account.
- II. The community's aspirations for the site support the planned usage of the site.

D. Costs and land value

- I. An appropriate source of funding has been identified.
- II. The whole-of-life costs of the acquisition have been taken into account.
- III. The funding of the acquisition will be equitable for current and future generations.
- IV. A valuation of the land has been obtained.

E. Restrictions on land use

- I. Any restrictions from zoning or designations on the site are appropriate for the planned use of the site.

F. Alternative ownership or acquisition options

- I. Opportunities for alternative ownership arrangements on the site such as joint ventures or leases have been investigated.
- II. The consequences of any alternative ownership options have been identified.
- III. Opportunities for alternative methods of land acquisition other than land purchase, such as endowment, vesting, land exchange or partnerships have been explored.

G. Site condition and suitability

- I. The land's current use does not prevent or impede the planned use of the site.
- II. The land is suitable for its intended use.
- III. Any natural hazards identified on the site will not prevent or impede the planned use of the site.
- IV. Community interest, financial, timing or any other implications have been considered regarding removal or refitting of any existing structures, including the need to bring it up to building code standard.
- V. Access and functionality of the site for the intended purpose is achievable.
- VI. A site check for contamination, landfill, drainage does not reveal anything which will prevent or impede the planned use of the site.

H. Tenure

- I. The Council has legal authority to undertake the activity proposed for the property.
- II. There are not any encumbrances on the title which prevent or impede the planned use of the site such as easements, caveats, memorials on titles, or Māori settlement claims.
- III. There are no existing tenancies on the property which prevent or impede the planned use of the site.
- IV. The findings of the property's LIM report do not include anything which would impede or prevent the intended use of the land, for example shared access, unpaid rates.

I. Cultural heritage

- I. Acquisition of the property promotes the Council's meaningful working relationship with Iwi.
- II. Priority will be given to acquisition which will protect ecological values, historic heritage, cultural value, geological value, or landscape values.

J. Disadvantages of not proceeding with acquisition

- I. There is a risk of the acquisition opportunity being lost or rendered unsuitable for intended use.
- II. Priority will be given where there are no alternatives available, and if the specific site is not purchased the identified need will not be able to be filled.

10.11 Post purchase management

After land has been acquired there are steps the Council must undertake before use of the land for its intended purpose can begin such as budgeting, design, contracts and resource consents.

In this interim period, if necessary, the Council will undertake minor works to address health and safety issues and may install assets such as fences and signs.

11 Disposal

A full report to the Council by a delegated officer applying this policy will be required as part of the Council considering land disposal.

The Council can decide to proceed with the disposal if one or more of the criteria in 11.3 below are not met. Any criterion not met will be analysed in the decision-making report, and this will be taken into account when the Council decides whether or not to dispose of the land.

The Council must comply with legislative requirements when disposing of land, such as the Reserves Act 1977 and the Local Government Act 2002. These determine the public consultation process, who obtains the proceeds from disposing of land, rights to purchase land once Council indicates it is surplus and how the proceeds from disposal can be spent.

When disposing of a property a registered valuation must be obtained.

The Council's preference is to not sell property during the time of a significantly depressed property market.

Proceeds of disposal will usually be put towards new acquisitions.

11.1 Annual property review

- a. In September of each year, an annual property review will be presented to the Council to look for opportunities to reduce, reinvent (use land for a different purpose), or retain existing Council-owned or administered land. This property review will inform the following decisions:
 - I. to determine if a property is surplus or underperforming; and
 - II. to confirm the need or otherwise to retain current Council-owned or administered land.
- b. The review will also identify gaps within current Council-owned or administered land and to inform the Council if additional land acquisition is required.
- c. The outcome of these decisions will be reflected in the following year's Annual Plan or Long Term Plan.

11.2 Methods

The Council may use the following methods to dispose of land:

Council owned freehold land	The Council may choose to sell freehold land. An assessment in accordance with this policy will ensure such decision-making is strategically aligned.
Revocation or reclassification of reserve	If the Council wishes to revoke the classification of a reserve, it must follow a public consultation process and also consult with the Department of Conservation. This process is detailed in the Reserves Act 1977. Reserves must be revoked before they can be disposed of, and the method of their disposal is linked to how the Council originally acquired the land.
Exchange of land	The Council may exchange land it owns for another piece of land which fits better with its strategic land acquisition criteria. This

	mutually beneficial exchange of land could occur through boundary adjustments or outright 'swapping' of land. This process is governed principally by the Reserves Act 1977 and the Public Works Act 1981.
Disposal of land acquired for public works	If land bought for a specific public work is no longer required for that public work, any other public work, or an exchange, the Council can dispose of the land. However, it must first offer the land back to the original owners or their representatives.
Disposal of endowed (gifted or bequeathed) land	Before disposing of endowed land, Council must seek the views of the original owners or their successors.
Disposal of crown derived land	The Council formally and informally manages and administers Crown owned and Crown derived land. This land is typically held as Recreation Reserve. Much of this land was originally confiscated from Waikato-Tainui. If the reserve status is revoked the land reverts to Crown ownership to which a first right of refusal would apply for Waikato-Tainui. The Council's Joint Management Agreement with Waikato-Tainui further recognises these rights of first refusal.

It is the Council's preference that a fully transparent, publicly competitive, open market sale process is followed where possible. Before disposing of land, the Council must resolve that the land is surplus.

11.3 Strategic land disposal criteria

The criteria below are a guide for decision making by the Council. Every land disposal will be considered on its own merits and no one of the criteria listed is necessarily of greater weight, nor is a land disposal required to meet every one of the criteria.

11.3.1 Land Disposal Criteria

A. Property deemed to be surplus or under-performing by the Council

The property is surplus for one or more of the following reasons:

- I. The land no longer contributes to the strategic goals of Waikato District Council or any growth strategy, structure plan, asset management plan or similar.
- II. The land is no longer required for its intended purpose.
- III. The land is not required or suitable for any alternative Council purposes.
- IV. The on-going costs of the property are not sustainable.
- V. Disposing of the property will be of financial benefit to the Council.

B. Market considerations

- I. The property market is not significantly depressed.
- II. There are interested parties for purchase of the property.
- III. The financial benefits of disposing of the property outweigh the financial costs of holding or disposing of the property.

C. Tenure

- I. The Council is able to legally dispose of the land in the manner proposed.

D. Community views

- I. Any known community interest or preferences for the particular site and its retention or disposal have been taken into account.
- II. The community's aspirations for the site support its disposal.

E. Cultural heritage

- I. The land does not contribute to ecological values, historic heritage, cultural value, geological value, or landscape values.

12 Ad hoc acquisition or disposal

The Council may from time to time receive an ad hoc request or wish to take advantage of an opportunity to acquire or dispose of land outside of planned acquisition and disposal in the Long Term Plan or Annual Plan. The request could come from a member of the public, an elected member, or from an internal Council planning exercise.

If this occurs, the request must be presented to the Council for an acquisition or disposal resolution which assesses the acquisition or disposal opportunity using the assessment criteria outlined in this policy.

Any decisions responding to ad hoc requests to acquire land or dispose of Council-owned or administered land must be made by Council resolution based on this assessment.

Where a member of the public applies to the Council to purchase Council-owned or administered land, all costs associated with that land purchase shall be paid for by the applicant.

13 Confidentiality and security of material

The Council will only release information relating to acquisition and disposal transactions on specific properties where it is no longer confidential in terms of the Local Government Official Information and Meetings Act 1987.

Where appropriate, the Council may consult Iwi or selected stakeholders on a specific acquisition or disposal transaction on a confidential basis.

14 Policy review

This policy shall be reviewed at five yearly intervals or as otherwise required by the Chief Executive or Strategic Property Manager.