

## 1. Purpose

This policy outlines the approach that Council will take for the acquisition and disposal of land.

## 2. Background

Council manages land which provides space for Council offices and public facilities, open spaces and recreation areas, public works such as water infrastructure, and set asides parcels for future public use. Council also owns land that contributes to the protection of, and access to, environmental, cultural and heritage sites of importance to the community.

The management, acquisition and disposal of Council owned land is governed by multiple pieces of legislation. The most significant being the Local Government Act 2002 and the Reserves Act 1977.

Section 12 of the Local Government Act provides the Council with the powers to acquire and dispose of land for the benefit of the district with provisions within the Act on how consultation should be carried out. Section 189 provides the Council with the power to acquire land in accordance with the Public Works Act 1981.

The Reserves Act governs the process to be followed when considering or undertaking the disposal of any reserve land. The process depends on the classification of a reserve (for example, recreation, local purpose, scenic). Because reserves have generally been provided to, vested in or created by the Council or the Crown for a community purpose, a higher level of community consultation is required when considering disposal and some special consultative provisions are provided for within the Act.

Council land acquisition and disposal requires strategic oversight to ensure the best use is made of public funds.

## 3. Scope

This policy applies to any Council owned land.

Land is held for the following Council activities: transportation, water supply, wastewater, stormwater, solid waste, facilities, parks, reserves, cemeteries and the cycle trail. Council also owns land that contribute to the protection of, and access to, environmental, cultural and heritage sites of importance to the community.

This Policy should be read in conjunction with Revenue and Financing Policy, Asset Disposal Policy and Delegations Manual.

## 4. Commencement

This policy comes into force 27<sup>th</sup> September 2024.

## 5. Definitions

**“Acquisition”** means the procurement of land or property via purchase, gifting and vesting.

**“Annual Plan”** means a one year document that is a revised version of one year of the Long Term Plan (see below).

**“Area Plan”** means a document that takes a long-term view of a particular geographical area, reflecting the local community’s preferences on how it should or should not be developed.

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

**“Growth Strategy”** means a document that addresses the opportunities and challenges of managing projected residential, commercial and industrial growth and development in a sustainable way.

“**Long Term Plan**” means a ten year document that is reviewed every three years and can be amended by a Council at any time via a special consultative procedure. It describes the services Council plans to provide, the community outcomes it plans to contribute to, and the cost of this.

“**Market Value**” means the estimated amount for which an asset or liability should exchange on the valuation date between a willing buyer and a willing seller in a transaction.

“**Open Market Process**” means the competitive process which provides unrestricted access to potential purchases.

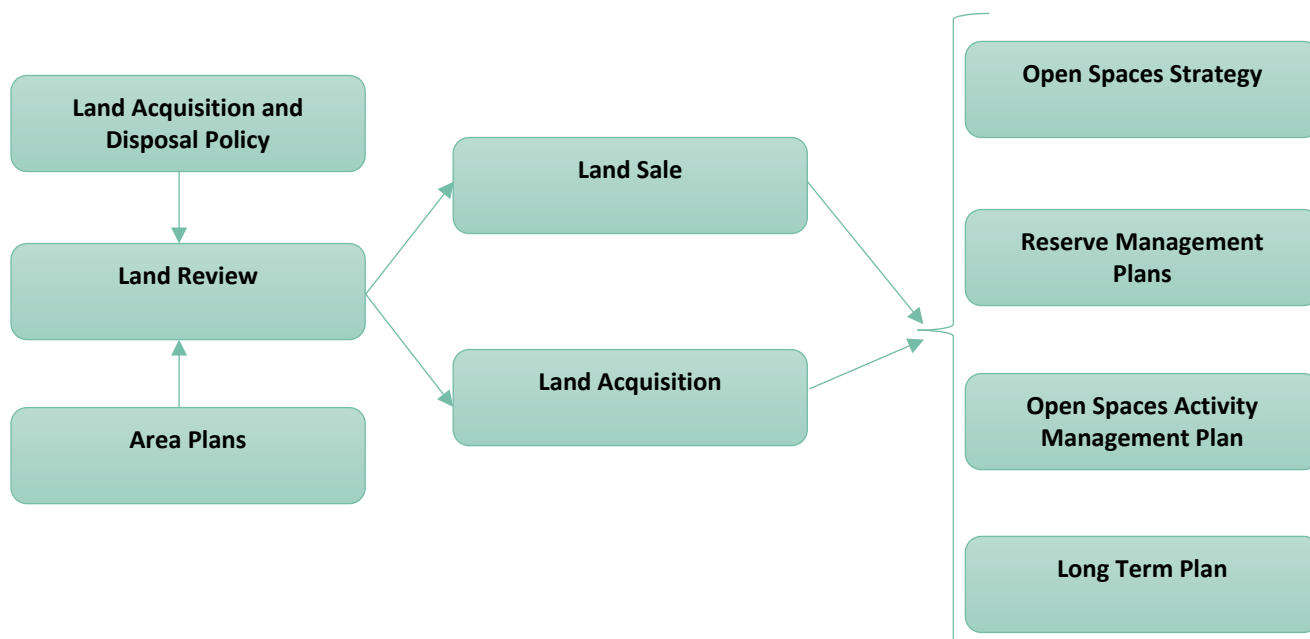
“**Road Stopping**” means a formal legal process where the road is ‘stopped’ taking away its legal status as ‘road’, and then changed into freehold land, enabling the land to be sold.

“**Structure Plan**” means a framework to guide the development or redevelopment of an area by defining the future development and land use patterns, areas of open space, the layout and nature of infrastructure, and other key features and constraints that influence how the effects of development are to be managed.

## 6. Policy

### 6.1 Strategic Context

This policy is part of the following framework:



### 6.2 Policy Statement

Council will manage the acquisition and disposal of land within the Westland District in a way that is consistent, predictable, equitable and transparent.

### 6.3 Policy Principles

Council will adhere to the following principles in land disposal and acquisition:

- 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 Councils strategic future planning.
- b. Adequate Provision – land will be held to support the timely provision of infrastructure and enhance the unique natural, cultural and historic heritage of the district.

- c. Transparency – 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.
- d. Public interest – The Council will ensure that all land decisions are made in the best interests of the public. Consideration will be given to the original intention of the land ownership and whether it is appropriate from the community perspective to sell or acquire.
- e. 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.
- f. Statutory and regulatory compliance – The Council will always operate within the framework of applicable statutes and regulations.

## 6.4 Policy Objectives

The objectives of this policy are to:

- 1. Provide a consistent and transparent approach to the acquisition and disposal of land.
- 2. Ensure any acquisition and disposal of land supports the achievement of Councils strategic objectives.
- 3. Demonstrate to the community that Council recognises the importance of managing land assets via the adoption of a prudent and holistic approach.
- 4. Support the timely acquisition and disposal of land.

## 6.5 Land Acquisition

### 1. General

- a. A report to Council will be required for any land acquisition proposal.
- b. Market value will be assessed by a registered valuer. If the valuation is over \$500,000 excluding GST (if any) then a second valuation will be obtained to verify market value.
- c. When a need to acquire land is identified, the Council will also assess and explore non-ownership alternatives and their consequences such as leasing or joint ventures.
- d. All acquisitions should be identified, planned and budgeted for in the Long Term Plan or Annual Plan documents. Exemptions may apply as outlined below in *2.7 Ad hoc Acquisition or Disposal*.

### 2. Purpose of Acquisitions

Council acquires land for the following purposes:

Public Works	Where the Council provides infrastructure, e.g. roads or drinking water, it may need acquire land to provide additional capacity for 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.
Open Spaces	<p>Open spaces serve a variety of purposes from recreation, amenity and preservation to providing and being part of views, protecting significant landscapes and sites, and providing a community a focal point for the local area. There are many different types of open spaces and a diverse range of these make up our districts open space network. These include foreshore reserves, local parks, playgrounds, cycle ways and public gardens.</p> <p>The Council acquires 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>

	If this land is classified as a reserve, the Council has obligations for the management, including rules for the disposal, under the Reserves Management Act 1977.
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.

### 3. Methods

Council can use the following methods to acquire land:

Willing Seller – Willing Buyer	Direct negotiation occurs between 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 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	Landowners approach 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 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. 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.

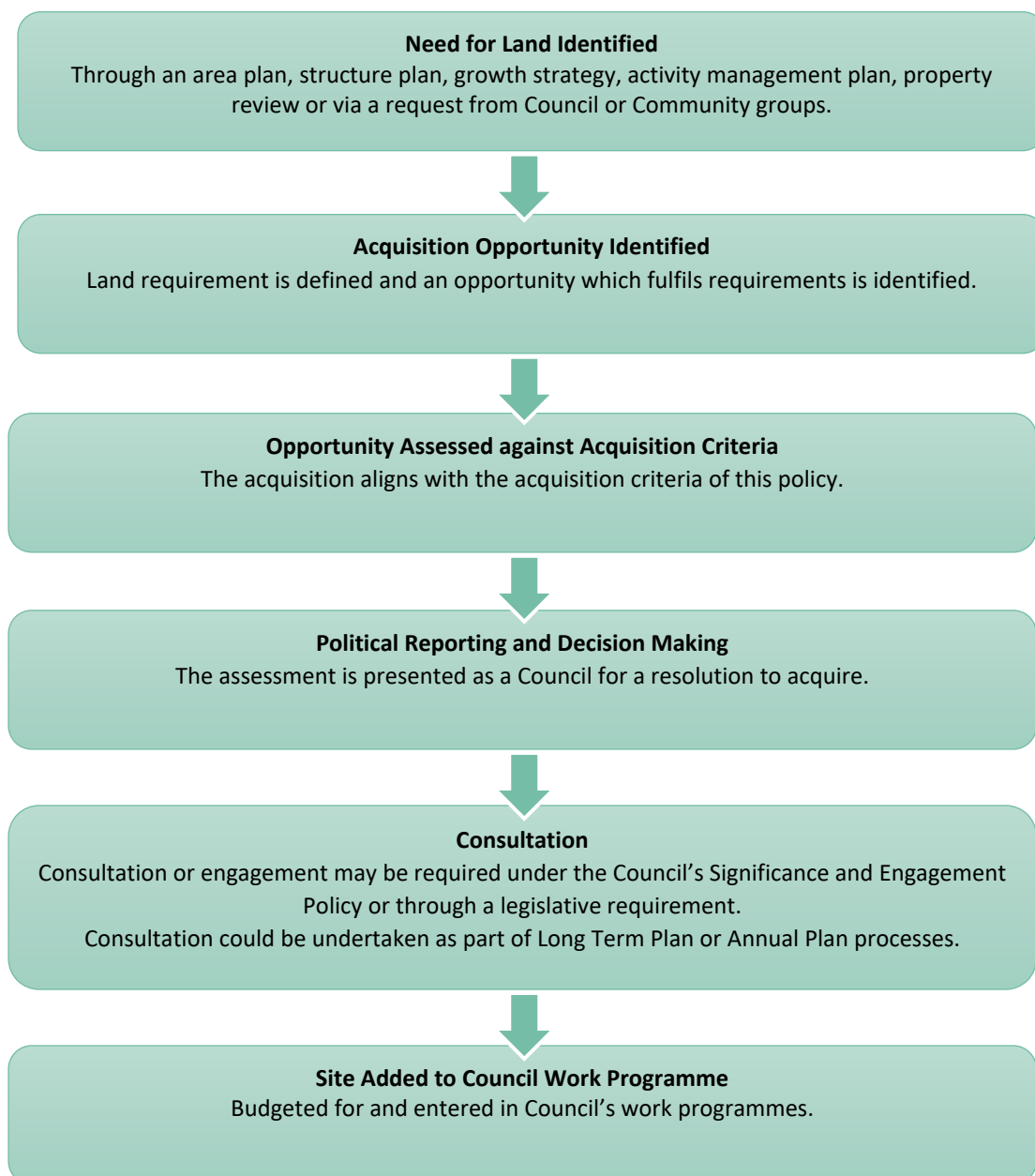
### 4. Funding Options

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

Loans	The Council can raise loans against capital works such as purchasing land and is used by the Council as a 'intergenerational funding' to reduce the impact of one-off large expenditure on rates, balanced with a prudent approach to ensure debt remains within debt limits.
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 Disposal of Council Owned 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.

## 5. Assessment Process

The Council will apply a strategic approach to land acquisition. To inform a decision on whether to acquire land, the Council will use the following steps to assess acquisitions opportunities:



## 6. Land Acquisition Criteria

The following criteria will be used to assess an opportunity to acquire land and identify whether it contributes to the objectives and principles of this policy.

The land acquisition criteria below are a guide for decision making by the Council. Each piece of land will be considered on its own merits and no one criteria is listed is necessarily of greater weight.

The Council can decide to proceed with the acquisition if one or more of the criteria are not met. Any criterion not met will be analysed, and this will be considered when Council decides whether to acquire the land.

### A. *Strategic fit*

- i. Council will acquire property to meet existing or future levels of service, including infrastructure delivery. This should be identified in an area plan, structure plan, growth strategy, activity management plan, or similar.
- ii. There are no other parcels of Council owned land which could address the need for land.
- iii. The proposed site improves the functionality or access to existing Council owned 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 Councils 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 community.

### B. *Community Requirements*

- i. Any known community interest or preferences for the acquisition opportunity, particular site or the need promoting the acquisition will have been considered.
- ii. The community's aspiration for the site supports the planned usage of the site.

### C. *Costs and Land Value*

- i. An appropriate source of funding has been identified.
- ii. The whole of life costs of the acquisition has been considered.
- iii. The funding of the acquisition will be equitable for current and future generations.
- iv. A valuation of the land has been obtained.

### D. *Restrictions on Land Use*

- i. Any restrictions from zoning or designations on the site are appropriate for the planned use of the site.
- ii. Consideration will be given to adjoining and adjacent properties to ensure there are no restrictions on the site.

### E. *Alternative Ownership and Acquisition Options*

- i. Opportunities for alternative ownership arrangement 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.

### F. *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 other implications have been considered regarding removal or refitting of any existing structures, including the need to bring it up to building code standards.
- v. Access and functionality of the site for the intended purpose is achievable.

- vi. A site check for contamination, landfill, and drainage does not reveal anything which will prevent or impede the planned use of the site.

## G. *Tenure*

- i. The Council has legal authority to undertake the activity proposed for the property.
- ii. There are no encumbrances on the title which prevent or impede the planned use of the site such as easements, caveats, memorials on title 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 the planned use of the land, for example shared access.

## H. *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, historical heritage, cultural value, geological value or landscape values.

## I. *Disadvantages of not Proceeding*

- 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 is not fulfilled.

## 7. 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, including budgeting, design, contracts and resource consents.

In the 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.

## 6.6 Disposal

### 1. General

- a. A report to Council will be required for any land disposal proposal.
- b. 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.
- c. The Council must comply with legislative requirements when disposing of land, such as Reserves Act 1977 and the Local Government Act 2002. This legislation specifies the public consultation process, who has the rights to purchase land once Council indicates it is surplus and who obtains the proceeds from disposing of land or how the proceeds from the disposal can be spent.
- d. Market value will be assessed by a registered valuer. If the valuation is over \$500,000 excluding GST (if any) then a second valuation will be obtained to verify market value.
- e. The Council's preference is to not sell property during the time of a significantly depressed property market.
- f. Proceeds of disposal will be used in accordance with the Revenue and Financing Policy or as required by act.
- g. A property review will be undertaken every six years and presented to the Council to look for opportunities to reduce, change use or retain existing Council owned land. The outcome of these decisions will be reflected in the following years Annual Plan or Long Term Plan.

### 2. Purpose of Disposal

Council will dispose of land to minimise holding costs and maximise revenue from income and/or property appreciation.

# Land Acquisition and Disposal Policy



### 3. Methods

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 this 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 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 fit land acquisition criteria. This 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.

### 4. Proceeds from the Sale

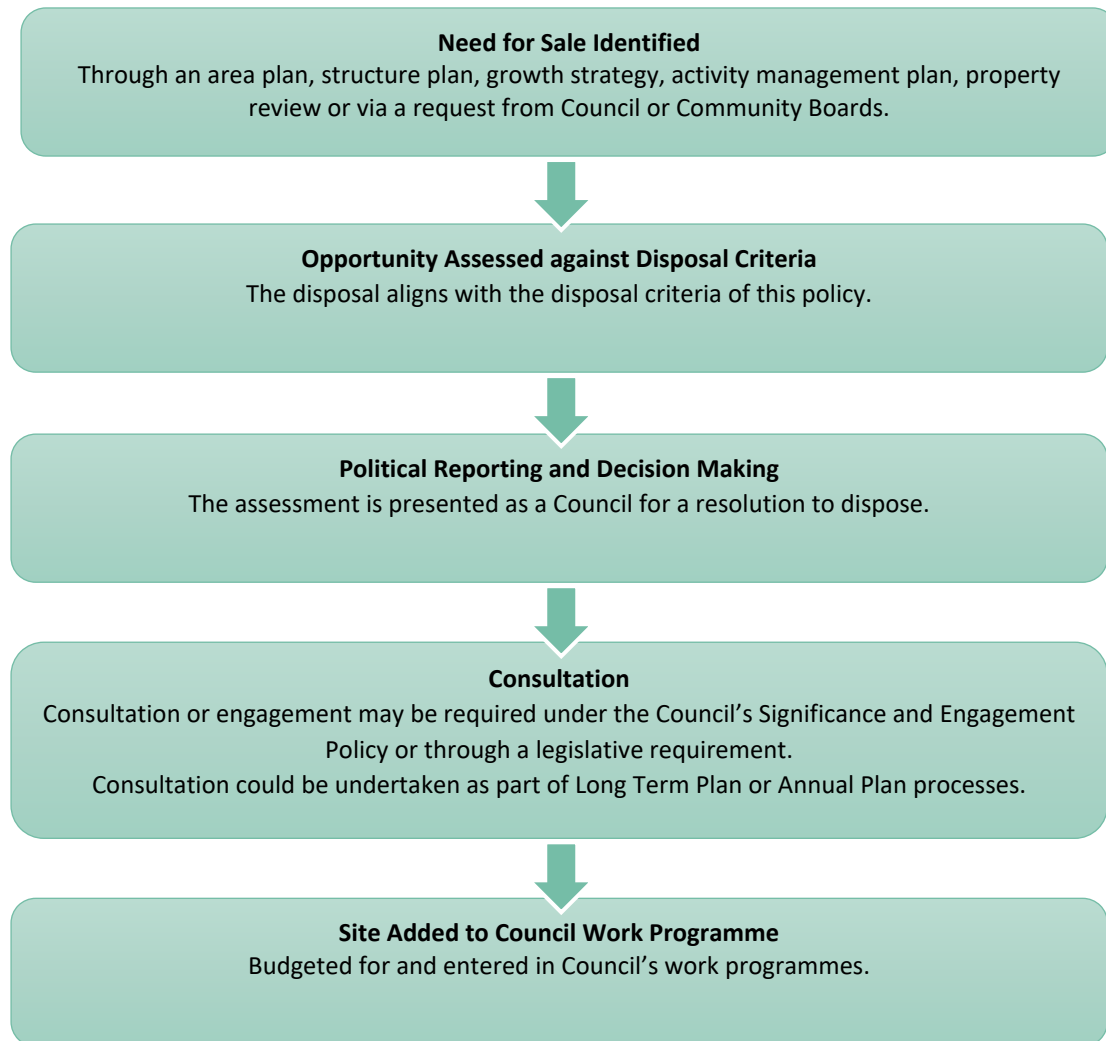
Proceeds from the disposal of land will be spent as per the Revenue and Financing Policy. In general, proceeds from asset sales will be used for repayment of debt or investment in other Council owned Open Spaces.

Proceeds may be required to be spent on the improvement of other reserves or towards the purchase of other land for reserves under the Reserves Act 1977. When required these proceeds will be held in reserve fund.

### 5. Assessment Process

The Council will apply a strategic approach to land disposal. To inform a decision on whether to dispose of land, the Council will use the following steps to assess disposal opportunities:





## 6. Land Disposal Criteria

The following criteria will be used to identify whether land contributes to the objectives and principles of this policy or it provides an opportunity for disposal.

The land disposal criteria below are a guide for decision making by Council. Each piece of land will be considered on its own merits and no one criteria listed is necessarily of greater weight.

The Council can decide to proceed with the disposal if one or more of the criteria are not met. Any criterion not met will be analysed, and this will be considered when Council decides whether to dispose of the land.

### A. *Surplus*

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

- i. The land no longer contributes to the strategic goals of the Council or any area plan, structure plan, growth strategy, activity 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 ongoing costs of the property are not sustainable.
- v. The sale of the land is practicable and feasible.
- vi. Disposing of the land will be of financial benefit to the Council.

**B. Market Conditions**

- i. The property market is not significantly depressed.
- ii. There are interested parties for purchase of the land.
- iii. The financial benefits of disposing of the land outweigh the financial costs of holding or disposing of the property.

**C. Timing**

- 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 rendition or disposal have been considered.
- ii. The community’s aspirations for the site supports its disposal.

**E. Cultural Heritage**

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

## 6.7 Ad hoc Acquisition or Disposal

The Council may from time to time receive a 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. This request could come from a member of the public, elected member, or an internal Council planning exercise.

The request must be presented to the Council for an acquisition or disposal resolution which assesses the acquisition and disposal opportunity using the assessment criteria outlined in this policy. Any decisions responding to these requests must be made by Council resolution based on this assessment.

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

## 6.8 Road Stopping

Council will consider permanent road stopping and disposal where:

- i. The road is not likely to be required for Council or community purposes; or
- ii. The road stopping is required to meet the operational requirements of either Council or Crown.

Road stopping requests will not be treated as surplus property and will be undertaken in accordance with the processes outlined in Local Government Act 1974 or the Public Works Act 1981.

All costs associated with the road stopping shall be met by the requesting party or as otherwise specified by the Council’s user fees and charges in the Long Term Plan or Annual Plan.

## 7 Roles and Responsibilities

The roles and responsibilities for elected members and council staff are:

Role	Responsibility
Council Elected Members	<ul style="list-style-type: none"> <li>• Represents the interests of the community.</li> <li>• Provide strategic oversight of the acquisition and disposal of land.</li> <li>• Approves resolutions to acquire and dispose of land.</li> </ul>

Executive Leadership Team	<ul style="list-style-type: none"> <li>• Provides strategic oversight of the property review.</li> <li>• Endorses recommendations from the property review for Council approval.</li> </ul>
District Assets Senior Management	<ul style="list-style-type: none"> <li>• Undertake a property review every six years prior to the Long Term Planning process to recommend opportunities for acquisition and disposal of land.</li> <li>• Development of area plans, structure plans, growth strategy, or similar if required.</li> <li>• To include any land acquisition or land disposal within relevant activity management plans and provide input into the Long Term Plan or Annual Plan.</li> <li>• To procure a registered valuation of the land and list it for sale.</li> <li>• To update the asset register if any land is acquired or sold.</li> </ul>
Finance Manager	<ul style="list-style-type: none"> <li>• To organise a transfer of funds for land acquisition or receive funds from a land sale.</li> <li>• To ensure that the GST treatment of any sale/purchase agreement is correct.</li> <li>• To update the finance fixed asset register.</li> </ul>

## 8 Confidentiality

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

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

## 9 Related Documents and Acts

The following Westland District Council documents relate to this policy:

- District Plan
- Long Term Plan
- Annual Plan
- Infrastructure Strategy
- Activity Management Plans
- Open Spaces Strategy
- Reserve Management Plans
- Finance Strategy
- Revenue and Financing Policy
- Staff Conflict of Interest Policy

The following Legislation relates to this policy:

- Land Transfer Act 2017
- Local Government Act 1974
- Local Government Act 2002
- Public Works Act 1981
- Reserves Act 1977
- Resource Management Act 1991
- Local Authorities (Members Interests) Act 1968

*Note: Any legislation referred to should be interpreted as meaning the Act and its amendments*

# Land Acquisition and Disposal Policy



## 10 Implementation of the Policy

This policy will be implemented across council staff and will be actively communicated during planning and operational delivery.

The implementation of this policy is delegated to the Group Manager – District Assets.

## 11 Policy Review

A review of this policy will take place every five years or as otherwise required by the Chief Executive or the Asset Strategy and Development Manager.

<b>Created:</b>	25-07-2024	<b>Date for review:</b>	27-09-2029
<b>Author:</b>	Alicia Paulsen	<b>Authorised by:</b>	Council
<b>Consulted on:</b>	26-09-2024	<b>Version</b>	1