

## **SECTION 5      Acquiring & Disposing Of Land**

### **5.1              Acquiring Open Space**

It is intended that this Strategy be used to identify if, what, where and when future open spaces should be acquired and developed. The criteria listed below and the maps appended will be used to assess the suitability of any land offered or available to purchase.

#### **5.1.1          Acquiring Neighbourhood Reserves**

The following three points shall first be satisfied in the event Council has the opportunity to purchase land for use as a Neighbourhood Reserve:

Prior to the purchase of any land for Neighbourhood Reserve purposes, Questions 1-3 below shall be considered. Appropriate land would achieve a “yes” response to each question.

1. Does the Neighbourhood Reserves Strategy Map (Map No. 4) identify that a reserve is required in the vicinity, where the available land is located?
2. Will the proposed reserve be located within 700 metres walking distance from anticipated users?
3. Are the proposed users contained within the arterial roading hierarchy? (targeted user groups should not straddle arterial or principal roads)

#### **5.1.2          Acquiring Parks and Recreation Reserves**

Council currently has a significant amount of parks and reserves for active recreation and will not be looking to acquire any additional land for this purpose in the near future.

#### **5.1.3          Acquiring Esplanade Reserves**

Consistent with Local Government policy Council has adopted a long-term strategic approach of taking esplanade reserves and strips along the City's inland waterways to contribute to the protection of conservation values, protecting natural values associated with the esplanade reserve, mitigating natural hazards, to enable public access or to enable public recreational use of the esplanade reserve or strip where it is compatible with conservation values. Guided by the Resource Management Act 1991 Council continues to acquire esplanade reserves through the administration of its Proposed District Plan. The Strategy aims to acquire esplanade reserves in specific areas that will create pathways along the City's riverbanks contributing to the linkages throughout the City.

#### **5.1.4          Land to be Gifted or Set Aside**

The Community Facilities Asset Team will use the criteria and maps to assess whether land to be gifted or set aside as reserve contribution fits the criteria of the Strategy. Land will not be accepted if the maintenance costs outweigh the community benefits.

### **5.2              Disposal of Reserves**

Disposal of reserves can be a complicated process depending on the classification. After consideration of the following points any land considered surplus should consider the following references:

- ◆ **Revocation & Sale of Reserves**, Local Authority Solutions, August 2001

- ◆ Property Sales and Acquisitions, Legal Compliance requirements for. SOLGM Legal Compliance Report

Reserve land is mostly sought to be disposed of because it is considered surplus. A property considered surplus may be in fee simple title and under ownership of Gisborne District Council (GDC) making the process of disposal more straight forward. Other titles may be under GDC ownership but also classified for recreation purposes and be subject to the Reserves Act 1977. Any properties subject to the Reserves Act and any land that is classified, must have this classification revoked prior to disposal. As Council administers the reserves it can therefore formally approve a resolution seeking to revoke the status of a reserve under its administration.

Council does not however have the power to revoke a classified reserve or dispose of it and must apply to Minister of Conservation (MOC) to do so. Once the GDC owned land classification has been revoked it may be disposed of, subject to any other impediments or claims on the title.

Council administers some reserve land under title derived from the Crown. The final decision on the revocation and disposal of such reserves can only be made by the MOC. Monies from such a sale is kept under the control of the MOC in a public account and used to meet the purpose of the Reserves Act 1977 and they will consider each case on its merits.

Further research on the title may find that the land was originally acquired under the Public Works Act and there may have to be a process to first offer this land back to the original owners.

### **5.2.1 Road Reserves**

Road Reserves are set aside under the Reserves Act for the purpose of eventually being used as a road. Designated as a reserve however, gives Council the ability to lease this land in the meantime. Revoking the status would follow the same procedure as above.

### **5.2.2 Legal Road**

Uplifting or stopping legal road essentially involves the following steps as set out in the Tenth Schedule of the Local Government Act 1974. Once the land has gone through the process set out in the Strategy and determined to be surplus Council shall then prepare a survey plan and explanation of the road proposed to be stopped and purposes to which the stopped road will be put. Council is then required to consult all adjoining owners. For instance if the road abuts a river then MOC have to be consulted. It is important to seek agreement with all affected parties at this stage to assist in simplifying the process.

The survey plan would include such items as easements and esplanade reserves or strips. A formal Council resolution must then be obtained to publicly notify Council's intentions to stop the road. Notification must be at least twice and at intervals of not less than seven days. If no objections are received the legal road is then stopped and subject to any other encumbrances or restrictions on the land. The land is potentially available for disposal.

### **5.3 Criteria For Establishing Whether Land Is Surplus?**

Potentially surplus land such as classified reserve land (which may include Neighbourhood Reserves identified within the Strategy) or small pieces of land and road reserves (road ends) will be weighted against selected criteria listed below. This will determine whether the land is required in the future as part of the Open Space Strategy and also whether there are other reasons to retain the land. A preliminary assessment will be made by staff on the need to retain the land and this will be followed by public consultation on the issues.

#### **Risks of Selling**

1. Future uses may be compromised.
2. Council may underestimate the use or value of the site to the community.
3. Public opinion can tend to be emotive. Consultation with relevant user groups, such as neighbours, is critical prior to any decision that land is surplus to the needs of the community.

#### **5.3.1 Rivers and Esplanade Reserves**

Council cannot readily dispose of vested esplanade reserves acquired in accordance with the Resource Management Act 1991 and provided for in the Proposed District Plan.

#### **5.3.2 Neighbourhood, Parks and Recreation Reserves and Road Ends**

##### ***Step One: Preliminary Staff assessment***

##### **1. Is the land necessary to achieve the principles of the Strategy? Is it consistent with the Implementation Plan of the Strategy?**

- ◆ Detail the reasons to retain the site, identify the relevant principles, strengths and opportunities and implementation proposals;
- ◆ Is there demand for another type of open space reserve in the vicinity of the proposed surplus site? Could the site be redeveloped to meet the demand and would development costs be feasible?
- ◆ Does this land form part of the overall Strategy for linkage networks? (see Map No's. 1 and 5)
- ◆ Does the Neighbourhood Reserves Strategy Map (Map No. 4) identify that the circle for the surplus site overlaps with at least one other circle indicating a reserve within 700 metres walking distance of all residents presently served by the surplus site, that provides users with play equipment, gardens and a passive recreational experience?
- ◆ Is there a Neighbourhood Reserve identified in Question 3 above, which is also contained within the arterial roading hierarchy ?

##### **2. Are there any other reasons for Council to retain the land?**

- ◆ Such as roading or other infrastructure development may require use of the site.
- ◆ Is the site necessary for maintenance of existing underground infrastructure, i.e. stormwater drains and any other services? Does the location of infrastructure restrict the site so that development is not practical?
- ◆ Will proceeds from the sale be retained for reserve purposes?

**3. What reasons, other than costs, are there to dispose of the site?**

- ◆ Have there been regular documented complaints from nearby residents, or issues of vandalism or theft?
- ◆ Is the site unsafe for public use? Is public access difficult or restricted? Could these issues be easily rectified?
- ◆ Are there other reserves that can cater for the current and long-term users of the potential surplus reserve?
- ◆ Is the reserve unable to be seen from a main road linkage?

**4. What are the costs associated with retaining the site?**

- ◆ Such as rates, depreciation and maintenance;
- ◆ Vandalism reparation;

**5. What are the costs associated with disposing of the site?**

- ◆ Detail costs such as any tender or subdivision processes;

**6. Is there a market or potential purchaser or willing recipient for the site?**

- ◆ Detail government valuation and market assessment of the potential salability of the site.
- ◆ Do adjoining owners wish to purchase?
- ◆ Do District Plan zones or hazard overlays restrict potential development of the site?

**7. A judgement call, by staff, on whether the site is likely to be surplus will be required.**

- ◆ Will proceeds from the sale of land be protected to ensure that they are used to obtain future reserve sites or to enhance existing open spaces e.g. by improving recreational facilities?
- ◆ Consideration of the cost to the users (ie. loss of amenity) of the site will also need to be taken into account.

***Step Two: Public Consultation***

**8. Consultation with the public**

- ◆ Initial discussion with adjoining landowners and residents in the vicinity.
- ◆ Meetings will also be required with relevant user groups to enable consideration of the value of the site to user groups. In some instances the general public may wish to be involved in discussing the issues and this may require public meetings to be held.
- ◆ These sessions will assist to determine whether the site is necessary to meet community needs.
- ◆ The staff reasons for considering the site to be surplus should then be reviewed against the information and findings of the public consultation process.

### ***Step Three: Report to Council***

#### **9. Report to Council**

- ◆ Prepare a report for Council detailing the main findings from the information gathering and public consultation exercises, with a recommendation to retain or dispose of the site.
- ◆ If the land is considered surplus and disposal is worthwhile then the report to Council will need to request approval to notify the intention to sell the land in accordance with the Reserves Act 1977.

#### **5.4 Public Consultation**

Consultation with the community meets one of the purposes of the Open Space Strategy. The importance of thorough consultation to develop, sell or purchase any land cannot be emphasised enough. It is important to know what open spaces people value and what they would like to see in their communities and city in the future.

- 5.4.1** If any land, whether reserve or otherwise is considered surplus, incurs on-going maintenance costs, is not used by the public and has no inherent value or use to Iwi or anyone else, then consideration should be given vesting it to community groups to revert into native bush.

