

# Property Policy 2023

*Kaupapa here Rawa*

WHAKATANE

DISTRICT

AQUATIC

CENTRE



Adopted: 22 June 2023  
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# Property Policy

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## 1. Purpose of the Policy

Council acquires and maintains properties that provide a variety of benefits to ratepayers and residents. For example, properties can be for wellbeing and recreation, contain essential infrastructure such as pipes, roads and cycle ways, earn revenue that offsets rates or be used to deliver services to tourists. The purpose of this policy is to provide a framework to support Council to make decisions about its property.

The key objectives of the Policy are to:

- Categorise all of the property held by Council and outline the public benefits in each of those categories.
- Describe decision making criteria and principles for acquiring and disposing of property.
- Recognise the historical connection Tangata Whenua have to Council land and integrate this into Council property processes.
- Improve transparency by outlining the standard processes that Council uses for making decisions, developing strategy, property acquisition and disposal.
- Ensure Council is compliant with its legislative requirements.
- Ensure Council engages with and meets its obligations to Te Tiriti o Waitangi and the legislation of government, to the 7 Iwi within its district; Ngāti Awa, Ngāti Manawa, Ngāti Whare, Tūhoe, Ngāti Rangitīhi, Ngāti Tūwharetoa (Bay of Plenty) and Ngāti Māhino

## 2. Definitions

**Acquisition** means the purchase of land or buildings or entering into a lease with a term (including renewals) that exceeds 35 years, but excludes vesting of land where Council is not required to pay for the land vested, including roads and esplanades (reserves and strips) vested as part of subdivisions. Acquisition excludes the granting of easements for Council's benefit.

**Public Benefit** refers to the utility that residents and visitors receive from public property.

**Public Works Act** mean the Public Works Act 1981 which gives the Crown and Local Authorities power to acquire land from private landowners for public works. Public works may include works such as roads, schools, police stations and railways. The act sets out a process that must be followed to make sure the rights of private landowners are protected, and the Council can ensure public works go ahead.

**Council** means the Whakatāne District Council.

**Delegations** means the Delegations set out Whakatāne District Council's Delegations Register

**Council Property** means all land and buildings owned and controlled by Council.

**Property Categories** means the categories outlined in clause 4.5 of this policy.

**Property Database** means the database within Council’s GIS system that holds details of all property owned by Council and its category.

**Sale** means the disposal of Council owned land to a third party via sale or grant of a new lease with a term (including renewals) that exceeds 35 years and excludes the transfer of property to a Whakatāne District Council Council Controlled Organisation or where required by legislation (e.g transfer to new three waters entity).

### 3. **Policy Scope and Context**

The property policy applies to all property (land and buildings) owned or managed by Council in the District. This includes:

- Parks and playgrounds
- Reserves
- Libraries
- Public swimming pools
- Museums
- Cemeteries
- Commercial property
- Strategic or development properties
- Roading related (includes footpaths and cycling paths)
- Three waters Infrastructure (for clarity, this excludes private land with pipes or other assets that are protected by easement)
- Administration
- Storage
- Public toilets
- Community halls
- Wharfs
- Aerodrome or Airports
- Natural Hazards properties

The identification of properties to be purchased or sold is out of scope of this policy.

Council acquires and holds property for public benefit. How Council’s property is used for public benefit is outlined in one of, or a combination of, the policies, plans and strategies described below:

Table One: Council strategies, policies and plans affecting land and buildings

<b>Whakatane District Plan</b>	Sets policies, rules and standards for managing the sustainable use, development and protection of land and natural resources within the District for current and future generations. Provides the zones and rules for development, and is the tool for balancing growth and its impacts on the environment.
<b>Eastern Bay Spatial Plan</b>	Outlines an agreed vision and strategy to deliver wellbeing outcomes through joint planning for residential, industrial and commercial priority growth pressures on Whakatāne, Opotiki and Kawerau Districts.

<b>Annual Plan</b>	The Council's annual work programme and budget, which includes variations to what was contained within its Long Term Plan
<b>Long Term Plan</b>	The Council's ten-year planning horizon that outlines levels of service, the capital works programme and associated budget to deliver agreed community outcomes. The Long Term Plan is developed every three years with an Annual Plan produced in the two intervening years.
<b>Infrastructure Strategy</b>	A significant part of the Long Term Plan that identifies infrastructure issues facing the District and the corresponding capital investment programme for waters and transport. It can also include parks & reserves and community facilities.
<b>Asset Management Plans</b>	These are whole-of-life depreciation and maintenance schedules for Council assets, including Council's property.
<b>Placemaking Strategies</b>	Location or service-based strategies that improve levels of service to the community. They can be amenity improvements and activation of areas through urban development planning or using property to improve services provided to the community e.g. a youth centre. Placemaking strategies generally require community engagement.
<b>Reserve Management Plan</b>	A requirement under the Reserves Act 1977. It identifies parks and reserves and outlines vision, objectives and strategies for the management and development of specific reserves/groups of reserves. This process must recognise community preferences through a consultation process when reviewing the Reserves Management Plan.
<b>Development Contributions Policy</b>	A mechanism used by Council as part of the Building Consent or subdivision process to recover the costs of infrastructure and services required to realise amenity, infrastructure and community benefit from new property subdivisions and developments.
<b>Catchment Management Plans</b>	Contain information about different catchments and how different stormwater management options affect freshwater quality and flood hazards.
<b>Significance and Engagement Policy</b>	Guides the Council on the degree of significance of decisions and when communities can expect to be engaged with. The policy describes some property as strategic assets which means any transactions affecting these properties will require public consultation.

Council properties and property activities are governed by the following legislation, which also outlines processes for acquisition and disposal:

- **Public Works Act 1981**
- **Local Government Act 1974**
- **Local Government Act 2002**
- **Reserves Act 1977**
- **Resource Management Act 1991**
- **Building Act 2004**
- **Health and Safety at Work Act 2015**

#### **4. Property Categories**

Land and buildings have different decision drivers and public benefit outcomes. The Property Categories enables Council to group properties together where their purpose and the public benefit is similar. The properties within a category use the same processes for management and Council is able to develop plans or strategies for the whole property category.

Property is categorised into nine categories in the Council's GIS based Property Asset Registry. The categories given effect by this policy are described below:

Table Two: Property Categories

Name	Description and Public Benefits	Criteria for the Category	Management Tool(s)
<b><u>Parks &amp; Reserves</u></b>	<p>Property held or managed by Council under the Reserves Act 1977 and specified in the Reserves Management Plan.</p> <p>The public benefits:</p> <ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Green space</li> <li>• Amenity</li> <li>• Recreation &amp; play</li> </ul>	<p>Designated a reserve under the Reserves Act.</p> <p>Listed and approved in the Reserves Management Plan.</p> <p>Identified as a potential park or reserve in the approved Reserves Management Plan.</p>	<p>Reserves Act</p> <p>Open Spaces Strategy</p> <p>Development Contributions policy</p> <p>Long Term Plan maintenance schedule</p>
<b><u>Strategic Development Sites</u></b>	<p>Sites held for future development.</p> <p>The public benefits:</p> <ul style="list-style-type: none"> <li>• This is dependent on property use and will be identified in relevant property development plans.</li> <li>• A community engagement process enables the community and interest groups to inform the development plans.</li> </ul>	<p>The property is either identified within a Council Placemaking Strategy or Urban Development Plan, or is signalled in the Long Term Plan in anticipation of a strategy or plan being developed.</p>	<p>Placemaking strategies</p> <p>Revitalisation plans</p> <p>Urban development plans</p>
<b><u>Commercial Property</u></b>	<p>Sites held by Council that provide a commercial return. Includes commercial sites that may be developed in the future.</p> <p>The public benefits</p> <ul style="list-style-type: none"> <li>• Offset rates</li> <li>• Provide funding (other than rates) for capital and regeneration projects</li> </ul>	<p>Provides a commercial return.</p> <p>Adds value or financial leverage to the commercial asset portfolio.</p>	<p>Managed under a Commercial Investment Plan</p>
<b><u>Council Facilities</u></b>	<p>Provides services directly to the community. For example, community halls, swimming pools, ports, waste centre, cemeteries, gyms and libraries.</p> <p>The public benefits:</p> <ul style="list-style-type: none"> <li>• Wellbeing</li> <li>• Recreation &amp; play</li> <li>• Provide community services</li> </ul>	<p>Used to provide a service to the public. May be signalled in the Long Term Plan in anticipation of a new facility to be developed.</p>	<p>Open Spaces and Places Plan</p> <p>Long Term Plan asset maintenance schedule</p> <p>Infrastructure Strategy</p> <p>Revitalisation plan</p> <p>Placemaking strategy</p>

Name	Description and Public Benefits	Criteria for the Category	Management Tool(s)
<b><u>Roading Infrastructure</u></b>	<p>Provides for current or future roading infrastructure (includes footpaths and cycleways).</p> <p>The public benefits:</p> <ul style="list-style-type: none"> <li>• Road transport</li> <li>• Public transport</li> <li>• Footpaths and cycleways</li> <li>• Road safety interventions</li> </ul>	<p>Used or planned to be used for roading, footpaths or cycleways.</p> <p>Identified within the Transport Strategy, Infrastructure Strategy or is signalled in the Long Term Plan.</p>	<p>Public Works Act</p> <p>Roading infrastructure development and asset maintenance schedules are detailed in the Infrastructure Strategy and approved in the Long Term Plan.</p>
<b><u>Three Waters Infrastructure</u></b>	<p>Held by Council to provide for current or future Three Waters infrastructure.</p> <p>The public benefits:</p> <ul style="list-style-type: none"> <li>• Drinking water supply, wastewater removal and stormwater control</li> <li>• Safe drinking water</li> <li>• Green open spaces (e.g ponds &amp; wetlands)</li> <li>• Critical to enable new residential, commercial or industrial developments</li> </ul>	<p>Is used or planned to be used for Three Waters</p> <p>Identified in the Infrastructure Strategy or is signalled in the Long-Term Plan.</p>	<p>Public Works Act</p> <p>Water Services Act</p> <p>Water Infrastructure development and asset maintenance schedules are detailed in the Infrastructure Strategy and approved in the Long-Term Plan.</p> <p><i>(Note – Three Waters infrastructure delivery is being reviewed by central government and is likely to be removed from Council’s portfolio).</i></p>
<b><u>Operating Property</u></b>	<p>Required to run the Council administration which includes storage of Council equipment, tools and vehicles.</p> <p>Public benefit:</p> <ul style="list-style-type: none"> <li>• Enable Council to operate</li> </ul>	<p>Required to ensure the Council can deliver on levels of service in the Long Term Plan.</p> <p>May be signalled in the Long Term Plan in anticipation of a new operating property being developed.</p>	<p>Public Works Act</p> <p>Long Term Plan asset maintenance schedule.</p> <p>New developments or acquisitions will be captured in Annual Plan or LTP processes.</p>
<b><u>Property for Disposal</u></b>	<p>Properties that Council has no future or intended use for and that are not offering any public benefit, or in the case of property acquired under the Public Works Act, property that no longer has a public works requirement.</p>	<p>Offers no current or future public benefit.</p> <p>The cost of retaining the property outweighs the benefits, including an assessment of the public benefits.</p>	<p>Council approves properties to be transferred into this category.</p> <p>Depending on how it was acquired, the disposal of land is guided by either the Local Government Act, Reserves Act or Public Works Act.</p>

Name	Description and Public Benefits	Criteria for the Category	Management Tool(s)
<b><u>Airport Property</u></b>	<p>Property held for airport purposes (whether solely managed by Council or through a Council Controlled Organisation) including property held for future airport needs but currently utilised for other purposes e.g grazed.</p> <p>Public Benefit:</p> <ul style="list-style-type: none"> <li>• Connects communities</li> <li>• Lifeline airport</li> <li>• Supports tourism and businesses</li> </ul>	Held for airport purposes	<p>Civil Aviation Act</p> <p>Airport Authorities Act</p> <p>Airport Masterplan</p> <p>Public Works Act</p>

## 5. **Property Activities**

There are four property activities covered by this policy:

1. **Acquisition of Property**: purchase of land or buildings or entering into a new lease with a total term (including renewals) than exceeds 35 years, but excludes vesting of land where Council is not required to pay for the land vested. Acquisition excludes the granting of easements for Council's benefit.
2. **Hold and Maintain**: Holding a property to deliver a public benefit with an associated maintenance standard applied. Each property in this activity requires an asset maintenance schedule approved in the Long Term Plan.
3. **Property Development**: Either an upgrade to a property or the full development of a new facility or service on an acquired site. In most cases a planning process with the community will establish the public benefit, design and budget.
4. **Dispose**: When property is not providing public benefit and/or the cost of retaining it outweighs the benefit it provides to the community, or in the case of property acquired under the Public Works Act that there is no longer a public works requirement for the property, then the property enters a disposal process.

Each of these property activities is described in detail in the following sections.

### ***5.1. Acquisition of Property***

The decision-making criteria for acquisitions will vary depending on the property Category. Guidelines for decision making are provided in the table below.

The overarching principles Council applies to acquisitions are:



- Willing buyer/willing seller is the preferred approach ahead of using the compulsory acquisition powers in the Public Works Act.
- A fair market value determined by independent valuation.
- It must provide public benefit and contribute towards Community Outcomes aligned to its property category destination.
- Complies with all legislative requirements affecting the acquisition of property.
- Acquisition must be approved in accordance with Delegations in force at the time of the relevant Acquisition.

All property acquisitions require a business case which should, as a minimum, outline the property category, be assessed against the above acquisition principles, outline public benefits and Long Term Plan priorities, consider any climate change implications, refer to the decision criteria guidelines in the table below and outline the acquisition process. The identification of properties to be purchased or sold is out of scope of this policy.

At least once per year, Council staff will ensure that the Council is updated and aware of potential sites of interest across the 8 categories below. It is noted that some potential sites of interest may be commercially sensitive, but sites that are not will be described in the Long Term Plan and/or Annual Plan, category level strategies or development plans.

<b>Category</b>	<b>Decision Criteria Guidelines</b>	<b>Process to Acquire</b>
Parks & Reserves	<p>Provides an open spaces public benefit not already provided in that area.</p> <p>The public benefit warrants the cost.</p> <p>There is community support for the initiative.</p> <p>Is it, or will it be, identified in the Long Term Plan.</p>	<p>Development Contributions</p> <p>Public Works Act</p> <p>Land exchange</p> <p>Willing buyer/seller</p> <p>Bequests</p>
Strategic Development Sites	<p>There is an intended use for the property identified in the Long Term Plan (either specifically or linked to a project).</p> <p>The property has a key strategic opportunity(ies) for Council.</p> <p>The opportunity cost of the purchase has been considered to the satisfaction of the Council.</p>	<p>Public Works Act</p> <p>Land exchange</p> <p>Willing buyer/seller</p> <p>Bequests</p>
Commercial Property	<p>The current or potential return on investment meets Council's expectations.</p> <p>The acquisition will add value to, or add financial leverage to, the overall commercial portfolio.</p>	<p>Public Works Act</p> <p>Willing buyer/seller</p>
Council Facilities	<p>There is community support for the initiative.</p> <p>It improves public benefit and/or visitor experience.</p>	<p>Development Contributions</p> <p>Public Works Act</p>

Category	Decision Criteria Guidelines	Process to Acquire
	<p>The opportunity cost of the purchase has been considered to the satisfaction of the Council.</p> <p>The property is, or will be, identified in the Long Term Plan (either specifically or linked to a project).</p>	<p>Land exchange</p> <p>Willing buyer/seller</p> <p>Bequests</p>
Roading Infrastructure	<p>The project and property is signaled in the Transport Strategy and/or Long Term Plan or is required to meet an urgent and unforeseen need.</p> <p>The project business case meets cost/benefit criteria for transport projects.</p>	<p>Public Works Act</p> <p>Willing buyer/seller</p>
Three Waters Infrastructure	<p>The project and property is signaled in the Infrastructure Strategy and/or Long Term Plan, or is required to meet an urgent and unforeseen need.</p> <p>The project business case meets cost/benefit criteria for the project.</p>	<p>Public Works Act</p> <p>Willing buyer/seller</p>
Operating Property	<p>The property is required to deliver levels of service to the community (excluding community facility).</p> <p>The project is signaled in the Long Term Plan or is required to meet an urgent and unforeseen need.</p>	<p>Public Works Act</p> <p>Land exchange</p> <p>Willing buyer/seller</p>
Airport Property	<p>The project and property is signaled in the Airport Masterplan and/or Long Term Plan or is required to meet an urgent and unforeseen need.</p> <p>The property is required to meet current or future airport needs and the project business case meets cost/benefit criteria for the project.</p>	<p>Public Works Act</p> <p>Land exchange</p> <p>Willing buyer/seller</p>

General processes for property acquisition are outlined in Appendix 2.

## **5.2. Hold and Maintain**

All property that is held by Council requires a property maintenance programme which is included in the Council's Asset Maintenance Schedule that is budgeted for within the Long Term Plan.

Each property will have differing levels of maintenance depending on the properties category, location, its use and the lifecycle stage. The four general maintenance standards are:

<b>Type of Maintenance</b>	<b>Description</b>	<b>General Approach</b>
Premium	Applied to high value and special public spaces or facilities.	Planned & budgeted
General	A normal standard of maintenance that maintains the current level of service and preserves functionality.	Planned & budgeted
Minimal	Keeps the basic utility but is letting the value slide as deterioration sets in.	Reactive
Mothball	Applied when a property is awaiting redevelopment , or demolition. So only essential safety and security work is carried out.	Only if essential

The maintenance level is agreed by Council via the Asset Maintenance Schedule in the Long Term Plan. Through this process a budget is established and transparency is provided to the public about the standard that public property is maintained to, what they can expect when they use it and the associated cost.

### ***5.3. Property Development***

From time-to-time Council will develop or redevelop one of its properties. This will generally be the result of a placemaking strategy, urban redevelopment plan, a business case or level of service improvement plan. Examples of property development include the redevelopment of halls or sports field improvements.

Property Development requires a business case linked to a plan that demonstrates the public benefit of the improvement, and the results of public engagement. The public benefit may be to enhance lifestyle, amenity and liveability in the District and should be linked to the Long Term Plan Community Outcomes. The budget process will generally be managed through the Long Term Plan process but from time to time may be managed through an Annual Plan.

### ***5.4. Disposal of Property***

For Council to determine that a property that it owns is surplus to its requirements it must decide that on the balance of probabilities there is no current or future identified public benefit to be gained from retaining the property, no benefit in transferring it to another property category and/or that the cost of retaining the property outweighs the benefit.

Where the property was acquired under the Public Works Act, then Council must be satisfied that there is no longer a public works requirement for the property.

Where a property is owned by the Crown but Council managed, then the disposal process follows the Crowns legislative processes and Treaty and settlement obligations, and is managed by Central Government. For Crown owned properties Council staff will engage with the relevant Ministry at an early stage in the process.

Council is required to follow a legislative process based on how the property was acquired and to achieve a fair market value on behalf of its ratepayers. Staff will carry out investigations to understand how a disposal property was acquired to determine the legislative pathway to sell the Council property. The general processes for disposal are outlined in Appendix 2.

Council has obligations as a treaty partner to ensure the interests of Whānau, Iwi and Hapū are understood and included in decision making processes. Council will engage will relevant Iwi within its District (being Ngāti Awa, Ngāti Manawa, Ngāti Whare, Tūhoe, Ngāti Rangitahi, Ngāti Tūwharetoa (Bay of Plenty) and Ngāti Mākino) to ensure all relevant information from Iwi is considered in its decision making process for disposal properties.

The decision to dispose of a property sits with Councilors unless otherwise provided for in the Delegations. Consultation will be undertaken in accordance with Te Te Tiriti o Waitangi, Councils Significance and Engagement Policy, the Local Government Act and any other applicable legislation.

Proceeds from the sale of Harbour Board Property are must be retained in the Harbour Property Reserve Fund. The use of proceeds from the sale of all other properties will be determined by Council when making its decision to dispose of the property, provided that any debt associated with that property is repaid from the proceeds of sale. Council may direct proceeds to be used to repay debt, fund an acquisition, fund a placemaking project, used for a commercial investment or fund one off operational costs as examples.

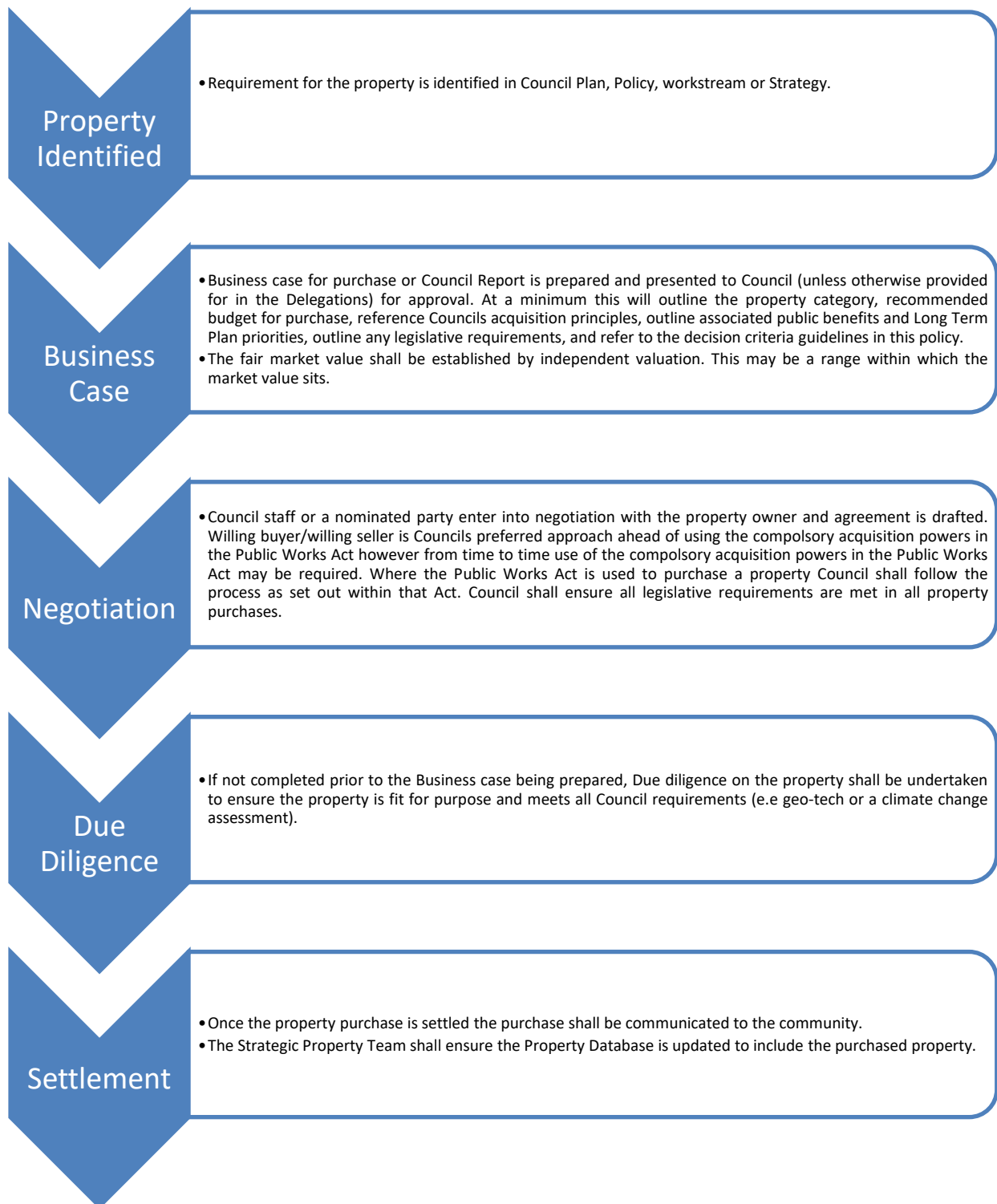
*Note – Council is investigating how it manages commercial assets which includes commercial property leases and investments. The outcome of the Commercial Investments work programme may affect how Council disposes of property in the Commercial Category.*

## **6. Review of Policy**

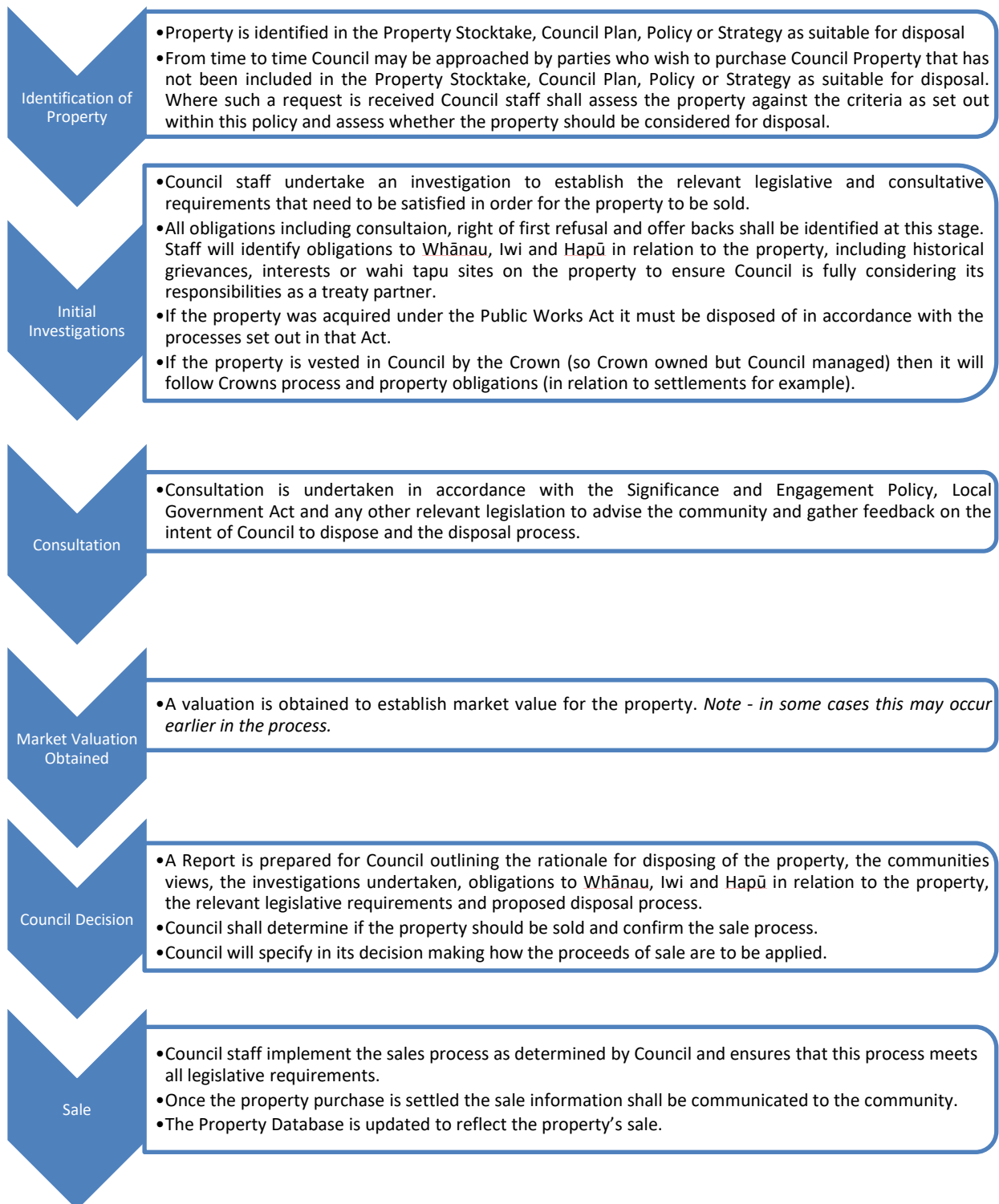
This policy shall be reviewed 18 months from the date of its adoption by Council, and on a three yearly basis thereafter.

The first review of this policy should ensure that the seven Iwi of the Whakatāne District are given appropriate opportunity to discuss the policy and its relationship to their rohe and Crown settlements, after being operative. This engagement process recognizes the status of Iwi as Crown and Council partners under Te Tiriti o Waitangi and the obligations under Local Government Act 2002.

## Appendix 1: Acquisition Process



## Appendix 2: Disposal Process



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