

POLICY



Date adopted: 30/05/2017
File no: 286699-1
Minute number: 148/2017

Policy title: STRATEGIC LAND ACQUISITION

Directorate: GROWTH, ECONOMY AND SUSTAINABILITY

Branch: ECONOMIC DEVELOPMENT AND CITY PLANNING

Policy objectives:

- (a) To establish a strategic land acquisition system that provides a framework and methodology for Council Officers to nominate site specific and non-site specific land targets.
- (b) To provide Council with a comprehensive guide in the land acquisition decision-making process using standardised qualitative guidelines, requirements and criteria.
- (c) To provide a direct link to the purchase procedure as outlined in the management directive 'Acquisition of Non-Strategic Land and Easements' (doc no. 4006868) and
- (d) To ensure clear and transparent governance processes.

Policy scope:

For the purposes of applying this policy, land acquisition by Council shall be governed by a framework comprised of:

- (a) a Land Acquisition Program
- (b) a Land Acquisition Plan

and governed by legislation as outlined in relevant sections of the following:

- (a) *Local Government Act 2009* (cited as LGA)
- (b) *Acquisition of Land Act 1967* (cited as ALA)
- (c) *Land Act 1994* (cited as LA)
- (d) *Right to Information Act 2009* (cited as RTI Act)

Definitions:

TERM	DEFINITION
Market value	Means the estimated amount at which an asset would be exchanged on the date of valuation, between a willing buyer and a willing seller, in an arm's length transaction after proper

TERM	DEFINITION
	marketing, and when the parties have each acted knowledgeably, prudently and without compulsion. Market value is based on highest and best use of the asset and not necessarily the existing uses (As per Council's Asset Management Strategy Doc # 2502395).
On-going costs	Means any cost associated with a land acquisition which are additional to the purchase costs that are required to maintain the land target until such time as works begin to develop that land for its stated intended purpose or develop that land for a purpose other than its intended.
Commercial in confidence*	<p>Please note the "AND" & "OR" in the "characteristics" section - that means to meet the definition it has to meet "a" and "b" OR "a" and "c"</p> <p>Commercial-in-confidence materials have the following characteristics:-</p> <ul style="list-style-type: none"> (a) information exchanged in the course of business and/or supplied under a requirement of the Local Government, and (b) is valuable for the purposes of carrying on the commercial activity in which the Council or other person is engaged, or (c) a genuine, arms-length buyer is prepared to pay to obtain that information from the relevant agency or person. <p>In addition, commercial value of information will erode over time and usually at the conclusion of the transaction or service. A good guide to test if information has commercial value is to establish that disclosure of the information in issue could reasonably be expected to destroy or diminish its commercial value.</p> <p>Council is required to comply with the <i>Right to Information Act 2009</i>, court orders and discovery application. Therefore no guarantee is given that information supplied will not be given out under these types of disclosure requirements.</p> <p>(*Based on the Queensland Information Commissioner's decision Cannon vs. Australian Quality Egg Farms Ltd (decision no. 94009).</p>

Policy statement:

1. Compilation

Strategic land acquisition is a consolidated whole of Council strategic approach encompassing all proposals endorsed by Council for the acquisition of land necessary to achieve the corporate plan objectives. It shall be governed by a framework comprised of:

- a Land Acquisition Program
- a Land Acquisition Plan.

(a) The land acquisition program

- (i) The Land Acquisition Program is a high level document/register of all Council's non-site specific branch strategies, plans and programs identifying potential future land acquisition needs. It allows branch level determinations to meet strategy outcomes while providing the balance between transparent governance and operation in a commercial environment.
- (ii) As an overarching framework, it provides Council with a clear, comprehensive direction with regard to land acquisition targets. It minimises ad hoc purchasing and offers support to potential future acquisition opportunities as part of long term plans and strategies.
- (iii) Individual program/strategy entries to the Land Acquisition Program are to align with COMPES and must also be supported by a plan describing the acquisitions strategic priorities. Entries should also include the objectives of the corporate plan to which it contributes, how such an acquisition would benefit the community or which community demands it meets, the basis of necessity for the acquisition and a considered time frame.

(b) The land acquisition plan

- (i) The Land Acquisition Plan is the distillation of the Land Acquisition Program. As an open document presented for approval to Council on an annual basis in line with the operational planning and budgetary process, the Land Acquisition Plan is a set and weighted list of prioritised acquisitions drawn from the Land Acquisition Program to be made in the coming fiscal period.
- (ii) Any acquisition on the Land Acquisition Plan must be linked to the Land Acquisition Program.
- (iii) The Land Acquisition Plan shall be compiled at the annual stakeholders meeting held by the Property Officer. The Land Acquisition Plan will then be coordinated with Council's operational planning calendar and budgetary process.
- (iv) Once the operational plan, and subsequently the Land Acquisition Plan, has been approved, only reprioritised acquisitions that have been included or are related to a strategy in the Land Acquisition Program can be added to the plan.

(c) Requirements for site specific proposals

In order for Council to determine the need for a particular land acquisition over any other and to substantiate a proposal should the resumption process be deemed necessary any report recommending site specific acquisitions is required to address the following as a minimum if they are to be placed on the Land Acquisition Plan.

Priority	Property contamination issues	Estimated fiscal period of purchase
----------	-------------------------------	-------------------------------------

Source of funding	Basis of necessity to acquire	Cultural heritage/native title issues
Short term and immediate proposals by the Economic Development Unit	Potential for joint acquisition	On-going costs
Site condition and suitability	Physical description	Tenure
Zoning (as per planning scheme)	Intended use (as per ALA 1967)	Community requirements, demand and benefits
Current use and existing structures	Identify restrictions	Land value and acquisition cost (confidential)
Risk of acquisition opportunity being lost or rendered unsuitable for intended use	Disadvantages of not proceeding with acquisition	Acquisition process status eg under investigation, owners notified of interest.

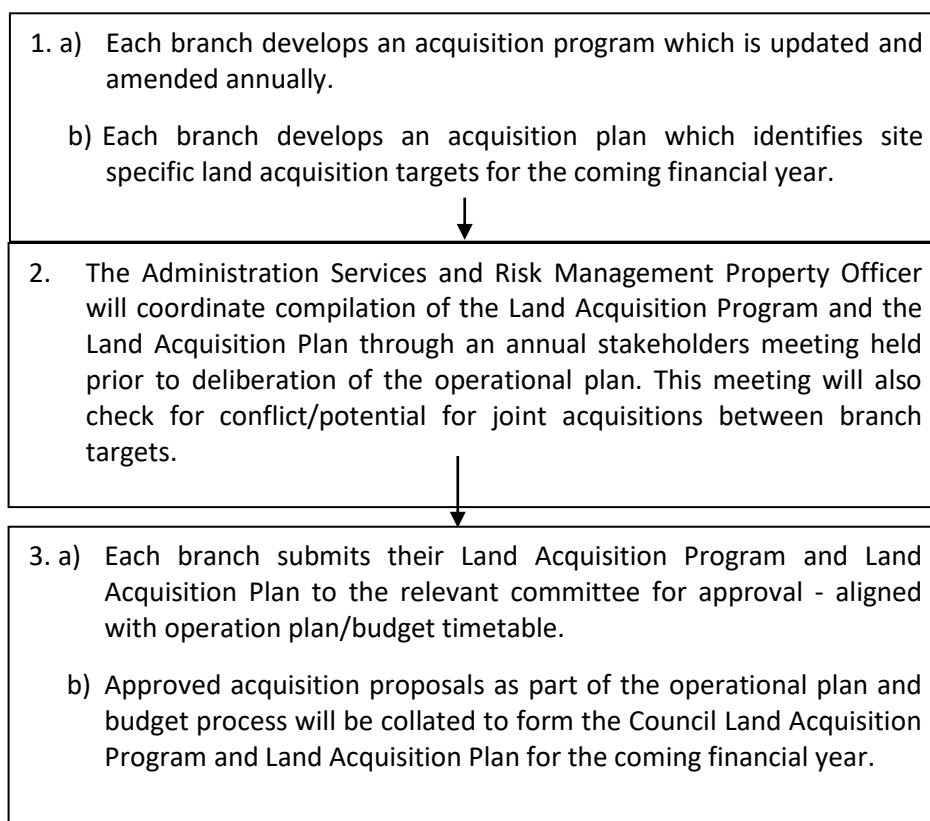
Table 1 - requirements for site specific proposals

The approved Plan is submitted to the Property Officer to commence the land acquisitions process.

2. Strategic land acquisition process

The following procedure outlines the steps from the strategic prioritisation through to the commencement of the Property Officer's acquisition procedure:

Table 2 - the strategic land acquisition process





4. a) Properties specified, approved and appropriately prioritised in the Land Acquisition Plan are to be presented as a consolidated list to the Administration Services and Risk Management Property Officer for purchase.
- b) Land acquisition targets linked to branch level strategies or programs within the Land Acquisition Program that become available outside of the current Land Acquisition Plan ie. an opportunistic purchase, will be required to meet the *requirements for the site specific proposals* as per table 1 before moving through the steps outlined in line with budgetary amendment process and will need to gain approval from Council before the acquisition process can proceed.

3. Implementation

A Land Acquisition Stakeholders meeting will be held annually prior to the consideration of operational planning and budgetary process. This meeting should usually be held in February and be presented by the Property Officer who will coordinate all acquisition proposals for the forthcoming financial year. This will ensure the Land Acquisition Plan is complete, appropriately prioritised and ready to present to Council through the operational planning and budgetary process.

4. Prioritisation

Only acquisitions on the Land Acquisition Plan will be considered by Council for purchase. It is a requirement of the Land Acquisition Plan that a proposal is identified in a corresponding Land Acquisition Program.

Where prioritisation of the branch level acquisition is dependent on funding, opportunities to move an acquisition from the Land Acquisition Program to the Land Acquisition Plan in the same financial year must be weighted against the proposed acquisitions the branch has on the Land Acquisition Plan at the time. This may mean an acquisition proposal is moved back to the Program as a result. The acquisition would still be required to undergo the program to plan process in order to gain approval.

Final prioritisation and approval of all or any land acquisition will be the responsibility of Council.

5. Notification of property owner

As a best practice procedure and the principles outlined in the *Right to Information Act 2009*, Council must inform a property owner as early as is reasonable in the land acquisition process of any interest and, as per the *Acquisition of Land Act 1967*, its intended use of the related land acquisition whether it be by agreement or resumption. While Council has no firm legal obligation to notify the property owner

until the process of purchase begins, there are ethical considerations to be taken into account.

It is therefore recommended that property owners are informed of Council's interest in their property prior to a property being placed on a Land Acquisition Plan and where possible on the related element of the Land Acquisition Program.

6. Funding

- (a) As Council is reasonably able to resume land it requires under the *Acquisition of Land Act 1967*, the negotiation of any Land Acquisition should generally **not exceed** that of fair market value.

Best practice procedure would require Council to purchase property by agreement with the owner. If Council sets a precedent of purchasing at fair market value this becomes the accepted practice for future acquisitions.

If Council cannot arrange to purchase land by agreement as per the principles of the *Local Government Act 2009*, there are a number of alternative options which can and should be pursued. Resumption and or compulsory acquisition under relevant sections (5, 7, 15 and 38) of the *Acquisition of Land Act 1967* provide comprehensive and rigorous legislative principles for which land acquisition can be sought and governed.

- (b) The source and availability of funding and any additional potential on-going costs of funding are as intrinsic to land acquisition as the location and intended use. Best practice procedure necessitates identification or at least estimation of value and costs as early in the acquisition process as possible. In the Land Acquisition Program this would be aligned to COMPES and in the Land Acquisition Plan this would be included in the operational plan and budgetary process.
- (c) Any unexpended funds directly relating to land acquisition targets in the Land Acquisition Plan can and should be carried forward until such time as the specific property is acquired as per Council's budgetary process.

7. Exceptions

- (a) Overriding community interest in strategic land purchase

Where it is determined through Council resolution that there is an overriding community interest in the purchase of land, the purchase of the land will be included on the acquisition program for that year.

- (b) Economic development

Where an opportunity arises to purchase land within the Land Acquisition Program but outside the Land Acquisition Plan for the purpose of investment, the **Economic Development Unit (EDU)** is required to develop a site specific feasibility report for approval by Council prior to negotiating the purchase of land. This report must address, at a minimum, the *requirements for site-specific proposals* as set out in the Land Acquisition Plan (table 1). This exception exists due to the inability of the EDU to purchase land through resumption processes and where disclosure of site specific information would be injurious to any *commercial in confidence* negotiation process.

Proposed acquisitions for the purpose of investment outside of Land Acquisition Program and plan will require a site specific feasibility report addressing, at a minimum, the *requirements for site-specific proposals* as set out in the Land Acquisition Plan (table 1).

(c) Partnerships with external funding sources

Where the conditions of a proposed funding agreement have been negotiated as part of a partnership with an external source of funding such as the State/EPA or Commonwealth/National Heritage Trust (HT), those conditions must be adhered to outside of the conditions stipulated in this policy then Council is reasonably bound to abide to those conditions but not at the exclusion or detriment of its 'Strategic Land Acquisition' policy.

(d) Infrastructure management

Where a project incorporated in an infrastructure management program such as roads and drainage or water and sewerage and is consistent with the Land Acquisition Program, COMPES and the operational planning and budgetary process and requires the acquisition of land to enable the project to proceed, the relevant strategic acquisition details should form part of the report supporting the program's approval.

Where an acquisition requirement arises as a result of a specific Council approved works project and the *requirements for the site specific proposals* as per table 1 are met the acquisition is to be dealt with through the 'Acquisition by Negotiation of Land or Easements Required for Program Works' delegation of authority.

8. The role of the City Governance Committee

During its operational planning and budget process, Council shall determine city wide priorities for land acquisition on the recommendation of the City Governance Committee following a consolidation of the acquisition proposals that have been endorsed by the relevant standing committee.

9. Review and amendment

The Land Acquisition Plan and the Land Acquisition Program shall be reviewed annually by the Economic Development and City Planning Manager in association with the annual budgetary formulation at a stakeholders meeting to be held by the Property Officer to:

- (a) Determine the land acquisition priorities for the forthcoming fiscal period.
- (b) Review the level of changes or additions to both the plan and the program in an effort to maximise their practical manageability and
- (c) Monitor the 'Strategic Land Acquisition' policy's on-going validity and oversee any amendments deemed necessary.

Related policies/legislation/other documents:

DOC ID	DOCUMENT	DOCUMENT NAME
8422142	Delegation of Authority	Acquisition by Negotiation of Land or Easements Required for Program Works
10294288	Internal	Criteria for Land Acquisition for Conservation Purposes or Environmental Offsets
-	Legislation	<i>Local Government Act 2009</i>
-		<i>Acquisition Land Act 1967</i>
-		<i>Land Act 1994</i>
-		<i>Right to Information Act 2009</i>