

## 1 Policy History

Revision No.	Council Meeting Date	Minute No.	Adoption Date
1	08/12/2015	15/395	08/01/2016
2	13/03/2018	18/084	13/04/2018

## 2 Policy Objective

Griffith City Council purchases and sells land from time to time. This Policy provides a framework for Council to consider the acquisition or disposal of land and the procedures and protocols for doing so.

## 3 Policy Statement

### 3.1 Principles

The following principles inform the application of this Policy.

**Best value:** Council will strive for best value to the community in land transactions and will consider whole of life cost estimates in doing so.

**Probity:** Council will strive for best practice in probity and consider the appointment of a probity advisor and adopting a probity plan in conducting land transactions.

**Risk assessment:** Council will undertake due diligence in assessing risk to Council prior to finalising any land transaction and will seek independent advice as part of that process.

**Public interest:** Council will apply a public interest test in making decisions on land acquisition and disposal.

**Budget framework:** Council's property transactions will be conducted within a sustainable budgetary framework.

### 3.2 Purchase Justification

Council will consider a business case or purchase justification for any proposed purchase of land. The Process will include due diligence of subject land including but not limited to: land detail verification; independent valuation; building and pest inspections (if required); obtaining any necessary authority to act. These matters will be reported to Council with a recommendation from the General Manager including, where possible, securing an option that protects Council's interest during a due diligence period.

### **3.3 Alignment with Strategic Purpose**

Council will identify the purpose in acquiring and disposing of land and the alignment of that purpose with strategies of Council, principally, the achievement of Council's long term strategy for infrastructure delivery.

In addition, disposal of land will be considered where alignment with a strategic purpose cannot be established and the land is deemed surplus to requirements by proper process involving community consultation.

### **3.4 Probity Guidelines**

Council may appoint a probity advisor and adopt a probity plan within the following guidelines:

- the purchase or sale is of a value greater than \$500,000
- the transaction is complex, contentious or containing a high probability of a conflict of interest

### **3.5 Classification**

Council will normally seek to classify land it acquires as Operational Land.

### **3.6 Confidentiality**

Information contained in reports to Council regarding a land transaction may confer an advantage upon another person. Consequently, reports relating to land transactions are normally deemed confidential and will not be subject to community consultation.

### **3.7 Land Transaction Reserve**

Any unencumbered proceeds from the sale of Council land shall be deposited into a Land Transaction Reserve for the purpose of future land acquisition, unless Council resolves otherwise.

### **3.8 Negotiation and Transaction - process and responsibilities**

Whilst the Mayor or General Manager may conduct discussions with other parties in relation to property matters, a Council resolution is required to regulate the method of sale of land (private treaty, auction, Expression of Interest, Tender), to specify the purchase or sale price and any acceptable variation from it and authorise a person to act for Council in negotiations.

Council will strive for acquisition of land by mutual agreement on value. Compulsory acquisition will be considered as a last resort.

Council may consider notifying a landowner of its intentions to acquire land and may implement other measures for the purpose of preventing building on the land prior to acquisition.

## 4 Definitions

None

## 5 Exceptions

This Policy does not apply to procedures for approving or licencing the use of land, leasing land to or from another entity, the creation of easements over land or the dedication of land to Council as a result of a development or subdivision approval.

## 6 Legislation

### Local Government Act

<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+30+1993+cd+0+N>

A Council has powers and responsibilities under this Act that relate to the acquisition, disposal and management of land for operational and public purposes.

A Council may acquire land or an interest in land for the purpose of exercising any of its functions (s186).

A decision to acquire or dispose of land must be by resolution of the Council and cannot be delegated (s377).

All public land must be classified as 'community' or 'operational' (s26). For land acquired by or dedicated to a Council, the land is deemed 'community' land unless the Council resolves it to be 'operational' land within a certain time period (s31). There are provisions to enable a Council to seek to change the classification (s30, s33).

The Act prescribes the use and management of 'community' land, including further categorisation of the land and its purpose and the preparation of a Plan of Management (s36).

A Council can purchase or sell land which is classified as 'operational' land without the need to invite tenders (s55). A Council cannot sell 'community' land (s45).

A person must have an approval from Council for a range of activities on public land and a Council can issue Orders in relation to non-approved activities (s68).

### Land Acquisition (Just Terms Compensation) Act

<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+22+1991+cd+0+N>

In all cases of acquisition of land by Council it is preferred (and the Act encourages) the acquisition to be by amicable and mutual agreement of the vendor and the purchaser. However, in some cases agreement is not reached and the Act provides a process that is required to ensure proper compensation is paid to the vendor. The process includes notification of Council's intentions (s11), the method of valuing the land and calculating the amount of compensation (Div. 4) and the processes for negotiation and resolution of disputes (Div. 5).

## Roads Act

<http://www.legislation.nsw.gov.au/maintop/view/inforce/act+33+1993+cd+0+N>

A Council may acquire land for opening, widening or constructing a road and may close a road (s177).

Persons with an interest in the land are entitled to compensation, generally in accordance with the Land Acquisition (Just Terms Compensation) Act.

Council has certain powers and responsibilities under the Roads Act to make Orders in relation to road widening which will affect building work on the land (s26).

When a Council closes a public road and sells the land, the proceeds of sale must be used for acquiring land for public roads or for carrying out road work on public roads (s43).

## 7 Related Documents

None

## 8 Directorate

Sustainable Development